



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

April 30, 2012

Trans Alta Centralia Mining, LLC
ATTN: Mr. Tony Briggs
913 Big Hanaford Road
Centralia, WA 98531

RE: First Amendment to Order #1536 for U.S. Army Corps of Engineers Reference #NWS-200300461, Pond 46, Gallagher Creek Mitigation Site, Lewis County, Washington

Dear Mr. Briggs:

Enclosed is the First Amendment to the Water Quality Certification issued on July 9, 2004, for the above referenced project.

The purpose of this amendment is to respond to the January 2012 submittal of a new Mitigation Plan to replace the Pond 3B Mitigation Site that was intended to compensate for wetland impacts that occurred with the construction of Pond 46.

If you have any questions, please contact Alex Callender at (360) 407-6167. The enclosed amended Order may be appealed by following the procedures described in the Amendment.

Sincerely,



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

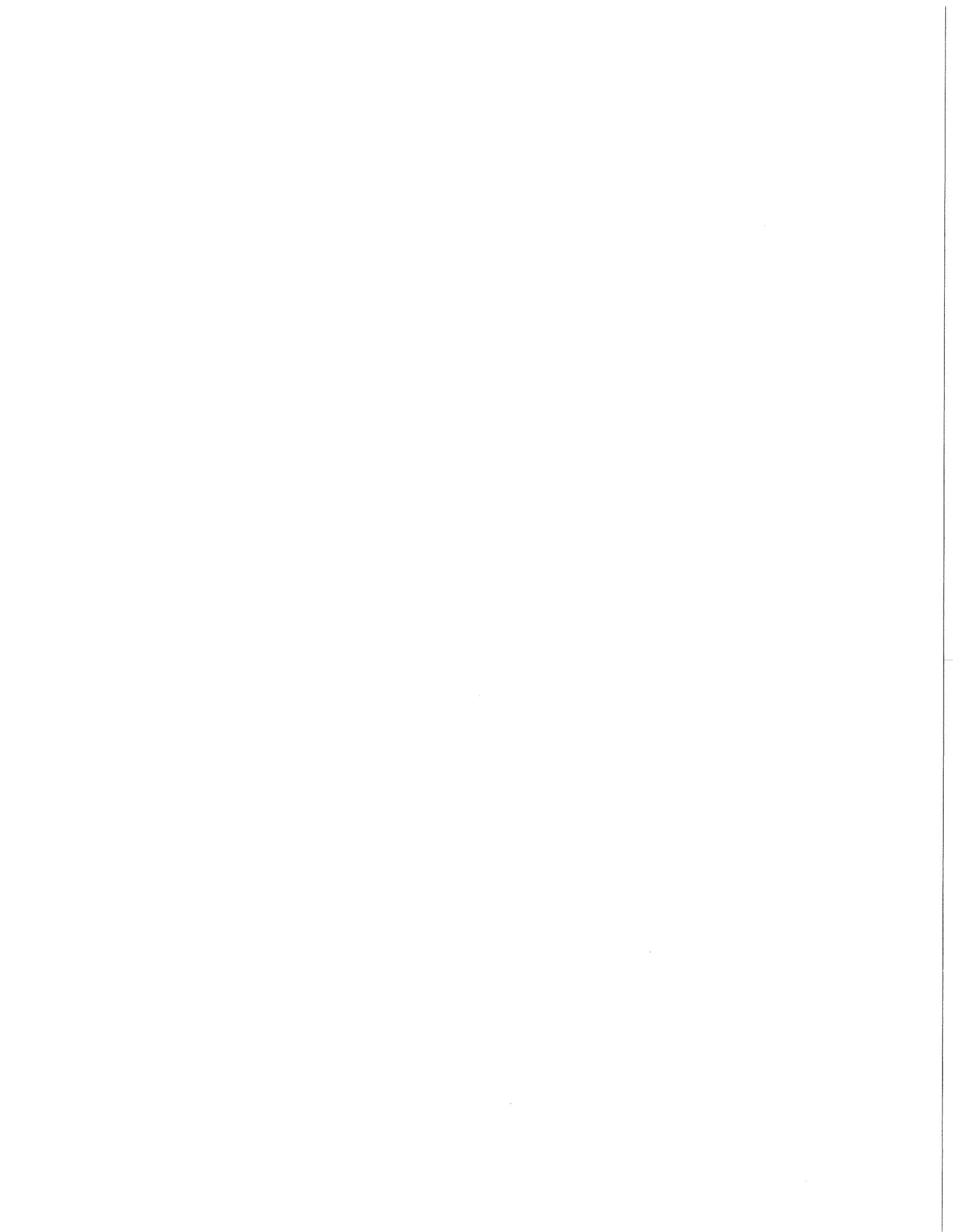
Enclosure

By Certified Mail 7009 3410 0000 1272 8514

cc: Caren Crandell, Corps of Engineers
Jerry Gregory, Corps of Engineers
Fred Chapman, Lewis County
Steve West, WDFW

e-cc: ecyrefedperms@ecy.wa.gov
Loree Randall – Ecy/HQ/SEA
Steve Eberle – Ecy/SWRO/WQ
Lori Ochoa – Ecy/SWRO/SEA
Alex Callender – Ecy/SWRO/SEA





**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

IN THE MATTER OF GRANTING)
A WATER QUALITY)
CERTIFICATION TO)
Trans Alta Centralia Mining, LLC)
In accordance with 33 U.S.C. 1341)
(FWPCA §401) RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

ORDER # 1536, First Amendment
U.S. Army Corps of Engineers
NWP 21 Reference # 200300461
Pond 46, Gallagher Creek Mitigation Site,
Lewis County, Washington.

TO: Tans Alta Centralia Mining, LLC
ATTN: Mr. Tony Briggs
913 Big Hanaford Road
Centralia, WA 98531

On July 9, 2004, the Washington Department of Ecology (Ecology) issued a §401 Water Quality Certification to Trans Alta Centralia Mining, LLC to mine the upper portion of an unnamed tributary to Mitchell Creek and construct a sedimentation pond (known as Pond 46 Sedimentation System) within the lower portion of the tributary pursuant to the provisions of 33 U.S.C. 1341 (FWPCA §401).

The Department of Ecology (Ecology) is amending the above-referenced Order to reflect the new mitigation plan received on January 9, 2012. The new mitigation proposal at the Gallagher Creek site will replace the original Pond 3B wetland mitigation site that was not a viable mitigation option. The new mitigation proposal will preserve and enhance approximately 118 acres of mixed wetland and upland to compensate for the wetland impacts incurred from the construction of the Pond 46 Sedimentation System.

Water Quality Certification No. **1536** is hereby amended as follows:

1. Condition Number C.2. that reads:

C.2. Project mitigation shall be constructed and maintained as described in *Trans Alta Centralia Mining LLC Revised Pond 3B Mitigation and Monitoring Plan* (Mitigation and Monitoring Plan) approved by Brad Murphy, Ecology SWRP on December 1, 2003.

Is replaced as follows:

C.2. The Trans Alta Centralia Mining, LLC shall mitigate wetland impacts as described in the *Pond 3B Replacement Mitigation Plan: Gallagher Creek Site* prepared for Trans Alta Centralia Mining, LLC; (hereafter called the "Mitigation Plan") prepared by Cascade Environmental Group, LLC, Revised January 2012, or as modified by this Amendment or revised and approved by Ecology.

2. Condition Number C.3. that reads:

C. 3. Success criteria will be as described in the Mitigation and Monitoring Plan in section 8.0 Contingency Planning (page 37) and in table 4 (page 15), Table 5 (page 23), and Table 9 (page 32).

Is replaced as follows:

C.3. Success criteria will be as described in Chapter 5, Performance standards (pages 33-36) of the Mitigation Plan.

3. Condition Number D.1. that reads:

D.1. Wetland mitigation monitoring shall be completed as described in the *Trans Alta Centralia Mining LLC Revised Pond 3B Mitigation and Monitoring Plan* prepared by Jones & Stokes, dated October 2003 (Mitigation and Monitoring Plan).

Is replaced as follows:

D.1. Wetland mitigation monitoring shall be completed as described in the *Pond 3B Replacement Mitigation Plan: Gallagher Creek Site* prepared for Trans Alta Centralia Mining, LLC; prepared by Cascade Environmental Group, LLC, Revised January 2012.

4. Condition Number D.2. that reads:

D.2. Wetland mitigation monitoring reports shall be submitted to the Federal Permit Coordinator, Department of Ecology, SWRO, PO Box 4775, Olympia, WA 98504-7775 no later than December 31 of the year in which it is prepared.

Is replaced as follows:

D.2. For purposes of this Amendment, 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. 1536** and **Corps NWP 21 Reference # 200300461**.

5. Condition Number D.3. that reads:

D.3. Reports will comply with the requirements described in sections 7.0 and 7.1 and the schedule described in Table 8 of the Mitigation and Monitoring Plan (page 31).

Is replaced as follows:

D.3. Reports shall be submitted to Ecology per the Conditions outlined below.

6. The following Conditions are added:

D.5. If the mitigation site(s) cannot be completed within 13 months of the date of this Amendment, the Trans Alta Centralia Mining, LLC shall inform Ecology, in writing, of the status of:

- a) The Gallagher Creek Mitigation Site,
- b) The reason for the delay,
- c) Expected date of completion.

- The Trans Alta Centralia Mining, LLC shall submit an updated written notification every 12 months thereafter until the Gallagher Creek Mitigation site is complete.
- D.6.** The Trans Alta Centralia Mining, LLC 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.
- D.7.** The Trans Alta Centralia Mining, LLC shall ensure that no material is stockpiled within existing wetlands and their buffers at the wetland mitigation site at any time, unless provided for in the Ecology-approved Mitigation Plan.
- D.8.** The Trans Alta Centralia Mining, LLC shall not use polyacrylamide on exposed or disturbed soil at the mitigation site.
- D.9.** The Trans Alta Centralia Mining, LLC shall not use hay or straw on exposed or disturbed soil at the mitigation site.
- D.10.** If weed-barrier fabric is used on the site, the Trans Alta Centralia Mining, LLC shall use only permeable, fully biodegradable, non-toxic weed-barrier fabric for the 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.
- D.11.** If seeding is used at the wetland mitigation site, the seed mix must contain only native, annual, non-invasive plant species.
- D.12.** The Trans Alta Centralia Mining, LLC shall place signs at the mitigation area's boundaries, including buffers, every 100 feet to mark the area as a wetland mitigation site.
- D.13.** Upon completion of site grading, and prior to planting, the Trans Alta Centralia Mining, LLC shall submit to Ecology written confirmation that the finished grades are consistent with the approved Mitigation Plan or subsequent Ecology-approved plan changes. Written confirmation can be in the form of a signed letter from the surveyor or project engineer indicating how final elevations were confirmed and whether those elevations are consistent with the Mitigation Plan.
- D.14.** Within 90 days of completing construction and planting of the mitigation site, the Trans Alta Centralia Mining, LLC shall submit to Ecology one hard copy and one electronic file of the final as-built report including maps. The as-built must:
- a) Document the site conditions at Year Zero;
 - b) Include the information listed in Attachment A (Information Required for As-built Reports);
 - c) Include documentation of the recorded legal mechanism required in Condition **D. 17**, below.
- D.15.** Within 90 days of the date this Amendment was issued the Trans Alta Centralia Mining, LLC shall record a conservations easement for the Gallagher Creek Mitigation Site, a copy of this Amendment, and a site map indicating the location of the mitigation

site and its buffer. 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.

- D.16.** The Trans Alta Centralia Mining, LLC shall submit to Ecology one hard copy and one electronic copy of the monitoring reports documenting mitigation site conditions for years 1,3,5,7, and 10. At a minimum, the reports must contain the information in Attachment B (Information Required for Monitoring Reports). The Trans Alta Centralia Mining, LLC shall submit the first monitoring report 12 months after completing the mitigation site construction and planting.
- D.17.** The Trans Alta Centralia Mining, LLC shall implement the Mitigation Plan's Contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.
- D.18.** Prior to implementing contingency measures not specified in the Mitigation Plan, the Trans Alta Centralia Mining, LLC shall consult with and obtain written approval from Ecology for the changes.
- D.19.** When necessary to meet the performance standards, the Trans Alta Centralia Mining, LLC shall replace the dead or dying plants with the same species, or an appropriate native plant alternative, during the first available planting season and note the species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.
- D.20.** For monitoring year five (5) and ten (10) the Trans Alta Centralia Mining, LLC shall use the *Corps of Engineers Wetlands Delineation Manual*, Technical Report Y-87-1, and *Regional Supplement to the Corps of Engineers wetland Delineation Manual: Western Mountains, Valleys, and Coast Region* (Version 2.0), to delineate all compensatory wetlands and include delineation information (e.g. data sheets, maps, etc.) in the monitoring reports.
- D.21.** At the end of the monitoring period, the Trans Alta Centralia Mining, LLC shall use the August 2004 or updated version of "Washington State Wetlands Rating System for Western Washington" to rate all wetlands (except those that have been preserved) and include the information in the monitoring report.
- D.22.** If the Trans Alta Centralia Mining, LLC has not met all the conditions and performance standards for the mitigation site(s) at the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both.
- D.23.** Until the Trans Alta Centralia Mining, LLC has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Trans Alta Centralia Mining, LLC's obligation to mitigate for wetland impacts is not met.

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 Amendment to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Amendment. 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
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 Rd SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

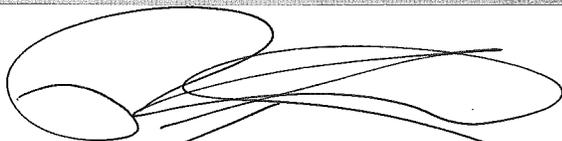
Please direct all questions about this Order to:

Lori Ochoa, Federal Permit Manager
Department of Ecology
Southwest Regional Office
P.O. Box 47775
Lacey, WA 98504-7775
Loch461@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 34.05 RCW – Administrative Procedure Act**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 Washington Administrative Code (WAC) Sediment Management Standards**
<http://www.ecy.wa.gov/biblio/wac173204.html>
- **Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173200.html>
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173201A.html>

SIGNATURE



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

4-30-2012
Date

Attachment A
Information Required for As-built Reports
(See Condition D. 14)

Trans Alta Centralia Mining, LLC
Pond 46, Gallagher Creek Mitigation Site
Water Quality Certification Order # **1536**
Corps NWP 21 Reference # 200300461

Background Information

- 1) Project name.
- 2) Ecology docket number and the Corps reference number.
- 3) Name and contact information for the parties responsible for the mitigation site including:
 - a) The applicant.
 - b) The landowner.
 - c) Wetland professional on site during construction of the compensatory mitigation site.
- 4) Name and contact information for the party responsible for preparing the report.
- 5) Who the report was prepared for (name, address, and phone number) *{if different from number 3 above.}*
- 6) Month and year the report was produced.

The Development (Impact) Site

- 7) Brief description of the development project (impact site). Include:
 - a) Directions to the site.
 - b) Month and year construction of the development project started and ended.
 - c) Area (acres) and type(s) (rating category, HGM classification, and Cowardin classification) of wetlands that were **actually** impacted by the development project, including temporary impacts.

The Compensatory Mitigation Project

- 8) Brief description of the **final** compensatory mitigation project with any changes from the approved plan made during construction. Include:
 - a) Directions to the site.
 - b) Who completed the compensatory mitigation project (name, address, and phone number).
 - c) **Actual** acreage and type(s) (re-establishment, rehabilitation, creation, enhancement, and preservation) of mitigation authorized to compensate for wetland impacts.
 - d) Important dates including:
 - i. Month and year the wetland impacts occurred.
 - ii. When work on the compensatory mitigation site began and ended.
 - iii. When different activities began and ended such as grading, removal of invasive plants, installing plants, and installing habitat features.
- 9) Description of any problems encountered and solutions implemented (with reasons for changes) during construction of the compensatory mitigation site.

- 10) Any changes to the goals, objectives, and performance standards of the compensatory mitigation project.
- 11) List of any follow-up actions needed, with a schedule.
- 12) Final site maps (8 1/2" x 11" or larger) of the compensatory mitigation site(s) including the following (at a minimum).
 - a) Geographic location of the site with landmarks;
 - b) Clear delineation of the project perimeter(s);
 - c) Topography (with a description of how elevations were determined);
 - d) Installed planting scheme (quantities, densities, sizes, and approximate locations of plants, as well as the source(s) of plant material);
 - e) Location of habitat features;
 - f) Location of permanent photo stations.

The final site maps should reflect on-the-ground conditions after the site work is completed. Include the month and year when the maps were produced and, if applicable, when information was collected.

- 13) Photographs of the site at as-built conditions taken from permanent photo stations. We recommend photo pans.
- 14) Copies of any records of deed notification or conservation easements.

Attachment B
Information Required for Monitoring Reports
(See Condition D.16.)

Trans Alta Centralia Mining, LLC
Pond 46, Gallagher Creek Mitigation Site
Water Quality Certification Order # 1536
Corps NWP 21 Reference # 200300461

Ecology requires the following information for monitoring reports submitted under this Order. Ecology will accept additional information that may be required by other regulators.

Background Information

- 1) Project name.
- 2) Ecology docket number and Corps reference number.
- 3) Name and contact information of the parties responsible for the mitigation site, including:
 - a) The applicant.
 - b) The landowner.
- 4) Name and contact information for the party responsible for the monitoring activities and report.
- 5) Whom the report was prepared for (name, address, and phone number) *{if different from number 3 above}*.
- 6) Month and year the monitoring data were collected.
- 7) Month and year the report was produced.

Mitigation Project Information

- 8) Brief description of the mitigation project, including:
 - a) Directions to the site.
 - b) Acreage and type(s) (re-establishment, rehabilitation, creation, enhancement, and preservation) of mitigation authorized to compensate for wetland impacts.
- 9) Brief description of monitoring approach and methods.
- 10) A list of the goals and objectives for the mitigation project.
- 11) Summary table of monitoring data compared with performance standards. Using the monitoring data, describe how the site is developing toward goals and objectives and whether the project is in compliance with performance standards.
- 12) Summary (including dates) of management actions (maintenance, contingencies, and corrective actions) implemented at the site(s).
- 13) Summary of any difficulties or significant events that occurred on the site that may affect the ultimate success of the project.
- 14) Specific recommendations for any additional corrective actions or adaptive management with a time table.
- 15) Summary of any lessons learned.
- 16) Site maps (8 1/2" x 11" or larger) of the compensatory mitigation site(s) including the following (at a minimum).

- a) Include the month and year when the maps were produced and when information was collected.
 - b) The geographic location of the site with landmarks.
 - c) Clear delineation of the project perimeter(s).
 - d) Species, numbers, and approximate locations of all replanted vegetation.
 - e) Location of habitat features.
 - f) Location of permanent photo stations and location of any other photos.
 - g) Location of sampling locations such as points, lines, or transects.
- 17) Photographs taken at permanent photo stations (and other photographs as needed) from the most recent monitoring visit, which are dated and clearly indicate the direction from which the photo was taken. We recommend photo pans.