



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

May 21, 2012

Clark County Environmental Services  
ATTN: Kevin Tyler  
PO Box 9810  
Vancouver, WA 98666-9810

RE: Water Quality Certification Order No. **9144** for Corps Public Notice No. NWS-2011-623 for the expansion and reconfiguration of the Harding Farms Stormwater and Wetland Improvement Project, near Vancouver, Clark County, Washington.

Dear Mr. Tyler:

On July 5, 2011, Clark County Environmental Services 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 above-referenced project. The U.S. Army Corps of Engineers issued a Nationwide Permit 43, Stormwater Management Facilities, on January 12, 2012, for the proposed project. A public notice regarding the request was distributed by Ecology for the project pursuant to the provisions of Chapter 173-225 WAC on March 11, 2011.

The project is located at NE 125<sup>th</sup> Street, immediately east of NE 36<sup>th</sup> Avenue, Vancouver, Clark County, 98686.

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

Enclosure

By Certified Mail 7010 0780 0002 3400 4787

cc: Steve Manlow, U.S. Army Corps of Engineers, VFO  
Dawneen Dostert, Bonneville Power Administration



e-cc: [ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)  
Lori Ochoa – Ecy, SWRO-SEA  
Loree’ Randall – Ecy, HQ-SEA  
Rebecca Schroeder – Ecy, SWRO-SEA  
Brad Murphy – Ecy, HQ-SEA  
Deborah Cornett – Ecy, SWRO-WQ  
Lisa Cox – Ecy, VFO-WQ  
Ed O’Brien – Ecy, HQ-WQ

**IN THE MATTER OF GRANTING A ) ORDER #9144**  
**WATER QUALITY ) Corps Reference No. NWS-2011-623**  
**CERTIFICATION TO ) Harding Farms Stormwater and Wetland**  
 Clark County Environmental Services ) Improvements Project. Wetlands, Clark County,  
 in accordance with 33 U.S.C. 1341 ) Washington  
 (FWPCA § 401), RCW 90.48.120, RCW )  
 90.48.260, and Chapter 173-201A WAC )  
 )  
 )

TO: Clark County Environmental Services  
 ATTN: Mr. Kevin Tyler  
 P.O. Box 9810  
 Vancouver, WA 98666-9810

On July 5, 2011, Clark County Environmental Services submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. The U.S. Army Corps of Engineers (Corps) issued a Nationwide Permit 43, Stormwater Management Facilities, on January 12, 2012, for this project. A public notice for the above-referenced project was distributed by Ecology pursuant to the provisions Chapter 173-225 WAC on March 11, 2012.

The project proposal will reconstruct an existing stormwater facility to improve water quality and reduce stream erosion in a small drainage tributary to salmon Creek in the Pleasant Valley area. High stormwater flows draining through an existing spring-fed wetland will be intercepted and bypassed to a new bio-swale and expanded wetland/detention area. The treated and controlled runoff will then drain back into an existing storm sewer in the southwest corner of the property. The project will also construct a new wet bio-swale to provide water quality treatment for a small area of an existing subdivision.

The project will temporarily impact 1.7 acres of category II and III wetlands and will permanently fill 0.27 acres of category II and III wetlands. Compensatory mitigation for permanent impacts includes the re-establishment of 0.34 acres of category II and III wetlands and restoration of 1.7 acres of category II and III wetlands. Temporary wetland impacts will be mitigated through the enhancement of 0.58 acres of category II and III wetlands.

The project is located at NE 125<sup>th</sup> Street immediately east of NE 36<sup>th</sup> Avenue, Vancouver, Clark County, Washington; NW quarter of Section 25, Township 3 North, Range 1 east, WRIA 28, Salmon-Washougal Watershed.

**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 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, 302, 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:**

1. For purposes of this Order, the term "Applicant" shall mean the Clark County Environmental Services 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 Manager, SEA Program, PO Box 47775, Olympia, WA 98504-7775 or by e-mail to [loch461@ecy.wa.gov](mailto:loch461@ecy.wa.gov). Any submittals shall reference Order No. **9144** and Corps No. **NWS-2011-623**.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on July 5, 2011, and the *Wetland Mitigation Plan Addendum, Harding Farms Stormwater and Wetlands Improvement Project (Addendum)*, dated April 17, 2012. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA and the Addendum 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 whether the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
5. This Order does not exempt, and is provisional upon, compliance with other statutes and codes administered by federal, state, and local agencies.
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. 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. Timing:**

1. This Order is valid until March 18, 2013, the expiration date of the NWP issued for this project.

**C. Notification Conditions:**

1. Written notification (FAX, e-mail, or mail) shall be made to Ecology's Southwest Regional Office Federal Permit Manager in accordance with condition A.2 above for the following activities:
  - a. At least ten (10) days prior to the onset of any work on site.
  - b. Immediately following a violation of the state water quality standards or any condition of this Order
  - c. Within fourteen (14) days after completion of project construction.

**NOTE:** These notifications shall include the Applicant's name, project name, Order No. 9144, Corps Reference No. NWS-2011-623, project location, contact name, and contact's phone number.

**D. Construction, Equipment Staging and Maintenance:**

**General Construction**

1. The Applicant shall obtain and comply with all stormwater requirements within the current Construction Stormwater General Permit (National Pollutant Discharge Elimination System – NPDES) issued for this project.
2. 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.
3. Sediment and erosion control measures shall be inspected and maintained prior to and during project implementation.
4. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state, including wetlands.
5. All construction debris shall be properly disposed of in a manner to prevent it from entering wetlands and/or wetland buffers.
6. 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.
7. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in a confined area in order to prevent contamination to waters of the state. Fueling areas will be provided with adequate spill containment.
8. Appropriate BMPs shall be implemented to minimize track-out during construction.
9. Staging area will be located a minimum of 50 feet and, where practical, 200 feet from waters of the state (including wetlands), unless authorized by Ecology.

10. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working area shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
11. Clean Fill Criteria: The Applicant shall ensure that fill (soil) placed for the proposed project does not contain toxic materials in toxic amounts.

**E. Emergency/Contingency Measures:**

1. The Applicant shall develop and implement a Spill Prevention and Containment (SPCP) Plan for all aspects of 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 or onto land with a potential for entry into state waters, is prohibited. If such work, conditions, or discharges 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.
  - f. Submit a detailed written report to Ecology's Federal Permit Manager 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.

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.

**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 all of the following within 30 days of the date of receipt of this Order:

12. 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.
13. 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><b>Department of Ecology</b>            Attn: Appeals Processing Desk            300 Desmond Drive SE            Lacey, WA 98503</p> <p><b>Pollution Control Hearings Board</b>            1111 Israel Rd SW            STE 301            Tumwater, WA 98501</p>	<p><b>Department of Ecology</b>            Attn: Appeals Processing Desk            PO Box 47608            Olympia, WA 98504-7608</p> <p><b>Pollution Control Hearings Board</b>            PO Box 40903            Olympia, WA 98504-0903</p>

## CONTACT INFORMATION

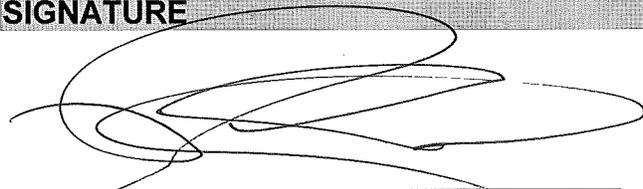
Please direct all questions about this Order to:

Lori Ochoa, Federal Permit Manager  
Department of Ecology  
Southwest Regional Office  
P.O. Box 47775  
Lacey, WA 98504-7775  
[Loch461@ecy.wa.gov](mailto:Loch461@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 173.204 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>

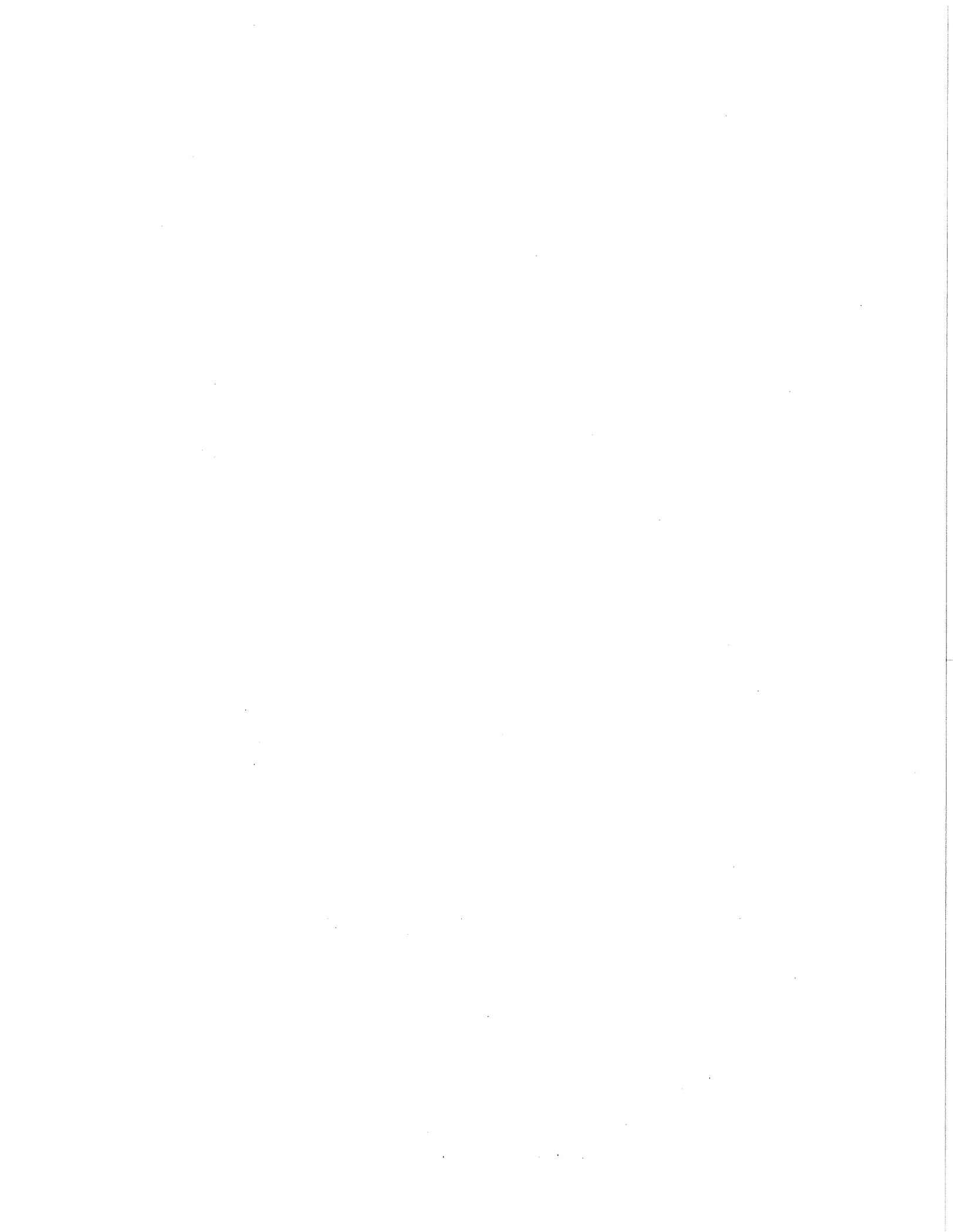
## SIGNATURE



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

Date

5/21/2012



**Attachment A**  
**Statement of Understanding**  
**Water Quality Certification Conditions**  
**(See Condition A.9)**

Harding Farms Stormwater and Wetlands Improvement Project  
Clark County Environmental Services  
Water Quality Certification Order #9144  
And  
Corps Reference #NWS-2011-623

I, \_\_\_\_\_, state that I will be involved as an agent or contractor for Clark County Environmental Services in the site preparation and/or construction of the Harding Farms Stormwater and Wetlands Improvement project located at NE 125<sup>th</sup> Street immediately east of 36<sup>th</sup> Avenue, Vancouver, Clark County, Washington. I further state that I have read and understand the relevant conditions of the Washington Department of Ecology Water Quality Certification Order #9144 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

