



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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July 31, 2012

Paul Crane ASLA
City of Everett—Department of Public Works
3200 Cedar Street
Everett, WA 98201

RE: Water Quality Certification Order #9436 for Corps Nationwide Permit #12, Reference #NWS-2010-01366, for the 5 Line Replacement at Pilchuck River—Open Trench Installation Project, Pilchuck River, Snohomish County, Washington

Dear Mr. Crane:

On July 3, 2012, City of Everett submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the above project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and Nationwide Permit complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

On July 3, 2012, City of Everett submitted a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the Corps' determination that the proposed work is consistent with Washington's CZMP.

If you have any questions, please contact Rebekah Padgett at (425) 649-7129. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Geoff Tallent, Section Manager
Shorelands and Environmental Assistance Program

ES:rrp:cja

Enclosure

By certified mail: 7011 0470 0003 3720 9848

cc: Jamie Bails, Washington Department of Fish and Wildlife
e-cc: Patricia Lambert -- NWRO
Brenda Werden, Washington Department of Natural Resources brenda.werden@wadnr.gov
Paul Crane PCrane@ci.everett.wa.us
ecyrefedpermits@ecy.wa.gov



IN THE MATTER OF GRANTING A) ORDER # 9436
WATER QUALITY) Corps Reference No. NWS-2010-01366
CERTIFICATION TO) Nationwide Permit #12
City of Everett) 5 Line Replacement at Pilchuck River – Open
in accordance with 33 U.S.C. 1341) Trench Installation Project located in Snohomish
(FWPCA § 401), RCW 90.48.120, RCW) County, Washington.
90.48.260 and Chapter 173-201A WAC)

TO: Paul Crane ASLA
City of Everett–Department of Public Works
3200 Cedar Street
Everett, WA 98201

On July 3, 2012, the City of Everett submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on July 5, 2012.

The proposed project entails excavating an open trench to install a replacement 51-inch-diameter pipe for the Line 5 potable water transmission line. Mitigation for project impacts includes restoration of the river bottom and banks to original grade, placement of spawning gravel and re-vegetation of the site.

The project is located 350 feet east of Centennial Trail and 2,000 feet north of Three Lakes Road Bridge, River Mile 3.9, Pilchuck River, Everett, Snohomish County, Washington, Section 5, Township 28 N., Range 6 E., WRIA#7.

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 Chapter 173-200 WAC 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), ground water standards (Chapter 173-200 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 City of Everett, and its agents, assignees and contractors.
2. All submittals required by this Order shall be sent to Ecology's Rebekah Padgett, Federal Permit Manager, 3190 160th Avenue SE, Bellevue, WA 98008 or via e-mail (preferred), if possible, to Rebekah.Padgett@ecy.wa.gov. The submittals shall be identified with Order #9436 and Corps Reference #NWS-2010-01366.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on July 3, 2012, unless otherwise authorized by Ecology.
4. Within 30 days of receipt of any updated information, 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. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
6. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
7. The Applicant shall provide access to the project site and all mitigation 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, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
9. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order.
10. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

B. Water Quality

1. This Order does not authorize temporary exceedances of the turbidity standard beyond the limits established in WAC 173-201A-200.
2. Water quality shall be monitored for turbidity a minimum of twice per day during turbidity-generating activities.
3. Locations of water quality sampling sites shall be identified. At a minimum, sampling shall take place at the point of compliance as specified in WAC 173-201A-200(1)(e)(i). Background samples shall be collected outside the area of influence of the in-water work. Background samples shall be collected at the same frequency as the point of compliance samples.
4. Sampling for turbidity shall be accomplished using a turbidometer properly calibrated according to the operator's manual.
5. If exceedances of the standard at the point of compliance specified in WAC 173-201A-200(1)(e)(i) is detected through water quality sampling and monitoring, the Applicant shall immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem. After such an event, the Applicant shall assess the efficacy of the site BMPs and update or improve the BMPs used at the work site in an effort to reduce or prevent recurrence of the turbidity exceedance.

6. If no exceedances are detected, results of water quality sampling shall be forwarded to Ecology on a monthly basis in accordance to Condition A2.
7. Notification of exceedances that are detected through water quality sampling shall be made to Ecology within 24 hours of occurrence. Notification shall be made with reference to Order #9436, Attn: 401/CZM Federal Project Manager, by telephone at (425) 649-7129 or (425) 649-7000, or by fax to (425) 649-7098. The Applicant shall, at a minimum, provide Ecology with the following information:
 - i. A description of the nature and cause of exceedance.
 - ii. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance.
 - iii. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
 - iv. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the exceedance, turbidity results and location, photographs, and any other pertinent information.
8. Dewatering water may not be discharged to the Pilchuck River or conveyed to surface waters unless it meets Surface Water Quality Standards (Chapter 173-201A WAC) for turbidity.
9. The Applicant shall not discharge chlorinated water from the existing or new pipelines into the Pilchuck River.

C. Timing Requirements

1. This Order will expire two (2) years from the date this 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 all 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.

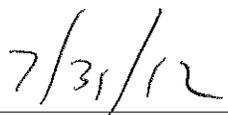
ADDRESS AND LOCATION INFORMATION

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 RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

SIGNATURE



Geoff Tallent
Shorelands and Environmental Assistance Program
Northwest Regional Office



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