



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY  
1250 W Alder St • Union Gap, WA 98903-0009 • (509) 575-2490

April 26, 2016

Mr. Walt Larrick  
USDI Bureau of Reclamation  
Columbia-Cascades Area Office  
1917 Marsh Road  
Yakima, WA 98901

RE: Water Quality Certification Order No.13285 for Corps Public Notice No. **NWS-2016-103**  
Juvenile Fish Passage Facility in the Cle Elum Reservoir, near Cle Elum, in Kittitas  
County, Washington

Dear Mr. Larrick:

On January 29, 2016, the Bureau of Reclamation (Bureau) submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification for the Juvenile Fish Passage Facility in the Cle Elum Reservoir, Near Cle Elum, in Kittitas County, Washington.

The Cle Elum Dam Juvenile Fish Passage Facility project is located in the Cle Elum Reservoir. The project is located at Latitude 47.144187N, Longitude 121.043112 W, and is located within Section 10, Township 20 North, and Range 14 East of the Willamette Meridian. The project is on Bureau of Reclamation lands.

The juvenile fish passage facility includes a multi-level intake structure extending into the reservoir, an underground helical structure located in an upland area adjacent to the reservoir, and a tunnel through the right abutment of the dam that discharges into the spillway stilling basin at the Cle Elum River. The juvenile fish passage project will provide access from Cle Elum Reservoir downstream past Cle Elum Dam to the Cle Elum River, helping to restore the natural production of anadromous fish in the larger Cle Elum River watershed.

The project will take place in 2 stages as follows:

Stage 1: Place 2700 cubic yards of excavated upland native spoil material and riprap to construct a 23,600 square foot temporary cofferdam and place 90 cubic yards of excavated upland native spoil material to construct a 2200 square foot permanent work platform for construction of a permanent intake structure (stage 2 work) for juvenile fish passage. Remove temporary stage 1



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cofferdam before stage 2 begins. All stage 1 work will occur in the dry during reservoir drawdown.

Stage 2: Place 29,500 cubic yards of excavated upland native spoil material and riprap and install 160 sheet piles with a vibratory hammer to construct a temporary 25-foot high, 64,000 square foot temporary cofferdam; excavate 24,500 cubic yards of native material (11,000 square feet) for an intake structure; grade and contour 24,500 cubic yards of the excavated material in a 200,000 square foot area (4.6 acres); place 750 cubic yards of aggregate to surface 40,500 square feet of permanent operation and maintenance roads; place 16,000 cubic yards of imported sand and structural concrete to construct an intake structure. Remove temporary stage 2 cofferdam at the end of project construction. All stage 2 work will occur in the dry during reservoir drawdown.

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 Cathy Reed at (509) 575-2616. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Gary Graff, PWS  
Regional Section Manager  
Shorelands and Environmental Assistance Program

Enclosure

By certified mail: 7014 3490 0001 5527 9698

ec: Doc Hansen, Kittitas County  
Debbie Knaub, U.S. Army Corps of Engineers  
Scott Downes, WDFW  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov) – Ecology HQ  
Cathy Reed – Ecology Central Regional Federal Permit Coordinator

**IN THE MATTER OF GRANTING A ) ORDER #13285**  
**WATER QUALITY ) Corps Reference No. NWS-2016-103**  
**CERTIFICATION TO ) Installation of a Juvenile Fish Passage Facility in**  
**USDI, Bureau of Reclamation ) Cle Elum Reservoir, near Cle Elum in Kittitas**  
in accordance with 33 U.S.C. 1341 ) County, Washington  
(FWPCA § 401), RCW 90.48.120, RCW )  
90.48.260 and Chapter 173-201A WAC )

TO: USDI Bureau of Reclamation,  
Attn.: Mr. Walt Larrick  
Columbia-Cascades Area Office  
1917 Marsh Road  
Yakima, WA 98901

On January 29, 2016, the Bureau of Reclamation (Bureau) submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. 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 February 25, 2016.

The Section 401 certification request is to allow construction of a permanent juvenile fish passage facility in the Cle Elum Reservoir in two stages over a 9-year period. The juvenile fish passage facility includes a multi-level intake structure extending into the reservoir, an underground helical structure located in an upland area adjacent to the reservoir, and a tunnel through the right abutment of the dam that discharges into the spillway stilling basin at the Cle Elum River.

The juvenile fish passage project will provide access from Cle Elum Reservoir downstream past Cle Elum Dam to the Cle Elum River, helping to restore the natural production of anadromous fish in the larger Cle Elum River watershed.

The project will take place in 2 stages, as follows:

**Stage 1:** Place 2700 cubic yards of excavated upland native spoil material and riprap to construct a 23,600 square foot temporary cofferdam and place 90 cubic yards of excavated upland native spoil material to construct a 2200 square foot permanent work platform for construction of a permanent intake structure (stage 2 work) for juvenile fish passage. Remove temporary stage 1 cofferdam before stage 2 begins. All stage 1 work will occur in the dry during reservoir drawdown.

**Stage 2:** Place 29,500 cubic yards of excavated upland native spoil material and riprap and install 160 sheet piles with a vibratory hammer to construct a temporary 25-foot high, 64,000

square foot temporary cofferdam; excavate 24,500 cubic yards of native material (11,000 square feet) for an intake structure; grade and contour 24,500 cubic yards of the excavated material in a 200,000 square foot area (4.6 acres); place 750 cubic yards of aggregate to surface 40,500 square feet of permanent operation and maintenance roads; place 16,000 cubic yards of imported sand and structural concrete to construct an intake structure. Remove temporary stage 2 cofferdam at the end of project construction. All stage 2 work will occur in the dry during reservoir drawdown.

**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 the USDI Bureau of Reclamation (Bureau) and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Department of Ecology, Central Regional Office, Attn: SEA Program federal permit coordinator, 1250 W. Alder Street, Union Gap, WA 98903 or [craj461@ecy.wa.gov](mailto:craj461@ecy.wa.gov). Any submittals shall reference Order #13285 and Corps Reference # NWS-2016-103.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Permit Application (JARPA) received by Ecology on January 29, 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 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 Conditions:**

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A.
2. Best management practices (BMPs) shall be implemented in accordance with the Stormwater Management Manual for Eastern Washington. BMPs shall remain in place as long as needed until the site is restored/permanently stable.
3. Prior to the start of ground disturbing work, Bureau of Reclamation shall provide Ecology with a copy of the pollution control plans for the project, including: a) Temporary Erosion and Sediment Control plan, b) Spill Prevention Control and Countermeasure plan, c) Water Quality Monitoring and Protection Plan, and d) Construction NPDES 402 Permit and SWPPP.
4. Concrete structures shall be sufficiently cured to prevent leaching of chemicals harmful to fish or aquatic life prior to removal of containment measures and allowing contact with surface waters
5. Wastewater containing mud, silt or materials harmful to aquatic life shall be either pumped to tanks and hauled to designated disposal site(s) or, where appropriate, pumped to upland areas or specifically designated locations for treatment and disposal. Care shall be taken to ensure no harmful material (e.g. raw concrete, petroleum products, wood preservatives, toxic chemicals, etc.) are allowed to enter the water of the lake, streams or wetlands. Washing of equipment, vehicles, concrete trucks, chutes, tools, etc. shall be done at locations where wash water will not be discharged to the lake, streams or wetlands.

**C. Project Specific Conditions:**

1. All equipment shall operate in the dry.
2. All equipment shall be fueled a minimum of 200 feet from surface waters, unless otherwise authorized by Ecology.
3. All heavy equipment shall be stored/staged a minimum of 200 feet from surface water when not in use unless otherwise authorized by Ecology.
4. All machinery shall be kept in good condition and shall be free of external petroleum-based products.
5. Ground disturbance shall be kept to the minimum necessary to minimize the potential for erosion and sedimentation.
6. The project boundary and clearing limits shall be clearly marked/staked prior to any clearing or ground disturbing activity. Sensitive areas and trees to be protected from disturbance or salvaged shall be delineated/marked so as to be clearly visible to equipment operators.

**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 period of 10 years from date of issuance. Continuing this project beyond the 10 year term of this Order will require separate certifications.

**E. Notification Requirements:**

1. The Applicant shall provide notice to Ecology's 401 Federal permit coordinator at least 7 days prior to the start of construction and within 14 days after completion of construction at the project site. Notification should be made using all the information required in Condition A2.

**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 discharge events notify Ecology's 401 federal permit coordinator at (509) 575-2616.
  - 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.

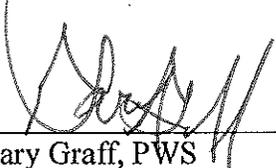
- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

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
<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

DATED April 26, 2016 at Yakima, Washington.

  
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Gary Graff, PWS  
Regional Section Manager  
Shorelands and Environmental Assistance Program  
Central Regional Office – Ecology  
State of Washington



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**ATTACHMENT A**

**USDI Bureau of Reclamation  
Cle Elum Dam Juvenile Fish Passage Facility  
Water Quality Certification Order #13285**

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

I have read and understand the conditions of Order #13285 Section 401 Water Quality Certification for the Cle Elum Dam Juvenile Fish Passage Facility. 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