



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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December 2, 2015

City of Vancouver  
ATTN: Terry Snyder  
415 W 6<sup>th</sup> Street  
Vancouver, WA 98660

RE: Water Quality Certification Order No. 12933 for Corps Public Notice No. NWS-2013-578, City of Vancouver Waterfront Park, Clark County, Washington

Dear Mr. Snyder:

The City of Vancouver submitted a Joint Aquatic Resources Permit Application (JARPA) on January 13, 2015, with a revision on August 14, 2015, to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act City of Vancouver Waterfront Park, Clark County, Washington.

The proposed project will construct a waterfront park that includes a pedestrian access pier, water access areas and a fishing dock with approach floats.

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 Kerry Carroll at (360) 407-7503. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Brenden McFarland  
Shorelands and Environmental Assistance Program

Enclosure

cc: Steve Manlow, Corps of Engineers



by certified mail 7009 0820 0001 9056 0380

e-cc: ECY RE FEDPERMITS  
Loree Randall – HQ, SEA  
Carol Serdar – SWRO, WQ

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 12933</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2013-578</b>
<b>CERTIFICATION TO</b>	)	Construct a waterfront park that includes a
City of Vancouver	)	pedestrian access pier, water access areas and
in accordance with 33 U.S.C. 1341	)	excavation and rock placement within .45 acres
(FWPCA § 401), RCW 90.48.120, RCW	)	of shoreline in and along the Columbia River
90.48.260 and Chapter 173-201A WAC	)	located in Clark County, Washington.

City of Vancouver  
 Attn: Terry Snyder  
 415 W 6<sup>th</sup> Street  
 Vancouver, WA 98660

On January 15, 2015, Ecology received a Joint Aquatic Resources Permit Application (JARPA) from the City of Vancouver requesting a 401 Water Quality Certification (WQC). The U.S. Army Corps of Engineers (Corps) issued a joint public notice for the project on January 28, 2015.

The proposed project entails constructing a pedestrian access pier, water access areas and a fishing dock with approach floats and to excavate and place rock within 0.45 acres to stabilize the shoreline to establish a waterfront park and public access area located in the Columbia River at River Mile 106, on the former Boise-Cascade mill site, downstream of the I-5 bridge crossing and immediately west of the Red Lion Inn, in the City of Vancouver.

**AUTHORITIES**

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed 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 comply with 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 project to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification absolves the City of Vancouver from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments resulting from project construction or operations.

**A. General Conditions**

1. In this Order, the term "Applicant" shall mean the City of Vancouver and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to Ecology's Headquarters Office, Attn: Federal Permit Manager, Kerry Carroll, P.O. Box 47600, Olympia, WA 98504 or via e-mail (**preferred**), if possible, to the Federal Permit Manager assigned to this project. The submittals shall be identified with Order No. 12933 and include the Applicant's name, project name, project location, the project contact and the contact's phone number.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on January 15, 2015 and revised on August 14, 2015. 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 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. This Order shall be rescinded if the Army Corps of Engineers does not issue a 404 permit.
6. The Applicant shall send (per A.2.) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.
7. 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.
8. 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.

9. 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.
10. The Applicant shall ensure that all project engineers, contractors, and other workers at the project site with authority to direct work 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 signatory that s/he has read and understands the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins.
11. 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.
12. 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. Notification Requirements**

1. Notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Permit Manager. Notifications shall be identified with Order No. 12933 and include the Applicant's name, project name, project location, project contact and the contact's phone number.
  - a. Immediately following a violation of state water quality standards, spill to waters of the state or when the project is out of compliance with any of this Order's conditions.
    - i. In addition to the phone or e-mail notification, the Applicant shall 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.
  - b. At least ten (10) days prior to pre-construction meeting.
  - c. At least ten (10) days prior to conducting initial in-water work activities for each construction season.
  - d. At least seven (7) days prior to the start of over water construction and/or demolition activities for each construction season.
  - e. At least seven (7) days within project completion.

### **C. Timing**

1. This Order will expire five (5) years from the date of issuance of the Corps permit.
2. Work at or below the ordinary high water mark (OHWM), but above the wetted perimeter shall be limited to those times of year when the work area is de-watered (dry) for calendar years 2015, 2016, 2017 and 2018.
3. Work within the wetted perimeter shall be limited to October 1 through December 31 for calendar years 2015, 2016 and 2017.
4. Any project change that requires a new or revised HPA should also be sent to Ecology, per condition A.2 for review.

### **D. Water Quality Monitoring & Criteria**

1. 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).
2. The Applicant shall implement and conduct water quality monitoring as described in the Water Quality Monitoring and Protection Plan (WQMPP) titled *Water Quality Protection and Monitoring Plan, City of Vancouver, USA, Waterfront Park* dated November 2015 and submitted by BergerABAM on November 30, 2015.
3. Ecology must approve, in writing, any changes or additions to the (WQMPP) prior to implementation.
4. Monitoring results for turbidity and pH associated with work below the OHWM shall be submitted weekly to the Ecology Federal Permit Manager, per condition A.2.
5. Visible turbidity anywhere at or beyond the 300 foot point of compliance from the activity shall be considered to be an exceedance of the standard.
6. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

### **E. Construction**

#### General Conditions

1. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for the project.
2. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.

3. All construction debris, excess sediment, and other solid waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
4. All equipment being used below the ordinary high water mark shall utilize bio-degradable hydraulic fluid.

#### Equipment & Maintenance

5. Staging areas will be located a minimum of 50 feet and, where practical, 200 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 in the setback area.
6. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the state, including wetlands. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state, including wetlands.
7. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order or allowed in the HPA.
8. 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.
9. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.
10. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash-out of concrete delivery trucks, pumping equipment, and tools.
11. Barges shall not be allowed to ground-out during in-water construction.
12. Barges shall be swept, as necessary, and kept free of material that could be blown into water.

#### Demolition and Pier Construction

13. The Applicant shall have a boat available on site during all in-and-over water project activities to retrieve any debris that enters the water.
14. The Applicant shall contain and appropriately dispose of all saw cut water and debris generated for cutting activities that occur over water so there is not possible entry to waters of the state.

15. Spill protection measures shall be in place prior to any concrete delivery over and /or near waters of the state.
16. All forms for concrete shall be completely sealed to prevent the possibility of fresh concrete entering waters of the state.
17. All concrete shall be completely cured prior to coming into contact with water.
18. Concrete process water shall not enter waters of the state. Any concrete process/contact water discharged from a confined area with curing concrete shall be routed to upland areas to be treated and disposed of appropriately with no possible entry to state waters.
19. All excavated sediment shall be disposed upland in an approved disposal site.
20. All dewatering water within the cofferdam will be pumped to a lined settling basin in an upland location prior to being sent to sanitary sewer for disposal.

#### Pile Removal

21. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.
22. The pile shall not be shaken, hosed off, left hanging to drip or any other action intended to clean or remove adhering material from the pile.
23. During pile removal, containment booms and absorbent sausage booms shall be placed around the perimeter of the work area to capture wood debris, oil, and other materials from being released into waters.
24. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.
25. If a barge is used to remove piles, the work surface on the barge deck shall include containment for piles and any liquid or sediment removed during pulling of the piling.
26. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris at an approved upland disposal site.
27. Water left in the containment on the barge shall not be discharged into waters of the state.

#### Bank Stabilization

28. Prior to returning stream flow to the de-watered work area, all proposed bank protection measures shall be in place.
29. Placement of rip-rap shall be conducted in compliance with water quality standards for turbidity.

#### **F. Construction Stormwater**

1. The Applicant shall obtain and comply with the conditions of the current Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) issued for this project.
2. The Applicant shall submit a contaminated media management plan, for approval, prior to discharging to the stormwater systems or the Columbia River. The plan must include:
  - a. The Stormwater Pollution Prevention Plan (SWPPP), as required by the NPDES Construction Stormwater Permit, that includes specific Best Management Practices (BMPs) adequate for the management of contaminated media.
  - b. A detailed description of the contaminated stormwater and how to prevent the discharge of contaminated stormwater and dewatering water from all portions of the site with potential and known contamination within the construction project area.
  - c. A site map with the location of all contaminated soils and/or groundwater and shows the related BMP's to capture the construction stormwater.
  - d. Contingencies for additional unexpected areas with contamination.
3. All captured sediment from contaminated dewatering water or contaminated stormwater must be transported to an approved disposal facility based on the level of contamination.
4. Contaminated soils excavated during construction will be managed per the approved contaminated media management plan. When it is not feasible to immediately haul soils offsite or place in final fill locations, the soils must be placed in a covered and lined area to minimize contact with stormwater.
5. The approved SWPPP must be fully implemented and amended as needed for the duration of the project. Construction within suspected and known contamination to soil and groundwater, as stated and shown on the map in the contaminated media management plan, shall have additional BMP's adequate for the management of contaminated media.

#### **G. Emergency/Contingency Measures**

1. The Applicant shall develop and implement a spill prevention and containment plan for this project and shall have spill cleanup material available on site at all times during construction.
2. Work that is out of compliance with the provisions of this Order, conditions causing distressed or dying fish, discharges 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 shall notify the Ecology Permit Manager per condition B.1.a. and immediately take the following actions:

- a. Cease operations at the location of the non-compliance.
  - 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 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.
  - d. Immediately notify Ecology's Southwest Regional Spill Response Office with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems.
  - e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
3. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.

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

**CONTACT INFORMATION**

Please direct all questions about this Order to:

Kerry Carroll  
Department of Ecology  
P.O. Box 47600  
Olympia, WA 98503-7600  
360-407-7503  
kerry.carroll@ecy.wa.gov

**MORE INFORMATION**

- **Pollution Control Hearings Board Website**  
[www.eho.wa.gov/Boards\\_PCHB.aspx](http://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**

Dated this 2nd day of December, 2015 at the Department of Ecology, Lacey Washington



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Brenden McFarland, Section Manager  
Environmental Review and Transportation  
Shorelands and Environmental Assistance Program  
Headquarters

Water Quality Certification Order #12933  
Statement of Understanding

I, \_\_\_\_\_, state that, I will be involved as a City of Vancouver employee or an agent or contractor for the City of Vancouver in the Waterfront Park Project in Clark County, WA. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order No. 12933** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company

\_\_\_\_\_  
Phone number

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, and Zip Code

