



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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April 12, 2007

REGISTERED MAIL
RB 252 946 214 US

Becky Michaliszyn
Washington State Department of Transportation
11018 Northeast 51st Circle
PO Box 1709
Vancouver, WA 98668-1709

RE: Water Quality Certification # 4200 for Corp Public Notice No. 200700194 for the proposed roadway protection and stream bank stabilization on SR 508 1 mile west of Onalaska in Lewis County, Washington.

Dear Ms. Michaliszyn:

On February 6, 2007, the Washington State Department of Transportation (WSDOT) 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 SR 508, roadway protection and stream bank stabilization project. This proposed project will mitigate for the emergency revetment construction performed in this vicinity during January and February 2006 which impacted the South Fork Newaukum River. The U.S. Army Corps of Engineers issued a Nationwide Permit 13 on February 21, 2007 for the emergency work already completed and the proposed mitigation work.

On behalf of the State of Washington, Ecology certifies that the work proposed in the JARPA and the public notice complies with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and other applicable requirements of state law. This certification is subject to the conditions contained in the enclosed Order.



The enclosed Order may be appealed by following the procedures described in the Order.
If you have any questions, please contact Lisa Rozmyn, the Federal Project Coordinator for this project, at (360) 407-7032 or lroz461@ecy.wa.gov .

Sincerely,

A handwritten signature in black ink, appearing to read 'Brenden McFarland', with a long horizontal flourish extending to the right.

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

LR:ds
Enclosure

cc: Vickie Albert, WSDOT Southwest Region
Sandra Manning, Corps of Engineers

IN THE MATTER OF GRANTING A) ORDER # 4200
WATER QUALITY) Corps Reference No. 200700194
CERTIFICATION TO) SR 508, MP 7.4, 1 mile west of Onalaska,
Washington State Department of) roadway embankment emergency repair, bank
Transportation) protection and mitigation on the South Fork
in accordance with 33 U.S.C. 1341) Newaukum River in the Upper Chehalis
(FWPCA § 401), RCW 90.48.120, RCW) watershed in Lewis County, Washington.
90.48.260 and Chapter 173-201A WAC)
)

TO: Attn: Becky Michaliszyn
Washington State Department of Transportation
11018 Northeast 51st Circle
PO Box 1709
Vancouver, WA 98668-1709

On February 6, 2007, the Washington State Department of Transportation (WSDOT), submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. The request for certification was made available for public review and comment through the Ecology’s Public Notice from February 26, 2007 to March 19, 2007.

The proposed roadway protection and stream bank stabilization project is located on SR 508, Milepost 7.4, WRIA 23, Section 31, Township 13N, Range 1E in Lewis County, Washington. The proposed work will mitigate for the emergency revetment construction performed in this vicinity during January and February 2006 which impacted the South Fork Newaukum River. The 401 Water Quality Certification will cover both the emergency work that has already been completed and the proposed mitigation for that work.

The emergency roadway protection work completed in February 2006 placed approximately 950 cubic yards of clean, heavy, loose rip-rap armor along affected portions of the stream bank, approximately 160 linear feet of bank with a vertical dimension of 20 feet.

The work proposed for the upcoming mitigation project includes placing woody debris structures anchored by additional log structures, heavy loose riprap, and drilled anchor structures on the bank and below the ordinary high water line of the South Fork Newaukum River.

The US Army Corps of Engineers issued a Nationwide Permit 13 on February 21, 2007 for the emergency work already completed and the proposed mitigation work.

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 quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve Washington State Department of Transportation 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 the Washington State Department of Transportation and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required as conditions shall be sent to Department of Ecology Attn: Federal Project Coordinator – P.O. Box 47600, Olympia WA 98504-7600 or via e-mail (preferred) if possible to the Coordinator assigned to this project. Notifications shall be made via phone and /or e-mail (preferred). All submittals and notifications shall be identified with Order No. 4200 and include the Applicant's name, project name, project location, the project contact and the contact's phone number.
3. Work authorized by this Order is limited to the work described in the current JARPA. 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 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 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.
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 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 workers 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 (\$10,000.00) per violation per day for each day of continuing noncompliance.

B. Notification Requirements

1. Notification shall be made to Ecology's Federal Project Coordinator – P.O. Box 47600, Olympia WA 98504-7600, or email at lroz461@ecy.wa.gov for the following activities:
 - a. At least 10 days prior to the pre-construction meeting;
 - b. At least 10 days prior to the onset of initiating work on the project site;
 - c. At least 10 days prior to initial in-water activities;

- d. Immediately following a violation of state water quality standards or conditions of this Order.

NOTE: These notifications shall include the applicant's name, project name, project location, the number of this Order, contact name, and contact's phone number.

C. Water Quality

1. 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 as authorized by this Order.
2. Consistent with WAC 173-201A-410, this order authorizes a short term modification to the turbidity standards by granting a temporary mixing zone. The short term modification only applies to the mitigation work as described in the JARPA received on February 6, 2007. The construction work that is expected to cause exceedances of the water quality standard for turbidity includes excavation below ordinary high water to place rock anchors for rootwads to mitigate for the rock buttress WSDOT installed in early 2006.
 - The distance granted for a mixing zone is 1500 feet downstream from the point of in-water work.
 - The short term modification is granted for a total of 14 working days occurring during the mitigation work.
 - Appropriate BMPs shall be used during the in-water work including, but not limited to the following:
 - a. Equipment shall be free of dirt and debris and shall be free of fluid leaks.
 - b. Only the boom and bucket of the excavator may enter waterward of ordinary high water.
 - c. The temporary access road shall be built of clean quarry spalls to prevent turbid stormwater runoff as well as to prevent muddy trackout onto the roadway.
 - d. All equipment operating within the project area shall use biodegradable hydraulic fluid meeting the requirements of ASTM D6046-02, "Standard Classification of Hydraulic Fluids for Environmental Impact."
 - e. Spill kits shall be on site for the duration of the project.
 - f. Where practical, equipment maintenance will occur at least 300 feet from any water body.
 - g. Following completion of the project, all exposed soils shall be stabilized within 7 days.

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.

Monitoring

5. The Applicant shall submit a Water Quality Monitoring and Protection Plan (Plan) for review and approval to the Federal Project Coordinator at least twenty (20) days prior to beginning in-water work. All in-water work activities are not authorized to be conducted until approval of the Plan is received. This Plan shall include the following information:
 - a. Name(s) and phone number(s) of person(s) responsible for monitoring;
 - b. Map with numbered or named sampling locations associated with the in-water activities. Include the background and the point of compliance per the requirements in WAC 173-201A-110(3a-d);
 - c. Parameter to be monitored: turbidity
 - d. A description of the Best Management Practices (BMPs) that will be used on the project to protect water quality;
 - e. activities that will be monitored, including turbidity for in-water work;
 - f. Sample frequency for each activity to be monitored;
6. Ecology must approve any changes to the Plan in writing.
7. Monitoring results shall be submitted to the Federal Project Coordinator per A.2. All monitoring results shall also be kept onsite and submitted to Ecology upon request.

D. Timing

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

E. Emergency/Contingency Measures

1. The Applicant shall develop a spill prevention and containment plan for all aspects of this project.
2. The Applicant shall have adequate and appropriate spill response materials on hand to respond to an emergency release of petroleum products or any other material into waters of the state.
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 waters of the state.
4. 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 such work occurs, the Applicant shall comply with WSDOT's Instructional Letter 4055.00 Environmental Compliance Assurance Procedure for Construction Projects and Activities (March 10, 2003) and immediately take the following actions:

- a. Cease operations at the location of the violation.
- 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 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 be proper disposal of any spilled material and used cleanup materials.
- d. Notify Ecology of the failure to comply. Immediately notify Ecology's Northwest Regional Spill Response Office at 425-649-7000, **and** within 24 hours of spills or other events to Ecology's Federal Project Coordinator – MAP Team at (425) 649-7181.
- e. 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.

F. 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 Apr 12, 2007 at Olympia, Washington.



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