



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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February 21, 2014

Cindy Young
King County Water and Land Resources Division
201 South Jackson Street, Suite 600
Seattle, WA 98104

**RE: Water Quality Certification Order #10435 for U.S. Army Corps of Engineers
(Corps) Reference #NWS-2013-946, Upper Carlson Floodplain Restoration
Project, in Fall City, King County, Washington**

Dear Ms. Young:

On August 21, 2013, King County Water and Land Resources Division 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 the proposed Upper Carlson Floodplain Restoration project. On February 19, 2014, the Corps authorized the project under Nationwide Permit (NWP) #27, Aquatic Habitat Restoration, Establishment, and Enhancement Activities; NWP #3, Maintenance; and NWP #33, Temporary Construction, Access, and Dewatering.

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 Rebekah Padgett at (425) 649-7129. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Erik Stockdale, Section Manager
Northwest Regional Office
Shorelands and Environmental Assistance Program

ES:rrp:mrw
Enclosure

By certified mail 7011 0470 0003 3720 8575



cc: Susan Powell, U.S. Army Corps of Engineers
Dan Eastman, King County Water and Land Resources Division
Stewart Reinbold, Washington Department of Fish and Wildlife
Vivian Roach, Washington Department of Natural Resources
Randy McIntosh, NOAA Fisheries
Nancy Brennan-Dubbs, U.S. Fish and Wildlife Service

e-cc: Barbara Nightingale – NWRO
Patrick McGraner – NWRO
Dave Radabaugh – NWRO
Loree' Randall – HQ
Raman Iyer – NWRO
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A) ORDER #10435
WATER QUALITY) Corps Reference #NWS-2013-946
CERTIFICATION TO) Upper Carlson Floodplain Restoration Project;
King County Water and Land) Wetlands and Snoqualmie River, Fall City,
Resources Division) King County, Washington.
 in accordance with 33 U.S.C. 1341)
 (FWPCA § 401), RCW 90.48.120, RCW)
 90.48.260 and Chapter 173-201A WAC)

TO:

Cindy Young
 King County Water and Land Resources Division
 201 South Jackson Street, Suite 600
 Seattle, WA 98104

On August 21, 2013, King County Water and Land Resources Division submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for 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 of Chapter 173-225 WAC on November 21, 2013.

The proposed reintroduction of the Snoqualmie River to 50 acres of forested floodplain to restore natural river processes includes the following activities:

- Removal of 1,600 feet of levee and revetment along the right bank
- Construction of a setback revetment along approximately 1,500 feet of Neal Road to protect property and infrastructure, including:
 - A 600-foot-long set-back launch rock revetment
 - A large pile-based accumulation of wood waterward of the rock revetment
 - Three large engineered log jams
- Maintenance of 200 feet of an existing left bank revetment maintenance
- Maintenance of 100 feet of an existing right bank revetment
- Distribution of native alluvium spoils on site
- Over 15 acres of invasive control and plantings

The project is located at 2500 Neal Road, Fall City, King County, Washington, in wetlands and Snoqualmie River, Sections 9 and 10, T. 24N, R. 7E, WRIA 7.

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 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:

- A1. For purposes of this Order, the term "Applicant" shall mean King County Water and Land Resources Division and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Northwest Regional Office, Attn: 401/CZM Federal Project Manager, 3190 160th Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #10435 and Corps Reference #NWS-2013-946.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on August 21, 2013, and *Project Summary for Regulatory Agencies* dated August 2013. The Applicant will be out of compliance with this Order and must reapply

with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.

- A4. 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.
- A5. 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.
- A6. 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.
- A7. 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.
- A8. 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 or mitigation sites.
- A9. 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.
- A10. 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:

- B1. Turbidity criteria contained in WAC 173-201A-200(1)(e)(i) shall apply to all in-water activities in the Snoqualmie River, except as specifically modified by this Order for toe rock removal activity and installation/removal of the turbidity curtain.

- B2. Construction activities may cause water quality effects that will exceed the state water quality criteria specified in Chapter 173-201A WAC. Per WAC 173-201A-410, Ecology may grant a temporary mixing zone on a short-term basis for the disturbance of in-place sediments during and immediately after essential activities. A temporary turbidity mixing zone of 5 miles downstream from the edge of the in-water activities is allowed **only for toe rock removal activity and installation/removal of the turbidity curtain at the Upper Carlson Floodplain Restoration site** subject to the following:
- a. Within the mixing zone, the “Core Summer Salmonid Habitat” standard for turbidity is waived. All other applicable water quality standards shall remain in effect within the mixing zone and all other water quality standards are to be met outside of the authorized mixing zone.
 - b. This temporary mixing zone shall be in effect for the toe rock removal activity and installation/removal of the turbidity curtain.
- B3. The Applicant shall monitor water quality during in-water construction according to the *Upper Carlson Floodplain Restoration Project Water Quality Monitoring and Protection Plan* [hereafter referred to as “Water Quality Monitoring and Protection Plan”], prepared by King County Department of Natural Resources and Parks, dated February 14, 2014, or as modified by this Order or revised and approved by Ecology.
- B4. Detection of exceedances: At the point of compliance, if exceedances of the standards are detected through water quality sampling and monitoring, the Applicant shall immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem. After such an event, the Applicant shall assess the efficacy of the site Best Management Practices (BMPs) and update or improve the BMPs used at the work site in an effort to reduce or prevent recurrence of the turbidity exceedance.
- B5. Reporting: If no exceedances are detected, results of water quality sampling, as determined by the Water Quality Monitoring and Protection Plan, shall be forwarded to Ecology on a monthly basis in accordance to Condition A2.
- B6. Notification of exceedances: Notification of exceedances that are detected through water quality sampling shall be made to Ecology within 24 hours of occurrence. Notification shall be made with reference to Order #10435, Attn: 401/CZM Federal Project Manager, by telephone at (425) 649-7129 or (425) 649-7000, or by fax to (425) 649-7098. The Applicant shall, at a minimum, provide Ecology with the following information:
- a. A description of the nature 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; and
- c. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
- 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, results of any samples taken, photographs, and any other pertinent information.

C. Conditions for Construction Activities:

Upland Conditions:

- C1. Applicant shall obtain and comply with Construction Stormwater General Permit #WAR301364.
- C2. Construction stormwater, sediment, and erosion control best management practices (BMPs; e.g., filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting construction at the site.
- C3. Sediment and erosion control measures shall be inspected and maintained prior to and during project implementation.
- C4. Machinery and equipment used during construction shall be serviced, fueled, and maintained upland, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.
- C5. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
- C6. Clean Fill Criteria: Applicant shall ensure that fill (soil) placed for the proposed project does not contain toxic materials in toxic amounts.

In-Water Conditions:

- C7. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.

- C8. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
- C9. Work in or near the water that may affect fish migration, spawning, or rearing shall cease immediately upon a determination by Ecology that fisheries resources may be adversely affected.
- C10. Work below the Ordinary High Water Mark (OHWM) of the Snoqualmie River shall occur primarily during low flow conditions in July and August.
- C11. A turbidity curtain shall be properly deployed and maintained during in-water activities in the side channel for engineered log jam installation and in the main channel for Work Areas #1 and #2 in order to minimize turbidity and re-suspension.
- C12. Toe rock shall be removed from Work Area #1 prior to removal of rock groins in Work Areas #2 and #3.
- C13. In Work Area #3, the Applicant shall leave in place a narrow band of rock at the upstream end of the rock groin during removal of the remainder of the groin. This narrow band of rock shall be carefully removed so as to minimize turbidity.
- C14. Material for the temporary water diversion structure (e.g., supersacks) shall be placed with a crane or excavators working along the shoreline outside the wetted perimeter of the river channel.
- C15. All manmade debris that has been deposited below the Ordinary High Water Line (OHWL) within the construction work area shall be removed and disposed of upland such that it does not enter waters of the state. Concrete rubble, metal debris, and other debris in the construction work corridor that have washed into marine areas shall be removed from the project area.
- C16. Project activities shall be conducted to minimize siltation of the beach area and bed.
- C17. Turbid water pumped out of work areas shall be discharged into the interior of the floodplain in non-wetland areas for infiltration.
- C18. To the maximum extent practicable, a thumb mechanism on the excavator bucket shall be utilized in removal of individual large rocks in place of dredging.
- C19. Where dredging is necessary in removal of smaller rock, the bucket shall be paused at the water surface in order to drain water within the isolated work area before loading into trucks on the upland.

C20. The Applicant shall utilize BMPs (e.g., gateless trucks) in order to minimize draining of turbid water from trucks.

D. Native Planting Conditions:

D1. The Applicant shall plant and monitor vegetation at the site according to the *Upper Carlson Project Draft Vegetation Monitoring and Maintenance Plan*, prepared by King County Department of Natural Resources and Parks, dated December 11, 2013, or as modified by this Order or revised and approved by Ecology.

E. Emergency/Contingency Measures:

E1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.

E2. The Applicant shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.

E3. 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.

E4. 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 shall immediately take the following actions:

- a. Cease operations at the location of the violation or spill.
- b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
- c. Notify Ecology of the failure to comply. All oil spills shall be reported immediately to Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's 401/CZM Federal Project Manager at (425) 649-7129 or (425) 649-7000.
- d. 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.

Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

F. Timing Requirements

- F1. All in-water work shall be completed by the work window identified in the most current Hydraulic Project Approval (HPA) issued for this project. Any project change that requires a new or revised HPA should also be sent to Ecology for review.
- F2. This Order is valid until all compliance requirements in this document have been met.

G. Reporting and Notification Requirement Conditions

G1. Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager:

- At least three (3) days prior to the start of construction.
- Within 14 days after completion of construction at the project site.

Notification, referencing Corps Reference #NWS-2013-946, Order #10435 can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.

G2. If the project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction and planting is complete.

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

CONTACT INFORMATION

Please direct all questions about this Order to:

Rebekah Padgett
Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008
(425) 649-7129
rebekah.padgett@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 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
- Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
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

SIGNATURE



Erik Stockdale, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office

2-21-2014

February 21, 2014

ATTACHMENT A

**KING COUNTY WATER AND LAND RESOURCES DIVISION
UPPER CARLSON FLOODPLAIN RESTORATION PROJECT
Water Quality Certification Order #10435**

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

I have read and understand the conditions of Order #10435 Section 401 Water Quality Certification for the King County Water and Land Resources Division Upper Carlson Floodplain Restoration Project. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this Order.

Signature

Date

Title

Company