



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

May 23, 2016

Washington State Department of Fish and Wildlife
ATTN: Mr. Tim Ward
600 Capitol Way North
Olympia, WA 98501-1091

RE: Water Quality Certification Order No. **13216** for Corps Public Notice reference No. NWS-2012-1319 for the North Fork Washougal Weir and Adult Handling Facility, North Fork Washougal River, Skamania County, Washington.

Dear Mr. Ward:

On April 16, 2015, the Washington State Department of Fish and Wildlife 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 North Fork Washougal Weir and Adult Handling Facility Project. The U.S. Army Corps of Engineers issued a joint public notice on June 1, 2015, for the proposed project. The JARPA was withdrawn and re-submitted on April 7, 2016. Ecology issued a second Public Notice on April 20, 2016.

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

Sincerely,

Paula Ehlers, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enclosure

By certified mail 7014 0150 0000 9188 6961

cc: Dave Martin, U.S. Army Corps of Engineers, VFO
Debbie Cazare, Skamania County
Sam Kolb, WDFW



e-cc: ecyrefedpermits@ecy.wa.gov
Lori Kingsbury, Ecology, SWRO SEA
Loree' Randall, Ecology, HQ SEA
Rebecca Rothwell, Ecology, SWRO SEA
Chris Montague-Breakwell, Ecology, SWRO WQ
Martin Peoples, WDFW, HQ

IN THE MATTER OF GRANTING A)	ORDER No. 13216
WATER QUALITY)	Corps Reference No. NWS-2012-1319
CERTIFICATION TO)	WDFW- North Fork Washougal Weir and Adult
Washington State)	Handling Facility, North Fork Washougal River,
Department of Fish and Wildlife)	Skamania 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)	

TO: Washington State Department of Fish and Wildlife
ATTN: Mr. Tim Ward
600 Capitol Way North
Olympia, WA 98501-1091

On April 16, 2015, Washington State Department of Fish and Wildlife submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification for the North Fork Washougal Weir and Adult Handling Facility Project. A joint public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the project pursuant to the provisions Chapter 173-225 WAC on June 1, 2015. The JARPA was withdrawn and re-submitted on April 7, 2016. Ecology issued another Public Notice on April 20, 2016.

The proposed project includes the construction of a 74 foot-long concrete fish passage barrier weir across a natural falls upstream of the existing adult fish collection ladder within the North Fork of the Washougal River. The barrier will prevent fish from migrating upstream and guide them into the adult collection ladder. The project also includes modifications to the adult holding pond to allow direct transfer of natural-origin adults via a return pipeline to a deep pool in the river near the holding pond.

The purpose of the proposed project is to help develop a natural-origin spawning population of steelhead by diverting all upstream migrating fish into the hatchery for separation.

The project is located at 391 Steelhead Road, Washougal, Skamania County, Washington 98671; NE Quarter of Section 32, Township 2 North, Range 5 East; WRIA 28, Salmon-Washougal 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, 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 the Washington State Department of Fish and Wildlife 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, SEA Program, PO Box 47775, Olympia, WA 98504-7775 or by e-mail (preferred) to Lori.kingsbury@ecy.wa.gov. Any submittals shall reference Order No. 13216 and Corps Reference No. NWS-2012-1319.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on April 16, 2015 (withdrawn and re-submitted on April 7, 2016), and the e-mail received on May 15, 2016. The Applicant will be out of compliance with this Order and must submit an updated JARPA if the information contained in the JARPA 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 whether 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 and/or Section 10 permit for the project.

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 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. 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 permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.
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. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i).
2. Water Quality Sampling and Monitoring: The Applicant shall revise the Draft *Water Quality Monitoring and Protection Plan (WQMPP)*, *Skamania Hatchery Weir* Prepared by Marin Peoples, WDFW, dated November 6, 2015, to incorporate the map and information submitted to Ecology via e-mail on May 16, 2016. **The final WQMPP shall be submitted to the Federal Project Manager for review and approval at least 30 days prior to beginning any work covered by this plan at the project site. Work shall not begin until Ecology approves the WQPMP.**
3. Ecology must approve, in writing, any changes to the final WQPMP.
4. Reporting: Results of the water quality monitoring shall be documented in the proposed data sheet and submitted weekly to Ecology's Federal Permit Manager (per Condition A.2 of this Order) during the identified in-water work activities.
5. Water Quality Exceedances: If water quality exceedances are detected outside of the point of compliance, work shall cease immediately and the Applicant or the contractor

shall assess the cause of the water quality problem and take immediate action to stop, contain, and correct the problem and prevent further water quality exceedances. If an exceedance occurs, the Applicant shall follow the notification procedures outlined below.

6. **Notification of Exceedances:** 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 No. 13216, Attn: Federal Permit Manager, by telephone at (360) 407-6926, or by e-mail at lori.kingsbury@ecy.wa.gov. The Applicant shall, at a minimum, provide Ecology with the following information:
 - a. A description of the nature, extent, and cause of the exceedance.
 - b. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the project will return to compliance.
 - c. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
 - d. 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, water quality monitoring results and location, photographs, and any other pertinent information.
7. Mitigation and/or additional monitoring may be required if water quality standards are not met.

C. Timing:

1. This Order shall remain in effect for a period of five (5) years from the date of issuance.
2. All in-water work shall be completed within the identified work window:
 - a. Between July 1 and September 30 unless otherwise approved by Ecology.
 - b. Any project change that requires a new or revised Hydraulic Project Approval (HPA) should also be sent to Ecology for review.

D. Notification Requirements:

1. The Applicant shall provide a copy of the final Corps Permit to Ecology's Southwest Regional Office Federal Permit Manager (in accordance with Condition A.2, above) within two weeks of receipt of the permit.
2. Written notification (e-mail is preferred) shall be made to Ecology's Southwest Regional Office Federal Permit Manager for the following activities:
 - a. At least ten (10) days prior to the start of construction for each construction season.
 - b. Within ten (10) days after the completion of construction for each construction season.

These notifications shall be made as outlined in Condition A.2 above.

3. If project construction is not completed within thirteen (13) months of issuance of this Order, the Applicant shall submit a written construction status report. Status reports shall be submitted every twelve (12) months thereafter until project construction is complete.

E. Construction Conditions:

General Construction

1. The Applicant shall obtain and comply with the conditions of the current national Pollutant Discharge Elimination System – NPDES) Construction Stormwater General Permit issued for this project.
2. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMPs) suitable to prevent exceedances of state water quality standards shall be in place before starting clearing, filling, or grading work and shall be maintained throughout construction.
3. The project shall be clearly marked/staked prior to construction. Clearing limits, travel corridors, and stockpile sites shall be clearly marked. Sensitive areas and their buffers that are to be protected from disturbance shall be marked so as to be clearly visible to equipment operators. 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.
4. Appropriate BMPs shall be implemented to minimize track-out during construction.
5. Staging and stockpile areas shall be located a minimum of 50 feet from waters of the state, including wetlands. If a staging and/or stockpile area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation (with additional BMPs) and obtain approval from Ecology Federal Permit Manager before placing the staging/stockpile location within the setback area.
6. Clean Fill Criteria: Applicant shall ensure that fill (soil) placed for the proposed project does not contain toxic materials in toxic amounts.
7. The Applicant shall have a boat available and on site during in-water activities to immediately retrieve any debris entering the water.
8. All construction debris, waste material, excess sediment, rock, concrete, and other solid waste, shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
9. No petroleum products, fresh concrete, grout, lime, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.

Equipment & Maintenance

10. All equipment operating within the OHWM of the river shall utilize vegetable-based biodegradable hydraulic fluid.

11. All construction equipment shall be clean and inspected daily before use to ensure that the equipment is free from external petroleum products and has no fluid leaks.
12. 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, including concrete delivery trucks or other equipment used for concrete work, shall be discharged into state waters or storm drains.
13. All machinery and equipment used during project construction shall be serviced, fueled, and maintained in a confined upland area in order to prevent entry to waters of the state. Fueling areas shall be located a minimum of 50 feet, and where practical, 100 feet, from waters of the state, including wetlands, and shall be provided with adequate spill containment.
14. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working area shall not be discharged into state waters. The Applicant shall establish a separate, contained area for washing down vehicles and equipment that does not have any possibility of draining to waters of the state.

Temporary Diversion Structure and Dewatering

15. All work within the OHWM of the river 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 within the wetted perimeter of the work area.
16. 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.
17. 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.
18. Prior to returning water flow to the work area, all bank protection measures shall be in place.
19. 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.
20. Upon completion of the project, all material used for the temporary diversion shall be removed from the site.
21. 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.

22. 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.**
23. 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.
24. Bank protection material shall be clean rock and free of soil accumulations prior to placement to minimize the potential for turbidity.
25. Rock placement shall be performed in a manner and rate to minimize the disturbance to the bank and riverbed.
26. The toe of the bank protection shall be established prior to placing remaining bank protection to help confine the material to the bank face.

Concrete Work

27. Spill protection measures shall be in place prior to any concrete delivery over water.
28. Concrete delivery systems shall be inspected daily to prevent any discharges of concrete and/or slurry water into waters of the state.
29. All concrete shall be poured in the dry, or within confined waters not being dewatered, and shall be completely cured prior to coming into contact with waters of the state.
30. Uncured concrete and concrete by-products shall be completely sealed off and totally contained using sealed forms or other leak-proof containment systems.
31. Concrete process water shall not enter waters of the state. Any concrete process/contact water discharged from a confined area shall be routed to a contained area to be treated and disposed of appropriately with no possible entry to waters of the state.
32. All concrete, cement, and/or grout must be completely cured prior to any contact with flowing waters.

F. Emergency/Contingency Measures:

1. The Applicant shall develop and implement a Spill Prevention Control and Countermeasures (SPCC) Plan for all aspects of 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 or onto land with a potential for entry into state waters, is prohibited. If such work, conditions, or discharges occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing 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 360-407-6300 **and** within 24-hours of the event, notify Ecology's Federal Permit Manager at 360-407-6926.
 - f. Submit a detailed written report to Ecology's Federal Permit Manager within five (5) days of the event 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 regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.
 4. If at any time during work the Applicant or its contractor finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the Applicant or the contractor shall immediately notify Ecology using the phone numbers listed above.

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, Suite 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:

Lori Kingsbury, Federal Permit Manager
Department of Ecology
Southwest Regional Office
P.O. Box 47775
Lacey, WA 98504-7775
Lori.kingsbury@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 34.05 RCW – Administrative Procedure Act**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 Washington Administrative Code (WAC) Sediment Management Standards**
<http://www.ecy.wa.gov/biblio/wac173204.html>

- **Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173200.html>
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173201A.html>

SIGNATURE



Paula Ehlers, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office
Department of Ecology

5.23.16

Date

Attachment A

Washington State Department of Fish and Wildlife
WDFW North Fork Washougal Weir
Order No. 13216
And
Corps Reference No. NWS-2012-1319
Statement of Understanding
Water Quality Certification Conditions

I, _____, state that I will be involved as an agent or contractor for the Washington Department of Fish and Wildlife in the construction of the WDFW North Fork Washougal Weir and Adult Handling Facility project located at River Mile 1 of the North Fork Washougal River (sometimes referred to as the West Fork Washougal) at 391 Steelhead Road, Washougal, Skamania 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. 13216 and the applicable permits and approvals referenced therein that pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company

