



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

August 29, 2014

Ms Sandra Shelin
US Army Corps of Engineers
Walla Walla District,
201 N. 3rd Avenue
Walla Walla, WA 99362-1876

RE: Water Quality Certification - Order #10764 Corps reference #CENWW-PM-PD-EC 13-01,
Maintenance dredging of the Lower Snake and Clearwater Rivers and dredge material
disposal, Asotin, Franklin, Garfield, and Whitman counties, Washington.

Dear Ms Shelin:

The above-referenced public notice 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 in the public notice 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.

If you have any questions concerning the content of this letter, please contact Laura Inouye at (360) 407-6165.

Sincerely,

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

by Certified Mail 7009 0820 0001 9056 0052



Order# 10764
Corp Ref# CENWW-PM-PD-EC 13-01
August 29, 2014

Enclosures

cc: Sandy Shelin, Corps
Thomas Schirm, WDFW
Donald Olmstead, DNR
Arthur Swannack, Whitman County Board of Commissioners District 1
Bill Elliot, Air, Water and Aquatic Research Program, Rocky Mountain Research Station
Cary Newman
Matt Van Vleet, Clearwater Paper Corporation
Dean Kinzer, Whitman County Commissioner District 2
Steve Mashuda, Earth Justice
Nat Rich
Marlene Trumbo, Nez Perce
Kirsten Meira, Pacific Northwest Waterways Association
Noel Sanders, Port of Walla Walla
Rich Schwartz, Department of Natural Resources
Steve Pauley
Carol Bua, Tidewater
Rob Rich, V.P. Marine Services

ecc: Loree' Randall, Ecology (HQ-SEA)
Laura Inouye, Ecology (HQ-SEA)
Brendan Dowling, Ecology (ERO-TCP)
Mike Maher (ERO-SEA)
Patrick McGuire (ERO WQ)
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A) ORDER #10764
WATER QUALITY) Corps Reference No. CENWW-PM-PD-EC
CERTIFICATION TO) 13-01
US Army Corps of Engineers) Lower Snake and Clearwater Rivers maintenance
in accordance with 33 U.S.C. 1341) dredging and dredge material disposal, in Asotin,
(FWPCA § 401), RCW 90.48.120, RCW) Franklin, Garfield, and Whitman Counties,
90.48.260 and Chapter 173-201A WAC) Washington

TO: Ms Sandra Shelin
US Army Corps of Engineers
Walla Walla District,
201 N. 3rd Avenue
Walla Walla, WA 99362-1876

On April 28, 2014 the US Army Corps of Engineers (Corps) submitted a Joint Aquatic Resources Permit Application (JARPA) 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 2, 2014.

This federal navigational dredging project includes approximately 458,500 cubic yards of material from the federal navigational channel at the confluence of the Snake and Clearwater Rivers, and approximately 2,500 cubic yards of material from the Ice Harbor Lock approach.

This project also includes dredge material disposal at RM116 (left bank) in Garfield County. This disposal location is being considered beneficial reuse of dredge material resulting in shallow water habitat for juvenile salmonids.

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 173-200A 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 173-200A 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 US Army Corps of Engineers and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Headquarters Office, Attn: 401/CZM Federal permit coordinator, P.O. Box 47600 Olympia, WA 98504-7600 and/or lino461@ecy.wa.gov. Any submittals shall reference Order #10764 and Corps Reference # CENWW-PM-PD-EC 13-01
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on April 28, 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 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 173-201A-200, except as modified by this Order.
 - The point of compliance established for this project is 900 ft downstream of the in-water work zone. Turbidity occurring outside that zone that is more than 5 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 10% increase in turbidity when the background turbidity is more than 50 NTU is a violation of the turbidity water quality standard.
 - Visible turbidity anywhere at 900 ft point of compliance from the work zone and/or the disposal zone shall be considered to be an exceedance of the standard.

C. Water Quality Monitoring

1. The Applicant shall follow the water quality monitoring plan approved by Ecology on July 28, 2014. Any changes in this plan shall be approved by Ecology prior to any in-water work. **A final WQMP from the contractor must be submitted and reviewed for consistency with the approved plan one week prior to the pre-dredge meeting (Condition D8).**
2. Turbidity monitoring reports shall be sent weekly to the 401/CZM Federal permit coordinator (Condition A2). The permit coordinator shall be contacted within 24 hours if an exceedance occurs.

D. Dredging and Disposal:

1. All dredging is to be done using a mechanical dredge (e.g. clamshell). **Use of any other type of dredge will require prior approval from Ecology.**
2. All dredged material will be transported to the dredge material disposal at RM116 (left bank) in Garfield County using a bottom dump barge. **Use of any other method or location of disposal will require prior approval from Ecology.**
3. 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 and disposal site reshaping 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 at the dredging locations.
6. During dredging and disposal, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
7. Dredging and disposal shall be sequenced such that the material from the Clarkston area shall be dredged first and placed first at the disposal site.
8. A pre-dredge meeting or conference call is required to be convened at least one week prior to the start of dredging. A **Dredging Plan, Disposal Plan, and Spill Prevention and Containment Plan** is required and shall be submitted to Ecology to the 401/CZM Federal permit coordinator at the address shown in Condition A2 for review and approval one week prior to the pre-dredge meeting.

E. Timing Requirements:

1. All in-water work shall be completed between December 15 and March 1 of a given year.
2. This Order shall remain in effect for a period of 5 years from date of issuance. Continuing this project beyond the 5 year term of this Order will require separate certifications every 5 years.

F. 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. Notification should be made using all the information required in Condition A2.

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 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 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:

Laura Inouye
Department of Ecology
P.O. Box 47600
Olympia, WA 98503-7600
360-407-6165
lino461@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

Dated this August 29, 2014 at the Department of Ecology, Lacey Washington



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

ATTACHMENT A

**Lower Snake and Clearwater Rivers
Maintenance Dredge and Dredge Material Disposal
Water Quality Certification Order #10764**

**Statement of Understanding of
Water Quality Certification Conditions**

I have read and understand the conditions of Order #10764 Section 401 Water Quality Certification for the Lower Snake and Clearwater Rivers Maintenance Dredge and Disposal. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this order.

Signature

Date

Print Name

Company

Title

