



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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June 13, 2014

Kevin J. McKeag
US Army Corps of Engineers, Seattle District
P.O. Box 3755
Seattle, WA 98124-3755

RE: Water Quality Certification Order #10742, Grays Harbor Navigation Improvement and Operations and Maintenance project in Grays Harbor County, Washington

Dear Mr. McKeag:

The above-referenced project for proposed work in waters of the state has been reviewed in accordance with all pertinent rules and regulations. On behalf of the State of Washington, we certify that the work proposed complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This certification is subject to the conditions contained in the enclosed Order and may be appealed by following the procedures described in the Order.

In addition, the Department of Ecology is rescinding Order # 8992 that was issued for annual maintenance dredging of the Grays Harbor and Chehalis River Federal Navigation Channel Inner Harbor.

If you have any questions concerning the content of this letter, please contact Kerry Carroll at (360) 407-7503.

Sincerely,

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program



Order #10742
Grays Harbor Channel Navigation Improvement and Maintenance
June 13, 2014

by Certified Mail 7010 2780 0000 2503 4034

Enclosures

cc: Bob Burkle, WDFW-Region 6
Rick Schwartz, DNR
Fawn R. Sharp, Quinault Indian Nation

ecc: Loree' Randall, Ecology (SEA)
DMMP@dnr.wa.gov
Rick Mraz, Ecology (SEA)
Debra Cornett, Ecology (WQ)
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A) ORDER # 10742
WATER QUALITY) Deepen six of the nine reaches of the Federal
CERTIFICATION TO) Navigation Channel and annual maintenance
US Army Corps of Engineers, Seattle) dredging in Grays Harbor and Chehalis River in
District) Grays Harbor County, Washington
in accordance with 33 U.S.C. 1341)
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

TO: US Army Corps of Engineers, Seattle District
Attn: Kevin J. McKeag
P.O. Box 3755
Seattle, WA 98124-3755

On February 3, 2014 the US Army Corps of Engineers, Seattle District submitted a request to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on May 15, 2014.

The project is proposing to deepen six of the nine maintained reaches of the Federal Navigation Channel from the maintenance depth of -36 feet mean lower low water (MLLW) to -38 MLLW, the congressionally authorized depth, with a two foot advanced maintenance and two foot over depth allowed. Up to 1,972,000 cubic yards will be dredged for the deepening and will stay within the same footprint as the current maintained channel.

The project also includes annual maintenance dredging of up to approximately 3,000,000 cubic yards of material from the five "inner harbor" reaches (South Aberdeen, Cow Point, Hoquiam, North Channel, Inner Crossover), including two turning basins within the inner harbor (Elliott Slough in the South Aberdeen reach and Cow Point in the Cow Point reach) and four "outer harbor" reaches (Outer Crossover, South, Entrance/Point Chehalis, Bar Channel) within the Grays Harbor and Chehalis River Federal navigation channel. The deepening and maintenance may be done simultaneously over the next five (5) years.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 302, 303, 306 and 307);

2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will meet the applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. § 1341, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. In this Order, the term "Applicant" shall mean the US Army Corps of Engineers, Seattle District (Corps) and its agents, assignees and contractors.
2. All submittals required by this Order shall be sent to Ecology's Headquarters Office, Attn: Federal Permit Coordinator, P.O. Box 47600 Olympia, WA 98504-7600 and/or Kerry Carroll. Any submittals shall reference Order 10742.
3. All notifications required by this Order shall be made via phone to Kerry Carroll, 360-407-7503, or e-mail at Kerry.Carroll@ecy.wa.gov. These notifications shall be identified with Order 10742 and include the Applicant's name, the project contact, and the contact's phone number.
4. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on February 3, 2014 unless otherwise authorized by Ecology.
5. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.

6. Within 30 days of receipt of the updated information, Ecology will determine if the revised project requires a new public notice and Certification or if a modification to this Order is required.
7. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
8. Upon Ecology personnel's request, the Applicant shall provide access to the project site, all staging areas, and mitigation sites for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Furthermore, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified or if additional conditions are necessary to further protect water quality.
10. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48), or the federal Clean Water Act, Ecology will issue an administrative order to incorporate any such changes or amendments applicable to this project.
11. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.
12. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state (including wetlands) or related aquatic resources, except as specifically provided for in conditions of this Order.
13. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

B. Water Quality Conditions:

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A, except as otherwise authorized by this Order.

2. Turbidity occurring outside the turbidity mixing zone that is more than 10 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 20% increase in turbidity when the background turbidity is more than 50 NTU is a violation of the turbidity water quality standard.

C. Turbidity Mixing Zone:

1. The distance granted for the temporary turbidity mixing zone is as follows:

Location	Mixing Zone Distance Downstream/Down current from In-water Activity
a. Suitable Material Areas	600 ft
b. Unsuitable Material Areas	300 ft

2. Visible turbidity anywhere beyond the point of compliance from the activity and/or disposal location shall be considered to be an exceedance of the standard.

D. Water Quality Monitoring

1. The Applicant shall submit the contractor's water quality monitoring plan to Ecology per Condition A2 at least 14 days prior to dredging. This plan shall be approved by Ecology prior to any dredging activities. The plan shall include, at a minimum, the following information:
 - a. Name and contact information of the person responsible for monitoring
 - b. Sample locations including background, half the distance to the point of compliance (only for suitable areas), and point of compliance at or near the surface, midway, and bottom depths. For this project the point of compliance for suitable material is a radius of 600 ft from the activity causing the turbidity exceedance and for unsuitable material it is 300 ft feet from the activity causing the turbidity exceedance
 - c. Parameter(s) to be monitored: turbidity
 - d. BMP's
 - e. Sample method
 - f. Frequency
 - g. Steps to be taken and contingency measures if monitoring results indicate an exceedance has occurred
 - h. Reporting procedures
2. Ecology must approve, in writing, any changes or additions to the WQMP.
3. Turbidity monitoring reports shall be sent weekly to the 401/CZM Federal Permit Coordinator (per condition A.3 above). The Permit Coordinator shall be contacted within 24 hours if an exceedance occurs.

4. If monitoring results indicate an exceedance has occurred, a report shall be sent to the Federal Permit Coordinator, per condition H.2.f.

E. Dredging and Disposal:

1. All dredging is to be done using a clam shell bucket or hopper dredge. A long arm excavator may be used in the Cow Point reach for identified areas of hard pack only. **Use of any other type of dredge requires preapproval from Ecology.**
2. All suitable dredged material will be disposed of at one of the five Department of Natural Resources aquatic disposal sites. (Point Chehalis, South Jetty, Chehalis, Half Moon Bay and South Beach). **Use of any other type of disposal method or location requires pre-approval by Ecology.**
3. For material being taken to open water disposal sites, all debris (larger than 2 feet in any dimension) shall be removed from the dredged sediment prior to disposal. Similar sized debris found floating in the dredging or disposal area shall also be removed.
4. Dredging operations shall be conducted in a manner that minimizes the disturbance or siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into waters of the State.
5. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.
6. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
7. The barge shall not be overfilled to the point where dredge material overtops the sidewalls.
8. Caution shall be used when placing material from the bucket into the barge to limit splash and prevent spillage.
9. The Dredge operator shall pause the bucket at the surface, after its ascent through the water column, to minimize turbidity by allowing free water to drain from the bucket prior to swinging the bucket to the barge.
10. A pre-dredge meeting is required to be convened prior to each dredging cycle.
11. **A Dredging Plan and Transloading Plan** are required and shall be submitted to the Ecology 401/CZM Federal permit coordinator, at the address shown in Condition A2, for review and approval at least 2 weeks prior to dredging.
12. Prior to each dredging cycle, the Applicant shall contact the DMMP agencies to

determine whether additional sediment testing is required. If additional testing is required, no dredging or disposal shall be conducted until the material has been tested and a suitability determination has been issued. The recency determination extends until April 2019.

13. Impacts to Dungeness crab shall be avoided, minimized, and mitigated according to the September 1998 Revised Crab Mitigation Strategy or an alternative approach approved by Ecology.

Additional conditions for Unsuitable Material

14. All dredging in unsuitable material areas is to be done using a clamshell bucket or equivalent.
15. Dredging in unsuitable material areas shall be done at a much slower pace than for suitable material areas to limit turbidity.
16. The barge shall have filter fabric covering the scuppers and be outfitted with filter fabric wrapped hay bails to control run-off and turbidity.
17. All unsuitable dredged material will be disposed upland at an approved location.
18. The applicant shall notify Ecology of the disposal location at least 30 days prior to dredging within the unsuitable material area.

F. Timing Requirements:

1. All in-water work shall be completed within the following work windows:

Inner Harbor Reaches

Cow Point, Cow Point turning basin and Hoquiam - July 16-February 14
North Channel, Inner Crossover- August 1 to February 14

Outer Reaches

Outer Cross-over- April 1- April 31 (hopper) or August 1-February 14 (clamshell)
South Reach- April 1-June 30

2. The Applicant shall notify Ecology of any project changes that require new ESA Consultation.
3. This Order shall remain in effect for a period of five (5) years from date of issuance.
4. To continue maintenance dredging the Applicant shall submit either a request for an extension or a new JARPA at least twelve (12) months prior to the expiration of this Order.

G. Notification Requirements:

1. The Applicant shall provide notice to Ecology's 401/CZM Federal permit coordinator at least 7 days prior to the start of dredging each dredging season and within 14 days after completion of dredging each season.
2. Notifications shall be made using all the information required in Condition A2.

H. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing the compliance problem.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - e. Immediately notify Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events Ecology's 401/CZM Federal permit coordinator at (360) 407-7503.
 - f. Submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.
4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Kerry Carroll
Department of Ecology
Headquarters
P.O. Box 47600

360-407-7503
Kerry.Carroll@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website

www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board

<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

Chapter 371-08 WAC – Practice And Procedure

<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>

Chapter 34.05 RCW – Administrative Procedure Act

<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>

Chapter 90.48 RCW – Water Pollution Control

<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

Chapter 173.204 WAC – Sediment Management Standards

www.ecy.wa.gov/biblio/wac173204.html

Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE

Dated this 13th day of June 2014 at the Department of Ecology Lacey Washington



Brenden McFarland, Section Manager
Environmental, Review and Transportation Section
Shorelands and Environmental Assistance Program
Headquarters

Attachment A
Statement of Understanding
Water Quality Certification Conditions

Grays Harbor Navigation Improvement and Maintenance
Army Corps of Engineers, Seattle Division
Water Quality Certification Order No. **10742**

I, _____, state that I will be involved as an agent or contractor for Army Corps of Engineers in the dredge operations of the Grays Harbor Navigation Improvement and Maintenance project located in Chehalis River and Grays Harbor, Grays Harbor County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. 10742 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company

