



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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July 11, 2011

US Army Corps of Engineers  
Attn: Ms Rhonda Lucas  
PO Box 3755  
Seattle WA 98124-3755

RE: Water Quality Certification - Order #8600/Corps # **155150-09-01**- Shoalwater Bay Flood and Coastal Storm Damage Reduction Project, Willapa Bay, near Tokeland, Pacific County, Washington

Dear Ms Lucas:

On behalf of the State of Washington, we certify that the Shoalwater Bay Flood and coastal Storm Damage Reduction project 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, please contact Helen Pressley at (360) 407-6076.

Sincerely,

Brenden McFarland, Section Manager  
Shorelands & Environmental Assistance Program  
Headquarters Office - Ecology  
State of Washington

Enclosure  
by Certified Mail 7009 1410 0002 4001 1576



Ms Rhonda Lucas  
July 11, 2011  
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cc: Justine Barton, EPA, US EPA Region 10  
Chris Moran, WFDW  
Karen Bannish, Pacific County Dept of Public Works  
Gary Burns, Shoalwater Bay Indian Tribe

ecc: Loree' Randall, Ecology  
Helen Pressley, Ecology  
Laura Inouye, Ecology  
George Kaminsky, Ecology  
Rick Mraz, Ecology  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)

**IN THE MATTER OF GRANTING A )  
WATER QUALITY )  
CERTIFICATION TO )  
U.S. Army Corps of Engineers )  
in accordance with 33 U.S.C. 1341 )  
(FWPCA § 401), RCW 90.48.120, RCW )  
90.48.260 and Chapter 173-201A WAC )**

**ORDER #8600  
Corps Project No. 155150-09-01  
Restoration and Maintenance of the barrier dune  
with approximately 700,000 cubic yards of sand  
dredged from the adjacent Willapa Bay entrance  
channel, Pacific County, Washington**

TO:

U.S. Army Corps of Engineers  
ATTN: Ms Rhonda Lucas  
PO Box 3755  
Seattle WA 98124-3755

On January 3, 2011 the U.S. Army Corps of Engineers submitted a Joint Aquatic Resources 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 Washington State Department of Ecology (Ecology) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on May 11, 2011.

The primary purpose of this project is to reduce coastal erosion and the resulting flooding and coastal storm damage to the Shoalwater Bay Indian Reservation and to the Shoalwater Bay Indian Tribe through dune restoration. Secondly, the project will help naturally restore North Cove estuarine wetland functions to their historic levels by returning the barrier dune to its previous topography and maintaining its condition. This will allow wetlands to reestablish in areas filled by sand and impacted by flood events.

Sand will be dredged from the adjacent Willapa Bay entrance and on either side of the northern Willapa Bay channel. The dune will be constructed along the crest of the now deteriorated dune. The dune footprint would be about 57 total acres, 15 acres of which are within the Tribal boundary and approximately 42 of which are state-owned lands. The initial dune restoration would require the placement of approximately 700,000 cubic yards of sand. The proposed alignment of the restored barrier dune will be based on updated topography data acquired by survey just prior to construction but will extend approximately 12,000-feet-long, with a top elevation of +25 feet MLLW, a top width of 20 feet, and a side slope of 1V on 5H.

A 20-foot wide bench will be built into the ocean side of the dune to provide nesting habitat for Western snowy plover; the ocean side of the restored dune would remain unplanted. Following construction, the top and landward slope restored barrier dune will be fully revegetated with native species and stockpiled large woody debris.

The restored barrier dune will require maintenance on a regular basis. The Corps would maintain the barrier dune approximately every five years with approximately 250,000 cy of sand. The dredged material would be placed along the general alignment of the first placement footprint to

prevent the gradual roll-back of the barrier dune towards the shore. The program of grading and planting for the initial sand placement would be repeated with each periodic nourishment cycle for the barrier dune.

**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, 302, 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 meet the 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 the U.S. Army Corps of Engineers 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 permit coordinator, P.O. Box

47600 Olympia, WA 98504-7600 and/or hpre461@ecy.wa.gov. Any submittals shall reference Order #8600 and Corps Project # 155150-09-01.

3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on January 3, 2011. 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. 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.
6. 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.
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. Furthermore, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified or if additional conditions are necessary to further protect water quality.
8. 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.
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.

**B. Water Quality Conditions:**

1. This order does not authorize temporary exceedances of the turbidity water quality standards beyond the limits established in WAC 173-201A-210(1)(e)(i)(D).
  - The area of mixing established for marine water is a 150 foot radius surrounding the in-water activity. Turbidity occurring outside that zone that is more than 5 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 10% increase in turbidity when the background turbidity is more than 50 NTU is a violation of the turbidity water quality standard.

**C. Dredging:**

1. All dredging is to be done using a pipeline dredge. Use of any other type of dredge will require prior approval from Ecology.
2. All dredged material will be piped directly to the area where the dune restoration is occurring. Dredged material may not be stockpiled or transported to any other location unless approved beforehand by Ecology.
3. The dredge shall only be operated with the intake at or below the surface of the sand being removed. The intake shall only be raised a maximum of three feet along the bed for brief periods of purging or flushing the intake system.
4. 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.
5. A pre-dredge meeting is required to be convened prior to the start of dredging both during initial reconstruction and for each future maintenance operation. A **Dredging Plan** is required and shall be submitted to Ecology for review and approval 30 days prior to the pre-dredge meeting, unless Ecology authorizes a different timeframe. Two copies of the plan or an electronic version shall be sent to the 401/CZM Federal permit coordinator at the address shown in Condition A2.
6. All existing debris or other deleterious materials resulting from dredging activities shall be removed and disposed of upland such that it doesn't enter waters of the state.

**D. Dune Construction Conditions:**

1. Work in and near adjacent areas of Willapa Bay and North Cove shall be done so as to minimize release of suspended solids, erosion, and other water quality impacts.

2. Construction debris shall be stored upland of the ordinary high water mark so that it cannot enter the water or cause water quality degradation. All debris shall be properly disposed of on land.
3. Heavy equipment should be limited to the staging areas and actual dune footprint to the greatest extent possible throughout the project. Heavy equipment usage should be minimized to the area necessary to complete restoration of the barrier dune.
4. Equipment used for this project shall be free of external petroleum-based products. Equipment shall be checked daily for leaks and any necessary repairs shall be completed prior to commencing work activities around the water.
5. Intertidal wetland vascular plants shall not be adversely impacted due to project activities (e.g., barge shall not ground, equipment shall not operate, and other activities shall not occur in intertidal wetland vascular plants). If such vegetation is adversely impacted, it shall be replaced using proven methodology and monitored.
6. All natural habitat features on the beach larger than 12 inches in diameter, including trees, stumps, logs, and large rocks, shall be retained on the beach following construction. These habitat features may be moved during construction if necessary.

**E. Management Plans, Sampling, and Mitigation:**

1. Based on the provided material, it appears that the proposed project may increase the acreage available to invasive plants (e.g. Scot's broom, gorse, and dune grass). A vegetation management plan shall be submitted to Ecology for review and approval at least two weeks prior to any construction activities, unless otherwise authorized by Ecology. The vegetation management/planting plan should identify project goals and objectives, as well as how these goals and objectives shall be measured and monitored. It should include a section on the use and management of existing on-site large woody material (LWD).
2. Requirements of the "*Dungeness Crab Impact Minimization Plan*" dated December 2010 shall be implemented. Results shall be furnished to Ecology at the address in Condition A2.

**F. Timing Requirements:**

1. Work below the ordinary high water line shall not occur from July 15th through February 15<sup>th</sup> of any year, unless otherwise authorized by Ecology.
2. This Order shall remain in effect until February 16, 2016. Continuing this project beyond this date will require separate certification.

**G. Notification Requirements:**

1. The Applicant shall provide notice to Ecology's 401/CZM Federal permit coordinator at least 7 days prior to the start of construction and within 14 days after completion of construction or dredging at the project site. Notification shall be made at the beginning of every dredging season. Notification should be made using all the information required in Condition A2.

**H. 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, 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 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events Ecology's 401/CZM Federal permit coordinator 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. 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. 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.

**I. Appeal Process:**

**YOUR RIGHT TO APPEAL**

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of this Order:

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

**ADDRESS AND LOCATION INFORMATION**

Street Addresses	Mailing Addresses
<p><b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p>	<p><b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p>
<p><b>Pollution Control Hearings Board</b> 1111 Israel Rd SW STE 301 Tumwater, WA 98501</p>	<p><b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903</p>

**CONTACT INFORMATION**

Please direct all questions about this Order to:

Helen Pressley  
Department of Ecology  
SEA Program  
PO Box 47600  
Olympia WA 98504-7600  
360-407-6076  
hpre461@ecy.wa.gov

**MORE INFORMATION**

**Pollution Control Hearings Board Website**

[www.eho.wa.gov/Boards\\_PCHB.aspx](http://www.eho.wa.gov/Boards_PCHB.aspx)

**Chapter 43.21B RCW - Environmental Hearings Office – Pollution Control Hearings Board**

<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

**Chapter 371-08 WAC – Practice And Procedure**

<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>

**Chapter 34.05 RCW – Administrative Procedure Act**

<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>

**Chapter 90.48 RCW – Water Pollution Control**

<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

**Chapter 173.204 WAC – Sediment Management Standards**

[www.ecy.wa.gov/biblio/wac173204.html](http://www.ecy.wa.gov/biblio/wac173204.html)

**Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**

[www.ecy.wa.gov/biblio/wac173201A.html](http://www.ecy.wa.gov/biblio/wac173201A.html)

DATED July 11, 2011 at Olympia, Washington.



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Brenden McFarland, Section Manager  
Shorelands & Environmental Assistance Program  
Headquarters Office – Ecology  
State of Washington

**ATTACHMENT A**

**US Army Corps of Engineers  
Shoalwater Bay Flood Control Project  
Water Quality Certification Order #8600**

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

I have read and understand the conditions of Order #8600 Section 401 Water Quality Certification for the Shoalwater Bay Flood Control Project. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Company

\_\_\_\_\_  
Title