



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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July 23, 2008

Mr. Jamie Wilson  
Schnitzer Steel Industries  
3200 NW Yeon Ave  
PO Box 10047  
Portland OR 97296-0047

**RE: Water Quality Certification - Order #5638/Corps Public Notice NWS-2007-852-CRE – dredging in the amount of 2,100 cubic yards (cy) of sediment and river bank material, placement of riprap, and installation of 2 3-pile dolphins.**

Dear Mr. Wilson:

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,

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

cc: Tim Erkel, Corps Walla Walla Office  
Michael Maher, Ecology ERO  
Adjacent Property Owners  
Allison Cougan, PND Engineers



**IN THE MATTER OF GRANTING A ) ORDER # 5638**  
**WATER QUALITY ) Corps Reference No. NWS-2007-0852-CRE**  
**CERTIFICATION TO ) Dredging of up to 2,100 cubic yards (cy) of**  
**Schnitzer Steel Industries ) accumulated sediment and river bank material,**  
in accordance with 33 U.S.C. 1341 ) placement of up to 550 cy of riprap along 110  
(FWPCA § 401), RCW 90.48.120, RCW ) feet of bank, and installation of two three-pile  
90.48.260 and Chapter 173-201A WAC ) dolphins in the Snake River near Burbank, Walla  
) Walla County, Washington

TO: Mr. Jamie Wilson  
Schnitzer Steel Industries  
3200 NW Yeon Ave  
PO Box 10047  
Portland OR 97296-0047

On March 31, 2008 Schnitzer Steel Industries submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A joint public notice regarding the request was distributed by the Army Corps of Engineers for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on December 4, 2007.

This project includes replacement of an existing bulkhead dock, which will include excavating approximately 8,500 cubic yards (cy) of soil and sediment (6,500 cy below the ordinary high water mark (OHWM), the removal of non-fill components of the existing bulkhead, and placement of 620 cy of riprap (550 below OHWM).

The purpose of this project is to remove accumulated sediment, align the banks at the ends of the new bulkhead, and prevent erosion.

**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.

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 Schnitzer Steel Industries 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 Project Manager, P.O. Box 47600 Olympia, WA 98504-7600. Any submittals shall reference Order #5638 and Corps Reference # NWS-2007-0852-CRE.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Protection Application (JARPA) received by Ecology on November 8, 2007. 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. 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 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. These statements shall be provided to Ecology before construction begins at the project.
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) per violation for each day of continuing noncompliance.

**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(1)(e)(i)(D). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

**C. Dredging and Disposal:**

1. All dredged material will be transported upland on company-owned property and once dewatered, will be transported offsite to an Ecology-approved site for disposal.
2. 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.
3. 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.

4. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.
5. Prior to all in-water work, a silt curtain or similar BMP shall be placed in the river to prevent any untreated construction site discharge site from entering the Snake River.
6. The Applicant shall do all bulkhead preparation and excavation work possible in the dry, in the upland area.
7. All turbid water shall be treated prior to disposal. The turbid water may be disposed of in the same upland area used for dewatering other sediment. The Applicant shall notify Ecology's Federal Project Coordinator before the use of off-site disposal.

**D. Timing Requirements:**

1. All in-water work shall be completed by the work window identified in the most current HPA issued for this project. Any project change that requires a new or revised HPA should also be sent to Ecology for review.
2. This Order shall remain in effect for a period of five (5) years from date of issuance. Continuing this project beyond the five year term of this Order will require separate certifications every five years.

**E. Notification Requirements:**

1. The 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 or dredging at the project site. Notification should be made using all the information required in Condition A2 above.

**F. 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 to Ecology's 401/CZM Federal Project Manager 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 stop work immediately in the vicinity and notify Ecology using the above phone numbers.

#### **G. 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

Deliver your appeal in person to:

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

OR

**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

Deliver your appeal in person to:

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

OR

**3. And send a copy of your appeal to:**

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

*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 23 day of July, 2008 at Lacey, Washington.



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

**ATTACHMENT A**

**Schnitzer Steel Industries  
Bulkhead Construction and Maintenance Dredging Project  
Water Quality Certification Order #5638**

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

I have read and understand the conditions of Order #5638 Section 401 Water Quality Certification for the Schnitzer Steel Industries project. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title