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

July 6, 2007

REGISTERED MAIL
RB 252 945 050 US

Chehalis Basin Fisheries Task Force
115 Wooding Street
Aberdeen, WA 98520

RE: Water Quality Certification Order 4530 and Coastal Zone Management consistency determination for Corps Public Notice No 200700149 to replace two existing culverts on Forrest Road, with a 12-foot culvert to allow fish and aquatic life passage on Forest Creek, a tributary to Garrard Creek and the Upper Chehalis River, Grays Harbor County, Washington

Dear Applicant:

On January 25, 2007, the Chehalis Basin Fisheries Task Force 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 Forrest Road Fish Barrier Culvert Removal. The project proposes to correct a fish barrier culvert on Forest Creek running under Forrest Road. The two existing culverts between Forest Creek and Lower Garrard Creek in the Upper Chehalis Basin, will be removed and replaced with a multi-plate, eight gauge, round, corrugated galvanized steel culvert, 12-feet in diameter and 40-feeet long. Forest Creek will be regraded for the placement of the new culvert and large woody debris as well as riparian plantings will be placed both upstream and downstream of the culvert replacement. Ecology issued a public notice on June 7, 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.

On June 29, 2007, Chehalis Basin Fisheries Task Force 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.

If you have any questions, please contact Sarah M. Lukas at (360) 407-7459. 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: Casey Ehorn, U.S. Army Corps of Engineers, Seattle District
Gloria Rogers, WDFW Region 6
Lonnie Crumley, Streamworks, LLC

e-cc: Penny Keys, Ecology HQ
Loree' Randall, Ecology HQ
Rick Mraz, Ecology Southwest Regional Office
Deborah Cornett, Ecology Southwest Regional Office

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Chehalis Basin Fisheries Task Force in accordance with 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	)))))))	**ORDER #4530** **Corps Reference #200700149** Forrest Road Fish Barrier Culvert Removal located near Oakville, Grays Harbor County, Washington

TO: Chehalis Basin Fisheries Task Force
115 Wooding Street
Aberdeen, WA 98520

On January 25, 2007 the Chehalis Basin Fisheries Task Force 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 June 7, 2007.

The proposed project entails the correction of a fish barrier culvert on Forest Creek running under Forrest Road. The existing culverts, that is a fish barrier between Forest Creek and Garrard Creek, will be removed and replaced with a multi-plate, eight gauge, round, corrugated galvanized steel culvert, 12-feet in diameter and 40-feet long. Forest Creek will be regraded for the culvert replacement and large woody debris as well as riparian plantings will be placed both upstream and downstream of the culvert replacement at Forrest Road, off of Garrard Creek Road, near Oakville, Grays Harbor County, Washington. Section 11, Township 15N, Range 5W, WRIA# 23.

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 Chehalis Basin Fisheries Task Force, 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 98504-7775. Any submittals shall reference Order #4530 and Corps # 200700149.

A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on January 25, 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.

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 May 22, 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 July 6, 2007, at Olympia, Washington.

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