



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

February 12, 2013

U.S Army Corps of Engineers - Portland District
Attn: Gretchen Smith
P.O. Box 2946
Portland, OR 97208-2946

RE: Water Quality Certification for Maintenance Dredging at Mouth of the Columbia River.

Dear Ms. Smith:

On May 24, 2012, the United States, Department of the Army, Corps of Engineers, Portland District (Corps) submitted a request to the State of Washington, Department of Ecology (Ecology) for a water quality certification pursuant to § 401 of the Clean Water Act (CWA), 33 U.S.C. § 1341 (CWA § 401) for the above-referenced project.

At this time Ecology is issuing the 401 WQC for a five (5) year period. This will give the Corps, EPA and other stockholders time to continue to develop a regional sediment management strategy for the Mouth of the Columbia River.

If there are any questions regarding these clarifications, please contact me at 360/407-6976 or Loree' Randall 360/407-6068.

Thank you,

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

by Certified Mail 7010 2780 0000 2503 3471

ecc: Loree' Randall, Ecology
Perry Lund, Ecology
Paula Ehlers, Ecology
Rick Mraz, Ecology



IN THE MATTER OF GRANTING A) Order No. 9754
WATER QUALITY) Maintenance dredging of entrance reach
CERTIFICATION TO) of lower Columbia navigation channel (MCR),
 United States, Department of the Army) Pacific County, Washington.
 Corps of Engineers, Portland District)
in accordance with 33 U.S.C. 1341)
(FWPCA § 401), RCW 90.48.120,)
RCW 90.48.260 and Chapter 173-201A)
WAC)

TO: U.S Army Corps of Engineers - Portland District
 P.O. Box 2946
 Portland, OR 97208-2946

On May 24, 2012, the United States, Department of the Army, Corps of Engineers, Portland District (Corps) submitted a request to the State of Washington, Department of Ecology (Ecology) for a water quality certification pursuant to § 401 of the Clean Water Act (CWA), 33 U.S.C. § 1341 (CWA § 401) for the above-referenced project.

The proposed project involves the annual maintenance dredging of the entrance reach of the lower Columbia River navigation channel (MCR dredging) from river mile (RM) -3.0 to RM +3.0. An average volume of four (4) to five (5) million cubic yards of sediment is dredged every year from shoals that reoccur at several locations in the entrance reach. The entrance reach is to be dredged to the authorized depth of -55 and -48 feet CRD (plus up to 5 feet of advanced maintenance dredging) and authorized width of 2640 feet.

Dredged material is proposed to be disposed of at one or more of the following in-water disposal sites:

- North Jetty Site
- Shallow Water Site
- Benson Beach Intertidal Site
- Deepwater Site

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 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, 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), 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 to the Federal Permit Coordinator, PO Box 47600, Olympia WA 98504. Any submittals shall reference Order No. 9754.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on May 24, 2012. 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 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 project manager, construction managers and lead workers, and state and local government inspectors.
7. The Applicant shall provide access to the dredging and disposal 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, erosion, etc.), or if additional conditions are necessary to further protect water quality.
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. Dredging:

1. 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.
 - a. Hopper and pipeline dredges shall be operated with the intake at or below the surface of the sediments being removed during all periods of operation. Reverse purging of the intake line shall be held to an absolute minimum. Should purging be necessary, the intake line shall be raised no more than three (3) feet above the bottom.
 - b. The dragheads on a hopper dredge shall be lowered to at least twenty (20) feet below the surface of the river if water is pumped through the dragheads to flush out the hopper bins.
2. Re-dredging of materials is not authorized by this Order. Should mounding or other circumstances make it necessary to re-dredge materials from an approved in-water disposal site, the Corps shall request a separate 401 certification from Ecology for that activity.

C. Disposal of Dredged Material:

1. In order to maximize retention of sand in the littoral system for beneficial uses, dredged materials shall be placed within existing disposal sites (North Jetty and Shallow Water) and at other approved nearshore sites which are considered dispersive in nature and have the ability to provide materials to the littoral system; unless the use of a site would result in an unacceptable risk to navigational safety.
2. Disposal of materials in the Deepwater Site constitutes a wasting of the littoral sand resource. Therefore, the Corps shall only use the proposed Deepwater Site as a contingency site for disposal of MCR dredged materials where a determination has been made that the use of the other authorized sites would result in unacceptable risk to navigational safety.

D. Monitoring and Reporting:

1. The Corps shall submit a draft Annual Use Plan (AUP) to Ecology for review and comment 30 days prior to dredging and disposal. The Corps shall include for each proposed disposal site a section detailing proposed thresholds (*e.g.*, maximum accumulation, weather conditions, coordination protocols, time of year, etc.) with anticipated management responses if any given threshold is likely to be or has been reached. The Corps shall prepare and submit a final AUP to Ecology for review and comment two (2) days prior to starting dredging and disposal. Any changes to the AUP during dredging and disposal shall be submitted to Ecology for its review.
 - a. The management protocol for each site shall ensure that mounding does not occur, which could trigger the need for re-dredging and resultant impacts to beneficial uses. In the AUP submitted to Ecology for review and comment, the Corps shall identify the model that it will utilize for estimation of wave height and shall set forth its justification for the use of the model selected.
2. Bathymetric surveys at the Shallow Water site and the North Jetty site shall be conducted (a) pre-disposal, (b) twice a month during the dredging season, (if weather and tides present safety problems then a survey should be conducted at least monthly), and (c) once post-disposal. During the dredging season, the survey frequency may be increased, if necessary, to ensure the accumulation thresholds identified in the AUP are not exceeded. These surveys shall be submitted to Ecology within a month upon availability to the Corps. If the Corps posts the information on a web site instead of sending hard copies the Corps shall notify Ecology via email.
3. Daily records shall be generated detailing the amount of material dumped, the geographic locations given to the dredges for disposal areas and the GPS coordinates (or other approved location information) of actual dumps performed by the dredges.
 - a. These reports shall be transmitted electronically to Ecology upon request.
 - b. A yearly report summarizing this information shall be compiled and submitted to Ecology within six (6) months of the end of the dredging season. The Corps can request an extension of this time by submitting a written request with the reason for the extension and the new timeframe for Ecology's approval.
4. The Corps, shall continue to cooperate with Ecology, and other Washington and Oregon state resource agencies, develop and implement an integrated Regional Sediment Management plan which optimizes management and beneficial re-use of materials necessary for removal from the Columbia River system, particularly with regard to loss of sand from the littoral system and how this impacts coastal erosion and beneficial uses, including Dungeness crab.

E. Emergency and/or Contingency Measures:

1. If dredging/disposal operations are found not to be in compliance with the provisions of this Order, or result in conditions causing distressed or dying fish, the operator shall immediately take the following actions:
 - i. Cease operations.
 - ii. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - iii. In the event of finding distressed or dying fish, the operator shall collect fish specimens and water samples in the affected area and, within the first hour of such conditions, make every effort to have the water samples analyzed for dissolved oxygen and total sulfides. Ecology may require such sampling and analyses before allowing the work to resume.
 - iv. Notify Ecology and WDFW of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.

F. Spill Prevention and Control:

1. Any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited.
2. 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. Proper security shall be maintained to prevent vandalism.
3. 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 substances and used cleanup materials.
4. 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 Office at (360) 407-6300 (a 24-hour phone number).

G. Duration of Water Quality Certification:

1. This Water Quality Certification shall remain in effect for five (5) year from date of issuance. However, Ecology reserves the right to reassess the terms of this Water Quality Certification 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 sediments dredged from the entrance reach of the lower Columbia River navigation channel; or

- b. New information indicates that dredging and/or disposal activities are having a significant adverse impact on water quality or characteristic uses of the lower Columbia River.

H. Notification:

The Corps or its designated contractor shall notify Ecology at least fourteen (14) days prior to the scheduled start of dredging in any year. Ecology's contact for this Water Quality Certification is Loree' Randall, (360) 407-6068.

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 both of 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
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:
Loree' Randall
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
(360) 407-6068

MORE INFORMATION

Pollution Control Hearings Board Website

www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental and Land Use 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

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

www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE

Dated February 12, 2013, at Lacey, Washington.



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

