



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

November 21, 2006

REGISTERED MAIL  
RB 252 974 095 US

Washington State Parks and Recreation Commission  
ATTN: Mr. Douglas Mackey  
11834 Tilley Road South  
Olympia, WA 98504-2669

RE: Water Quality Certification Order No. 3911 and Coastal Zone Management consistency determination for Corps Public Notice No. 200501426 to renovate the boat launch within Baker Bay, Columbia River at the Cape Disappointment State Park, Pacific County, Washington

Dear Mr. Mackey:

On August 9, 2006, the Washington State Parks and Recreation Commission 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 proposed Cape Disappointment State Park Boat Launch Facility Renovation. The project proposes to renovate the boat launch by removing two boat ramps and a single pier, ramp and float structure (supported by six creosoted piles), and constructing three new boat launches, two new piers, ramp, and float structures each supported by four steel piles within Baker Bay of the Columbia River at Cape Disappointment State Park. The U.S. Army Corps of Engineers issued a public notice on September 19, 2006, for the proposed project.

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.

On August 22, 2006, the Washington State Parks and Recreation Commission submitted a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended, Ecology concurs with the applicant's determination that the proposed work is consistent with Washington's CZMP. This concurrence is based upon the



applicant's compliance with all applicable enforceable policies of the CZMP, including Section 401 of the Federal Water Pollution Control Act

This letter also serves as the State response to the Corps of Engineers' September 19, 2006 Public Notice.

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,



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

PJL:LO:dn  
Enclosure

cc: Ron Wilcox, U.S. Army Corps of Engineers  
David Molenaar, WDFW  
Mike Desimone, Pacific County

e-cc: Lori Ochoa – SWRO, SEA  
Penny Keys – HQ  
Loree' Randall – HQ  
Richard Mraz – SWRO, SEA  
Deborah Cornett, SWRO, WQ

**IN THE MATTER OF GRANTING A ) ORDER # 3911**  
**WATER QUALITY ) Corps Reference No, 200501426**  
**CERTIFICATION TO ) Boat Launch Facility Renovation, within Baker**  
**Washington State Parks and ) Bay of the Columbia River, Pacific County,**  
**Recreation Commission ) Washington**  
in accordance with 33 U.S.C. 1341 )  
(FWPCA § 401), RCW 90.48.120, RCW )  
90 48 260 and Chapter 173-201A WAC )  
)

TO: Washington State Parks and Recreation Commission  
ATTN: Douglas Mackey  
11834 Tilley Road, South  
Olympia, Washington 98512

On August 9, 2006, the Washington State Parks and Recreation Commission submitted a Joint Aquatic Resource 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 the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on September 19, 2006.

The proposed boat launch renovation project entails removal of two boat ramps and a single pier, ramp and float structure (supported by six creosoted piles), and the construction of three new boat launches, two new piers, ramp, and float structures each supported by four steel piles within Baker Bay of the Columbia River at Cape Disappointment State Park near Ilwaco, Pacific County, Section 9, Township 9 North, Range 11 West, WRIA No. 24, Willapa Watershed.

Up to 620 cubic yards of material (cement debris, rock, gravel, sand, and mud) will be excavated to remove the two existing boat ramps; up to 900 cubic yards of material (rock, gravel, and sand) will be placed to install three steel frame supported, pre-cast cement planked boat launches. The existing pier, ramp, eight floats, and six creosote piles will be replaced with two new cement piers, with floats, each supported with four steel piles.

To compensate for impacts associated with the proposed project, 43 creosote-treated wood piles located adjacent to the project site will be removed.

**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:

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 Washington State Parks and Recreation Commission and its agents, assignees, and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Regional Office, Attn: Federal Permit Coordinator, SEA Program, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. 3911 and Corps No.200501426.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on August 9, 2006. 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 shall be rescinded if the U.S. Army Corps of Engineers does not issue a Section 404 permit
6. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
7. 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.
8. The Applicant shall provide access to the project site and the mitigation area upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. 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.
10. 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.
11. 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.
12. 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. No Further Impairment of Existing Water Quality:**

1. The Columbia River is a Class A water of the state. Certification of this proposal does not authorize the Applicants to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(2) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology.
2. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Applicants from liability for contamination and any

subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

**C. Timing:**

1. This Order is valid until all compliance requirements in this document have been met.
2. In-water work shall be subject to the timing limitations imposed by the most current Hydraulic Project Approval (HPA) issued by the Washington Department of Fish and Wildlife's (WDFW) for this project.

**D. Notification Conditions:**

1. The Applicant shall provide written notification (e-mail or mail) to Ecology's Southwest Regional Office Federal Permit Coordinator in writing at least three (3) days prior to the start of construction at the project site.
2. The Applicant shall provide written notification to Ecology's Southwest Regional Office Federal Permit Coordinator in writing within fourteen (14) days after completion of construction.

**NOTE:** These notifications shall include the Applicant's name, project name, Order No. 3911, Corps Reference No. 200501426, project location, contact and contact's phone number.

**E. Water Quality Monitoring and Reporting Conditions:**

1. During and immediately after project construction, the Applicant or their contractor shall visually monitor for turbidity discharges at the point of compliance established in WAC 173-201A-110(3). If water quality exceedances are observed outside of the point of compliance, work shall cease immediately and the Applicant or the contractor shall assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further water quality turbidity exceedances. The Applicant or their contractor shall notify Ecology's Southwest Regional Office Federal Permit Coordinator at (360) 407-6926 of the exceedances.
2. If the results of the monitoring show that the water quality standards or project performance standards are not being met additional monitoring and mitigation may be required.
3. Any changes to the monitoring requirements must be approved in writing by Ecology.

**F. Construction Conditions:**

**General**

1. All work in and near the water 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 before starting clearing, filling and grading work and shall be maintained throughout construction.
2. The project shall be clearly marked/staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas and buffers that are to be protected from disturbance shall be marked so as to be clearly visible to equipment operators. All project staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.
3. The Applicant shall establish a separate contained area for washing down vehicles and equipment, which does not have any possibility of draining to surface waters and wetlands. No wash water containing sediments, oils, grease, or other hazardous materials resulting from wash down of the work area, tools, and equipment including concrete delivery trucks or other equipment used for concrete work shall be discharged into state waters or storm drains.
4. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in a confined area in order to prevent containment to waters of the state. Fueling areas will be provided with adequate spill containment. Fueling equipment and vehicles within 100 feet of state waters and wetlands is not allowed.
5. Appropriate BMP's shall be implemented to minimize track-out during construction.
6. No existing shoreline material (i.e., logs, rocks, gravel cobbles, woody debris, or other bed material) shall be relocated or used as bulkhead armor or fill, or for any other purpose except that bed material located exactly where new pilings and footings are to be placed may be relocated.
7. All construction debris shall be properly disposed of on land so that it cannot cause water quality degradation to state waters.
8. All excess excavated material shall be disposed of above the 100-year floodplain and shall be contained so as to prevent its re-entry into waters of the state.
9. Turbid water generated from construction activities, including turbid dewatering water, 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.
10. Dewatering water that is not turbid may be discharged directly to surface waters and/or wetlands 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 the water quality standards at the point of discharge.

11. Uncured concrete and concrete by-products shall be completely sealed off and totally contained using sealed forms or other leak-proof containment systems, and not allowed to contaminate or enter surface waters of Baker Bay, Columbia River.
12. Fresh, uncured concrete in direct contact with water is toxic to aquatic life. All concrete shall be poured in the dry, or within confined waters not being dewatered, and shall be completely cured prior to coming into contact with waters of the state.
13. No wood, metal, or concrete preservatives, paints, sealers, glues, epoxies, chemicals, or other substances harmful or toxic to fish or shell fish shall be applied to the ramps or floats once they have been placed within or over the ordinary high water mark of Baker Bay, Columbia River.
14. The Applicant shall have a boat available and on site during in-water activities to retrieve any debris entering the water.

#### **Piling Removal and Driving**

15. All existing creosote-treated pilings to be removed shall be completely extracted and removed from Baker Bay, and disposed of at an approved upland disposal site.
16. All new pilings shall be made of steel.
17. A vibratory hammer shall be used to install steel piling until the point of refusal at which point an impact pile driver will be used to proof the piling.
18. During impact pile driving, a bubble curtain shall be in place at all times to attenuate underwater vibrations

#### **G. Emergency/Contingency Measures:**

1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of 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, including wetlands, 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 Southwest Regional Spill Response Office at (360) 407-6300 of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.
- f. Submit a detailed written report to Ecology's Federal Permit Coordinator 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.

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.

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's Southwest Regional Spill Response Office at 360 407-6300.

#### **H. Appeal Process:**

You have the right to appeal this Order to the Pollution Control Hearings Board. Pursuant to chapter 43.21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology within thirty (30) days of the date of your receipt of this document.

To appeal this Order, your notice of appeal must contain a copy of the Ecology Order you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board  
4224 - 6th Avenue SE, Rowe Six, Bldg. 2  
P.O. Box 40903  
Lacey, Washington 98504-0903

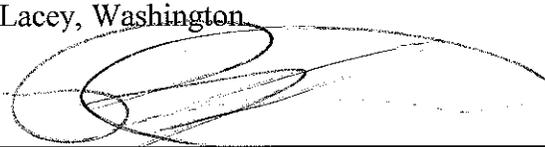
Your appeal must also be served on:  
The Department of Ecology  
Appeals Coordinator  
P.O. Box 47608  
Olympia, Washington 98504-7608.

In addition, please send a copy of your appeal to:  
Federal Permit Appeals Coordinator  
Department of Ecology  
P.O. Box 47600  
Olympia, Washington 98504-7600

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

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 11/22/06 at Lacey, Washington



---

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

**Attachment # A**

Cape Disappointment State Park  
Water Quality Certification Order # **3911**

Statement of Understanding  
Water Quality Certification Conditions

I, \_\_\_\_\_, state that, I will be involved as an agent or contractor for the Washington State Parks and Recreation Commission in the construction of a boat launch at Cape Disappointment State Park, Pacific County, Washington. I further state that I have read and understand the relevant conditions of the Washington Department of Ecology Water Quality Certification Order #**3911** 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

