



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

May12, 2014

Pierce County Road Operations
ATTN: Ms. Marlene Ford
4812 196th Street East
Spanaway, WA 98387

RE: Water Quality Certification Order No. **10690**, Corps Reference No. **NWS-2009-0399-
WRD**; Johns Road East Embankment Repairs Project, Wilkeson Creek, South Prairie,
Pierce County, Washington.

Dear Ms. Ford:

On November 6, 2013, Pierce County Road Operations 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 Johns Road East Embankment Repairs Project. Revised JARPA's were subsequently submitted to Ecology on December 16, 2013 and April 2, 2014. A joint public notice regarding this request was distributed by the Army Corps of Engineers (Corps) for the above referenced project on January 9, 2014.

The proposed project will retain up to 60 cubic yards of rock placed along 100 linear feet of stream bank as an emergency action; install four engineered log jams, and place up to 234 cubic yards of streambed material below the Ordinary High Water Mark (OHWM) of Wilkeson Creek.

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 Lori Ochoa at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enclosures

By Certified Mail 7012 2920 0000 1182 4872



cc: Olivia Romano, Corps of Engineers
Gina Piazza, WDFW
Adonais Clark, Pierce County
Martin J. Fox, Muckleshoot Indian Tribe

e-cc: ECY RE FED PERMITS
Loree' Randall, Ecology/HQ
Alex Callender, Ecology/SWRO/SEA
Deb Cornett, Ecology/SWRO/WQ
Lori Ochoa, Ecology/SWRO/SEA

IN THE MATTER OF GRANTING A) ORDER No. 10690
WATER QUALITY) Corps Reference No. NWS-2009-0399-WRD
CERTIFICATION TO) Johns Road East Embankment Project, Wilkeson
Pierce County Road Operations) Creek, Pierce County, Washington.
in accordance with 33 U.S.C. 1341)
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)
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TO: Pierce County Road Operations
ATTN: Ms. Marlene Ford
4812 196th Street East
Spanaway, WA 98387

On November 6, 2014, Pierce County Road Operations submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. Revised JARPA's were submitted on December 16, 2013 and April 2, 2014. A Joint Public Notice regarding the request was distributed by the Corps of Engineers on January 9, 2014 for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC.

The proposed project will retain up to 60 cubic yards of rock that was previously placed along 100 linear feet of streambank on Wilkeson Creek as an emergency action to protect the roadway. Additionally, four engineered log jams (ELJs) will be installed along the right bank of Wilkeson Creek and up to 234 cubic yards of streambed material will be placed below the Ordinary High Water Mark (OHWM). The project is designed to deflect the water away from the eroding bank along the roadway while also providing in-stream enhancement to Wilkeson Creek.

The proposed project is located at milepost .5 of Johns Road East, along the right bank of Wilkeson Creek at approximately River Mile 3.3, South Prairie, Pierce County, Washington; SE quarter of Section 20, Township 19 North, Range 6 East; WRIA 10, Puyallup -White Watershed.

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, 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 the Pierce County Road Operations, and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Regional Office, Attn: Federal Permit Manager, P.O. Box 47775, Olympia, WA 98504-7775 or by e-mail to loch461@ecy.wa.gov. Any submittals shall reference Order No. **10690** and Corps No. **NWS-2009-0399-WRD**.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on November 6, 2013, and as revised on December 16, 2013, and April 2, 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 package is voided by subsequent changes to the project not authorized by this Order.
4. 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.
5. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue a Section 404 permit.
6. 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.
7. The Applicant shall provide access to the project site 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. Furthermore, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified 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. 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 permit, plans, documents, and approvals. These statements shall be provided to Ecology before construction begins at the project site.
10. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
11. 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. Water Quality Conditions:

1. Wilkeson Creek is classified as "Core Summer Salmonid Habitat" and the criteria of that categorization apply as described in WAC 173-201A-200(1).
2. This Order does not authorize the Applicant to exceed applicable state water quality standards for turbidity as described in WAC 173-201A-200(1)(e). For this project, the following is considered to be an exceedance of the standard:
 - a. 5NTU over background conditions when the background is 50 NTU or less; or a 10 percent increase in turbidity when the background is more than 50 NTU.
 - b. For waters above 10 cfs up to 100 cfs at the time of construction, the point of compliance shall be two hundred (200) feet downstream of the activity causing the turbidity exceedance.
3. Water Quality Sampling and Monitoring: The Applicant shall revise the *Water Quality Monitoring and Protection Plan (WQMPP) for Stream Diversion, Section 401 Water Quality Certification, Johns Road Emergency Repairs and Mitigation Work* sent to Ecology on March 4, 2014 in accordance with the conditions of this Order. A final WQMPP shall be submitted to the Federal Permit Manager (per Condition A.2 above) for **review and approval** at least 14 days prior to beginning any work covered by this plan. **Work shall not begin until Ecology approves the WQMPP.**

- a. Parameters to be monitored: turbidity shall be sampled for this project.
- b. Equipment: Sampling for turbidity shall be accomplished using a turbidimeter properly calibrated according to the operator's manual.
- c. Activities to be monitored: Water quality monitoring for turbidity shall be conducted during the stream diversion and the re-introduction of Wilkeson Creek to the project work area.
- d. Location of samples: At a minimum turbidity shall be sampled and documented at the following locations:
 - i. Background samples for turbidity shall be collected (and documented) upstream, outside the area of influence of the project work. Background samples shall be collected at the same time and frequency as the point of compliance samples.
 - ii. At a minimum, turbidity sampling and documentation shall occur at 100 feet (early detection point) and 200 feet downstream from the project activity.
- e. Sampling Frequency: Water quality samples for turbidity shall be collected every two hours during the activities that require monitoring.
- f. Detection of Exceedances: If turbidity exceedances are detected outside of the point of compliance, work causing the problem shall cease immediately and the Applicant or the contractor shall assess the cause of the problem and take immediate action to stop, contain, correct the problem, and prevent further water quality turbidity exceedances. After such an event, the Applicant and/or the contractor shall assess the efficacy of the site BMPs and update or improve the BMPs used at the work site in an effort to prevent a recurrence of the exceedance. If an exceedance occurs, the Applicant shall follow the protocols and notification procedures below.
- g. Notification of Exceedances: Notification of exceedances that are detected through water quality monitoring shall be made to Ecology **within 24 hours of occurrence**. Notification shall be made per Condition A2 above. 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 the exceedance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance; and
 - iii. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the exceedance.
 - 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(s), corrective action taken and/or planned, steps to be taken to prevent a recurrence, photographs, and any other pertinent information.
- h. Reporting: Results of the water quality monitoring shall be documented in daily data sheets and submitted to Ecology weekly during the construction activities that are being monitored (in accordance with conditions A.2. above.) (See Attachment B for an example.) At a minimum, the data sheets must include:

- i. Date and Time of Sample;
 - ii. Sample Location;
 - iii. Turbidity Reading;
 - iv. Name of Person collecting sample;
 - v. Weather conditions
4. Ecology must approve in writing, any changes to the Final WQMPP.
 5. Mitigation and/or additional monitoring may be required if water quality standards are not met.

C. Timing Requirements:

1. This Order shall remain in effect for a period of five (5) years from the date of issuance. Continuing this project beyond the five-year term of this Order will require separate Certifications every five years.
2. 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.

D. Notification Requirements:

1. Written notification (e-mail is preferred) shall be made to Ecology's Southwest Regional Office Federal Permit Manager in accordance with condition A.2 above for the following activities:
 - a. At least ten (10) days prior to the onset of in-water work in each construction season.
 - b. Within ten (10) days after completion of construction for each construction season.
 - c. Immediately following a violation of the state water quality standards or any condition of this Order.
2. If project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit a written construction status report. Status reports shall be submitted every 12 months thereafter until project construction is complete.

E. Construction Conditions:

General

1. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts.
2. The project area shall be clearly marked/staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. All project staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.
3. Construction stormwater, sediment, and erosion control Best Management Practices (BMP's) intended to trap sediment on site, shall be in place before starting project construction and shall be maintained throughout construction until the site is stabilized.

4. Appropriate BMPs shall be implemented to minimize track-out during construction.
5. Clean Fill Criteria: Applicant shall ensure that fill (soil) placed for the proposed project does not contain toxic materials in toxic amounts.
6. All construction debris, excess sediment, or deleterious material resulting from project construction shall be properly contained and disposed of at an approved upland location so that it cannot enter waters of the state.

Equipment Staging & Maintenance

7. Staging areas will be located a minimum of 50 feet, and where practical, 150 feet from waters of the state, including wetlands. If a staging area must be located within 50 feet of waters of the state, then the applicant shall provide a written explanation and obtain approval from Ecology's Federal Permit Manager before placing the staging area within the setback area.
8. All equipment operating within the Ordinary High Water Mark (OHWM) of the Creek shall utilize vegetable-based biodegradable hydraulic fluid.
9. Accumulation of soils or debris shall be removed from the drive mechanism (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use within waters of the state, including wetlands.
10. The Applicant shall establish a separate contained area for washing down vehicles and equipment that does not have any possibility of draining to surface waters and/or wetlands. No wash water containing sediments, oils, grease or other hazardous materials resulting from wash down of the work area, tools, and equipment shall be discharged into waters of the state or storm drains.
11. All machinery and equipment used during project construction shall be serviced, fueled, and maintained in a confined area in order to prevent contamination to waters of the state. Fueling areas shall be located a minimum of 50 feet from waters of the state, including wetlands and shall be provided with adequate spill containment. No petroleum products, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.

Temporary Diversion Structure & Dewatering

12. All work within the OHWM of Wilkeson Creek will occur in isolation behind a temporary coffer dam. The temporary cofferdam used to divert water around the work area shall be in place prior to initiation of any work along the bank within the OHWM.
13. The temporary diversion shall be of sufficient size and height, constructed of non-erosive materials, and installed to be able to divert the entire flow around the isolated work area with no chance of water overtopping the structure for the duration of the project.
14. The diversion system shall be designed and operated so as not to cause scour or erosion in the channel or on the bank of the waterbody in which the work is being conducted.

15. Prior to returning water flow to the work area, all bank protection measures shall be in place.
16. Re-introduction of water into the isolated work area shall be done gradually, and at a rate not higher than the normal flow, in order to minimize the mobilization of sediments and fines.
17. Upon completion of the project, all material used for the temporary diversion shall be removed from the site.
18. Turbid dewatering water (including turbid water generated from cleaning and maintenance activities) shall not be discharged directly into waters of the state. Turbid water shall be pumped to an upland area to allow the turbid water to settle. The discharge from the upland areas shall meet water quality criteria at the point of discharge into surface waters and/or wetlands.
19. Dewatering water that is not turbid may be discharged directly to surface waters and/or wetland provided that: a) waste water containing raw concrete or other harmful material has not been in contact with the water to be discharged, and b) the water will meet all of the water quality standards at the point of discharge.
20. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, along the banks, or in the vegetated areas.
21. Rock placement shall be performed in a manner and rate to minimize the disturbance to the bank and streambed.

F. Emergency/Contingency Measures

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list available on site.
2. 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, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations at the location of the compliance problem;
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.

- e. Immediately notify Ecology’s 24-Hour Spill Response Team at 1-800-258-5990 **and** within 24 hours of spills or other events to Ecology’s Federal Project Manager at 360-407-6926.
 - f. 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.
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc. shall be checked daily for drips or leaks, and shall be maintained and stored properly to prevent spills into waters of the state, including wetlands.
 4. If at any time during work, the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.

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 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
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p>
<p>Pollution Control Hearings Board 1111 Israel Rd SW STE 301 Tumwater, WA 98501</p>	<p>Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903</p>

CONTACT INFORMATION

Please direct all questions about this Order to:

Lori Ochoa
Department of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775
loch461@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website
www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental Hearings Office – Pollution Control Hearings Board
<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

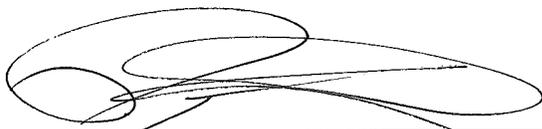
Chapter 90.48 RCW – Water Pollution Control
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

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

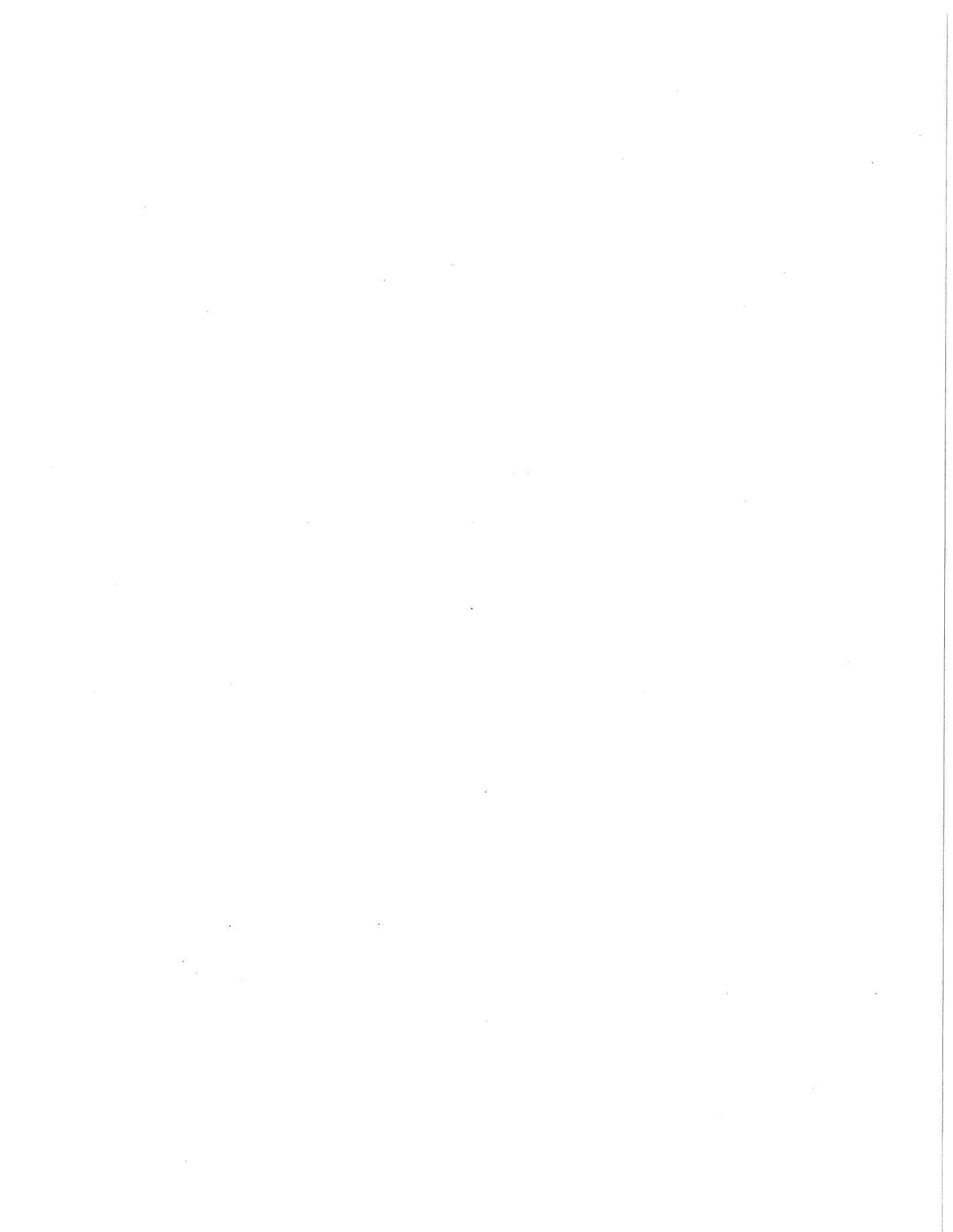
Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington
www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE



Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office
Department of Ecology

5/12/2014
Date



Attachment A

Pierce County Road Operations
Johns Road East Embankment Repairs
Order No. **10690**
Corps Reference No. **NWS-2009-0399-WRD**
Statement of Understanding
Water Quality Certification Conditions

I, _____, state that, I will be involved as an agent or contractor for Pierce County Road Operations in the site preparation and/or construction of the Johns Road East Embankment Repairs Project located at milepost .5 of Johns Road East, along the right bank of Wilkeson Creek, South Prairie, Pierce County, Washington. I further state that I have read and understand the relevant conditions of the Washington Department of Ecology Water Quality Certification Order No. **10690** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company

