September 29, 2000

Colonel Randall J. Butler, District Engineer
Department of the Army
Corps of Engineers, Portland District
P.O. Box 2946
Portland, OR 97208-2946

Mr. Lee Daneker, Manager
U. S. Environmental Protection Agency
Aquatic Management Division
1200 Sixth Avenue ECO-083
Seattle, WA 98101-3188

RE: Request for 401 Certification for Proposed Columbia River Channel Improvements

Dear Colonel Butler and Mr. Daneker:

The Department of Ecology has reviewed all of the pertinent information available to us pertaining to the two actions proposed in the draft and final NEPA documents for the Integrated Feasibility Report for Channel Improvements and the Corps' request for water quality certification pursuant to Section 401 of the Clean Water Act. The two actions are (1) the deepening of the Columbia River navigation channel by three feet, from river mile +3 to 106.5, and (2) the designation of two ocean disposal sites. At this time, Ecology is unable to certify that there is reasonable assurance that these actions will be done in a manner that will meet applicable State water quality standards. Thus the request for water quality certification is hereby denied without prejudice. Ecology's decision to deny without prejudice allows the Corps, if it so desires, to continue to work with the State on the issues of concern and to reapply for certification.

Ecology is issuing this denial without prejudice because there is not yet sufficient information to have reasonable assurance that water quality standards will be met. Based on the information we currently have, we are unable to certify that this proposed project will meet antidegradation requirements and protect and maintain beneficial and characteristic uses (such as fish, shellfish, wildlife habitat, recreation), as required by state water quality standards (Chapter 173-201A WAC).

The reasons that Ecology is unable to certify the project at this time include but are not limited to the following:

1. **Impacts on estuarine aquatic/marine resources, including ESA listed species, as a result of dredging the estuary 3 feet deeper.** Channel deepening and subsequent removal of sediment from the river will change the estuarine bathymetry and substrate characteristics. These modifications will, in turn, influence physical processes such as salinity and temperature patterns, flushing rates, nutrient and detrital transport. Changes to these processes ultimately influence water quality, nearshore habitat productivity, and community structure. Concerns about the physical changes to the estuary caused by deepening and the subsequent effect on ecological conditions were

reasons that the National Marine Fisheries Service recently withdrew its biological opinion of "no jeopardy". Additional information regarding the effects of deepening on ecological conditions in the estuary is necessary in order to provide Ecology with reasonable assurance that this project could be implemented in a manner that would meet water quality standards.

2. **Impacts to coastal resources from disposal of Columbia River sand at upland disposal sites and a deep-water ocean disposal site.** The deepening project removes a large quantity of sand from the lower Columbia River, estuary, and adjacent nearshore region. Columbia River sand is needed to maintain the beaches between Point Grenville, Washington and Tillamook Head, Oregon. The proposed project, via both upland disposal and deep-water ocean disposal will result in a net removal of sand from the system that will cause significant unacceptable shoreline recession of the Long Beach Peninsula over the life of the project.

3. **Dungeness crab abundance in the areas of dredging and disposal, the impact of dredging and disposal on crab, mitigation plans for unavoidable adverse impacts.** Construction of a deeper channel and disposal of dredged sediments as proposed is likely to impact crab habitat through disturbance of available food resources and removal of coarse protective cover substrate. Laboratory experiments have indicated moderate levels of suspended sediments and burial can be lethal to molting adults. Additional information regarding the temporal and spatial variability in crab abundance and distribution throughout their life stages as well as impacts of burial and suspended sediment is necessary in order to provide Ecology with reasonable assurance that this project could be implemented in a manner that would meet water quality standards.

4. **Impact of dredging and flow lane disposal on white sturgeon.** Additional information is necessary to determine the potential impact of the proposal on the white sturgeon population.

5. **Impacts on wetlands.** Ecology has not received from the Corps complete wetland determinations and delineations for all proposed upland/wetland disposal sites. In addition, Ecology has not received final, approvable mitigation plans for wetland/habitat losses.

Additionally, a 401 water quality certification cannot be issued at this time because the requirements of the State Environmental Policy Act (SEPA) have not been fulfilled. SEPA requires that likely significant adverse environmental impacts be assessed in an EIS along with alternatives and mitigation measures for those impacts. SEPA allows for the adoption of a NEPA EIS to satisfy SEPA, provided the analysis sufficiently addresses all likely significant adverse environmental impacts identified by the state. If the analysis is found to be inadequate then a supplemental analysis must be done, typically in the form of a Supplemental EIS (SEIS). Ecology has determined that the Columbia River Integrated Feasibility Report for Channel Improvement NEPA FEIS is insufficient in several subject areas. Most of the State's concerns were previously outlined in official comment letters on the Draft and Final EIS. Ecology may not issue a 401 certification until SEPA has been complied with.

Appeal Process. This decision to deny 401 certification without prejudice is subject to appeal. The Corps of Engineers, as applicant, can appeal up to thirty (30) days after receipt of this decision. All other parties can appeal up to 30 days from the postmarked date of this decision. The appeal must be filed with the Washington Pollution Control Hearings Board, PO Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be served on the Department of Ecology, Enforcement Section, PO Box 47600, Olympia, WA 98504-7600. The appeal must be filed and served within the 30-day period. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Sincerely,

Gordon White, Program Manager
Shorelands and Environmental Assistance Program

cc: State of Oregon Department of Environmental Quality
Department of Natural Resources
Washington Department of Fish and Wildlife
Diane Perry
Crab Fisherman Association
Pacific County
Wahkiakum County
Washington State Parks
Carol Jolly, Governor's Office
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