



Oregon

Kate Brown, Governor

Department of Environmental Quality
Northwest Region Portland Office/Water Quality
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September 1, 2021

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NEXT Renewable Fuels Oregon, LLC
11767 Katy Freeway, Suite 705
Houston, TX 77079

The Oregon Department of Environmental Quality (DEQ) initiated the review process of the US Army Corps of Engineers (USACE) permit application #2020-383. The applicant proposes to construct a renewable fuels facility. This proposed project is located within wetlands, near Clatskanie, in Columbia County, Oregon (Sections 16, 21, 22, 23, Township 8N, and Range 4W).

Upon receipt of a valid request for certification on January 15, 2021, DEQ began evaluation of the project pursuant to Section 401 of the Federal Clean Water Act to determine its compliance with applicable water quality requirements. On April 8, 2021, DEQ issued the applicant an initial set of review questions. On May 3, 2021, USACE granted DEQ an extension on its reasonable period of time for review through January 12, 2022.

On July 30, 2021, DEQ received a revised application which included a revised facility footprint and substantial changes to the volume and area of removal and fill. DEQ recognizes this most recent proposal as a new application, with material changes from the initial proposal. Because the July 30, 2021 submittal identifies a new project it is a new certification request¹. Also, as of September 1, 2021, DEQ has not received a response to the initial review questions issued to the applicant on April 8, 2021², which is required to determine compliance with water quality requirements. Because a new application was filed and a response to the initial review questions has not been received, DEQ cannot continue review of the project at this time. The application for certification of #2020-383 is therefore denied without prejudice. This denial of the 401 Water Quality Certification shall become effective on September 1, 2021.

With regard to the July 30, 2021, submittal, in accordance with 40 CFR § 121.4 and § 121.5, DEQ will evaluate the project for a 401 Water Quality Certification after a pre-filing meeting request is submitted, in addition to a request for certification. Please include a response to all the initial review questions, a complete post-construction stormwater management plan, and a summary of updates associated with the most recent version of the joint-permit application with the request for certification.

In accordance with OAR 340-048-0045(2), the applicant may request a contested case hearing to be conducted in accordance with the Oregon Administrative Procedures Act (Oregon Revised Statute,

¹ **Rule:** 40 CFR § 121.5(b)(2), (4)

Justification: To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.

² **Rule:** OAR 340-048-0020(2)(g)

Justification: DEQ must ensure that pollution does not enter waterways.

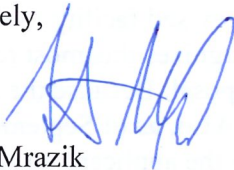
chapter 183 and OAR 137-003-0501 to -0700) if dissatisfied with the certification decision. Such a request must be made in writing and comply with OAR 340-011-0530(2) and OAR 340-048-0045(2). The request for hearing must be mailed to and received by the Department of Environmental Quality within 20 days of the date of mailing (set forth above):

Oregon Department of Environmental Quality
Attn: Jeff Brittain
700 NE Multnomah Street, Suite 600
Portland, OR 97232

If a written request for hearing is not received within the 20-day period, your right to a hearing shall be considered waived. If a timely request for hearing is received by the Department, you will be notified of the time and place of the hearing and provided information on the procedures by which contested cases are heard, your rights, the import and effect of such a hearing, and your rights and remedies. Please review OAR 137-003-0550 to determine whether you must be represented by legal counsel at this hearing, if any. In accordance with OAR 340-048-0045(3), this certification decision is effective upon the issuance of this decision, notwithstanding a request for a contested case hearing or other judicial review, if any.

If you have any questions, please contact Jeff Brittain at 503-229-5395, or by email at jeffrey.brittain@deq.state.or.us.

Sincerely,



Steve Mrazik
Water Quality Manager
Northwest Region

cc: Joe Brock, USACE
Dan Cary, DSL
Laurie Parry, Stewardship Solutions

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active-duty service members have a right to stay these proceedings under the federal Service members Civil Relief Act. For more information, contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through: <http://legalassistance.law.af.mil/content/locator.php>. The Oregon Military Department does not have a toll free telephone number.