



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

November 29, 2010

James Yap
Snohomish County Parks and Recreation
Willis D. Tucker Regional Park
6705 Puget Park Drive
Snohomish, WA 98296

RE: Water Quality Certification Order #8046 for U.S. Army Corps of Engineers Public Notice #NWS-2010-643, Snohomish County Parks - Centennial Trail Phase 1 Stage 3 Project, Wetlands and Olaf Strand Creek, Snohomish County, Washington

Dear Mr. Yap:

On June 1, 2010, Snohomish County Parks and Recreation 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 Snohomish County Parks – Centennial Trail Phase 1 Stage 3 project.

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 Rebekah Padgett at (425) 649-7129. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,


Erik Stockdale

Northwest Regional Office
Shorelands and Environmental Assistance Program

ES:rrp:cja

Enclosure

By certified mail: 7009 2820 0001 7154 4914



cc: Jonathan Smith, U.S. Army Corps of Engineers
Ed Sewall, Sewall Wetland Consulting, Inc.
Ginger Holser, Washington Department of Fish and Wildlife

e-cc: Paul Anderson, Ecology
Raman Iyer, Ecology
Loree' Randall, Ecology
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A) ORDER #8046
WATER QUALITY) Corps Reference #NWS-2010-643
CERTIFICATION TO) Snohomish County Parks – Centennial Trail
Snohomish County Parks and) Phase 1, Stage 3 Project; Wetlands, Snohomish
Recreation) 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 Parks and Recreation
Attn: James Yap
Willis D. Tucker Regional Park
6705 Puget Park Drive
Snohomish, WA 98296

On June 1, 2010, Snohomish County Parks and Recreation submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification. A joint public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on June 14, 2010.

Construction of a shared-use trail within 5,500 linear feet of an existing railroad grade includes placement of fill in approximately 3.32 acres of palustrine wetlands. Trail construction will require work within drainage ditches and eight stream crossings. Approximately 2.68 acres of wetland and stream buffer will be impacted by clearing along the length of the trail.

The project is located east of 67th Ave. NE between approximately 152nd St. NE and 162nd St. NE in Snohomish County, Washington, in wetlands, Sections 26 and 27, T. 31 N, R. 5 E, WRIA 7.

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.

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). Furthermore, 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.

A. General Conditions:

- A1. For purposes of this Order, the term "Applicant" shall mean Snohomish County Parks and Recreation and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Northwest Regional Office, Attn: 401/CZM Federal Project Manager, 3190 160th Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #8046 and Corps Reference #NWS-2010-643.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on June 1, 2010. 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.
- A4. 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.
- A5. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue an individual Section 404 permit.
- A6. 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.

- A7. 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.
- A8. 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.
- A9. 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 or mitigation sites.
- A10. 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.
- A11. 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. Wetland Compensatory Mitigation:**
- B1. The Applicant shall mitigate wetland impacts as described in the *Bank Use Plan for Snohomish County Parks – Centennial Trail Phase 1 Stage 3* (hereafter called the "Mitigation Bank Debit Plan") prepared by Eric Gleason, and dated February 23, 2010, or as modified by this Order or revised and approved by Ecology.
- B2. The Applicant shall obtain and submit registered documentation from the bank sponsor identifying the first permit requiring a minimum of 4.12 credits for the project to Ecology (see A.2). This documentation must be submitted to Ecology (see A.2) before impacting wetlands. This documentation must be registered at the Snohomish County Auditor's office and must include the permit number, permit issuance date, and the amount of credits required by the permit.
- B3. The Applicant shall notify Ecology (see A.2) of any changes to the amount of wetland impacts, revision of the mitigation plan, and submittal of new information being registered at the Snohomish County Auditor's office.

- B4. The Applicant shall complete the purchase of mitigation bank credits before the impacts to wetlands occur or Ecology may require additional compensation to account for additional temporal loss.

C. Conditions for Construction Activities:

General Conditions:

- C1. Applicant shall obtain and comply with a Construction Stormwater General Permit for this project.
- C2. Construction stormwater, sediment, and erosion control best management practices (BMPs; *e.g.*, filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting construction at the site.
- C3. Sediment and erosion control measures shall be inspected and maintained prior to and during project implementation.
- C4. All construction debris shall be properly disposed of in a manner to prevent it from entering the wetlands and/or wetland buffers.
- C5. Machinery and equipment used during construction shall be serviced, fueled, and maintained upland, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.
- C6. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
- C7. Clean Fill Criteria: Applicant shall ensure that fill (soil or rock) placed for the proposed project does not contain toxic materials in toxic amounts.
- C8. Work in or near the water that may affect fish migration, spawning, or rearing shall cease immediately upon a determination by Ecology that fisheries resources may be adversely affected.

Work in Fresh Waters:

- C9. Olaf Strad Creek and the other creeks are classified as "Core Summer Salmonid Habitat" and the criteria of that class apply except as specifically modified by this Order. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i).
- C10. If cast in place, wet concrete/grout shall be prevented from entering waters of the state. Forms for any concrete/grout structure shall be constructed to prevent leaching of wet

concrete/grout. Impervious materials shall be placed over any exposed concrete/grout not lined with the forms that will come in contact with state waters. Forms and impervious materials shall remain in place until the concrete/grout is cured.

D. Emergency/Contingency Measures:

- D1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.
- D2. 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.
- D3. 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.
- D4. 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.

E. Timing Requirements

E1. This Order expires five (5) years from the date of issuance of the Corps permit.

F. Reporting and Notification Requirement Conditions

F1. The Applicant shall provide to Ecology's 401/CZM Federal Permit Manager a copy of the final Corps permit within 2 weeks of receipt of the permit. A copy shall be submitted per condition A2 above.

F2. Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager 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-2010-643, Order #8046 can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.

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 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
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p> <p>Pollution Control Hearings Board 1111 Israel Rd SW STE 301 Tumwater, WA 98501</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p> <p>Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903</p>

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
rpad461@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website
www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental 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



Erik Stockdale, Unit Supervisor
Wetlands/401 Unit
Shorelands and Environmental Assistance Program
Northwest Regional Office

November 29, 2010

ATTACHMENT A

**SNOHOMISH COUNTY PARKS AND RECREATION
SNOHOMISH COUNTY PARKS – CENTENNIAL TRAIL
PHASE 1 STAGE 3 PROJECT
Water Quality Certification Order #8046**

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

I have read and understand the conditions of Order #8046 Section 401 Water Quality Certification for the Snohomish County Parks and Recreation, Snohomish County Parks – Centennial Trail Phase 1 Stage 3 Project. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this Order.

Signature

Date

Title

Company