



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

July 8, 2014

U.S. Army Corps of Engineers
Portland District Civil Works
ATTN: Ms. Joyce E. Casey
PO Box 2946
Portland, OR 97208-2946

RE: Water Quality Certification Order No. **10794** for Corps Project No. CENWP-PM-E-10-03, 403890, MCR - North Jetty Lagoon Fill and Culvert Replacement Project, Ilwaco, Pacific County, Washington

Dear Ms. Casey:

On May 1, 2014, the U.S. Army Corps of Engineers, Portland District Civil Works submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the MCR - North Jetty Lagoon Fill and Culvert Replacement Project, Pacific County, Washington.

The proposed project has four primary components:

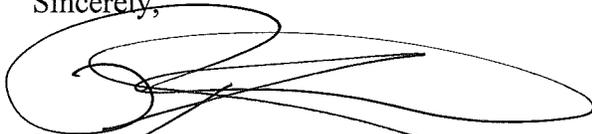
- Fill major portions of the lagoon area behind the jetty to reduce the erosion of sand through the Jetty to the Columbia River;
- Replace the deteriorated McKenzie Head Lagoon culvert that passes under the Jetty Road;
- Restore all disturbed areas;
- Construct a ramp up to the top of the jetty and prepare staging and storage areas for the next phase of work on the jetty involving critical repair work.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.



If you have any questions, please contact Lori Ochoa at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Perry J. Lund", is written over a large, loopy scribble that also overlaps the signature text.

Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enclosure

By Certified Mail 7012 2920 0000 1182 0768

cc: Barbara Cisneros, Corps of Engineers, Portland District
Faith Taylor-Eldred, Pacific County
Tim Crose, Pacific County
Heather Stebbings, Pacific Northwest Waterways Association
Rick Schwartz, WA DNR
Christopher Conklin, WDFW

e-cc: ECY RE FEDPERMITS
Loree' Randall, Ecology, HQ SEA
George Kaminsky, Ecology, HQ SEA
Deb Cornett, Ecology, SWRO WQ
Lori Ochoa, Ecology, SWRO SEA
Rick Mraz, Ecology, SWRO SEA

IN THE MATTER OF GRANTING A) ORDER No. 10794
WATER QUALITY) Corps Project No. CENWP-PM-E-10-03,
CERTIFICATION TO) 403890
U.S. Army Corps of Engineers) MCR North Jetty Lagoon Fill and Culvert
Portland District Civil Works) Replacement, within Cape Disappointment State
in accordance with 33 U.S.C. 1341) Park, Ilwaco, Pacific County, Washington
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

TO: U.S. Army Corps of Engineers
Portland District Public Works
ATTN: Joyce Casey
PO Box 2946
Portland, OR 97208-2946

On May 1, 2014, the U.S. Army Corps of Engineers, Portland District Public Works (Corps) submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification for the MCR North Jetty Lagoon Fill and Culvert Replacement Project. 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 20, 2014.

The proposed project has four primary components:

- Fill major portions of the lagoon area behind the jetty to reduce the erosion of sand through the Jetty to the Columbia River;
- Replace the deteriorated McKenzie Head Lagoon culvert that passes under the Jetty Road;
- Restore all disturbed areas;
- Construct a ramp up to the top of the jetty and prepare staging and storage areas for the next phase of work on the jetty involving critical repair work.

The MCR North Jetty lagoon is a 5.684 acre non-vegetated, non-wetland area that is inundated by both tidal waters that come through the jetty and by freshwater that drains from the McKenzie Head Lagoon and a large wetland area north of Jetty Road. The proposed project would add approximately 118,000 cubic yard of rock and sand over 5.537 acres of the lagoon to reduce the tidal flow through the jetty, which is destabilizing the jetty foundation. The fill will also create a rock storage and staging area for the next phase of jetty rehabilitation which includes critical repairs.

The deteriorated McKenzie Head Lagoon Culvert that passed under the Jetty Road will be replaced with a 48-inch HDPE pipe to facilitate future MCR North Jetty Structure repairs by allowing heavy construction loads crossing the Jetty Road. The replacement culvert will maintain the current drainage patterns and hydraulic connection between the Columbia River and wetlands north of Jetty Road that form the McKenzie Head wetland complex.

The Applicant will purchase 0.247 credits from the Long Beach Wetland Mitigation Bank to offset impacts to approximately 0.247 acres of Category III PFO wetlands at a mitigation ratio of 1:1. The Applicant will purchase 1.82 of estuarine mitigation credits from the McHugh Demonstration Estuarine Wetland Restoration Project (McHugh Project) to offset impacts to the North Jetty Lagoon.

This project is located at the mouth of the Columbia River within Cape Disappointment State Park, Ilwaco, Pacific County, Washington; SE and SW Quarter of Section 8 and NE Quarter of Section 17, Township 9 North, Range 11 West; WRIA 24, Willapa Watershed.

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. For purposes of this Order, the term "Applicant" shall mean the U.S. Army Corps of Engineers, Portland District Civil Works and its agents, assignees and contractors.

2. All submittals required by this Order shall be sent to Ecology's Southwest Regional Office, Attn: Federal Permit Manager, P.O. Box 47775 Olympia, WA 98504-7775 or via e-mail (preferred) to loch461@ecy.wa.gov. Any submittals shall reference Order No. 10794 and Corps Project No. CENWP-PM-E-10-03, 403890.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Permit Application (JARPA) submittal package received by Ecology on May 1, 2014. The Applicant will be out of compliance with this Order and must submit an updated JARPA if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
4. Within 30 days of receipt of an updated JARPA, Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
5. Copies of this Order shall be kept 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.
6. The Applicant shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
7. 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.
8. 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.
9. 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.
10. 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 173-210(1)(e)(i).

2. Water Quality Monitoring: The Applicant shall conduct water quality monitoring as described in the approved U.S. Army Corps of Engineers, Portland District, *Water Quality Protection and Monitoring Plan for section 401 Individual Water Quality Certification, Mouth of the Columbia River, North Jetty Lagoon Fill and Culvert Replacement* dated May 20, 2014.
3. Ecology must approve, in writing, and changes or additions to the WQPMP.
4. Results of the water quality monitoring shall be documented in a report and submitted to the Ecology Federal Permit Manager, weekly during the period of in-water work activities, per Condition A.2 of this Order.
5. Notification of Exceedances: Notification of exceedances that are detected through water quality Monitoring shall be made to Ecology **within 24 hours of occurrence**. Notification shall be made with reference to Order No. **10794**, Attn: Federal Permit Manager, by telephone at (360) 407-6926 or by e-mail at loch461@ecy.wa.gov. The Applicant shall, at a minimum, provide Ecology with the following information:
 - a. A description of the nature, extent, and cause of the exceedance.
 - b. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the project will return to compliance.
 - c. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
 - d. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the exceedance, water quality monitoring results and location, photographs, and any other pertinent information.
6. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

C. Timing Requirements:

1. This Order shall remain in effect for a period of five (5) years from date of issuance. Continuing this project beyond the five (5) year term of this Order will require separate certifications every five (5) years.

D. Notification Requirements:

1. Written notification (e-mail is preferred) shall be made to Ecology's Southwest Regional Office Federal Permit Manager in accordance with Condition A.2, for the following activities:
 - a. At least ten (10) days prior to the onset of in-water work in each construction season.
 - b. Within ten (10) days after completion of construction for each project season.
 - c. Immediately following a violation of the state water quality standards or any condition of this Order.

2. If project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit a written construction status report. Status reports shall be submitted every 12 months thereafter until project construction is complete.

NOTE: These notifications shall include the Applicant's name, the Project name, Order No. 10794, Corps Project No. CENWP-PM-E-10-03, 403890, the project location, contact name, and contact's phone number.

E. Project Specific Conditions:

General Construction

1. The Applicant shall comply with the conditions of the current Construction Stormwater General Permit (National Pollutant Discharge Elimination System - NPDES) issued for this project.
2. All work in and near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMP's) suitable to prevent exceedances of state water quality standards shall be in place at before starting clearing, filling, and grading work and shall be maintained throughout construction.
3. Within the project limits, all environmentally sensitive areas that are to be protected from disturbance shall be fenced with high visibility construction fence (HVF) prior to commencing construction activities. All project staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries.
4. All clearing limits, travel corridors, stockpile locations, and staging areas shall be clearly marked prior to commencing construction activities and maintained until all work is completed for this project.
5. Staging areas will be located a minimum of 40 feet from waters of the state, including wetlands. If a staging area must be located within 40 feet of waters of the state, then the Applicant shall provide a written explanation (with additional BMPs) and obtain approval from Ecology's Federal Permit Manager before placing the staging area within the setback area.
6. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands a minimum of 100 feet from waters of the state including wetlands, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.
7. No petroleum products, fresh concrete, lime, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
8. All equipment that will operate over or within waters of the state shall utilize bio-degradable hydraulic fluid and shall be free of external petroleum-based products. Accumulation of soils or debris shall be removed from the drive mechanisms and the undercarriage of equipment prior to use. Equipment shall be inspected daily for leaks,

accumulation of grease, etc. Any identified problems shall be fixed before operating over or within waters of the state.

9. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working area shall not be discharged into state waters. The Applicant shall establish a separate, contained area for washing down vehicles and equipment that does not have any possibility of draining to surface waters and/or wetlands.
10. All construction debris, excess sediment, and other solid waste material shall not be stockpiled below the Ordinary High Water Mark (OHWM) and shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
11. Appropriate BMPs shall be implemented to minimize track-out during construction.
12. Clean Fill Criteria: The Applicant shall ensure that fill (soil) placed for the proposed project does not contain toxic materials in toxic amounts.

Temporary Diversion Structure and Dewatering

13. The temporary cofferdam to divert water around the work area shall be in place prior to initiation of other work in the wetted perimeter of that area.
14. The temporary diversion shall be of sufficient size, constructed of non-erosive materials, and installed to divert the entire flow through the bypass or around the isolated work area for the duration of the project.
15. The diversion system shall be designed and operated so as not to cause erosion in the channel or on the bank of the waterbody in which the work is being conducted.
16. Prior to returning water flow to the work area, all bank protection measures shall be in place.
17. Re-introduction of water into the isolated work area shall be done gradually, and at a rate not higher than the normal flow, in order to minimize the mobilization of sediments and fines.
18. Upon completion of the project, all material used for the temporary diversion shall be removed from the site.
19. Turbid dewatering water (including turbid water generated from cleaning and maintenance activities) shall not be discharged directly into waters of the state. Turbid water shall be pumped to an upland area to allow the turbid water to settle. The discharge from the upland areas shall meet water quality criteria at the point of discharge into surface waters and/or wetlands.
20. Dewatering water that is not turbid may be discharged directly to surface waters and/or wetland provided that: a) waste water containing raw concrete or other harmful material has not been in contact with the water to be discharged; and, b) the water will meet **all of the water quality standards at the point of discharge.**

F. Compensatory Mitigation Conditions

1. The Applicant shall mitigate wetland impacts as described in the *Proposed Bank Use Plan for use of the Long Beach Wetland Mitigation Bank and McHugh Demonstration Project Wetland Mitigation Bank for the Mouth of the Columbia River North Jetty Lagoon Fill and Culvert Replacement* (hereafter called the "mitigation plan") prepared by The U.S. Army Corps of Engineers, Portland District, dated May, 2014 *or as revised and approved by Ecology.*
2. Prior to impacting wetlands, the Applicant shall submit to Ecology documentation from the bank sponsor verifying the purchase of 0.247 wetland mitigation bank credits (credits) from the Long Beach Wetland Mitigation Bank and 1.82 credits from the McHugh Demonstration Project Mitigation Bank. This documentation must include the permit number, permit issuance date, impact acreage, the amount of credits required by the permit, and date of credit purchase.
3. The Applicant shall notify Ecology of any changes to the amount of wetland impacts, or revisions to the mitigation plan.
4. The Applicant shall complete the purchase of credits before the impacts to wetlands occur or Ecology may require additional compensation to account for temporal loss of wetland functions.
5. If the credits are not purchased within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of:
 - a) The MCR North Jetty Lagoon Fill and Culvert Replacement Project
 - b) When bank credits will be purchasedWith the:
 - c) Reason for the delay
 - d) Expected date of completion

The Applicant shall submit an updated written notification every 12 months thereafter until MCR North Jetty Lagoon Fill and Culvert Replacement Project is complete and the required credits are purchased.

G. 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 situations 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) 407-6076.
 - f. Submit a detailed written report to Ecology (per conditions A.2. above) 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 Hearing 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:

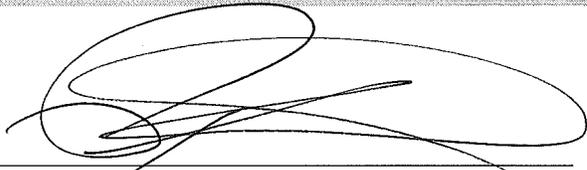
Lori Ochoa, Federal Permit Manager
Department of Ecology
Southwest Regional Office
P.O. Box 47775
Lacey, WA 98504-7775
Loch461@ecy.wa.gov

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 Washington Administrative Code (WAC) Sediment Management Standards**
<http://www.ecy.wa.gov/biblio/wac173204.html>

- **Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173200.html>
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173201A.html>

SIGNATURE



Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office
Department of Ecology

Date

7/8/14

Attachment A
Statement of Understanding
Water Quality Certification Conditions

MCR – North Jetty Lagoon Fill and Culvert Replacement
U.S. Army Corps of Engineers, Portland District Civil Works
Water Quality Certification Order No. **10794**
and
Corps Project No. **CENWP-PM-E-10-03, 403890**

I, _____, state that I will be involved as an agent or contractor for the U.S. Army Corps of Engineers, Portland District Civil Works, in the site preparation and/or construction of the MCR – North Jetty Lagoon Fill and Culvert Replacement Project, located at the mouth of the Columbia River within Cape Disappointment State Park, Ilwaco, Pacific County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. **10794** 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

