



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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May 12, 2015

Kathleen and Reimer Douglas
2021 N 78th St
Seattle WA 98103

RE: Water Quality Certification Order No. 11298 for Corps Public Notice No. 2014-46,
Douglas Quilcene Bay Spit Restoration, Jefferson County, Washington

Dear Kathleen and Reimer Douglas:

On August 29, 2014, you submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a federal Clean Water Act Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act, Douglas Quilcene Bay Spit Restoration, Jefferson County, Washington.

The proposed project is a one-time activity to restore an unnamed stream to its previous location.

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 Helen Pressley at (360) 407-6076. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Brenden McFarland
Shorelands and Environmental Assistance Program

Enclosure

cc: Tina Tong, Corps of Engineers
Bridget Kaminsky-Richardson, DNR
Margaret Bigelow, WDFW

by certified mail 7009 0820 0001 9056 0274

e-cc: ECY RE FEDPERMITS
Loree Randall -- HQ SEA
Rick Mraz -- SWRO SEA
Helen Pressley - HQ SEA

IN THE MATTER OF GRANTING A) ORDER #11298
WATER QUALITY) Corps Reference No. NWS-2014-46
CERTIFICATION TO Kathleen and) To restore an unnamed stream to its previous
Reimer Douglas) location as a onetime activity in Quilcene Bay,
in accordance with 33 U.S.C. 1341) near Quilcene, Jefferson County, Washington
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

TO: Kathleen and Reimer Douglas
2021 N 78th St
Seattle WA 98103

On August 29, 2014 Kathleen and Reimer Douglas submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification (WQC). A joint public notice regarding the request was distributed by the Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on August 28, 2014.

Project Description: Excavate 11 cubic yards (cy) and place 21 cy of material waterward of the line of mean higher high water to re-create the original channel (L 80 feet, W 4 feet, D 1.6 feet) and construct a berm (L 80-feet, W 4-feet, H 1-foot) to direct the flows back to their original flow path in Quilcene Bay near Quilcene, Jefferson County, Washington in accordance with the enclosed drawings dated January 28, 2015. This WQC is limited to a one time construction event. This WQC does not authorize future maintenance of the channel or berm. Any future activities will require other authorizations.

PURPOSE: To restore the natural sediment transport path of the stream and restore the contours of the Spit.

MITIGATION: No compensatory mitigation is proposed. However, to minimize impacts, displaced native plants as a result of the scalping and filling will be salvaged and replanted on the banks of the restored channel.

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:

1. For purposes of this Order, the term "Applicant" shall mean Kathleen and Reimer Douglas and their agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Headquarters Office, Attn: 401/CZM Federal permit coordinator, P.O. Box 47600 Olympia, WA 98504-7600 and/or fednotification@ecy.wa.gov. Any submittals shall reference Order #11298 and Corps Reference #NWS-2014-46.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on August 29, 2014. 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 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 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 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 (including wetlands) 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 and Water Quality Monitoring Conditions:

1. This order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-210(1)(e)(i).
 - a. The area of mixing established for marine waters is a 150 foot radius surrounding the in-water activity. Turbidity occurring outside that zone that is more than 5 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 10% increase in turbidity when the background turbidity is more than 50 NTU is a violation of the turbidity water quality standard.
 - b. Visible turbidity anywhere at the 150 ft. point of compliance from the activity shall be considered to be an exceedance of the standard.

- c. If water quality exceedances are observed outside 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, correct the problem and prevent further water quality turbidity exceedances.
- d. The Applicant shall notify Ecology within 24 hours of any exceedance. Notification shall be made per condition A.2. above.

C. Construction Conditions:

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. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.
3. Construction stormwater, sediment, and erosion control Best Management Practices (BMPs) intended to trap sediment onsite shall be in place before starting project construction and shall be maintained throughout construction until the site is stabilized.
4. 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, 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.
5. All machinery and equipment used for project construction shall be serviced, fueled, and maintained in a confined area in order to prevent contamination of waters of the state including wetlands. Fueling areas shall be located a minimum of 100 feet from waters of the state 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.
6. All equipment used below the OHWM shall use vegetable-grade biodegradable hydraulic fluid and shall be checked daily for drips and leaks. Accumulation of soil or debris shall be removed from the drive mechanism (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state.
7. No material shall be stockpiled within the OHWM of the project.
8. All construction debris and deleterious material resulting from construction shall be properly contained and disposed of at an approved upland location so that it cannot enter waters of the state.
9. Turbid dewatering water associated with in-water work shall not be discharged to waters of the state including wetlands. Turbid dewatering water shall be routed to an upland area for on or offsite settling.

D. Timing Requirements:

1. All in-water work shall be completed by the work window identified in the most current HPA issued for this project. Any project change that requires a new or revised HPA should also be sent to Ecology for review.
2. This Order shall remain in effect for a one-time restoration only. When restoration as shown on the drawings is complete, the permit will expire and cannot be extended in any case further than December 31, 2018.

E. Notification Requirements:

1. The Applicant shall provide notice to Ecology's 401/CZM Federal permit coordinator at least 7 days prior to the start of construction/in water work and within 14 days after completion of construction at the project site. Notification should be made using all the information required in Condition A2.
2. The Applicant shall provide a copy of the final Corps 404 permit to Ecology's Federal Permit Coordinator in accordance with Condition A2 above, within two weeks of the issuance of the permit.

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, 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 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 1-800-258-5990, **and** within 24 hours of spills or other events Ecology’s 401/CZM Federal permit coordinator at (360) 407-6076.
 - 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 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 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 Hearings 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>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:

Helen Pressley
Department of Ecology
P.O. Box 47600
Olympia, WA 98503-7600
360-407-6076
hpre461@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 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 12th day of May, 2015 at the Department of Ecology, Lacey Washington



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

ATTACHMENT A

**Kathleen and Reimer Douglas
Douglas Quilcene Spit Restoration
Water Quality Certification Order #11298**

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

I have read and understand the conditions of Order #11298, Section 401 Water Quality Certification for the Douglas Quilcene Spit Restoration. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this order.

Signature

Date

Print Name

Company

Title

