

Reposted  
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STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

September 17, 2004

REGISTERED MAIL

Bayview Redi-Mix, Inc.  
Attn: Mr. Jack Prince  
P.O. Box 165  
100 Hagara Road  
Aberdeen, WA 98520

Dear Mr. Prince:

RE: Water Quality Certification, Number 1670 for Corps Public Notice 199801686-R to reclaim Phase I area for fish and wildlife habitat use; conduct sand and gravel mining on 23.4 acres in Phase II Area; conduct sand and gravel mining in Phase III upland area within the Chehalis River 100-year floodplain, Grays Harbor County, Washington.

The public notice issued by U.S. Army Corps of Engineers on May 13, 2004 for proposed work in wetlands within the 100-year floodplain of the Chehalis River, Grays Harbor County, Washington has been reviewed. On behalf of the State of Washington, we certify that the work proposed in the application for Department of Army permit, and Corps 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 letter also serves as the State response to the Corps of Engineers.

Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the applicant's determination that this work is consistent with the approved Washington State Coastal Zone Management Program. This concurrence is based upon the applicant's compliance with all applicable enforceable policies of the Coastal Zone Management Program, including Section 401 of the Federal Water Pollution Control Act.

- This certification concurrence is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Jo Sohneronne at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in cursive script that reads "Paula Ehlers".

Paula Ehlers, Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology - Southwest Regional Office

PE:LO:th  
Enclosure

cc: Jonathan Smith, U.S. Army Corps of Engineers  
Dave Kloempken, WDFW  
Carol Serdar, DNR  
Curt Crites, Grays Harbor County

**A. No Further Impairment of Existing Water Quality**

- A1. The Chehalis River in this area is a Class A water of the state. Certification of this proposal does not authorize Bayview Redi-Mix, Inc. to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve Bayview Redi-Mix, Inc. from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
- A2. During construction Bayview Redi-Mix, Inc. shall comply with all stormwater requirements within the Surface Mining and Associated Activities General Permit, WAG 50-1064 for The Bayview Redi-Mix – Elma Facility at 91 Schouweiller Road, Elma, Washington.

**B. Timing:**

- B1. This Order is valid until all compliance requirements in this document have been met.

**C. Notification Conditions:**

- C1. Bayview Redi-Mix, Inc. shall notify Ecology's Southwest Regional Office Federal Permit Coordinator (Jo Sohneronne) at 360/ 407-6926, Fax 360/ 407-6305, E-mail [jsoh461@ecy.wa.gov](mailto:jsoh461@ecy.wa.gov), or mail P.O. Box 47775, Olympia, WA 98504-7775) at least fourteen (14) days prior to the starting work.
- C2. Bayview Redi-Mix, Inc. shall notify Ecology's Southwest Regional Office Federal Permit Coordinator within fourteen (14) days after completion of construction.
- C3. Bayview Redi-Mix, Inc. shall ensure that all appropriate project engineers and contractors at the project and mitigation sites shall 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 no less than seven (7) days before construction begins at the project site.

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

**D. Construction Conditions**

- D1. Prior to clearing and grading in wetlands, the adjacent wetlands shall be protected from construction impacts. Construction fencing or flagging (using brightly colored tape at no less than twenty-five foot (25') intervals) of the existing wetlands and stream channels to be protected shall be completed prior to clearing. All project staff shall be trained to recognize

construction fencing or flagging that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channels that are not authorized to be filled.

- D2. Work in or near waters of the state shall be done in a manner that minimizes turbidity, erosion, and other water quality impacts.
- D3. Erosion control devices (e.g., hay bales, detention areas, filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting project construction and shall be maintained through construction.
- D4. Periodic inspection and maintenance of all erosion control structures shall be conducted no less than every 7 days from the start of the project to site stabilization. Additional inspections shall be conducted prior to and after expected rainfall events to ensure erosion control measures are in good working condition. Any damaged structures shall be immediately repaired. If it is determined at the inspection that additional measures are needed to control stormwater and erosion, they shall be implemented immediately.
- D5. All construction debris shall be properly disposed of on land so that it cannot cause water quality degradation to state waters.
- D6. All excess excavated material shall be disposed of above the 100-year floodplain and shall be contained so as to prevent its re-entry into waters of the state.
- D7. At the completion of construction, hydroseeding may be done to stabilize slopes and soils until other required planting is completed. Hydroseed mix shall consist of native, non-invasive, or annual plant species only.
- D8. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters except as authorized by an NPDES or state waste discharge permit.

**E. Mitigation**

- E1. Project mitigation shall be constructed and maintained as described in the Revised Habitat Mitigation Plan for Bayview Redi-Mix Surface Mine and Batch Plant; Elma, Washington dated February 13, 2004.
- E2. The property owner shall grant Ecology access to the mitigation areas for inspection during the 10 year monitoring period or until mitigation success has been achieved.
- E3. Prior to implementing any contingency measures, applicant will consult with permitting agencies.
- E4. Contingency measures and additional monitoring of the mitigation may be required by Ecology if wetland monitoring reveals that performance measures are not being met.
- E5. Any changes to the mitigation plan or monitoring requirements must be approved by Ecology before they are incorporated into the plan or implemented on the ground.

## **F. Reporting Conditions**

- F1. A detailed "as built" report shall be prepared after construction showing any variances from the final mitigation plan. The "as-built" shall be the baseline document used for all future monitoring of the mitigation project. It shall include but not be limited to:
- comments from a wetland specialist present on site during mitigation construction;
  - final site plan showing site topography (both site plan view and typical sections) and clearly indicating the mitigation site boundary;
  - photographs of the area taken from permanent photo points which will be designated on the site plan;
  - the installed planting scheme showing densities, sizes, and approximate locations of plants as well as plant sources and time of planting; and,
  - an analysis of any changes to the mitigation plan that occurred during construction.
- F2. Mitigation monitoring reports shall be submitted as described in the Revised Habitat Mitigation Plan for Bayview Redi-Mix Surface Mine and Batch Plant, Elma, Washington, dated February 13, 2004.

## **G. Emergency/Contingency Measures:**

- G1. 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:
- G1a. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
- G1b. Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-hour spill response team at (360) 407-6300, and within 24 hours to Ecology's Southwest Regional Office Permit Coordinator at (360) 407-6926.
- G1c. Submit a written report to Ecology within five days that describes the nature of the violation, 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 Bayview Redi-Mix, Inc. from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.
- G2. 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.

- G3. 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.

**H. General Conditions:**

- H1. 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.
- H2. This Order does not exempt Bayview Redi-Mix, Inc. from, and is conditioned upon compliance with, other statutes and codes administered by federal, state, and local agencies.
- H3. Bayview Redi-Mix, Inc. shall construct and operate the project in a manner consistent with the project description contained in the JARPA and Public Notice for certification, or as otherwise approved by Ecology.
- H4. Bayview Redi-Mix, Inc. shall reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the public notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.
- H5. Bayview Redi-Mix, Inc. shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
- H6. Copies of this Order and all related permits, approvals, and documents shall be kept on the project site and readily available for reference by the project managers, construction managers and foremen, other employees and contractors of Bayview Redi-Mix, and state agency personnel.
- H7. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines 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 the public interest.
- H8. 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.

**Appeal Process:**

Any person aggrieved by this Order may obtain review thereof by appeal. Bayview Redi-Mix can appeal up to 30 days after receipt of the permit, and all others can appeal up to 30 days from the

postmarked date of the permit. The appeal must be sent to the Washington Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, Attn: Loree' Randall P.O. Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated 9.20.04 at Lacey, Washington



Paula Ehlers, Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology – Southwest Regional Office

Attachment # A  
Water Quality Certification  
Statement of Understanding

I, \_\_\_\_\_, state that, I will be involved as an agent or contractor for Bayview Redi-Mix, Inc., in reclamation of Phase I Area for fish and wildlife habitat use; sand and gravel mining on 23.4 acres in wetlands within Phase II Area; sand and gravel mining in uplands within Phase III Area within the 100-year floodplain of the Chehalis River, Grays Harbor County. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order #1670 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company

