



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
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August 28, 2008

REGISTERED MAIL

Mr. Peter Keefe
Pacific Rock Products
8705 – NE 117th Ave
Vancouver WA 98662

RE: Water Quality Certification - Order #5949/Corps Public Notice NWP-1999-599-1P

Dear Mr. Keefe:

On May 2, 2008, you submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act (CWA) to remove up to 200,000 cubic yards of material annually from within the Columbia river federally authorized navigational channel between River Miles 119 and 120.5.

On behalf of the State of Washington, through the enclosed Order, Ecology certifies that the work described in the May 2, 2008 JARPA 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.

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

Sincerely,

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



cc: Debra Henry, Portland Corps
Bill Abadie, Corps VFO
Kristen Noreen, Anchor Environmental LLC, 1605 Cornwall Ave, Bellingham WA 98225

e-cc: Loree' Randall, Ecology/HQ
Lori Ochoa, Ecology/SWRO
Federal Permit Contact HQ

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|------------------------------------|---|--|
| IN THE MATTER OF GRANTING |) | ORDER # 5949 |
| A WATER QUALITY |) | Corps Reference No. NWP-1999-599-1P |
| CERTIFICATION TO |) | Maintenance dredging of up to 200,000 cy |
| Pacific Rock Products |) | annually over a period of 5 years from the |
| In accordance with 33 U.S.C. 1341 |) | Columbia River federal navigation channel |
| (FWPCA § 401), RCW 90.48.120, RCW |) | between River Mile (RM) 119 and 120.5, in |
| 90.48.260 and Chapter 173-201A WAC |) | Clark County, Washington. |
| |) | |
| |) | |

TO: Mr. Peter Keefe
Pacific Rock Products
8705 – NE 117th Ave
Vancouver WA 98662

On May 2, 2008 Pacific Rock Products submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification.

The applicant has requested a Section 401 Water Quality Certification (401 Certification) to remove approximately 200,000 cubic yards (cy) of sand annually from the Columbia River federal navigation channel between RM 119 and 120.5 to a depth of -40 feet Columbia River Datum (CRD). The applicant is requesting authorization to dredge on a year-round basis during daylight hours only. The federal navigation channel in the project area is currently authorized to a depth of -43 CRD. Dredging would be accomplished with a 94-foot hydraulic dredge, which uses a 18-inch suction draghead. The applicant proposes to pipe the material to their existing upland disposal/reclamation area in Oregon. Return water from upland disposal will be discharged after sediment has settled into an adjacent channel in the Columbia River. Oregon’s Department of Environmental Quality (DEQ) issued a 401 Certification on June 2, 2008 for activities being conducted in Oregon.

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 Pacific Rock Products 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: 401/CZM Federal Project Manager, P.O. Box 47600 Olympia, WA 98504-7600. Any submittals shall reference Order #5949 and Corps Reference # NWS-1999-599-1P.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Protection Application (JARPA) received by Ecology on May 2, 2008. The Applicant will be out of compliance with this Order and must submit an updated JARPA 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 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. 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) per violation for each day of continuing noncompliance.

B. Water Quality:

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

C. Dredging:

1. All dredging is to be done using a 94-foot hydraulic dredge with an 18-inch suction draghead. Use of any other type of dredge will require prior approval from Ecology.
2. All debris (larger than 2 feet in any dimension) shall be removed from the dredged sediment prior to disposal. Similar sized debris found floating in the dredging or disposal

area shall also be removed. All debris shall be disposed of at appropriate upland locations.

3. The draghead on the hydraulic dredge shall be lowered to at least 20 feet below the surface if water is pumped through the dragheads to flush out the hopper bins.

D. Emergency and Contingency Measures:

1. Any in-water work that is out of compliance with the provisions of this Order, 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 operator shall immediately take the following actions:
 - a. Cease operations.
 - 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 include proper disposal of any spilled material and used cleanup materials.
2. Spills into state waters, spills onto land with a potential for entry into state waters, or other significant water quality impacts, shall be reported immediately to Ecology's Southwest Regional Spill Response Office at (360) 407-6300.
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 state waters, including wetlands.
4. Monitoring: During and immediately after the project, the Applicant or contractor shall visually monitor the area for distressed or dying fish. If distressed or dying fish are observed, in-water work shall cease immediately and the Applicant or the contractor shall contact Ecology's Southwest Regional Spill Response Office at (360) 407-6300.

F. Timing Requirements:

1. In-water work may be done during any time of the year. Any project change that requires a new or revised HPA should also be sent to Ecology for review.
2. This Order expires four years from the date of issuance. A new 401 Certification must be obtained prior to expiration in order to continue dredging in the Columbia River beyond four years.

3. Ecology reserves the option to reassess the terms of this Order and amend or revoke, as necessary, in the event that:
 - a. New sources of potential contamination are discharged or otherwise stand to significantly affect the quality of sediment, or
 - b. New information indicates that filling activities are having a significant adverse impact on water quality or characteristic uses.

G. Notification Requirements:

1. **Ecology shall be notified at least 72 hours prior to the start of dredging for any given year.** Contact Helen Pressley at Department of Ecology, PO Box 47600, Olympia WA 98504-7600, (360) 407-6076, or hpre461@ecy.wa.gov.

H. 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:

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://www.l.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 this 28th day of August, 2008 at Lacey, Washington.



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

Attachment #A

**Water Quality Certification
Statement of Understanding
Pacific Rock Products Dredging Project
Order #5949, Corps #NWS-1999-599-1P**

I, _____, state that, as an agent or contractor for dredging and/or dredge-related work in the Columbia River, Clark County, Washington, I have read and understand the relevant conditions of Washington State Department of Ecology Water Quality Certification Order # 5949 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Company