



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000
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July 17, 2015

Socco Forest Products, Inc.
Attn: Gary Jones
601A West Front Street
Sumas, Washington 98295

RE: Water Quality Certification Order No. 11677 for Corps Public Notice No. NWS-2008-290, Socco Facility Western Expansion, City of Sumas, Whatcom County, Washington

Dear Mr. Jones:

On February 10, 2009, the Department of Ecology (Ecology) issued a 401 Water Quality Certification (WQC), Order # 6405, to Sumas Properties, LLC, which authorized construction of the Socco Facility Western Expansion Project, in wetlands, City of Sumas, Whatcom County, Washington. The Corps of Engineers subsequently issued a 404 Permit in March 2009. In March 2014, the Corps permit expired, construction of the Socco Facility Western Expansion Project had not begun, and the Socco property changed owners. Since the Corps permit has expired, Ecology's Order #6405 is officially rescinded. The Coastal Zone Management Consistency determination for this project, dated February 10, 2009 is still valid.

On May 20, 2015, Socco Forest Products, Inc. submitted a new Joint Aquatic Resource Permit Application (JARPA) to Ecology for a new Section 401 WQC under the federal Clean Water Act for the proposed Socco Facility Western Expansion Project.

The proposed project involves constructing buildings, roads, utilities, and stormwater treatment facilities to expand operations at the custom wood drying facility. Approximately 4.45 acres of Category IV agricultural wetlands will be directly impacted by the project. Mitigation for the impacts has already occurred and consisted of enhancing and rehabilitating 13 acres of degraded peatlands approximately a ½ mile to the north of the project site.

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.



Socco Forest Products, Inc.

July 17, 2015

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If you have any questions, please contact Susan Meyer at 425-649-7168 or susan.meyer@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Paul Anderson, Wetlands/401 Unit Supervisor
Shorelands and Environmental Assistance Program

Enclosure

By certified mail: 7012 1640 0000 6245 7739

e-cc: Randel Perry, Corps of Engineers
Desiree Douglass, Douglass Consulting
Rollin Harper, City of Sumas
Anne Dettelbach, Ecology/NWRO, WQ
Loree Randall, Ecology/HQ, SEA
ECY RE FED PERMITS

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Sumas Properties, 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 # 11677) Corps Reference No. NWS-2008-290-NO) Fill 4.45 acres of wetlands to expand the Socco) Forest Products Lumber Processing Plant.) Enhance 13 acres of wetlands and associated) buffers at a nearby offsite location in Whatcom) County, Washington.))
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TO: Gary Jones
 Socco Forest Products, Inc.
 601A West Front Street
 Sumas, Washington 98295

On May 20, 2015, Ecology received a Joint Aquatic Resources Permit Application (JARPA) from Socco Forest Products, Inc. requesting a 401 Water Quality Certification (WQC). The U.S. Army Corps of Engineers (Corps) issued a joint public notice for the project on May 21, 2015.

The proposed project entails:

- Filling 4.45 acres of Category IV farmed wetlands to expand the Socco Forest Products Lumber Processing Plant
- Enhancing 13 acres of wetlands and associated buffers at a nearby offsite wetland with peat soils

The project is located in Whatcom County, Section 3, Township 40N, Range 4E, WRIA #1.

Also as part of this Order, Ecology is officially **rescinding** Order #6405 that was issued as part of a Corps of Engineers permit that expired in March of 2014.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed 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.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve Sumas Properties, LLC 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:

1. For purposes of this Order, the term "Applicant" shall mean Socco Forest Products, Inc., and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required as conditions shall be sent to Ecology's Northwest Regional Office, Attn: Susan Meyer, 3190 160th Avenue SE, Bellevue, WA 98008-5452 or via e-mail (preferred), if possible. Notifications shall be made via phone or e-mail (preferred). All submittals and notifications shall be identified with Order No. 11677 and include the Applicant's name, project name, project location, the project contact and the contact's phone number.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on May 20, 2015 and the *Revised Wetland Mitigation Plan for the proposed Socco, Inc. Facilities Western Expansion* dated December 2008 and prepared by Douglass Consulting and J.A. Brennan Associates. 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.
4. 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.
5. This Order shall be rescinded if the Corps does not issue a Section 404 permit.

6. This Order does not exempt, and is provisional upon, compliance with other statutes and codes administered by federal, state, and local agencies.
7. 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.
8. 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.
9. 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.
10. The Applicant shall ensure that all project engineers, contractors, and other workers at the project site with authority to direct work 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 signatory that s/he has read and understands the conditions of this Order and the above-referenced permits, plans, documents and approvals.** These statements shall be provided to Ecology before construction begins.
11. 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.
12. 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. Construction Conditions

1. All work near Johnson Creek shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMPs) suitable to prevent exceedances of state water quality standards shall be in place before starting clearing, filling and grading work and shall be maintained throughout construction.
2. The project 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. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.

3. The Applicant shall ensure that no material is stockpiled within existing wetlands, streams or their buffers on the project site or the mitigation site at any time.
4. The Applicant shall obtain and comply with all stormwater requirements within the National Pollutant Discharge Elimination System (NPDES) Stormwater General Permit for Construction Activity for this project.

C. Wetland Compensatory Mitigation

1. The Applicant shall mitigate impacts to wetlands as described in *Revised Wetland Mitigation Plan for the proposed Socco, Inc. Facilities Western Expansion* dated December 2008 and prepared by Douglass Consulting and J.A. Brennan Associates. (hereafter called the "mitigation plan") except as modified in this Order or revised and approved by Ecology.
 - 1a. Vegetation performance standards in **Years 2 and 3** shall be as follows:
 - At least three species of planted trees and at least four species of planted shrubs will be alive. Native trees and shrubs shall cover at least 20% of the total PFO/PSS wetland and buffer areas.
 - At least 4 species of native emergent species will be alive and will cover at least 50% of the PFO/PSS wetland and buffer areas.
 - At least 4 species of native emergent species will be alive, and will cover at least 75% of the designated PEM wetland meadow areas.
 - 1b. Vegetation performance standards in **Year 7** shall be as follows:
 - At least three species of planted trees and at least four species of planted shrubs will be alive. Native trees and shrubs shall cover at least 50% of the total PFO/PSS wetland and buffer areas.
 - At least 4 species of native emergent species will be alive and will cover at least 40% of the PFO/PSS wetland and buffer areas.
 - At least 4 species of native emergent species will be alive, and will cover at least 80% of the designated PEM wetland meadow areas
2. The Applicant shall submit any further changes to the mitigation plan in writing to Ecology (see A.2) for review and approval before work begins or when problems occur during construction and result in necessary changes.

Implementation

3. To ensure proper installation, the applicant's wetland professional must supervise and inspect all mitigation site construction and planting.

4. The Applicant shall begin the compensatory mitigation project before or concurrent with impacts to wetlands or Ecology may require additional compensation to account for additional temporal wetland loss.
5. The Applicant shall not use Polyacrylamide as a temporary erosion control BMP on exposed or disturbed soil on the site.
6. If seeding is used as temporary erosion control BMP, it must be a wetland mix consisting of native, annual, non-invasive plant species.
7. The Applicant shall mark the wetland mitigation site boundary with signs every 100 feet. The signs should clearly indicate that trampling or cutting vegetation, placing fill or garbage, and any other activities that may disturb the wetland are prohibited.
8. Within 60 days of completing the mitigation site construction and planting, the Applicant shall give Ecology a final as-built report with maps. The as-built report must document site conditions at Year Zero.
 - a) Provide Ecology one electronic copy on compact disc or by email and one hard copy (see A.2.). **Always prominently display the Corps Reference Number and the Ecology Order Number.**
 - b) Include the information listed in Attachment B in the as-built report.
 - c) If the mitigation project is not completed within 13 months of this Order's date, the Applicant shall submit a written status report on the mitigation construction and submit status reports every 12 months until construction (including planting) is complete and the final as-built report is submitted.

Monitoring and Maintenance

9. The Applicant shall irrigate, if necessary, and maintain invasive species and all plantings at the mitigation site to meet the mitigation plan's performance standards.
10. The Applicant shall monitor the mitigation site for a minimum of 10 years. The Applicant shall use the monitoring methods described in the mitigation plan on Pages 36 through 39.
11. The Applicant shall submit monitoring reports to Ecology (one on compact disc or via email, and one hard copy [see A.2]) for years 1, 2, 3, 5, 7, and 10 containing, at a minimum, the information in Attachment C.
12. The Applicant shall submit the Year One monitoring report no sooner than 12 months and no later than 24 months after submitting the as-built report.

13. The Applicant shall submit the reports for the remaining monitoring years no later than October 31 of each monitoring year.
14. The Applicant shall implement the mitigation plan's contingency measures if goals, objectives, and performance standards from Pages 32 - 34 in the Mitigation Plan and condition C1. above are not being met.
15. The Applicant shall consult with Ecology if unidentified contingency measures are necessary.
16. When necessary to meet the performance standards, the Applicant shall replace dead or dying plants during the first available planting season with the same species or a native plant alternative appropriate for the location and note species, numbers, and approximate locations of all replanted materials in the subsequent monitoring report.
17. In monitoring year 5, preferably during the spring months, the Applicant shall delineate the boundary of the wetland at the wetland mitigation site to document the extent of wetland area after hydrologic manipulation and planting dense woody vegetation. The methods identified in the 1987 Corps of Engineers Wetlands Delineation Manual and the Western Mountains, Valleys, and Coast Region supplement (2010) shall be used.
18. The Applicant shall rate the wetland, in its entirety, at the end of the monitoring period and include the information in the monitoring report. To rate the wetlands, the Applicant shall use the Washington State Wetlands Rating System for Western Washington (revised 2014) or as updated.
19. If the Applicant has not met all the conditions and performance standards at the end of the monitoring period, Ecology may require additional monitoring and/or additional wetland compensatory mitigation.
20. Until the Applicant has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Applicant's obligation under Condition C.1 to mitigate for wetland impacts is not met.

D. Timing Requirements:

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

E. Notification Requirements:

1. Applicant shall provide notice to Ecology's Susan Meyer at least three (3) days prior to the start of construction and within 14 days after completion of construction at the project site. Notification, referencing Corps Reference #NWS-2008-290-NO, Order # 11677,

can take place by telephone to (425) 649-7168 or (425) 649-7000, fax to (425) 649-7098, in writing, or by email (susan.meyer@ecy.wa.gov).

F. Emergency/Contingency Measures

1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.
2. 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.
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.
4. 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.

G. Appeal Process:

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:

Susan Meyer
Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008
(425) 649-7168
Susan.Meyer@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

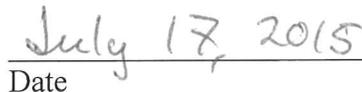
Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington

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

SIGNATURE



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



Date

ATTACHMENT A

**Socco Forest Products, Inc.
Socco Facility Western Expansion**

Water Quality Certification Order # 11677

Corps Reference #NWS-2008-290

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

I have read and understand the conditions of Order # 11677 Section 401 Water Quality Certification for the Socco Facility Western Expansion Project. I have also read and understand all permits, plans, documents, and approvals associated with the Socco Facility Western Expansion Project referenced in this Order.

Signature

Date

Title

Company

Attachment B

Information Required for As-built Reports

Socco Forest Products, Inc.
Socco Facility Western Expansion

Water Quality Certification Order # 11677

Corps Reference # NWS-2008-290

Ecology requires the following information for as-built reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

Background Information

- 1) Project name.
- 2) Ecology Order number and the Corps reference number.
- 3) Name and contact information of the person preparing the as-built report. Also, if different from the person preparing the report, include the names of:
 - a) The applicant
 - b) The landowner
 - c) Wetland professional on site during construction of the mitigation site(s).
- 4) Date the report was produced.

Mitigation Project Information

- 5) Brief description of the **final** mitigation project with any changes from the approved plan made during construction. Include:
 - a) **Actual** acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
 - b) Important dates, including:
 - i. Start of project construction.
 - ii. When work on the mitigation site began and ended.
 - iii. When different activities such as grading, removal of invasive plants, installing plants, and installing habitat features began and ended.
- 6) Description of any problems encountered and solutions implemented (with reasons for changes) during construction of the mitigation site(s).
- 7) List of any follow-up actions needed, with a schedule.
- 8) Vicinity map showing the geographic location of the site(s) with landmarks.
- 9) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
 - a) Boundary of the site(s).
 - b) Topography (with a description of how elevations were determined).
 - c) Installed planting scheme (quantities, densities, sizes, and approximate locations of plants, as well as the source(s) of plant material).
 - d) Location of habitat features.
 - e) Location of permanent photo stations and any other photos taken.

Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions after the site work is completed.

- 10) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction from which each photo was taken. Photo pans are recommended.
- 11) A copy of any deed notifications, conservation easements, or other approved site protection mechanism.

Attachment C
Information Required for Monitoring Reports

Socco Forest products, Inc.
Socco Facility Western Expansion

Ecology Order # 11677

Corps Reference # NWS-2008-290

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

Background Information

- 1) Project name.
- 2) Ecology Order number and the Corps reference number.
- 3) Name and contact information of the person preparing the monitoring report. Also, if different from the person preparing the report, include the names of:
 - a) The applicant
 - b) The landowner
 - c) The party responsible for the monitoring activities.
- 4) Dates the monitoring data were collected.
- 5) Date the report was produced.

Mitigation Project Information

- 6) Brief description of the mitigation project, including acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
- 7) Description of the monitoring approach and methods. For each performance standard being measured provide the following information:
 - a) Description of the sampling technique (e.g., monitoring point for soil or hydrology, line or point intercept method, ocular estimates in individually placed plots). If you are using a standardized technique, provide a reference for that method.
 - b) Size and shape of plots or transects.
 - c) Number of sampling locations and how you determined the number of sampling locations to use.
 - d) Percent of the mitigation area being sampled.
 - e) Locations of sampling (provide a map showing the locations), how you determined where to place the sampling locations (e.g., simple random sample), and whether they are permanent or temporary.
 - f) Schedule for sampling (how often and when).
 - g) Description of how the data was evaluated and analyzed.

- 8) Summary table(s) comparing performance standards with monitoring results and whether each standard has been met.
- 9) Discussion of how the monitoring data were used to determine whether the site(s) is meeting performance standards.
- 10) Goals and objectives and a discussion of whether the project is progressing toward achieving them.
- 11) Summary, including dates, of management actions implemented at the site(s), for example, maintenance and corrective actions.
- 12) Summary of any difficulties or significant events that occurred on the site that may affect the success of the project.
- 13) Specific recommendations for additional maintenance or corrective actions with a timetable.
- 14) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction the camera is facing. Photo pans are recommended.
- 15) Vicinity map showing the geographic location of the site(s) with landmarks.
- 16) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
 - a) Boundary of the site(s).
 - b) Location of permanent photo stations and any other photos taken.
 - c) Data sampling locations, such as points, plots, or transects.
 - d) Approximate locations of any replanted vegetation.
 - e) Changes to site conditions since the last report, such as areas of regrading, a shift in the location of Cowardin classes or habitat features, or a change in water regime.Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions during the most recent monitoring year.