



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Public Notice of Proposed Work in Waters of the State
Title 17, Chapter 170, Sections 170.030 through 170.040
Title 17, Chapter 170, Sections 170.030 through 170.040

CERTIFIED MAIL

7005 1852 0000 7659 3137

August 12, 2009

City of Castle Rock City Public Works
ATTENTION: Dave Vorse
360 A Street Southwest
Castle Rock, WA 98611

RE: ORDER # 7054 (Corps Reference No. NWS-2006-370)

Construction of a two-lane boat ramp, transient float, kayak float, log boom, 2.5 acre parking structure, public restroom, and picnic areas, Cowlitz River, Cowlitz County, Washington.

Dear Mr. Vorse:

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 or enclosed Order, please contact Helen Pressley at (360) 407-6076.

Sincerely,

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

cc: Danette Guy, Corps
Steve West, WDFW

ecc: Brad Rawls, URS Corporation
Loree' Randall, HQ ECY
Helen Pressley HQ ECY
Lori Ochoa, SWRO, ECY
ecyrefedpermits@ecy.wa.gov

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|------------------------------------|---|---|
| IN THE MATTER OF GRANTING A |) | ORDER # 7054 |
| WATER QUALITY |) | Corps Reference No. NWS-2006-370 |
| CERTIFICATION TO |) | Construction of a two-lane boat ramp, transient |
| City of Castle Rock |) | float, kayak float, log boom, 2.5 acre parking |
| in accordance with 33 U.S.C. 1341 |) | structure, public restroom, and picnic areas, |
| (FWPCA § 401), RCW 90.48.120, RCW |) | Cowlitz River, Cowlitz County, Washington. |
| 90.48.260 and Chapter 173-201A WAC |) | |
| |) | |
| |) | |

TO: City of Castle Rock City Public Works
ATTENTION: Dave Vorse
360 A Street Southwest
Castle Rock, WA 98611

On July 16, 2009, City of Castle Rock City Public Works 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 July 23, 2009.

The purpose of the proposed project is to provide water access for recreational use and an emergency service boat launching site for the region.

The proposed project includes:

- A two-lane boat launch (53-feet wide by 220-feet long)
- An 8-foot wide by 100-foot long transient float
- 20-foot by 20-foot kayak/canoe landing float
- Log boom structure for purpose of sheltering the launch facility from floating debris
- Dredging an area approximately 130 by 200 feet in dimension
- A 2.5 acre parking area
- Picnic areas
- Shoreline improvements
- Invasive species removal activities on approximately 1.3 acres of Whittle Creek (Mitigation)
- Revegetation with native species on approximately 1.3 acres of Whittle Creek (Mitigation)
- Removal of approximately 315 cubic yards of floodplain fill on Whittle Creek (Mitigation)
- Installation of large wood material in floodplain/stream channel of Whittle Creek (Mitigation)

The project is located on the Cowlitz River Mile 17.4, in Castle Rock, Cowlitz County Washington, in Sections 41 & 57, Township 9 North, Range 2 West. Latitude 46.278889 N, Longitude -122.911111 W.

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 City of Castle Rock City Public Works and its agents, assignees and contractors.

2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Office, Attn: Federal Permit Coordinator, SEA Program, P.O. Box 47600, Olympia, WA 98504-7600. Any submittals shall reference Order No. 7054 and Corps No. NWS-2006-370.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on July 16, 2009. 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. 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 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. Failure of any person to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

B. No Further Impairment of Existing Water Quality:

1. This Order does not authorize temporary exceedances of turbidity beyond the limits established in WAC 173-201A-200(1)(e)(i)(C).

C. Water Quality Monitoring and Reporting Conditions:

1. During in-water activities, the Applicant or their contractor shall visually monitor for turbidity discharges at the point of compliance established in WAC 173-201A-200(1)(e)(i)(C). 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 Federal Permit Coordinator at (360) 407-6076 of the exceedances.
2. The Applicant shall submit a water quality monitoring plan to Ecology per Condition A2. This plan shall be approved by Ecology prior to any in-water work. The plan shall include at a minimum the following information:
 - a. Name and contact information of the person or firm responsible for monitoring;
 - b. Map of sample locations including background and point of compliance at or near the surface, midway, and bottom depths. For this project the point of compliance is 300 down current from the activity causing the turbidity exceedance.
 - c. Parameter to be monitored: turbidity;
 - d. Sample method;
 - e. Frequency, and
 - f. Steps to be taken if monitoring results indicate an exceedance has occurred.
3. Turbidity monitoring reports shall be sent weekly to the Federal permit coordinator per condition A2. The permit coordinator shall be contacted within 24 hours if an exceedance occurs.
4. 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.

D. 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 their 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. During construction, the Applicant shall comply with all stormwater requirements within the current NPDES Construction Stormwater General Permit issued for this project.
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, unless otherwise authorized by Ecology.
5. Equipment used for this project shall be free of external petroleum-based products while working around the stream. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to its working below the ordinary high water line. Equipment shall be checked daily for leaks and any necessary repairs shall be completed prior to commencing work activities along the stream.
7. All construction debris shall be properly disposed of on land so that it cannot cause water quality degradation to state waters.
8. Grading of material on the site must be done in a manner so that all of the material is graded landward and does not enter waters of the state.

Pile Driving

9. The Applicant shall use new pilings made of steel.

10. The Applicant shall install piling using a vibratory hammer. If proofing the steel piling requires the use of an impact pile driver, a dampening device such as a block of wood at least 6-inches thick, shall be placed between the piling and the impact pile driver to attenuate noise.

Dredging

11. 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.
12. The Applicant is authorized to dredge approximately 200 cubic yards (cy) of material annually to maintain boat access. The Applicant shall notify Ecology on where the dredged material will be disposed of prior to each dredging event.

E. Mitigation:

1. The Applicant shall mitigate impacts as described in *Whittle Creek Reach 6 Mitigation Final Mitigation Plan Technical Memorandum* (hereafter called the "mitigation plan") prepared by Gray & Osborne, Inc. and dated August 3, 2009.
2. The Applicant shall submit any changes to the mitigation plan in writing to Ecology (see A2) for review and approval before work begins.

F. Timing:

1. This Order shall remain in effect for a period of 10 years from date of issuance. Continuing this project beyond the 10 year term of this Order will require separate certifications every 10 years.
3. 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.

G. Notification Conditions:

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Federal Permit Coordinator in writing at least three (3) days prior to the start of construction at the project site per condition A2 above.
2. The Applicant shall provide written notification to Ecology's Federal Permit Coordinator in writing within fourteen (14) days after completion of construction per condition A2 above.

H. 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 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. 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.

I. 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

OR

Deliver your appeal in person to:

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

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

OR

Deliver your appeal in person to:

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

3. And send a copy of your appeal to:

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

For additional information visit the Environmental Hearings Office Website:
<http://www.cho.wa.gov>

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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 August 12, 2009 at Lacey, Washington.



Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington