



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

1250 West Alder Street • Union Gap, Washington 98903-0009 • (509) 575-2490

May 27, 2021

Central Pre-Mix Concrete Company
Attn: Wayne Kalbfeisch
PO Box 366
Spokane, WA 99220

RE: Amendment to 401 Water Quality Certification Order #04SEACR-1211 for U.S. Army Corps of Engineers Reference #NWS-2003-535, Central Pre-Mix Concrete Company, Yakima River, Yakima, Yakima County, Washington

Dear Wayne Kalbfeisch:

Enclosed is an amendment to Water Quality Certification Order # 04SEACR-1211, issued on May 18, 2004, for the above project. All other conditions of Water Quality Certification # 04SEACR-1211 remain in effect.

The purpose of this amendment is to modify the buffer mitigation planting surrounding Blue Slough to allow for the re-alignment of the slough, connection of the slough to the Yakima River, and the setback and construction of a Yakima River levee. The slough re-alignment and levee layout design proposes to impact 0.64 acre of the existing buffer mitigation planting. Once the slough has been re-aligned, 0.70 acre of buffer mitigation will be planted surrounding Blue Slough.

If you have any questions, please contact Lori White at (509) 575-2616. The enclosed Amendment may be appealed by following the procedures described in the Amendment. For your reference the original Water Quality Certification #04SEACR-1211 is attached.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Graff".

Gary Graff, PWS
Regional Section Manager
Shorelands and Environmental Assistance Program

cc: Jess Jordan, U.S. Army Corps of Engineers
Mine Restoration Section, WDNR
Thomas Carroll, Yakima County Planning Department
Linda Storm, EPA
Greta Presley, Herrera
Eric Bartrand, WDFW
Lori White, Ecology
Loree' Randall, Ecology
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING) ORDER # 04SEACR-1211,
A WATER QUALITY) Second Amendment
CERTIFICATION TO) Corps Reference No. 2003-535
***Central Pre-Mix Concrete Company*)**
In accordance with 33U.S.C. 1341)
(FWPCA §401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

TO: Central Pre-Mix Concrete Company
Attn: Wayne Kalbfleisch
PO Box 366
Spokane, WA 99220

On May 18, 2004, the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to Wayne Kalbfleisch, Central Pre-Mix Concrete Company for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request on May 4, 2021, for the modification to the NWS 2003-535 buffer mitigation.

Order No. 04SEACR-1211 dated May 18, 2004 is hereby amended as follows:

I. Condition number B1, which reads:

Impacts to aquatic resources shall be mitigated through measures described in the following documents, except as modified by this Order:

- East Valley Gravel Mine Final Environmental Impact Statement, October 21, 2002, David Brown and Associates, Inc.
- Central Pre-Mix Concrete Company East Valley Gravel Mine Wetland Mitigation Plan, prepared by Shapiro and Associates, Inc., dated January 26, 2004 (see requirement for addendum in section B3).

Is replaced with:

Impacts to aquatic resources shall be mitigated through measures described in the following documents, except as modified by this Order:

- East Valley Gravel Mine Final Environmental Impact Statement, October 21, 2002, David Brown and Associates, Inc.
- Central Pre-Mix Concrete Company East Valley Gravel Mine Wetland Mitigation Plan, prepared by Shapiro and Associates, Inc., dated January 26, 2004. (see requirement for addendum in section B3)
- Blue Slough Realignment– Planting Site Plan, May 4, 2021.

II. The following conditions are added:

- Monitoring Year 1 will take place the following spring/fall after buffer planting has taken place. Planting must occur within 1 year of the issuance of this Amendment.
- After completing construction and planting of the mitigation sites(s), the Applicant shall submit to Ecology an as-built report, including plan sheets, documenting site conditions at Year Zero. The as-built report must:
 - a. Be submitted within 90 days of completing construction and planting.
 - b. Include one hard copy and one electronic file.
- Monitoring is to take place in accordance with final wetland mitigation plan, Wetland Mitigation Plan and Aquatic Resources Inventory, November 2008, for a period of 10 years.

No other conditions or requirements of the above referenced Order are affected by this amendment.

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

Failure to comply with this amended Order may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this amended Order.

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

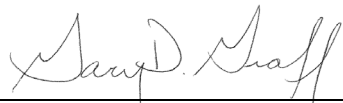
CONTACT INFORMATION

Please direct all questions about this Order to:

Lori White
Department of Ecology
Central Regional Office
1250 W Alder Street
Union Gap, WA 98903
(509) 575-2616
lori.white@ecy.wa.gov

MORE INFORMATION

- Pollution Control Hearings Board Website
<http://www.eluho.wa.gov/Board/PCHB>.
- Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>.
- **Chapter 371-08 WAC – Practice And Procedure**
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>.
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>



Gary Graff, PWS
Regional Section Manager
Shorelands and Environmental Assistance Program

May 27, 2021

DATE



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

June 2, 2010

Laurie Pinard
CPM Development Corporation
P.O. Box 88050
Tukwila, WA 98138-2050

Re: Water Quality Certification Order #04SEACR-1211, 1st Amendment

Ms. Pinard:

The Department of Ecology (Ecology) reviewed your May 10, 2010, letter regarding the Water Quality Certification Order #04SEACR-1211, 1st Amendment, issued to CPM Development Corporation d/b/a Central Pre-Mix Concrete Co. (Central). Through that letter, Central requests clarification regarding the requirements of Conditions B.6 and B.14. Ecology responds as follows.

Condition B.6 - Central asks that Ecology confirm that the Updated HMP EVM, 1/15/09 and November 2008 WMP, serve to meet condition B.6 and no additional monitoring plan is required. Central also identifies elements in the existing monitoring plan that it believes satisfy Ecology's concerns regarding indirect impacts to wetlands. Ecology agrees that a new, independent monitoring plan will not be needed to satisfy this condition.

Central can satisfy Condition B.6 within the body of its HMP annual report or in the monitoring reports being submitted under the November 2008 WMP by describing in detail what methods and data were used to analyze the potential extent of indirect impacts to wetlands during the last reporting period. Please note in the annual report that this information is submitted to satisfy Condition B.6 of the amended order.

Condition B.14 – Central requests clarification regarding the seed mix described in the November 2008 WMP. Central is correct in stating that Condition B.14 – Seeding should not contain the word “annual”. The appropriate wording of this condition is **“If seeding is used at the wetland mitigation site, the seed mix must contain native, non-invasive plant species.”**



FILE COPY



Laurie Pinard
CPM Development Corporation
June 2, 2010
Page 2

This letter identifying the corrected language for Condition B.14 should be kept with Order #04SEACR-1211 to ensure compliance with its requirements.

Thank you for your recent letter providing Ecology the opportunity to clarify these provisions. Please contact me at (509) 574-3992 if you have further questions.

Sincerely,



Jeff Lewis

Section Manager
Shorelands and Environmental Assistance

FILE COPY



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490

May 18, 2004

CERTIFIED MAIL

Mr. Wayne Kalbfleisch
Central Pre-Mix Concrete Company
PO Box 3366
Spokane, WA 99220-3366

RE: Order #04SEACR-1211 -- Water Quality Certification for Central Pre-Mix Concrete

Dear Mr. Kalbfleisch:

The request for certification for proposed work in 18.5 acres of wetland adjacent to the Yakima River, culverts replacement and crossing of Moxee Slough and Blue Slough has been reviewed. On behalf of the state of Washington, I certify that the proposed work, as conditioned by the enclosed Order, will comply 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.

This certification is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Catherine D. Reed at (509) 575-2616. Written comments can be sent to her at the Department of Ecology, Central Regional Office, 15 W. Yakima Avenue, Suite 200, Yakima, WA 98902, or at craj461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Randall Doneen
Central Regional Manager
Shorelands and Environmental Assistance Program

RD:CR:de
040510

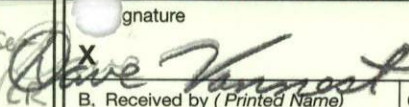
Enclosure

cc: Eric Bartrand, WDFW
Mine Restoration section, WDNR
Dean Patterson, Yakima County Planning
Joe Brock, USACE
Linda Storm, EPA
City of Yakima Planning Dept
Yvonne Oliva, Ecology - HQ

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
Postage	\$
Certified Fee	
Postmark	
MR. WAYNE KALBFLEISCH CENTRAL PRE-MIX CONCRETE COMPANY PO BOX 3366 SPOKANE, WA 99220-3366	
PS Form 3800, February 2000 See Reverse for Instructions	

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FILE COPY

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		Signature 	
1. Article Addressed to: MR. WAYNE KALBFLEISCH CENTRAL PRE-MIX CONCRETE CO PO BOX 3366 SPOKANE, WA 99220-3366		B. Received by (Printed Name) Dave Vannest	C. Date of Delivery MAY 20 2004
		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
2. Article Number (Transfer from service label) 17000 0520 0023 2101 1855		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

**IN THE MATTER OF GRANTING
A WATER QUALITY
CERTIFICATION TO:**

Central Pre-Mix Concrete Company
in accordance with 33 U.S.C. 1341
FWPCA § 401, RCW 90.48.260,
and Chapter 173-201A WAC

ORDER #04SEACR-1211

U.S. Army Corps of Engineers Reference
No. 200300535 – Discharge dredged or fill
material in 18.5 acres of wetlands adjacent
to the Yakima River, Yakima County,
Washington

TO: Wayne Kalbfleisch
Central Pre-Mix Concrete Company
P.O. Box 3366
Spokane, WA 99220-3366

On November 5, 2003, a public notice for a proposed water quality certification from the State of Washington was distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The proposed project entails mining aggregate from three open pits in three phases. The first pit, referred to as Cell A, will be mined in the wet to a depth of approximately 25 feet below ground surface. The next two pits, referred to as Cells B and C, will be mined in the dry to a depth of approximately 80 feet below ground surface. Water will be pumped to Cell A during excavation of Cells B and C to facilitate mining in the dry. Cell A will serve as a settling pond. The water from Cell A will then be pumped to a constructed perimeter swale, surrounding the mine area, for infiltration. In addition, access roads and a noise containment berm will be constructed around portions of the mine area. The initial crushing of the aggregate will occur in the mine area. The mining area has 20.96 acres of wetlands on site. Existing access roads that cross Moxee and Blue Sloughs will be moved and/or replaced and the culverts for these crossings will also be replaced. The mining activities will impact 18.46 acres of wetlands from the discharge of dredged or fill material and the ultimate conversion of wetlands to open water ponds after mining is complete. The project is proposed to develop in phases over a 12 to 15 year period. Wetland impacts will also occur in phases as the project develops. Wetland mitigation will consist of the creation of 6.6 acres of Type II wetlands associated with the perimeter swale and 9.69 acres of wetlands in the 99 acre reserve called the "enhancement area" adjacent to the Yakima River. The site is located at 2202 and 2203 Riverside Road near Yakima, and within Sections 33 and 34, Township 13 North, Range 19 East, W.M., and Section 5, Township 12 North, Range 19 East, W.M., Yakima County, Washington.

AUTHORITIES:

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, 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, 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.

CONDITIONS OF ORDER #04SEACR-1211 AND WATER QUALITY CERTIFICATION:

In view of the foregoing and in accordance with 33 U.S.C. 1341, RCW 90.48.260, and Chapter 173-201A WAC, water quality certification is granted to Central Pre-Mix Concrete Company subject to the following conditions:

A. No Impairment of Water Quality:

- A1. The Yakima River (WRIA 37) is a Class A water of the state. Blue Slough and Moxee Slough are side channels of the Yakima River system. Certification of this proposal does not authorize Central Pre-Mix Concrete Company to exceed applicable state water quality standards (Chapter 173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(2) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology. Furthermore, nothing in this certification shall absolve Central Pre-Mix Concrete Company from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
- A2. Any disturbance of Moxee and Blue Slough must not cause an exceedance of the water quality turbidity mixing zone standard described in Chapter 173-201A WAC. Turbidity shall not exceed 5 NTU over background turbidity when background turbidity is 50 NTU or less, or have more than a 10 percent increase in turbidity when the background turbidity is more than 50 NTU. For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from the activity causing the turbidity exceedance. For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of activity causing the turbidity exceedance.

B. Project Mitigation and Monitoring:

- B1. Impacts to aquatic resources shall be mitigated through measures described in the following documents, except as modified by this Order:
 - East Valley Gravel Mine Final Environmental Impact Statement, October 21, 2002, David Brown and Associates, Inc.

- Central Pre-Mix Concrete Company East Valley Gravel Mine Wetland Mitigation Plan, prepared by Shapiro and Associates, Inc., dated January 26, 2004. (see requirement for addendum in section B3)

B2. The project must comply with the Hydrologic Monitoring Plan East Valley Gravel Mine dated October 31, 2003. A copy of the annual report described in this plan shall be submitted to Ecology, 15 West Yakima Ave., Suite 200, Yakima WA 98902, Attention: Central Pre-Mix 401 Water Quality Certification.

The annual report shall also include an assessment of wetlands within the project vicinity that have the potential to be impacted due to changes in hydrology caused by the project. This assessment shall include a description of any impacts to wetlands and actions taken to prevent or mitigate those impacts. Measurements of depth to soil saturation in wetlands that are located within the projected cone of depression area shall be used in this assessment.

B3. An addendum to the January 26, 2004 Wetland Mitigation Plan shall be prepared by Central Pre-Mix (or their consultant) and submitted to Ecology before wetland impacts occur on the project site. The supplemental plan shall include:

- A revised wetland creation area map shall be provided which shows specifically what location within the enhancement area the 9.69 acres of creation wetlands will be constructed. (Wetland creation acreage shall only be counted toward achieving the 1:1 ratio if wetlands are created in areas that are currently not functioning as wetlands.) Functional forested and scrub shrub riparian upland areas shall not be excavated to create wetland areas unless open water connections are required within these areas to significantly increase salmonid habitat functions.
- A monitoring plan which specifies methodology used to assure that vegetation, soils, and hydrologic requirements for wetland creation are met within the timeframes required by permitting agencies.
- A plan for monitoring floodplain and wetland function of the enhancement area shall be submitted to Ecology for review and approval before the dike is set back or before Cell B wetlands are impacted. The plan shall consider changes in surface water connectivity, water storage, water quality improvement, groundwater levels, nutrient export, wetland location, and wildlife species use at a minimum. Methodologies that will be employed to gather and measure baseline and subsequent data shall be included in the report.
- If dike setback does not occur within 5 years from the beginning of mining in cell A, an alternative/revised wetland mitigation plan which mitigates wetland losses at a minimum ratio of 2:1 (two acres of created/replacement wetlands for every 1 acre of wetland impacted) shall be produced by Central Pre-Mix and submitted to Ecology

for review and approval by the end of year 6. Construction of the new mitigation plan must begin by the end of year 7.

- B4. Visual monitoring of Blue Slough and Moxee Slough shall be conducted during access road replacement to ensure compliance with Condition A2. If visual observation detects increased turbidity beyond the point of compliance, all work shall cease, Ecology shall be notified and a report shall be submitted that describes the exceedance and what was done to mitigate the water quality impact.

C. Construction:

C1. Construction Stormwater and Erosion Control:

- C1a. Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment and erosion control Best Management Practices suitable to prevent exceedances of state water quality standards (e.g., hay bales, detention areas, filter fences, etc.), shall be in place before starting clearing, filling, and grading work at the impact sites.
- C1b. 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 or have fill removed.
- C2. During clearing and filling at the various project sites, Central Pre-Mix Concrete Company shall take all necessary measures to minimize the alteration or disturbance of existing wetland and upland vegetation.
- C3. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
- C4. 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 storm drains.
- C5. Central Pre-Mix Concrete Company shall provide written notice to Ecology's Cathy Reed at least 14 days prior to the start of excavating within wetlands or placing fill in wetlands or other waters of the state, and within 14 days after completion of construction at each project site and mitigation site.

D. Emergency/Contingency Measures:

D1. In the event Central Pre-Mix Concrete Company is unable to comply with any of the permit terms and conditions due to any cause, Central Pre-Mix Concrete Company shall:

- Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
- Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (509) 575-2490, and within 24 hours to Ecology's Cathy Reed at (509) 575-2616.
- Submit a detailed 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 Central Pre-Mix Concrete Company from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

D2. 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. No refueling of equipment shall occur over, or within 50 feet of rivers, creeks, or wetlands.

E. General Conditions:

E1. This certification does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.

The applicant shall be in compliance with the Washington State Department of Ecology NPDES permit WAG 50-5191. In addition the Stormwater Pollution Prevention Erosion and Sediment Control Plan and Spill Plan for Central Pre-Mix Concrete Co. East Valley Mine and Enhancement Project (May 14, 2003) shall be adhered to.

The applicant shall obtain a Hydraulic Project Approval (HPA) from the Washington State Department of Fish and Wildlife prior to conducting any work within Moxee Slough, Blue Slough, or the Yakima River.

The applicant shall obtain a Shoreline Substantial Development/Conditional Use permit from Yakima County Planning/Washington State Department of Ecology prior to impacting any areas within shoreline jurisdiction.

- E2. Central Pre-Mix Concrete Company will be out of compliance with this certification if the project is constructed and/or operated in a manner not consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology. Additional mitigation measures may be required through other local, state, or federal requirements.
- E3. Central Pre-Mix Concrete Company will be out of compliance with this certification and must reapply with an updated application if five years elapse between the date of the issuance of this certification and the beginning of construction and/or discharge for which the federal license or permit is being sought.
- E4. Central Pre-Mix Concrete Company will be out of compliance with this certification and must 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.
- E5. 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 foremen, and state and local government inspectors.

To avoid violations or non-compliance with this Order, Central Pre-Mix Concrete Company shall ensure that project managers, construction superintendents, and other responsible parties have read and understand relevant aspects of this Order.

Central Pre-Mix Concrete Company shall provide to Ecology a signed statement from each project manager and construction superintendent working at the project and mitigation sites that they have read and understand the conditions of the above-referenced permits, plans, and approvals. These statements shall be provided to Ecology no less than seven (7) days before construction begins at each project or mitigation site.

- E6. 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.
- E7. Liability: 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, within thirty (30) days of receipt of this Order, 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, Enforcement Section, 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 May 18, 2004 at Yakima, Washington.



Randall Doneen
Central Regional Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington