



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000
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June 11, 2014

Debbie Harris
Seattle Public Utilities
PO Box 34018
Seattle, WA 98104

RE: Water Quality Certification Order #10756 for U.S. Army Corps of Engineers
Public Notice #NWS-2013-1203-WRD, Seola Creek Basin Retention/Detention
Facility (DR0562) Discharge Pipe Upgrade and Swale Retrofit Project, in King
County, Washington

Dear Ms. Harris:

On March 5, 2014, Seattle Public Utilities submitted a Joint Aquatic Resource 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 proposed Seola Creek Basin Retention/Detention Facility (DR0562) Discharge Pipe Upgrade and Swale Retrofit project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice 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.

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,

Erik Stockdale, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office

ES:rrp:mrw

Enclosure

By certified mail: 7011 0470 0003 3720 8100

cc: Olivia Romano, U.S. Army Corps of Engineers
Larry Fisher, Washington Department of Fish and Wildlife
Jim Muck, NOAA Fisheries
Clayton Antieau, Seattle Public Utilities

e-cc: Patrick McGraner – NWRO
Bobb Nolan – NWRO
Loree' Randall – HQ
Raman Iyer – NWRO
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A) ORDER #10756
WATER QUALITY) Corps Reference #NWS-2013-1203-WRD
CERTIFICATION TO) Seola Creek Basin Retention/Detention Facility
Seattle Public Utilities) (DR0562) Discharge Pipe Upgrade and Swale
in accordance with 33 U.S.C. 1341) Retrofit Project; Wetlands and Seola Creek, King
(FWPCA § 401), RCW 90.48.120, RCW) County, Washington.
90.48.260 and Chapter 173-201A WAC)

TO: Debbie Harris
Seattle Public Utilities
PO Box 34018
Seattle, WA 98104

On March 5, 2014, Seattle Public Utilities submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification. A joint public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on May 7, 2014.

The proposed retrofit of King County’s Regional Detention Facility (Seola Pond) and improvements include the following components:

- Excavation of approximately 3,000 cubic yards of an existing stormwater facility to add permanent wetpool storage.
- Construction of a maintenance access ramp on the west side of the pond with placement of 187 cubic yards of quarry spalls in the pond.
- Incorporation of approximately 540 cubic yards of compost into the pond’s existing clay soil prior to plant installation.
- Installation of a new 18-inch-diameter emergency overflow pipe at the pond’s existing outlet and connection of the pipe to the existing drainage system.
- Widen approximately 140 linear feet of the existing drainage swale (non-wetland) and incorporate up to 2 cubic yards of compost into existing soil prior to plant installation.
- Installation of approximately 1.5 cubic yards of sand or gravel bags in the drainage swale (non-wetland) as a temporary flow bypass, if needed.
- Re-vegetation of approximately 1.3 acres of wetlands (Wetland A-pond and Wetland B-swale) and buffer area.
- Enhancement of portions of the swale by hand removal of invasive vegetation.

The proposed work would result in approximately 44,428 square feet of temporal impact to a Category III wetland, and 1,554 square feet of permanent impact to the same Category III wetland. The project is designed to be self-mitigating, with improvements to water quality in the Seola Creek watershed through collection and treatment of stormwater runoff that would improve Puget Sound water quality. Additionally, the project would result in a decrease in water

fluctuations in Seola Pond, improvements to water quality function, and 57,500 square feet of native plant revegetation.

The project is located on King County tax parcel 769460-0373 and lies east of the City of Seattle's 30th Avenue SW right-of-way and the SW 105th Avenue cul-de sac, in Seattle and Unincorporated King County, Washington, Wetlands and Seola Creek, Section 1, T. 23 N., R. 3E., WRIA 9.

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 meet the 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:

- A1. For purposes of this Order, the term "Applicant" shall mean Seattle Public Utilities and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Northwest Regional Office, Attn: 401/CZM Federal Project Manager, 3190 160th Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #10756 and Corps Reference #NWS-2013-1203-WRD.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on March 5, 2014. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
- A4. Within 30 days of receipt of an updated JARPA, 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.
- A5. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue an individual Section 404 permit.
- A6. 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 lead workers, and state and local government inspectors.
- A7. 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.
- A8. 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.
- A9. 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. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor 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 before construction begins at the project or mitigation sites.

A10. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state (including wetlands) or related aquatic resources, except as specifically provided for in conditions of this Order.

A11. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

B. Native Planting Conditions:

B1. Except as modified by this Order, the native planting area is depicted on Sheets 10 of 11 and the plant list on 11 of 11 of the Seola Creek Basin R/D Facility (DR0562) Upgrade and Swale Retrofit, dated February 24, 2014. Replanting of the R/D Facility shall be completed as depicted on Sheets 10 and 11.

B2. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers at the R/D site and above the 100-year floodplain.

B3. The Applicant shall ensure that no material is stockpiled within existing wetlands and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology-approved Revegetation Plan.

B4. The Applicant shall ensure that no construction debris is deposited within existing wetland and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology approved Revegetation Plan.

B5. The Applicant shall not use polyacrylamide at the revegetation site.

B6. The Applicant shall not use hay or straw on exposed or disturbed soil at the revegetation site(s).

B7. If weed-barrier fabric is used on the site, the Applicant shall use only permeable, fully biodegradable, non-toxic weed-barrier fabric for entire-site and/or individual plant weed control. Non-biodegradable plastic weed-barrier fabric shall be used only at the base of individual plants and shall be removed before it starts to break down, before it interferes with plant growth.

B8. If seeding is used at the wetland R/D site, the seed mix must contain only native, annual, non-invasive plant species.

C. Water Quality Condition:

- C1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i).

D. Conditions for Construction Activities:

- D1. 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.
- D2. Machinery and equipment used during construction shall be serviced, fueled, and maintained upland, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.
- D3. 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.
- D4. Clean Fill Criteria: Applicant shall ensure that fill (soil or other material) placed for the proposed project does not contain toxic materials in toxic amounts.
- D5. Excavated material shall be disposed off site at an approved upland facility.

In-Water Conditions:

- D6. A pump-and-bypass system shall be implemented during construction in order to minimize water quality impacts.
- D7. Excavated material shall not be stockpiled on a temporary or permanent basis below the OHWL.
- D8. All manmade debris that has been deposited below the Ordinary High Water Line (OHWL) within the construction work area shall be removed and disposed of upland such that it does not enter waters of the state. Concrete rubble, metal debris, and other debris in the construction work corridor that have washed into marine areas shall be removed from the project area.

E. Emergency/Contingency Measures:

- E1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.
- E2. The Applicant shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.
- E3. 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.
- E4. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, 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 Applicant shall immediately take the following actions:
- a. Cease operations at the location of the violation or spill.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. Notify Ecology of the failure to comply. All oil spills shall be reported immediately to Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's 401/CZM Federal Project Manager at (425) 649-7129 or (425) 649-7000.
 - d. Submit a detailed written report to Ecology within five (5) days that describes the nature of the event, 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 Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

F. Timing Requirements

- F1. All in-water work shall be completed by the work window identified in the most current Hydraulic Project Approval (HPA) issued for this project. Any project change that requires a new or revised HPA should also be sent to Ecology for review.
- F2. This Order expires 3 years from the date of issuance of the Corps permit.

G. Reporting and Notification Requirement Conditions

- G1. The Applicant shall provide to Ecology's 401/CZM Federal Permit Manager a copy of the final Corps permit within 2 weeks of receipt of the permit. A copy shall be submitted per condition A2 above.
- G2. Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager:
- At least three (3) days prior to the start of construction.
 - Within 14 days after completion of construction at the project site.
- Notification, referencing Corps Reference #NWS-2013-1203-WRD, Order #10756 can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.
- G3. If the project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction is complete.

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:

Rebekah Padgett
Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008
(425) 649-7129
rebekah.padgett@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website

www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board

<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

Chapter 371-08 WAC – Practice And Procedure

<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>

Chapter 90.48 RCW – Water Pollution Control

<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

Chapter 173-204 WAC – Sediment Management Standards

www.ecy.wa.gov/biblio/wac173204.html

Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173200.html

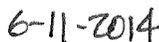
Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE



Erik Stockdale, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office



June 11, 2014

ATTACHMENT A

**SEATTLE PUBLIC UTILITIES
SEOLA CREEK BASIN RETENTION/DETENTION FACILITY (DR0562) DISCHARGE
PIPE UPGRADE AND SWALE RETROFIT PROJECT
Water Quality Certification Order #10756**

**Statement of Understanding of
Water Quality Certification Conditions**

I have read and understand the conditions of Order #10756 Section 401 Water Quality Certification for the Seattle Public Utilities Seola Creek Basin Retention/Detention Facility (DR0562) Discharge Pipe Upgrade and Swale Retrofit Project. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this Order.

Signature

Date

Title

Company