



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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June 5, 2015

Mark Stamey
Snohomish County Public Works
3000 Rockefeller Avenue M/S 607
Everett, WA 98201

RE: Water Quality Certification, First Amendment, for Order #11061

Dear Mr. Stamey:

On April 3, 2015, Ecology received a revised Joint Aquatic Resources Permit Application from Snohomish County Public Works describing proposed changes to the Smith Island Restoration project which was authorized under Water Quality Certification Order #11061, issued on February 20, 2015. Enclosed is an amendment to this Order, as well as a strikeout version of the Water Quality Certification that reflects the changes that have been made. All other conditions of Water Quality Certification Order #11061 remain in effect.

If you have any questions, please contact Rebekah Padgett at (425) 649-7129. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

Paul Anderson, Unit Supervisor
Shorelands and Environmental Assistance Program
Northwest Regional Office

PA:rrp:ap
Enclosure

By certified mail: 7012 1640 0000 6245 9429

cc: Erin Legge, U.S. Army Corps of Engineers
Jamie Bails, Washington Department of Fish and Wildlife
Brenda Werden, Washington Department of Natural Resources



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Martha Jensen, U.S. Fish and Wildlife Service
Tom Sibley, NOAA Fisheries
Edwin Moats
Ed Husmann, Snohomish County Farm Bureau
Ward Isom, Sno-Isle 9-12 Project

E-cc: Doug Gresham, Ecology
Chad Yunge, Ecology
Raman Iyer, Ecology
Loree' Randall, Ecology
sueph@psnettech.com
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A) **ORDER #11061 First Amendment**
 WATER QUALITY) **Corps Reference No. NWS-2014-183**
 CERTIFICATION TO) Smith Island Restoration Project; Everett,
Snohomish County Public Works) Snohomish 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: Snohomish County Public Works
 Attn: Mark Stamey
 3000 Rockefeller Avenue M/S 607
 Everett, WA 98201

This amendment is to the above-referenced Administrative Order approved and issued by the Department of Ecology (Ecology) on February 20, 2015.

This amendment is issued under the provisions of Chapter 90.48 RCW and Chapter 173-201A WAC.

Administrative Order #11061 is hereby amended as follows:

1. The following specific project components under the project description have changed from:

7th Bullet

- Construction of a new, approximately 9-acre, drainage pond in the northwest corner of the site that collects water from the landward side of the dike and discharges to the east tidal channel and Union Slough.

Is replaced with:

- Construction of a new, approximately 9-acre, drainage pond that collects water from the landward side of the dike and discharges to the east tidal channel and Union Slough.

8th Bullet

- Construction of two new tide gates, one that connects the new drainage pond with Union Slough and the other connecting the west tidal channel to the east tidal channel.

Is replaced with:

- Construction of two new tide gates, one that connects the new drainage pond with Union Slough and the other connecting the drainage pond to the east tidal channel. The west tidal channel would be connected in two locations to the drainage pond.

2. Condition A3 that reads:

- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on February 24, 2014. 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.

Is replaced with:

- A3. Work authorized by this Order is limited to the work described in the:
- a. JARPA received by Ecology on February 24, 2014;
 - b. JARPA received by Ecology on April 3, 2015; and
 - c. Letter from Mark Stamey, Snohomish County Public Works, to Erin Legge, U.S. Army Corps of Engineers, *RE: Responses to request for information letter dated 4/22/2015 (NWS-2014-000183-WRD)*, dated May 12, 2015.

3. Condition B1 that reads:

- B1. The Applicant shall implement the *Critical Area Study, Mitigation Report, and Habitat Management Plan for Smith Island Restoration Project*, revised February 20, 2014 (hereafter called the "Restoration Plan") submitted by the Applicant, or as modified by this Order, or revised and approved by Ecology.

Is replaced with:

- B1. The Applicant shall implement the *Critical Area Study, Mitigation Report, and Habitat Management Plan for Smith Island Restoration Project*, prepared by Snohomish County Public Works, revised February 20, 2014, and *Critical Area Study, Mitigation Report and Habitat Management Plan for Smith Island Restoration Project Addendum*, prepared by Snohomish County Public Works, dated March 17, 2015 (together hereafter called the "Restoration Plan") submitted by the Applicant, or as modified by this Order, or revised and approved by Ecology.

4. Condition B3 that reads:

- B3. The re-establishment of approximately 350 acres of estuarine wetlands includes up to 23.35 acres that shall be set aside for compensatory mitigation commitments, as described in *Mitigation Commitments and Opportunities, Smith Island Restoration Project*, prepared by Snohomish County Public Works, dated February 18, 2015.

Is replaced with:

- B3. The re-establishment of approximately 350 acres of estuarine wetlands includes up to 23.35 acres that shall be set aside for compensatory mitigation commitments, as described in *Final Mitigation Plan, Smith Island Restoration Project*, prepared by Snohomish County Public Works, dated June 2, 2015.

5. Condition B4 that reads:

- B4. The re-establishment of approximately 350 acres of estuarine wetlands includes up to 10 acres that shall be set aside for potential future mitigation opportunities subject to review and approval by Ecology, as described in *Mitigation Commitments and Opportunities, Smith Island Restoration Project*, prepared by Snohomish County Public Works, dated February 18, 2015.

Is replaced with:

- B4. The re-establishment of approximately 350 acres of estuarine wetlands includes up to 10 acres that shall be set aside for potential future mitigation opportunities subject to review and approval by Ecology, as described in *Final Mitigation Plan, Smith Island Restoration Project*, prepared by Snohomish County Public Works, dated June 2, 2015.

6. Condition B11 that reads:

- B11. The Applicant shall not use hay or straw on exposed or disturbed soil at the project site.

Is replaced with:

- B11. The Applicant shall not use loose hay or straw on exposed or disturbed soil at the project site.

7. Condition B15 that reads:

- B15. The Applicant shall place signs at the project site boundaries, including buffers, every 200 feet to mark the area as a protected site in areas accessible to vehicles and pedestrian traffic.

Is replaced with:

- B15. The Applicant shall place signs at the project site boundaries, including buffers, at public access points to mark the area as a protected site in areas accessible to vehicles and pedestrian traffic.

8. Condition B18 that reads:

- B18. Within 90 days of the date the Order was issued, the Applicant shall record a conservation easement for Smith Island Restoration, a copy of this Order, and a site map

indicating the location of the 350-acre restoration site. These documents must be recorded with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.

Is replaced with:

- B18. Within 90 days of the receipt of the Corps permit, the Applicant shall record a conservation easement for Smith Island Restoration, a copy of this Order, and a site map indicating the location of the approximately 350-acre restoration site. These documents must be recorded with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.

9. Condition D15 that reads:

- D15. Barges and other work vessels shall not be allowed to ground-out during construction.

Is replaced with:

- D15. Barges and other work vessels shall not be allowed to ground-out during construction unless otherwise authorized by Ecology.

No other conditions or requirements of the above-mentioned Order are affected by this Amendment. The Department of Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

Failure to comply with this amendment may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this amendment.

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.) Email 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

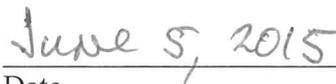
**Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of
Washington**

www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE



Paul Anderson, Unit Supervisor
Shorelands and Environmental Assistance Program
Northwest Regional Office



Date