STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

June 8, 2007

REGISTERED MAIL
RB 252 944 981 US

Cowlitz County Public Works Department
Mr. Roger Maurer
207 Fourth Avenue North
Kelso, WA 98626

RE: Water Quality Certification Order 4418 for Corps Public Notice No. 200601430 to replace a culvert on the Little Kalama River in the Woodland, Cowlitz County, Washington

Dear Mr. Maurer:

On November 29, 2007, Cowlitz County Public Works Department, 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 Little Kalama River Road Improvements. The project proposes to replacement of an existing culvert. Ecology issued a public notice on April 24, 2007, 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.

If you have any questions, please contact Sarah Lukas at (360) 407-7391. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Perry J. Lund
Southwest Regional Office
Shorelands and Environmental Assistance Program

PJL:SL:dn
Enclosure

cc: Kristine Hansen, U.S. Army Corps of Engineers
Danette Guy, WDFW

e-cc: Penny Keys, Ecology/HQ
Loree' Randall, Ecology/HQ
Randy Davis, Ecology Shorelands SWRO
Deborah Cornett, Ecology/WQ SWRO

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Cowlitz County Public Works Department in accordance with 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	)))))))	**ORDER #4418** **Corps Reference #200601430** Little Kalama River Road Improvements located in Cowlitz County, Washington.

TO: Cowlitz County Public Works
Roger Maurer
207 Fourth Avenue North
Kelso, WA 98626

On November 29, 2006, the Cowlitz County Public Works Department 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 April 24, 2007.

The proposed project entails the replacement of a five-foot span corrugated steel pipe arch culvert with a new 10-foot span bottomless culvert. The Whittle Creek channel will be reconstructed through the culvert with channel fill material. The creek flow will be bypassed around the work area at Little Kalama River Road milepost 6.77, Woodland, Cowlitz County, Washington 98674. Section 15, Township 6N, Range 1E, WRIA# 27.

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:

A1. For purposes of this Order, the term "Applicant" shall mean Cowlitz County Public Works Department, and its agents, assignees and contractors.

A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Regional office, Attn: Federal Project Coordinator, PO Box 47775, Olympia, WA 98504-47775. Any submittals shall reference Order #4418 and Corps #200601430.

A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on November 29, 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.

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 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.

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. 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.

A10. 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

B1. This Order is valid until though April 10, 2009.

C. 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: June 8, 2007, at Olympia, Washington.

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