



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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REGISTERED MAIL

RB 252 946 951 US

February 6, 2009

Ms. Lora Papac
Weyerhaeuser Company
425 E Perry St
Aberdeen WA 98520

RE: Water Quality Certification - Order #6255/Corps Public Notice NWS-2007-01065-SO - Maintenance dredging in the amount of up to 20,000 cubic yards (cy) of sediment annually from the Weyerhaeuser Bay City Dock in Aberdeen in the Chehalis River Grays Harbor County, Washington

Dear Ms. Papac:

On April 26, 2007, Ecology received a request from Weyerhaeuser for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act (CWA) for the proposed maintenance dredging in the Chehalis River. Then on April 9, 2008 Ecology received a request from Weyerhaeuser to withdraw and reapply their request for the 401 Certification. The Corps issued a joint public notice on October 14, 2008, for the proposed project.

On behalf of the State of Washington, through the enclosed Order, Ecology certifies that the proposed 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 Helen Pressley at (360) 407-6076. The enclosed Order may be appealed by following the procedures described in the Order.

cc: Seattle Corps – Jim Green
Northern Resource Consulting – Brian Perleberg

e-cc: Ecology HQ – Jessica Moore
Ecology HQ – Loree' Randall
Ecology SWRO – Lori Ochoa
Ecology SWRO – Rick Mraz

IN THE MATTER OF GRANTING A) ORDER #6255
WATER QUALITY) Corps Reference No. NWS-2007-1065-SO
CERTIFICATION TO) Maintenance dredging of up to 20,000 cubic
Weyerhaeuser Company) yards (cy) of sediment annually from the
in accordance with 33 U.S.C. 1341) Weyerhaeuser Bay City Dock in the Chehalis
(FWPCA § 401), RCW 90.48.120, RCW) River, Grays Harbor County, Washington
90.48.260 and Chapter 173-201A WAC)

TO: Ms. Lora Papac
Weyerhaeuser Company
425 E Perry St
Aberdeen WA 98520

On April 26, 2007 the Weyerhaeuser Company submitted a request for a Section 401 Water Quality Certification to the Department of Ecology (Ecology). On April 9, 2008 Ecology received a request from Weyerhaeuser to withdraw and reapply. A joint public notice regarding the request was distributed for the above-referenced project on October 14, 2008.

The proposed project involves the maintenance dredging of up to 20,000 cy of sediment annually from the Chehalis River over a period of ten years. The area to be dredged is located in front of the Weyerhaeuser Bay City Dock. The sediment will be removed using a barge-mounted clamshell dredge. The area will be dredged to about -38 feet Mean Lower Low Water (MLLW) with a 2 foot allowable overdredge.

The purpose of the dredging is to provide adequate depth for safe ship loading operations.

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

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 the Weyerhaeuser Company and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Headquarters Office, Attn: Federal Project Coordinator, P.O. Box 47600, Olympia, WA 98504. Any submittals shall reference Order No. 6255 and Corps No. NWS-2007-1065-SO.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on April 26, 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.
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. Copies of this Order shall be kept at 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.
6. 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.
7. 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

above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.

9. 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.
10. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.
11. This Order shall be rescinded if the US Army Corps of Engineers does not issue an individual Section 404 and Section 10 permit.

B. Water Quality:

1. This order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-210(1)(e).
2. The Applicant shall submit a water quality monitoring plan to Ecology per Condition A2 at least 14 days prior to dredging. This plan shall be approved by Ecology prior to any in-water work.
3. Water Quality Monitoring Plan – This plan shall include at a minimum the following information:
 - a. Name and contact information of the person responsible for monitoring;
 - b. Map of sample location including background and point of compliance. For this project the point of compliance is a radius of 150 feet from the activity causing the turbidity exceedance.
 - c. Parameters to be monitored: turbidity;
 - d. Sample method;
 - e. Frequency, and
 - f. Steps to be taken if monitoring results indicate an exceedance has occurred.
 - g. Turbidity monitoring reports shall be sent weekly to the dredging permit coordinator. The coordinator shall be contacted within 24 hours if an exceedance occurs.

C. Dredging and Disposal:

1. All dredging will be done using a barge-mounted clamshell dredge. Use of any other type of machinery will not be permitted.

siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into waters of the State.

5. The project must be dredged before the most current sediment evaluation's recency date found in the suitability determination issued by the Dredged Material Management Program (DMMP). The most recent sediment evaluation covers the project until April 9, 2013. After that date, the applicant must either request an extension for the sediment evaluation or conduct another sediment evaluation through the DMMP.
6. A **Dredging Plan** shall be developed and implemented. The Applicant shall submit the Plan for Ecology's review per Condition #A2 at least seven (7) days prior to the start of each dredging season.

D. Timing Requirements:

1. All in-water work shall be completed by the work window identified in the most current HPA issued for this project. Any project change that requires a new or revised HPA should also be sent to Ecology for review.
2. This Order shall remain in effect for a period of five (5) years from date of issuance. Continuing this project beyond the 5 year term of this Order will require a new application and authorization from Ecology.

E. Notification Requirements:

1. The Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager at least three (3) days prior to the start of construction and within 14 days after completion of construction or dredging at the project site. Notification, referencing Corps Reference #NWS-2007-1065-SO, Order #6255 can take place by telephone to (360) 407-6076 or, fax to (360) 407-6902, e-mail at hpre461@ecy.wa.gov or in writing.

F. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for 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

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 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's 401/CZM Federal Project Manager at (360) 407-6076.
 - f. 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.
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 using the above phone numbers.
 4. 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.

G. 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.eho.wa.gov>

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 Feb 6, 2009 at Lacey, Washington.



ATTACHMENT A

**Weyerhaeuser Company Bay City Dock
Maintenance Dredging
Water Quality Certification Order #6255**

**Statement of Understanding of
Water Quality Certification Conditions**

I have read and understand the conditions of Order #6255 Section 401 Water Quality Certification for the **Weyerhaeuser Bay City Dock Maintenance Dredging Project**. I have also read and understand all permits, plans, documents, and approvals associated with the **Weyerhaeuser Bay City Dock Maintenance Dredging Project** referenced in this order.

Signature

Date

Title

Company