



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

February 4, 2016

Pierce County Public Works and Utilities  
Surface Water Management  
ATTN: Ms. Annette Pearson  
2702 South 42<sup>nd</sup> Street, Suite 201  
Tacoma, WA 98409

RE: Section 401 Water Quality Certification Order No. **13123** for Corps Public Notice No. **NWS-2014-00959-WRD** for the Puyallup River System Levee Culvert and Discharge Pipe (Outfall) Maintenance and Repair Program, Pierce County, Washington

Dear Ms. Pearson:

On December 9, 2014, Pierce County Public Works and Utilities, Surface Water Management 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 programmatic coverage to conduct culvert and outfall maintenance and repair work within the Puyallup River System including the Carbon River, White River, and the main-stem of the Puyallup River, Pierce County, Washington. A revised JARPA package was submitted on January 20, 2015.

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,

A handwritten signature in black ink, appearing to read "Perry J Lund", written over a large, loopy scribble.

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

Enclosure

By Certified Mail 7012 2920 0000 1182 2380



cc: Olivia Romano, Corps of Engineers  
Marcia Lucero, Pierce County Planning and Land Services  
Robert Wenman, Pierce County Public Works  
Douglas Wiedemeier, WDFW

e-cc: [ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)  
Loree' Randall, Ecology, HQ SEA  
Deb Cornett, Ecology, SWRO WQ  
Alex Callender, Ecology, SWRO SEA  
Lori Kingsbury, Ecology, SWRO SEA

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 13123</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2014-00959-WRD</b>
<b>CERTIFICATION TO</b>	)	Programmatic coverage to conduct levee culvert
<b>Pierce County Public Works and</b>	)	and outfall maintenance and repairs, within the
<b>Utilities, surface Water Management</b>	)	Puyallup River System including the Carbon
in accordance with 33 U.S.C. 1341	)	River, White River and Puyallup River, Pierce
(FWPCA § 401), RCW 90.48.120, RCW	)	County, Washington.
90.48.260 and Chapter 173-201A WAC	)	

TO: Pierce County Public Works and Utilities  
 Surface Water Management  
 ATTN: Ms. Annette Pearson  
 2702 South 42<sup>nd</sup> Street, Suite 201  
 Tacoma, WA 98409

On December 9, 2014, Pierce County Public Works and Utilities, Surface Water Management submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A revised JARPA package was submitted on January 20, 2015. A joint public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on February 9, 2015.

Pierce County Public Works is proposing to conduct a maintenance and repair program on culvert and outfall/discharge pipes through levees and revetment structures within the Puyallup River System. The purpose of the program is to maintain conveyance and capacity of the pipes that provide drainage of natural streams and stormwater runoff through the existing levees and revetments into the Puyallup River system. The program will provide the ability for Pierce County work crews to inspect and assess the condition of the pipes to determine whether further maintenance or repair work is needed.

Maintenance and repair work will include the removal of vegetation, accumulated sediments, and debris from within the existing pipes, replacement of existing armoring (riprap) adjacent to the existing culvert or pipe, realignment of dislodged pipe segments, and repair or replacement of slide gates, tide gates, flap gates, flex valves, and debris barriers. Maintenance activities will be limited to that required to restore the pipe to the designed level of service. Pipes that need to be replaced will be authorized separately.

This work will be conducted within the Puyallup River System, including approximately eight (8) culverts/discharge pipes in the Carbon River from river mile (RM) 0.0 to 8.4; approximately twenty-six (26) culverts/discharge pipes in the White River, from RM 0.0 to 5.5; and, approximately eighty-five (85) culverts/discharge pipes in in the main-stem of the Puyallup River from RM 2.9 to 28.6, in Pierce County, Washington, 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, 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 Pierce County Public Works and Utilities, Surface Water Management 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, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. 13123 and Corps No. NWS-2014-00959-WRD.

3. Work authorized by this Order is limited to the work described in the JARPA application package received by Ecology on December 9, 2014 and as revised on January 20, 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 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 and/or Section 10 Permit for this 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. Further, 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. This Order does not authorize the Applicant to exceed applicable water quality standards for turbidity established in WAC 173-201A-200(1)(e)(i).
2. Water Quality Monitoring: The Applicant shall conduct water quality monitoring as described in the *Water Quality Monitoring Plan, Puyallup River System Levee Culvert & Discharge Pipe Maintenance & Repair Program and Appendix A*, prepared by Pierce County surface Water Management, dated February 2, 2015, Revised January 22, 2015 (hereafter referred to as the "WQMP").
3. Ecology must approve, in writing, any changes or additions to the approved WQMP prior to implementation.
4. Reporting: Results of the water quality monitoring shall be documented in the proposed data sheet and submitted weekly to the Ecology's Federal Permit Manager during the period of in-water work activities per Condition A.2 of this Order.
5. Water Quality Exceedances: If water quality exceedances are observed 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, correct the problem and/or prevent further water quality turbidity exceedances. If an exceedance occurs, the Applicant shall follow the protocols and notification procedures below.
6. 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:
  - a. A description of the nature, extent, and cause of non-compliance, including the quantity and quality of any unauthorized discharges;
  - b. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance;
  - c. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance; and,
  - 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 violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, 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. Continuing this project beyond the five (5) year term of this Order will require the Applicant to apply for a 5-year extension prior to the expiration of this Order.
2. All In-water work shall be completed within the identified work window:
  - a. Between July 15 and August 31 or unless otherwise approved by Ecology.
  - b. Work on dry streams may occur at any time so long as the stream remains naturally dry at the work location. Work shall only occur when spawning fish or redds are not present (as determined by a qualified biologist) and turbidity is minimized. The only exception is wood and other material blocking the culvert may be repositioned by hand at any time, and stormwater drainages may be done at any time so long as downstream water quality is not affected.
3. Any project change that requires a new or revised HPA should also be sent to Ecology for review.

**D. Notification Requirements:**

1. Written notification 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 start of in-water activities for each season;
  - b. Within ten (10) days after completion of in-water activities for each season;
  - c. Immediately following a violation of the state water quality standards or any condition of this Order
2. An Annual Maintenance Report shall be submitted (per Condition A. 2. Above) by the end of each calendar year unless otherwise approves by Ecology. The Reports shall include: pipe location, assessed pipe condition, type and extent of work performed, and specific BMPs used at each site.

**E. Construction:**

General Conditions

1. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts.
2. Construction stormwater, sediment, and erosion control Best Management Practices (BMP's) suitable to prevent exceedances of state water quality standards shall be in place before starting repair and maintenance activities and shall be maintained throughout the duration of work conducted at each pipe location.
3. All work within project limits shall be clearly marked/staked prior to commencing repair and maintenance activities. Clearing limits, travel corridors, and stockpile areas shall be clearly marked. Sensitive areas and their buffers that are to be protected from disturbance shall be marked to 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 corridors and stockpile areas.

4. Equipment used for this project shall be free of external petroleum-based products while used around water 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 the equipment prior to its use in and around waters of the state, including wetlands.
5. The use of equipment below the Ordinary High Water Mark (OHWM) shall be limited to that necessary to gain position for work.
6. All equipment operating within and over waters of the state shall utilize vegetable-based biodegradable hydraulic fluid.
7. No petroleum products, sealants, grout, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
8. The Applicant shall establish a separate contained area for washing down vehicles and equipment, which does not have any possibility of draining to surface waters and wetlands. Wash water containing sediments, oils, grease, or other hazardous materials resulting from wash down of the work area, tools, and equipment shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
9. Machinery and equipment used during construction shall be serviced, fueled, and maintained upland in order to prevent contamination to surface waters.
10. Plugs or other form of containment shall be provided during the use of a water-jet (jet rod) to clear the culver/discharge pipes so as not to cause a discharge to waters of the state.
11. All sediment and debris that is removed from the pipe inlets/outlets shall be properly managed and disposed of at an upland disposal site approved by the appropriate regulatory authority.
12. Work shall be conducted when the stream is naturally dry whenever possible. When this is not possible, the Applicant shall conduct the work in isolation from stream flow.
13. Temporary cofferdams and bypasses used to divert water around the work area shall be in place prior to initiation of work within the wetted perimeter.
14. The temporary diversion/bypass shall be of sufficient size, constructed of non-erosive materials, and installed to divert the entire flow through the bypass or around the isolated work area for the duration of the work.
15. The diversion system shall be designed and operated so as not to cause erosion in the stream channel or along the banks of the waterbody in which the work is being done.
16. Turbid dewatering water 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.

17. Dewatering water that is not turbid may be discharged directly to surface waters and/or wetland provided that the water will meet all of the water quality standards at the point of discharge.
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 in the temporary diversion/bypass shall be removed from the site and the site returned to pre-project or improved conditions.

**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 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 1-360-407-6300 and within 24 hours of spills or other events contact 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 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 listed 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**

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

## CONTACT INFORMATION

Please direct all questions about this Order to:

Lori Kingsbury  
Department of Ecology  
Southwest Regional Office  
SEA Program  
P.O. Box 47775  
Olympia, WA 98504-7775  
Lori.kingsbury@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 Hearings Office – Pollution Control Hearings Board

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

### Chapter 371-08 WAC – Practice and Procedure

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

### Chapter 90.48 RCW – Water Pollution Control

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

### Chapter 173.204 WAC – Sediment Management Standards

[www.ecy.wa.gov/biblio/wac173204.html](http://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](http://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](http://www.ecy.wa.gov/biblio/wac173201A.html)

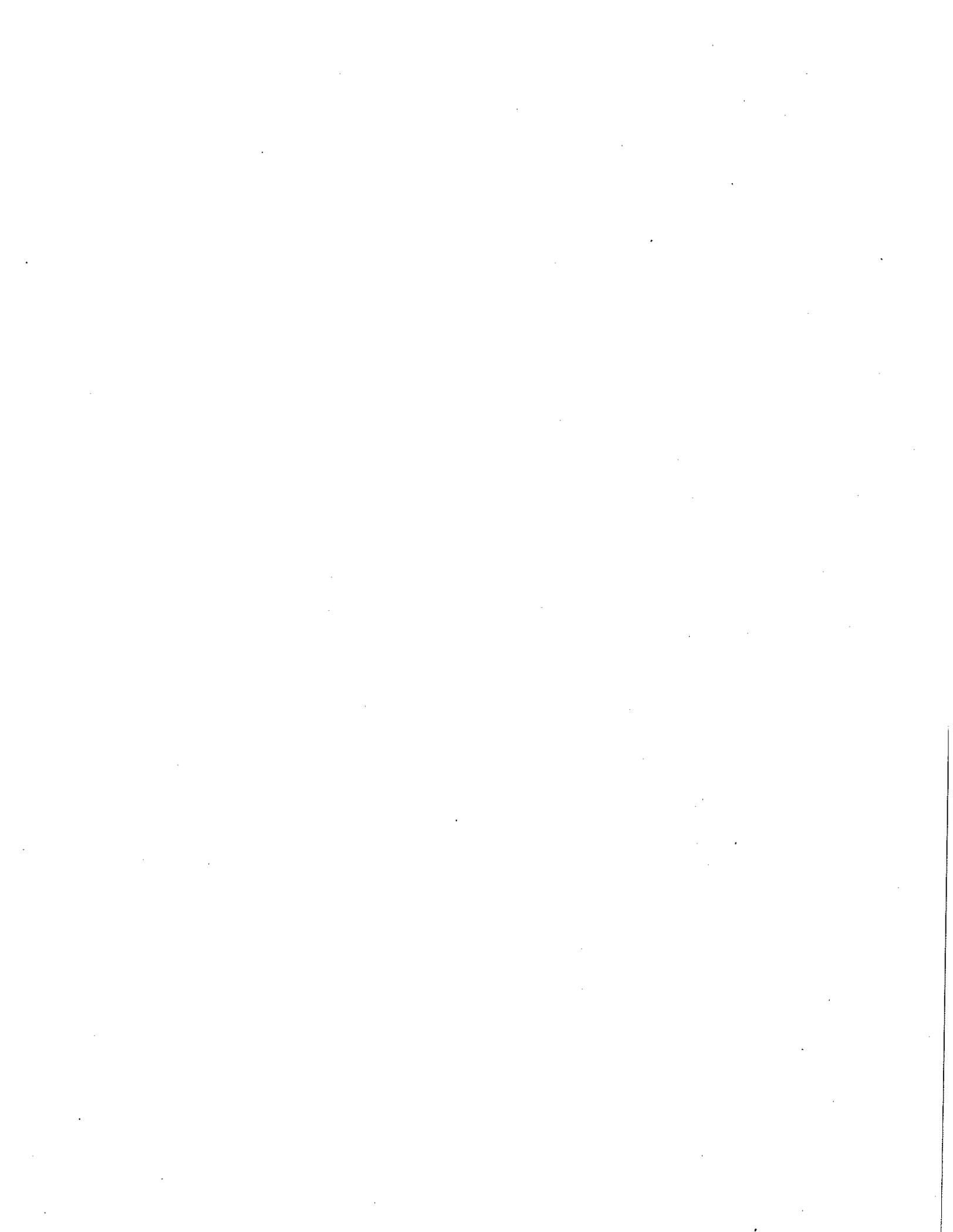
## SIGNATURE



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

Date

2/4/2016



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

Pierce County  
Public Works and Utilities, Surface Water Management  
Pierce County Levee Pipe Maintenance Program

Water Quality Certification Order No. 13123  
And  
Corps Reference No. NWS-2014-00959-WRD

I, \_\_\_\_\_, state that, I will be involved as an agent or contractor for the Pierce County Public Works and Utilities, surface Water Management Department in the repair and/or maintenance of culvert and outfall/discharge pipes through levees and revetments within the Puyallup River System, 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. **13123** 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

