



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

June 17, 2008

REGISTERED MAIL
RB 252 945 633 US

Mt. Adams Ranger District
Gifford Pinchot National Forest
ATTN: Nancy Ryke
2455 Highway 141
Trout Lake, Washington 98650

RE: Water Quality Certification Order No. **5642** for the Hemlock Dam Removal and Habitat Restoration Project, Trout Creek, Skamania County, Washington

Dear Ms. Ryke:

On December 11, 2007, the Mt. Adams Ranger District, Gifford Pinchot National Forest 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 Hemlock Dam Removal and Habitat Restoration project. The project proposes to improve water quality and restore fish habitat and passage by removing the Hemlock Dam, and creating a new channel to restore natural riverine processes in Trout Creek, Skamania County, Washington. The Department of Ecology issued a Public Notice for the proposed project on March 7, 2008.

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 Lori Ochoa at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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

PJL:LO:dn
Enclosure



cc: Bengt Coffin, USFS
Steve Gagnon, Corps of Engineers
Tim Rymer, WDFW
(Attached List)

e-cc: Penny Keys, Ecology HQ
Loree' Randall, Ecology HQ
Mark Cline, Ecology SWRO/SEA
Sandra Lange, Ecology SWRO/SEA
Kevin Farrell, Ecology SWRO/SEA
Lori Ochoa, Ecology SWRO/SEA
Deb Cornett, Ecology SWRO/WQ
Jeff Marti, Ecology SWRO/WR

IN THE MATTER OF GRANTING A) ORDER # 5642
WATER QUALITY)
CERTIFICATION TO) Hemlock Dam Removal and Habitat Restoration
Mount Adams Ranger District) Project, Trout Creek, Skamania County,
Gifford Pinchot National Forest) 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: The Mount Adams Ranger District
Gifford Pinchot National Forest
ATTN: Ms. Nancy Ryke
2455 Highway 141
Trout Lake, WA 98650

On December 11, 2007, the Mount Adams Ranger District, Gifford Pinchot National Forest, submitted a Joint Aquatic Resource 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 of Chapter 173-225 WAC on March 7, 2008.

The proposed project is located within Gifford Pinchot National Forest at river mile 1.8 of Trout Creek, a tributary to Wind River at approximately 1262 Hemlock Road, Carson, Skamania County, Washington 98610; NW Section 27, Township 4 North, Range 7 East; WRIA 29, Wind-White Salmon Watershed.

The purpose of this project is to improve upstream and downstream passage for all life stages of fish and to improve water quality and habitat conditions in Trout Creek in the vicinity of Hemlock Dam. This project proposes to mechanically remove the 26-foot high and 183-foot long concrete dam across Trout Creek, dredge and remove fine sediment that has accumulated in the reservoir behind the dam, reconstruct a stable channel through the reservoir reach, revegetate and rehabilitate the work area and sediment disposal area. Prior to working in the reservoir or on the dam, a stream diversion will be established on Trout Creek upstream of the reservoir to allow all of the surface flow of Trout Creek to be diverted around the work area. This diversion shall remain in place for the duration of the work activities. Structures proposed to be removed include the spillway, abutments, attraction flow chamber, pump house, and screen house. The fish ladder will be left in place for cultural heritage interpretation.

As a result of high temperatures, Trout Creek, and the larger Wind River Watershed, has been on the 303(d) list of impaired waterbodies for several years. A water cleanup plan, the Wind River Total Maximum Daily Load (WDOE 2001), was developed to set forth objectives and load allocations for water quality standards in the Wind River Watershed. Several management

activities were identified as a means of improving water temperatures, including the recommendation to remove the Hemlock Dam on Trout Creek.

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, 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

A. General Conditions:

1. For purposes of this Order, the term "Applicant" shall mean the Mount Adams Ranger District, Gifford Pinchot National Forest, and its agents, assignees, and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Regional Office Attn: Federal Permit Coordinator, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. 5642.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on December 11, 2007.

4. 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.
5. 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.
6. 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.
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. 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.
9. 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.
10. 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.
11. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation for each day of continuing noncompliance.

B. Water Quality Conditions:

1. 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). Water quality criteria contained in Chapter 173-201A-200(1)(e) WAC, shall apply to this project unless otherwise authorized by this Order.

2. 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.

C. Turbidity Mixing Zone:

1. In granting the following mixing zone for turbidity, Ecology finds that the supporting information clearly indicates the granting of mixing zones would not have a reasonable potential to: 1) cause a loss of sensitive or important habitat; 2) substantially interfere with the existing or characteristic uses of Trout Creek; 3) result in damage to the ecosystem; or, 4) adversely affect public health. In fact, the removal of the dam will improve upstream and downstream fish passage for all life stages of fish and improve water quality and habitat conditions.

a. Mixing Zone Conditions:

Consistent with WAC 173-201A-400, this Order authorizes a mixing zone for turbidity as follows:

- i. The distance granted for the temporary turbidity mixing zone is 1.8 miles downstream of the project during the period of time that the creek is being reintroduced into the new channel.
- ii. The mixing zone is only granted for a total of one day when the creek is reintroduced into the new channel, unless otherwise authorized by Ecology.

D. Water Quality Monitoring & Reporting:

1. Turbidity shall be assessed and recorded throughout the project at the two existing continuously-reading turbidity stations. Station one (1) is located approximately 0.8 miles upstream of the existing reservoir, and station two (2) is located approximately 400 feet downstream of the existing dam. Results from these stations shall be submitted to Ecology per condition D4 of this Order.
2. An additional monitoring location shall be monitored approximately 1.8 miles downstream of the project. Turbidity shall be monitored at this location during the period of time that the creek is being reintroduced into the new channel. A turbidimeter is recommended, however, visual gauging (photo documentation) of turbidity is acceptable.

- a. Visible turbidity in the river at 1.8 miles downstream from the project that is caused by the project during the period of time that the creek is being reintroduced into the new channel is considered to be an exceedance of the standard.
3. If water quality exceedances of turbidity are observed work shall cease immediately and the Applicant or the contractor shall assess the cause of the water quality problem and take immediate action to stop, contain, correct the problem and/or prevent further water quality exceedances. If an exceedance occurs, the Applicant shall follow the protocols and notification procedures below:
 - a. Notification of Exceedances that are detected through water quality monitoring shall be made to Ecology within 24 hours of occurrence. Notification shall be made per Condition A2 above. The Applicant shall, at a minimum, provide Ecology with the following information:
 - i. A description of the nature and cause of non-compliance;
 - ii. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance; and,
 - iii. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
 - iv. 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, photographs, and any other pertinent information.
 - b. Mitigation and/or additional monitoring may be required if water quality standards are not met.
 4. A monitoring report shall be submitted by December 31, 2008, to include, at a minimum, the following:
 - a. Name(s) and phone number(s) of persons(s) responsible for monitoring;
 - b. Summary of in-water construction activities, dates, times, and measured/observed turbidities associated with those activities; and,
 - c. Summary of corrective actions take to reduce sediment and turbidity if appropriate.

E. Timing Requirements:

1. This Order is valid until all compliance requirements in this document have been met.

F. Notification Requirements:

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Southwest Regional Office Federal Project Coordinator in accordance with condition A.2 above for the following activities:
 - a. At least ten (10) days prior to the pre-construction meeting
 - b. At least ten (10) days prior to the onset of any work on site
 - c. At least ten (10) days prior to the onset of in-water work, including wetlands
 - d. Immediately following a violation of the state water quality standards or any condition of this Order.
 - e. Within fourteen (14) days after completion of construction.

NOTE: These notifications shall include the Applicant's name, project name, project location, the number of this Order, contact and contact's phone number.

G. Construction Conditions:

1. General Construction Conditions:

- a. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts.
- b. Erosion and sediment control devices (filter or silt fences, etc) and other Best Management Practices intended to trap sediment on-site shall be in place before starting project construction and shall be maintained throughout construction until the site is stabilized.
- c. All work within the project limits shall be clearly marked/staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas and buffers that are to be protected from disturbance shall be marked so as to be clearly visible to equipment operators. All project staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.
- d. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
- e. All equipment used below the ordinary high water line shall utilize bio-degradable hydraulic fluid.
- f. All excess excavated material shall be disposed of above the 100-year floodplain and shall be contained so as to prevent its re-entry into waters of the state.
- g. Turbid water generated from construction activities, including turbid dewatering water, shall not be discharged directly into waters of the state. Clean dewatering

water that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state.

- h. Turbid water shall be routed to an upland location to allow removal of fine sediment and other contaminants. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in state waters, banks, or vegetation.
- i. The Applicant shall have a boat available and on site during in-water activities to retrieve any debris entering the water.

2. Equipment Staging and Maintenance:

- a. Staging area will be located a minimum of 50 feet and, where practical, 200 feet from waters of the state, including wetlands.
- b. Trucks used to transport the dredged sediments shall utilize appropriate containment so that there is no leakage of sediments from the truck as it is being transported to the upland disposal site.
- c. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in a confined area in order to prevent containment to waters of the state. Fueling areas will be provided with adequate spill containment. Fueling equipment and vehicles within 100 feet of state waters and wetlands is not allowed unless otherwise authorized by Ecology.
- d. The Applicant shall establish a separate contained area for washing down vehicles and equipment, which does not have any possibility of draining to surface waters and wetlands. No wash water containing sediments, oils, grease, or other hazardous materials resulting from wash down of the work area, tools, and equipment, including concrete delivery trucks or other equipment used for concrete work, shall not be discharged into state waters or storm drains.
- e. 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 waters of the state.

3. Dam Removal and Channel Construction:

- a. All work within the OHWM shall be conducted in the dry or in isolation from stream flow by installing temporary cofferdams and a bypass flume or culvert or by pumping the stream flow around the work area.
- b. The stream diversion system shall be of sufficient size and shall be designed and operated so as not to cause erosion in or along the waterbody in which the work is being conducted.
- c. Accumulated sediments from behind the dam will be excavated and removed from the channel alignment for disposal at an approved upland location.
- d. Logs or large woody debris used in the construction of the log complexes on the channel margins shall be free of dirt, sand, and other fine material to the extent practicable.

- e. All channel stabilization work and materials shall be in place prior to introducing the stream flow into the new channel.
- f. All debris or deleterious material resulting from construction shall be properly contained and disposed of at an approved upland location so that it cannot enter waters of the state.
- g. Re-introduction of water into the new channel shall be done gradually and at a rate not higher than the normal stream flow in order to minimize the mobilization of sediments and fines into downstream waters.

H. Project Restoration Monitoring and Reporting:

1. When the dam is removed, the reservoir will draw down to the historic channel alignment. The resulting riparian community will likely be dynamic and respond to the natural hydroperiod processes. In order to direct succession toward a natural condition, the rhizomatous reed canary grass root mat will be removed from the channel and disposed of in an approved upland location. Native trees, shrubs, and herbs will be planted to “jump start” succession.
2. Invasive species control and native plant installation will follow the document entitled *Hemlock Dam Re-vegetation Plan Summary*, dated February 2008, and as revised on April 27, 2008, and May 6, 2008. The detailed planting plan with the recommended woody stock and seed mixes are depicted on the diagram entitled *Gifford Pinchot National Forest Hemlock Dam Removal, Planting Plan Sheet 11 of 16*, dated March 4, 2008.
3. The resulting riparian community will be monitored for five years and adaptive management measures will be implemented as needed to correct unforeseen concerns.
4. Post-construction restoration monitoring, maintenance, and follow-up will be conducted as described in the document entitled *Hemlock Re-Vegetation Monitoring and Adaptive Management Plan*, dated May 12, 2008.
5. Monitoring reports shall be submitted to Ecology’s Southwest Regional Office Federal Project Coordinator in accordance with condition A.2 above in years one (1), two (2), and year five (5).

I. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list available on site.
2. 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, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:

- a. Cease operations that are causing the compliance problem
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - e. Immediately notify Ecology's Southwest Regional Spill Response Office at (360) 407-6300 and the Washington State Department of Fish and Wildlife of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.
3. 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, including wetlands.
 4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology's Southwest Regional Spill Response Office at 360 407-6300.

J. Appeal Process:

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2)

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

The Department of Ecology
Appeals Coordinator
PO Box 47608
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

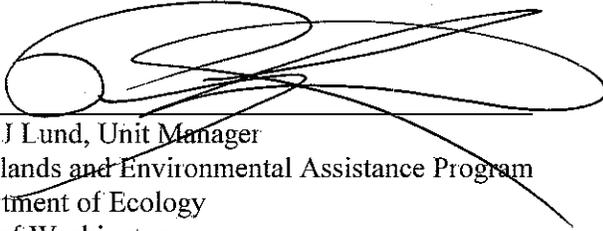
3. And send a copy of your appeal to:

Lori Ochoa
Department of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775

*For additional information visit the Environmental Hearings Office Website. <http://www.eho.wa.gov>
To find laws and agency rules visit the Washington State Legislature Website
<http://www1.leg.wa.gov/CodeReviser>*

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B 320. These procedures are consistent with Ch. 43 21B RCW.

DATED this 17 day of JUNE, 2008, at Lacey, Washington


Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington

Attachment # A

**Hemlock Dam Removal and Habitat Restoration Project
Water Quality Certification Order # 5642**

**Statement of Understanding
Water Quality Certification Conditions**

I, _____, state that, I will be involved as an agent or contractor for the Mt. Adams Ranger District, Gifford Pinchot National Forest for the Hemlock Dam Removal and Habitat Restoration Project in Trout Creek, Skamania County, Washington. I further state that I have read and understand the relevant conditions of the Washington Department of Ecology Water Quality Certification Order #5642 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company

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