



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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REGISTERED MAIL

RB 252 946 537 US

October 1, 2007

Ms. Marci E. Cook  
U.S. Army Corps of Engineers  
333 SW 1rst Ave  
P.O. Box 2946  
Portland OR 97208

**RE: Water Quality Certification - Order #5057/Corps Public Notice CENWP-PM-E-07-02 Maintenance dredging of up to 4.21 million cubic yards (cy) from the mouth of the Cowlitz River to River Mile (RM) 2.5 to restore sediment transport capability and maintain safe levels of flood protection in the Cowlitz River and transition area of the Columbia River, Cowlitz County, Washington**

Dear Ms. Cook:

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 Helen Pressley at (360) 407-6076.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenden McFarland".

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

cc: Wendy Briner, Corps  
Penny Keys, Ecology  
Kevin Farrell, Ecology SWRO



**IN THE MATTER OF GRANTING A  
WATER QUALITY  
CERTIFICATION TO U. S. Army  
Corps of Engineers**  
in accordance with 33 U.S.C. 1341  
(FWPCA § 401), RCW 90.48.120, RCW  
90.48.260 and Chapter 173-201A WAC

) **ORDER # 5057**  
) **Corps Reference No. CENWD-PM-E-07-02**  
) Maintenance dredging of up to 4.21 million  
) cubic yards (cy) from the mouth of the Cowlitz  
) River to River Mile (RM) 2.5 in the Cowlitz  
) River and the transition area of the Columbia  
) River, Cowlitz County, Washington

TO: Ms. Marci Cook  
Army Corps of Engineers  
Environmental Resources Branch  
333 SW First Ave  
Portland OR 97208

A joint public notice was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on June 13, 2007.

The proposed work consists of the dredging of up to 4.21 million cy of sand from the lower 2.5 miles of the Cowlitz River and in the Columbia River from the mouth of the Cowlitz (Cowlitz River (RM) 0 to the Columbia River Federal Navigation Channel also referred to as the transition area). This project would provide short-term protection from flooding for the cities of Kelso, Longview, Lexington, and Castle Rock. This project would also restore the sediment transport potential of the Cowlitz River to move sand into the Columbia River.

Dredged sediment will be disposed of at the Wasser and Winters site located on the east side of the Cowlitz River from RM 0 to RM 1. Further upland disposal may be made at other approved upland disposal sites.

**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, 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.

### **A. General Conditions:**

- A1. For purposes of this Order, the term "Applicant" shall mean the U. S. Army Corps of Engineers (Corps) and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Headquarters Office, Attn: 401/CZM Federal Project Manager, P.O. Box 47600 Olympia, WA 98504-7600. Any submittals shall reference Order #5075 and Corps Reference # CENWD-PM-E-07-02.
- A3. Work authorized by this Order is limited to the work described in the revised Joint Aquatic Resource Protection Application (JARPA) received by Ecology on July 27 2007, the Public Notice of Application dated June 13, 2007, and the "Mount St. Helens Project Lower Cowlitz River Interim Dredging Environmental Assessment" dated June 13, 2007, except as modified by this Order. 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.
- A4. 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.
- A5. This Order does not exempt, and is provisional upon, compliance with other statutes and codes administered by federal, state, and local agencies.
- A6. 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.
- A7. 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.

- A8. 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.
- A9. 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.
- A10. 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.
- A11. 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) per violation for each day of continuing noncompliance.

**B. Water Quality Conditions:**

- B1. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC) or sediment quality standards (Chapter 173-204 WAC) except for turbidity. Water quality criteria contained in WAC 173-201A-200 shall apply to this project, unless otherwise authorized by Ecology in this Order.
- B2. Short-term Modification to the Water Quality Standards.
- a) The dredging and disposal needed to improve navigational safety may result in the temporary exceedance of certain state water quality criteria or special conditions specified in Chapter 173-201A WAC. Under WAC 173-201A-410, Ecology may grant a short-term modification to allow for such exceedances of the criteria on a short-term basis when necessary or to otherwise protect the public interest.
- b) Temporary dilution zones, or mixing zones, are authorized for dredging and/or disposal to allow for temporary exceedances of certain water quality standards as a result of disturbing in-place sediments. Within the mixing zone, except as noted, water quality criteria are modified as follows:
- i. Freshwater quality standards for turbidity are waived within the 150 feet radially and 600 feet downcurrent from the area of dredging.

This modification does not authorize any in-water work during closure periods specified within the Biological Opinion for this project.

**C. Monitoring.**

- C1. Turbidity shall be assessed and recorded at a minimum of every four (4) hours (daylight hours) during periods of active in-water work. Monitoring points shall be 100 feet upcurrent (representative background), 150 feet radially, 300 feet downcurrent, and 600 feet downcurrent from the area of dredging. A turbidimeter is recommended, however, visual gauging of turbidity is acceptable. Visible project-related turbidity at 600 feet downcurrent from the discharge point is considered to be an exceedance of the standard.
- C2. If turbidity exceeds 5 NTU over background turbidity when the background turbidity is 50 NTU or less, or there is a more than a 10 percent increase in turbidity when the background turbidity is more than 50 NTU the applicant shall:
  - a. Modify the activity causing the problem and continue to monitor every four (4) hours.
  - b. If exceedances occur during two (2) consecutive measurements (four (4) hours apart), stop the activity causing the turbidity until the problem is resolved.
  - c. Reports of any exceedances should be forwarded to the Federal Permit Coordinator. Refer to Corps #CENWD-PM-E-07-02, Order #5057. Please either call (360) 407-6076 or, fax to (360) 407-6902, e-mail at [hpre461@ecy.wa.gov](mailto:hpre461@ecy.wa.gov) or in writing.

**D. Conditions for In-Water Activities:**

- D1. The 4.21 million cy of dredged material from this project will be disposed of at the Wasser-Winter disposal site on the east side of the Cowlitz River between River mile (RM) 0 and RM 1. If at any time the applicant locates other disposal locations, the applicant shall submit a request to Ecology for reviewed and written approval prior to the use of the site.
- D2. All dredging is to be done using a pipeline dredge. Use of any other type of dredge will require prior approval from Ecology.
- D3. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water.

**E. Timing Requirements:**

- E1. This Order is valid until all compliance requirements in this document have been met.

- E2. In-water work shall be subject to timing limitations imposed by NOAA Fisheries. Work in or near the water that may affect fish migration, spawning, or rearing shall cease immediately upon a determination by either agency that fisheries resources may be adversely affected.

**F. Emergency/Contingency Measures:**

- F1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.
- F2. The Applicant shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.
- F3. 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 used properly to prevent spills into state waters.
- F4. 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 shall immediately take the following actions:
- a. Cease operations at the location of the violation or spill.
  - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
  - c. Notify Ecology of the failure to comply. All spills causing a sheen or spillage of pollutants into waters of the state shall be reported immediately to Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's 401/CZM Federal Project Manager at (360) 407-6076.
  - d. The Applicant shall submit a detailed written report to Ecology within five (5) days of the incident 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.

Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

**G. Reporting and Notification Requirement Conditions:**

G1. Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager at least three (3) days prior to the start of construction and within 14 days after completion of construction at the project site. Notification, referencing Corps Reference #CENWD-PM-E-07-02, Order #5057 can take place by telephone to (360) 407-6076 or, fax to (360) 407-6902, e-mail at [hpre461@ecy.wa.gov](mailto:hpre461@ecy.wa.gov) or in writing.

**H. 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.

**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:**

Helen Pressley  
Department of Ecology  
Headquarters Office  
PO Box 47600  
Olympia, WA 98504-7600

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*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 Oct 1, 2007 at Lacey, Washington.



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Brenden McFarland, Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology  
State of Washington