



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

March 28, 2013

Lew and Gayle Davis  
4020 Northwest Cascade  
East Wenatchee, WA 98802

**RE: Ecology Denial for Section 401 Water Quality Certification for the Davis Bank Stabilization Project, Lake Chelan, near Stehekin, Chelan County, Washington for U.S. Army Corps of Engineers (Corps) Reference #NWS-2003-1301**

Dear Mr. and Mrs. Davis:

The Department of Ecology (Ecology) issued a Public Notice on February 13, 2012 for the above referenced project. Ecology has 180 days from the date of the U.S. Army Corps of Engineers (Corps) Reference #NWS-2003-1301 permit to make a decision regarding the 401 Water Quality Certification (401 Certification). On October 15 2012, Ecology sent you a letter explaining that there are several issues that need to be resolved before we can make our 401 decision.

- Many of the design elements that were proposed in the original Joint Aquatic Resource Permit Application (JARPA) submittal to Ecology have been altered/eliminated/changed to a significant degree and therefore require that you submit a signed revised JARPA that includes all of the design and construction elements that are proposed for the project.

The issues identified above may require a project redesign, as well as further discussions between your consultant and our staff. With the statutory timeframe approaching, Ecology has determined that there is insufficient time to work out the details needed to get reasonable assurance that the project will meet state water quality laws. Therefore, pursuant to Section 401 of the Clean Water Act, ch. 90.48 RCW and ch. 173-201A WAC, the Davis Bank Stabilization Project Water Quality Certification is denied without prejudice.

Receipt of a denial without prejudice does not preclude Lew and Gayle Davis from resubmitting a request for 401 Certification at a later date. The Department of Ecology is ready and willing to work closely with you to find a design that addresses the issues related to this project.



**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
<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 Road SW STE 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

**CONTACT INFORMATION**

Please direct all questions about this Order to:

Gary Graff PWS  
Regional Section Manager  
Department of Ecology  
Central Regional Office  
15 West Yakima Avenue, Suite 200  
509-574-3992  
Gary.Graff@ecy.wa.gov

**MORE INFORMATION**

**Pollution Control Hearings Board Website**  
[www.eho.wa.gov/Boards\\_PCHB.aspx](http://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>

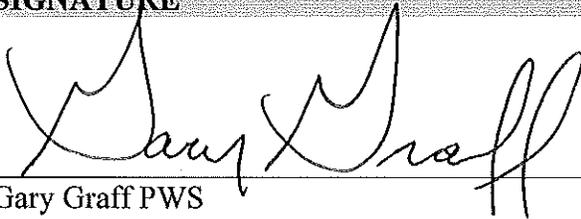
**Chapter 371-08 WAC – Practice And Procedure**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>

**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 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**  
[www.ecy.wa.gov/biblio/wac173201A.html](http://www.ecy.wa.gov/biblio/wac173201A.html)

**SIGNATURE**



Gary Graff PWS  
Regional Section Manager  
Shorelands and Environmental Assistance Program  
Central Regional Office

3/28/13

March 28, 2013

By Certified Mail: 7009 2250 0004 4951 1386

- cc: Jess Jordan, U.S. Army Corps of Engineers  
David Martin, U.S. Army Corps of Engineers  
Joanne Gardiner, U.S. Army Corps of Engineers  
Carmen Andonaegui, WDFW  
Constance Iten, WDFW  
Jeff Wilson, Chelan County Community Development  
Thom Vetter, ecoPlan & Design
- e-cc: Loree' Randall – HQ  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)