STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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

December 30, 2004

**REGISTERED MAIL**
**R 237 329 160**

U.S. Army Corps of Engineer District, Portland
Attn: Robert Willis
P.O. Box 2946
Portland, Oregon 97208-2946

RE: Water Quality Certification Docket #1861 and Coastal Zone Consistency for Rehabilitation/Repair of portions of the North Jetty at the Mouth of the Columbia River Pacific County, Washington.

Dear Mr. Willis:

The above-referenced project has been reviewed in accordance with all pertinent rules and regulations. On behalf of the State of Washington, we certify that the work proposed in the Joint Aquatic Resource Permit Application dated October 26, 2004, 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.

Pursuant to Section 307(c) (3) of the Coastal Zone Management Act of 1972, as amended, Ecology concurs with the applicant's determination that the proposed work described in the public notice is consistent with the approved Coastal Zone Management Program of Washington State.

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 about this letter or the enclosed Order, please contact Loree' Randall at 360/407-6068.

Sincerely,

Paula Ehlers

Paula Ehlers, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

PE:LR:dn
Enclosure

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|---|---|---|
| **IN THE MATTER OF GRANTING** | ) | **ORDER # 1861** |
| **A WATER QUALITY** | ) | **CORPS #CENWP-PM-E-04-05** |
| **CERTIFICATION TO** | ) | Rehabilitation/Repair of portions of the |
| the U.S. Army Corps of Engineers | ) | North Jetty at the Mouth of the |
| in accordance with 33 U.S.C. 1341 | ) | Columbia River. |
| FWPCA § 401, RCW 90.48.260, | ) | |
| RCW.90.48.120 & WAC 173-201A | ) | |

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

ATTN: Mr. Robert Willis

On November 5, 2004, Ecology received a request for water quality certification from the State of Washington was submitted for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA§ 401).

This phase in jetty rehabilitation is to repair the most vulnerable areas of the north jetty, where the consequences of jetty failure would rapidly and significantly degrade navigation through the mouth of the Columbia River.

The proposed rehabilitation work would occur along a 4,000 foot-long reach of the North Jetty. The repair work will occur along stations 40+00 to 90+00 and will require placement of approximately 30,000 tons of stone along the North Jetty. The total stone placed on the North Jetty to date is 3.3 million tons. Armor stone sizes for the proposed rehabilitation will range from 10 to 25 tons for the North Jetty.

The jetty repairs would include marine-based and land-based operations. For marine-based operations, material would be brought to the project site by two means. The first marine-based feature would be a tow boat and barge operation. During stone off-loading, the barge may be secured to four to eight dolphins situated within 200 feet of the jetty. The dolphins would be composed of multiple untreated timber piles driven to depth of 15-25 feet below grade, by a vibratory pile hammer or similar equipment. An impact hammer may be used at the final driving to ensure pilings are driven properly. The dolphins will be relocated as work advances along the jetty and would be removed at the conclusion of the work. Stone would be off-loaded from the "stone barge" by a crane (either land or marine based) and either placed directly within the jetty work or stock piled on the jetty crest for placement at a later time.

The second marine-based feature is a barge off-loading platform that would be constructed of five intersecting sheet piles with the placement of tested quarry waste (crushed gravel) between the sheet piles. Three inches of compacted material will be placed on top of the crushed gravel to form a road that will provide a stable surface for vehicles to load jetty stones. This feature would require about 12,000 tons of rip rap and gravel.

For land-based construction, heavy equipment would access the site via an existing asphalt surfaced road to the Benson Beach Parking lot at Cape Disappointment State Park. A five-acre work area for equipment and possible rock storage would be located near the parking lot. A second five-acre work area will be constructed across from the potential barge off-loading site where a stone weighing facility may be erected. Two rock access roads and ramps would be constructed adjacent to the jetty. Both access roads will be removed once the jetty is repaired. The access roads, about 400 feet in length and 25 feet wide,

would each be constructed of approximately 4,000 cy of sand, gravel, and small rip rap and located above MHHW on beach sand.

The Corps is also proposing to improve the fire road by adding gravel to the road and constructing a public parking lot along the existing fire road.

**AUTHORITIES:**

In exercising authority under 33 U.S.C. 1341 RCW 90.48.120 and RCW 90.48.260, Ecology has investigated 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. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 302, 303, 306, and 307);

2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; 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:** In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW, 90.48.120 RCW and Chapter 173-201A WAC, certification is granted to the U. S. Army Corps of Engineers (Corps) subject to the following conditions:

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

A1. Certification of this proposal does not authorize the Corps to exceed applicable state water quality standards (173-201A WAC), including the state sediment quality standards (173-204 WAC). Furthermore, nothing in this certification shall absolve the Corps from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

**B. Temporary Modification of Water Quality Standards:**

B1. WAC 173-201A-110(3) allows a 300-foot mixing zone for temporary exceedances of the turbidity standards during and immediately after necessary in-water construction activities that result in the disturbance of in-place sediments. This certification does not authorize a temporary turbidity mixing zone greater than that allowed by WAC 173-201A-110(3). The Corps shall fully apply all known, available, and reasonable methods of prevention, control, and treatment (AKART). Within the temporary turbidity mixing zone, the Class A standard for turbidity is waived. All other applicable water quality standards shall remain in effect within the temporary turbidity mixing zone and all other water quality standards are to be met outside of the authorized mixing zone.

B2. The waiver of specified standards within the temporary turbidity mixing zone is intended for brief periods of time (such as a few hours) and is not an authorization to exceed those standards for the

entire duration of construction. In no case shall turbidity exceedances cause degradation of water quality that significantly interferes with or becomes injurious to characteristic water uses, including fisheries habitat, or causes long-term harm.

**C. Monitoring Conditions:**

C1. Sampling for turbidity is required during each discrete marine in-water construction activity. In-water construction activities include: pile driving; pile removal or extraction; sheet pile installation; sheet pile removal; or any activity that disturbs in-place sediments waterward of MHHW (mean higher high water).

a) Timing of samples: Turbidity shall be measured (or visually assessed) and recorded at a minimum of every two hours throughout the first day of in-water construction activity for each activity. Subsequent sampling is dependent upon monitoring results, but shall be a minimum of once per day during in-water activities if no exceedances are detected. Sampling shall increase if exceedances are detected, and shall be reported to Ecology as outlined in c) below.

b) Location of samples:
- One background sample shall be collected up current from the activity before construction begins each day;
- One sample at the point of compliance 300 feet down current from the construction or activity.
- And one sampling 200 feet from the point of activity will provide a margin of safety to respond to potential exceedances.

c) Reporting of results: Results of water quality monitoring shall be submitted to Department of Ecology, Federal Permit Coordinator, P.O. Box 47775, Olympia, WA, 98504-7775, fax 360/407-6305.
   i. If no exceedances are detected, results shall be submitted once a week.
   ii. If exceedances are detected:
   Notify Ecology of the failure to comply. Notification shall be provided within 24 hours to Ecology's Federal Permit Coordinator at 360/407-6926.

**D. Certification Timing Requirements:**

D1. This Order is valid until all compliance requirements in this document have been met.

D2. The Corps shall submit an updated application to Ecology if the project is altered from the information contained in the Corps JARPA dated October 26, 2004. Within 30 days of receipt of an updated application Ecology will determine if a modification to this Order is required. All submittals shall be sent to SWRO Federal Permit Coordinator at P.O Box 47775, Olympia, WA 98504-7775.

D3. Any future construction-related activities that could impact waters of the state at this project location, emergency or otherwise, that are not defined in the October 26, 2004, JARPA, or have not been approved in writing by Ecology, are not authorized by this Order. Such proposed actions shall be reviewed with Ecology for approval prior to implementation.

D4. In-water work shall be subject to timing limitations imposed by the July 29, 2004, NOAA's National Marine Fisheries Service (NOAA Fisheries) Biological Opinion. Work in or near the water that may affect fish migration, spawning, or rearing shall cease immediately upon a determination by either NOAA Fisheries or the Washington State Department of Fish and Wildlife that fisheries resources may be adversely affected.

**E. Construction Conditions:**

E1. Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction sediment and erosion control Best Management Practices suitable to prevent exceedances of state water quality standards shall be in place before starting filling or grading work at the impact site.

E2. Upland erosion control methods shall be used to prevent silt-laden water from entering the streams and/or any wetlands on site. These may include, but are not limited to, straw bales, filter fabric, temporary sediment ponds, check dams of pea gravel-filled burlap bags or other material, and/or immediate mulching of exposed areas.

E3. All trucks shall enter the project site via the park access road and haul roads.

E5. Prior to clearing and grading for the access roads, staging areas and the new parking lot, the wetlands shall be protected from construction impacts. Bright orange construction fencing shall be installed prior to site clearing to mark the edge of the existing wetlands buffers to be protected. All project staff shall be trained to recognize the construction fencing that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands that are not identified within the JARPA dated October 26, 2004 to be altered.

E6. The onshore project limits shall be clearly marked/staked prior to construction. Travel corridors and stockpile sites shall be clearly marked. Equipment shall enter and operate only within the delineated construction limits and corridors.

E8. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or wetlands. Equipment that is not barge-mounted and will be in contact with waters of the State must be cleaned before coming on-site.

**F. Stormwater Conditions:**

F1. During construction, the Corps shall comply with all stormwater requirements within EPA's General Construction Stormwater NPDES permit number WAR10AK4F issued for this project.

F2. Stormwater from the new public parking lot shall be treated if the parking lot is paved. All permanent stormwater facilities must be designed to comply with the Ecology's Stormwater Management Manual for Western Washington, August 2001, or equivalent.

F3. The stormwater treatment facilities shall be located and designed to minimize impacts to waters of the state (including wetlands)

**G. Notification:**

G1. The Applicant shall ensure that all appropriate Project Engineer(s) and the Lead Contractor(s) at the project site have read and understand relevant conditions of this Order and other documents referenced in this Order. This shall be accomplished by providing a signed statement (see Attachment A for an example) from each project manager, Project Engineer(s), Lead Contractor(s), and environmental inspector (EI) or Pollution Control Officer (PCO) 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 and no more than 30 days before each Project Engineer or Lead Contractor begins work at the project or mitigation sites.

G2. The Corps must provide written notice of the start of project construction to Ecology's SWRO Federal Permit Coordinator at the above address or phone number no less than three days prior to construction.

G3. The Corps shall immediately notify Ecology's SWRO Federal Permit Coordinator should any emergency activities be required.

**H. Emergency Measures:**

H1. Any work that is out of compliance with the provisions of this Order, 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 Corps shall immediately take the following actions:

(a.) Cease operations causing the problem.

(b.) Assess the cause of the water quality problem and take appropriate measures to correct the problem and to 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. The Corps shall report the discharge immediately to Ecology's Southwest Regional Spill Response Office at (360) 407-6300.

(d.) Submit a detailed written report to Ecology SWRO Federal Permit Coordinator at PO Box 47775, Olympia, WA 98504-7775 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 the Corps from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

H2. 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.

H3. Toxic conditions resulting in distressed or dying fish are not allowed. If these conditions exist, construction shall cease immediately and the Applicant or the contractor shall contact Ecology's Southwest Regional Spill Response Office at (360) 407-6300.

**I. General Conditions:**

I1. 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.

I2. This Order does not exempt and is conditioned upon compliance with other statutes and codes administered by federal, state, and local agencies.

I3. The Corps shall construct and operate the project in a manner consistent with the project description contained in the October 26, 2004 JARPA, or as otherwise approved by Ecology.

I4. The Corps shall reapply with an updated application for certification if five years elapse between the date of the issuance of this Order and the beginning of construction.

I5. The Corps 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.

I6. 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 the Corps, and state agency personnel.

I7. Ecology retains continuing jurisdiction to make modifications hereto through supplemental Order, if it appears necessary to further protect the public interest.

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.

Any person aggrieved by Order 1861may obtain review thereof by appeal. Pursuant to chapter 43.21B RCW, a person can appeal this order to the Pollution Control Hearings Board within 30 days of the date of receipt of this Order. Any such appeal must be sent to the Washington Pollution Control Hearings Board, PO 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, PO 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 Dec. 30, 2004 at Lacey, Washington

Paula Ehlers

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

Attachment # A

# Statement of Understanding

I, _____, state that, I will be involved as an Engineer or Lead Contractor for the U.S. Army Corps of Engineers in the rehabilitation/repair of portions of the North Jetty at the mouth of the Columbia River. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order #1861** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

_____
Signature

_____
Date

_____
Company

_____
Phone number

_____
Address

_____
City, State, and Zip Code