



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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May 29, 2012

City of Bellevue
Mr. Bruce Jensen
Post Office Box 90012
Bellevue, Washington 98009

RE: Water Quality Certification Order No. **9216** for Corps Nationwide Permit 14 and 27, NWS-2011-577 for the Coal Creek Culvert Replacement Project, Coal Creek and Wetlands, King County, Washington

Dear Mr. Jensen:

On February 2, 2012, the City of Bellevue submitted a revised Joint Aquatic Resources 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 proposed Coal Creek Culvert Replacement project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and Nationwide Permit 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.

On May 23, 2012, the City of Bellevue submitted a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the City of Bellevue's determination that the proposed work is consistent with Washington's CZMP. This concurrence is based upon all applicable enforceable policies of the CZMP, including Section 401 of the CWA.

If you have any questions, please contact Jessica Moore at (360) 407-7421. The enclosed Order may be appealed by following the procedures described in the Order.

Mr. Bruce Jensen
City of Bellevue
May 29, 2012
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Sincerely,



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

by Certified Mail 7009 0820 0001 9056 0991

Enclosure

e-cc: Mark Cross, City of Bellevue
Gene Peterson, CH2M HILL
Susan Powell, U.S. Army Corps of Engineers, Seattle District
Loree' Randall – Ecology, HQ-SEA
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A)	ORDER # 9216
WATER QUALITY)	Corps Reference No. NWS-2011-577
CERTIFICATION TO)	Nationwide Permits 14 and 27
CITY OF BELLEVUE)	Coal Creek culvert replacement located in King
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: City of Bellevue
 Attn: Mr. Bruce Jensen
 Post Office Box 90012
 Bellevue, Washington 98009

On February 2, 2012 the City of Bellevue submitted a revised Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on April 27, 2012.

The proposed project entails the replacement of an existing 9-foot corrugated metal pipe culvert with a new 39-foot bottomless culvert near 5200 Coal Creek Parkway Southeast, Bellevue, King County, Washington 98006, Section 21, Township 24N, Range 5E, WRIA# 8, Cedar-Sammamish.

The project proposes to install a new 39-foot bottomless culvert, wing walls, a concrete sill grade control structure, and a scour control pad. The project also includes the placement of boulders, streambed gravel and large woody debris in Coal Creek. The project activities will impact 0.03 acre of Category III palustrine emergent wetlands on site.

Proposed mitigation to compensate for impacts includes removal of invasive species and planting supplemental wetland vegetation,

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, 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 City of Bellevue and its agents, assignees and contractors.
2. All submittals required by this Order shall be sent to Ecology's Headquarters, Attn: Federal Project Coordinator, PO Box 47600, Olympia WA 98504 or via e-mail (preferred) to ecyrefedpermits@ecy.wa.gov. The submittals shall be identified with Order No. 9216 and Corps Reference #NWS-2011-577.
3. Work authorized by this Order is limited to the work described in the revised JARPA received by Ecology on February 2, 2012, unless otherwise authorized by Ecology.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
5. 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.

6. 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.
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 (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
9. 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.
10. 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. Water Quality

1. This Order does not authorize temporary exceedances of the turbidity standard beyond the limits established in WAC 173-201A-200.

C. Wetland Mitigation and Monitoring

1. The Applicant shall mitigate wetland impacts as described in the *Restoration, Mitigation, and Monitoring Plan, Coal Creek Culvert Replacement Project* (hereafter called the "Mitigation Plan") prepared by CH2M HILL and dated October 2011, Revised January 2012, or as modified by this Order or revised and approved by Ecology.
2. A status report on the mitigation must be submitted to Ecology, 13 months from the date of permit issuance.
3. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers at the wetland mitigation site and above the 100-year floodplain.

4. The Applicant shall ensure that no material is stockpiled within existing wetlands and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology-approved Mitigation Plan.
5. The Applicant shall ensure that no construction debris is deposited within existing wetland and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology approved Mitigation Plan.
6. The Applicant shall not use polyacrylamide on exposed or disturbed soil at the mitigation site(s).
7. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site(s).
8. If weed-barrier fabric is used on the site, the Applicant shall use only permeable, fully biodegradable, non-toxic weed-barrier fabric for entire-site and/or individual plant weed control. Non-biodegradable plastic weed-barrier fabric shall be used only at the base of individual plants and shall be removed before it starts to break down, before it interferes with plant growth, or before the end of the monitoring period, whichever comes first.
9. If seeding is used at the wetland mitigation site, the seed mix must contain only native, annual, non-invasive plant species.

D. Timing Requirements

1. This Order will expire on April 19, 2014.

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

DATED: May 29, 2012 at Olympia Washington

SIGNATURE



Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Headquarters Office – Ecology
State of Washington

