



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

July 17, 2007

REGISTERED MAIL: 7003 1680 0007 1466 3136

Mr. Bernard P. Leber, Jr.
Kaiser Aluminum Fabricated Products, LLC
Post Office Box 15108
Spokane Valley, Washington 99215

RE: Water Quality Certification Order No. 4639 for Corps Reference Number NWS-2007-466-CRE. The project will excavate contaminated material and replace it with up to 90 cubic yards of clean materials along the shoreline of the Spokane River at Spokane Valley, Spokane County, Washington.

Dear Mr. Leber:

On June 13, 2007, a Joint Aquatic Resource Permit Application (JARPA) was submitted to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the proposed Kaiser Spokane River Cleanup Project. The project proposes to remove contaminated materials from along the Spokane River and to replace with them with clean gravel and cobbles. A public notice soliciting comments was distributed by Ecology for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on June 18, 2007.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and as modified by this Order, 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 Michael Maher of Ecology's Eastern Regional Office at (509) 329-3584 or mmah461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Brian G. Farmer, Section Manager
Shorelands and Environmental Assistance Program
Ecology Eastern Regional Office

Enclosures



IN THE MATTER OF GRANTING A) **ORDER # 4639**
WATER QUALITY CERTIFICATION) **Corps Reference No. NWS-2007-466-CRE**
TO) **Spokane River Contaminated Soils Removal Project**
KAISER ALUMINUM FABRICATED) **in Spokane County, Washington.**
PRODUCTS, LLC)
in accordance with 33 U.S.C. 1341 (FWPCA)
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)
)

TO: Kaiser Aluminum Fabricated Products, LLC
ATTN: Mr. Bernard P. Leber, Jr.
Post Office Box 15108
Spokane, WA 99215

On June 13, 2007 a Joint Aquatic Resource Permit Application (JARPA) was submitted to the Department of Ecology (Ecology) requesting Section 401 Water Quality Certification for the Spokane River Contaminated Soils Removal Project. A public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on June 18, 2007.

The work will take place at the Trentwood Works of Kaiser Aluminum Fabricated Products, LLC. The site is located on approximately 505 acres at 15000 E Euclid Ave, City of Spokane Valley, WA 99215 in Spokane County, Washington in the SE ¼ of Section 03, of Township 25 N, Range 44 E.W.M., Water Resource Inventory Area # 57.

The project will include excavation and removal of PCB and petroleum contaminated soils in approximately one-foot lifts using an excavator and front-end loader. Excavated materials will then be hauled by truck from the ravine to an upland work area where screening and segregation will take place. Contaminated soils would then be transported off-site for proper disposal at a permitted facility. Bank restoration, placement of clean fill material in the ravine and revegetation with appropriate native species will occur after removal of the contaminate soils.

Potential impacts to water quality could include mobilization of fine sediments both in the short and long term. In addition, disturbed areas could be colonized by invasive plants and a loss of habitat would occur. To avoid, minimize and mitigate for these potential impacts it is proposed to work only in dry areas, work during the summer months, place appropriate barriers to sediment movement in the work area, stabilize slopes, place rock and revegetate disturbed areas with appropriate native species. The upland slopes will be revegetated with an appropriate native grass and forbs mix. Large trees along the shoreline would be protected and left in place where possible and where removed will be replaced with appropriate 1 to 5 gallon container size native trees.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

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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, 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 not violate 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 Kaiser Aluminum Fabricated Products, LLC and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Eastern Regional Office, Shorelands and Environmental Assistance Program, Attn: Federal Permit Coordinator, 4601 N Monroe St, Spokane, WA 99205-1295. Any submittals shall reference Order No. 4489 and Corps No. NWS-2007-412-CRE.
3. Work authorized by this Order is limited to the work described or submitted with the JARPA received by Ecology on June 13, 2007. The Applicant will be out of compliance with this Order and must reapply with an updated application 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. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.

6. 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.
7. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
8. 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. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
9. 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.
10. 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.
11. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation for each day of continuing noncompliance.

B. Timing Requirements

1. This Order is valid until though May 24, 2009.

Appeal Process:

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001 (2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

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1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

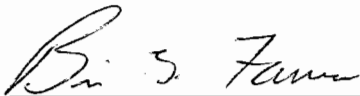
Michael W. Maher
Department of Ecology
Eastern Regional Office
4601 N Monroe St.
Spokane, WA 99205-1295

*For additional information visit the Environmental Hearings Office Website:
<http://www.eho.wa.gov>*

*To find laws and agency rules visit the Washington State Legislature Website:
<http://www1.leg.wa.gov/CodeReviser>*

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

DATED this 17 day of July, 2007 at Spokane, Washington.



Brian G. Farmer, Section Manager
Shorelines and Environmental Assistance Program
Eastern Regional Office