



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

September 21, 2012

Wally Meyer
Chiawana Inc., dba Columbia Reach
3107 River Road
Yakima, WA 98902

RE: Order # 9518 - Water Quality Certification for Grading and Filling of Wetlands and Ponds for Warehouse Construction, Corps Reference Number **NWS-2011-997**

Dear Mr. Meyer:

The request for certification for proposed work in wetlands and adjacent to the Naches River/ Willow Lake has been reviewed. On behalf of the State of Washington, we certify that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law.

This certification is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Catherine Reed at (509) 575-2616. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

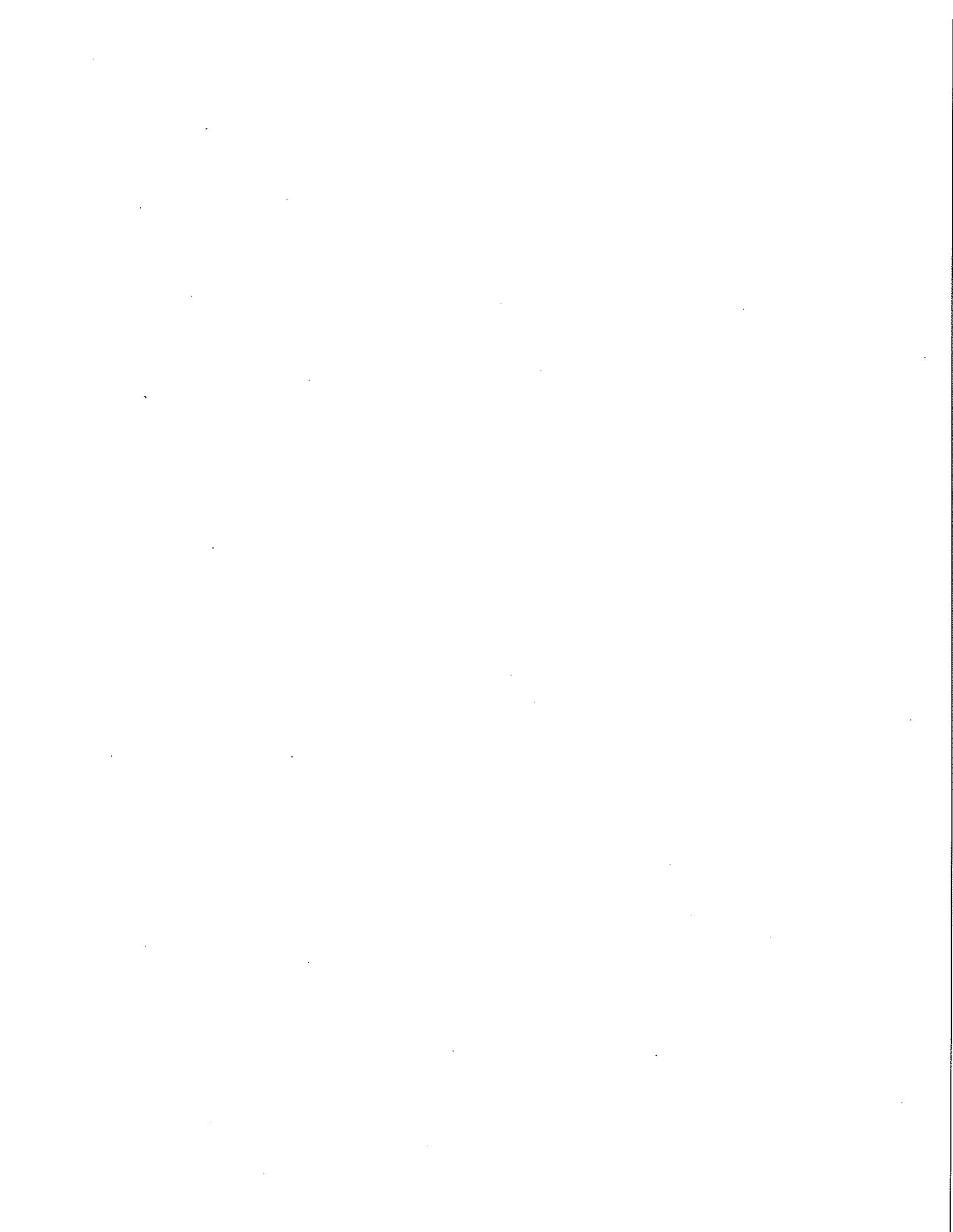
Jeff Lewis
Section Manager, Central Regional Office
Shorelands and Environmental Assistance Program

Enclosure

By certified mail: 7009 2250 0004 4951 1195

cc: Corps of Engineers – Karen Urelus
WDFW – Eric Bartrand
City of Yakima – Joeseeph Calhoun
ecc: Ecology SEA HQ – Jessica Moore
Durant Development Services, Inc – Tom Durant
Grette Associates – Scott MaHarry





IN THE MATTER OF GRANTING A)	ORDER # 9518
WATER QUALITY)	Corps Reference No. NWS-2011-997
CERTIFICATION TO)	Grading and filling two ponds to construct 3
Chiawana, Inc. dba Columbia Reach, in)	agricultural use warehouses, with access
accordance with 33 U.S.C. 1341)	roadway and utilities on 10 acres.
(FWPCA § 401), RCW 90.48.120, RCW)	
90.48.260 and Chapter 173-201A WAC)	
)	

TO: Wally Meyer
 Chiawana Inc., dba Columbia Reach
 3107 River Road
 Yakima, WA 98902

On June 29, 2012, Chiawana Inc. dba Columbia Reach, submitted a revised Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice for a proposed water quality certification from Ecology was distributed by the U.S. Army Corps of Engineers for the above-referenced project on July 13, 2012.

The applicant proposes to construct three controlled-atmosphere agricultural warehouses along with accessory concrete aprons and an access road on a 10-acre site. 15,000 – 20,000 cubic yards of fill will be placed into two artificial ponds (ponds 3 and 4) and portions of an artificial dewatering channel. The Corps has determined that Pond 4 (about 0.5 acres of wetland fringe and open water) is not a jurisdictional water of the US. Corps jurisdictional waters to be adversely affected by the project would total approximately 1.01 acres, consisting of 0.53 acre of impacts to open water and 0.48 acre of impacts to wetlands. In Pond 3, fill would be placed in 0.53 acre of open water and 0.05 acre of wetland fringe. Fill would also be placed in 0.37 acre of wetland in the dewatering channel. In order to create wetlands along the fringe of Pond 1 and Pond 2, a total of 0.06 acre of wetland adjacent to Willow Lake would be excavated.

Mitigation for the impacts would include creation of 0.73 acres of wetland, 0.35 acres of open water adjacent to ponds 1 and 2 and restoration of 1.4 acres of upland buffer.

The project is located at 3107 River Road, Yakima, in Yakima County, Washington, in associated wetlands of the Naches River and Willow Lake, Sections 10, 11, 1nd 15, Township 13N, Range 18 East of the Willamette Meridian, Water Resource Inventory Area (WRIA) #38.

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. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 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 Chiawana dba Columbia Reach, and their agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Central Regional Office, Attn: Federal Permit Coordinator, SEA Program, 15 West Yakima Avenue, Suite 200, Yakima, Washington 98902. Any submittals shall reference Order No. 9518, and Corps No. **NWS-2011-997**.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology July 3, 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 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 U.S. Army Corps of Engineers 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 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 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.
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. No Further Impairment of Existing Water Quality:

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200 (1)(e)(i).
2. The Naches River has been identified on the current 303(d) list as exceeding state water quality standards for temperature, silver, and pH. Myron Lake has been identified on the current 303(d) list as exceeding state water quality standards for Ammonia-N. This proposed project shall not result in further exceedances of these standards. A background

sample for Ammonia-N shall be taken by the applicant at the opening of the dike on the east side of pond 1 prior to impacts to the open water areas of pond 1.

3. As described in the JARPA referenced above in this document, a stormwater infiltration trench is proposed to be constructed around the immediate perimeter of the concrete apron to intercept stormwater runoff. Any changes to the plan described in the JARPA shall be submitted in writing for Ecology review and approval prior to construction.

C. Wetland Mitigation and Monitoring:

1. The Applicant shall submit an addendum to the wetland mitigation plan which will provide for 0.3 acres of additional wetland or open water mitigation credit. The additional wetland mitigation plan shall be submitted for Ecology review and approval within six months of the issuance of this order, and may be submitted after construction has begun on site. Mitigation may occur off-site. Otherwise, wetland impacts shall be mitigated as described in the Conceptual Mitigation Plan (hereafter called the "Mitigation Plan") prepared by Grette Associates, and dated June 29, 2012 or as modified by this Order or revised and approved by Ecology.
2. A status report on the mitigation construction must be submitted to Ecology, 13 months from the date of permit issuance. Annual status reports on mitigation construction are required until mitigation construction is complete.
3. The Applicant shall have a wetland professional at the wetland mitigation site to supervise during wetland construction and planting.
4. Unless otherwise approved by Ecology in writing, the Applicant shall begin the compensatory mitigation project before, or concurrent with, impacting wetlands or Ecology may require additional compensation to account for additional temporal loss of wetland functions.
5. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers at the wetland mitigation site and above the 100-year floodplain.
6. The Applicant shall ensure that no material is stockpiled within existing wetlands and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology-approved Mitigation Plan.
7. The Applicant shall ensure that no construction debris is deposited within existing wetland and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology approved Mitigation Plan.

8. The Applicant shall not use polyacrylamide on exposed or disturbed soil at the mitigation site(s).
9. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site(s).
10. If weed-barrier fabric is used on the site, the Applicant shall use only permeable, fully biodegradable, non-toxic weed-barrier fabric for entire-site and/or individual plant weed control. Non-biodegradable plastic weed-barrier fabric shall be used only at the base of individual plants and shall be removed before it starts to break down, before it interferes with plant growth, or before the end of the monitoring period, whichever comes first.
11. If seeding is used at the wetland mitigation site, the seed mix must contain only native non-invasive plant species.

D. Timing:

1. This Order is valid until all the conditions of this Order have been met.
2. In-water work shall be subject to the timing limitations imposed by the most current Hydraulic Project Approval (HPA) issued by the Washington Department of Fish and Wildlife's (WDFW) for this project.

E. Notification Conditions:

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Central Regional Office Federal Permit Coordinator in writing at least three (3) days prior to the start of dredge and fill at the project site.
2. The Applicant shall provide written notification to Ecology's Central Regional Office Federal Permit Coordinator within fourteen (14) days after completion of dredge and fill.

NOTE: These notifications shall include the Applicant's name, project name, Order No. 9518, Corps Reference No. NWS-2011-997, project location, contact and contact's phone number.

F. Water Quality Monitoring and Reporting Conditions:

1. During and immediately after project and wetland mitigation area construction, the Applicant or their contractor shall visually monitor for turbidity discharges at the point of compliance established in WAC 173-201A-200(1)(e)(i). Visual monitoring of the pond 1 outlet to Willow Lake and the dewatering channel outlet to Willow Lake shall occur for turbidity from project activities. Visual monitoring shall occur once every two hours

during all filling, dredging, and grading activities on site. A written log of all visual inspections, (including daily inspection of the integrity of the silt curtain/turbidity barrier) shall be made and kept on site. The log shall include the time of the inspection, the name of the person doing the inspection, whether there was noticeable turbidity, and if so, what action was taken. Visual monitoring may be decreased to once in the morning and once in the afternoon during work activities if no exceedances were observed on the first full day of visual monitoring during construction activities.

2. If water quality exceedances are observed outside of the point of compliance, work shall cease immediately and the Applicant or the contractor shall assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further water quality turbidity exceedances. The Applicant or their contractor shall notify Ecology's Central Regional Office Federal Permit Coordinator at (509) 454-4260 of the exceedances.
3. If the results of the monitoring show that the water quality standards or project performance standards are not being met additional monitoring and mitigation may be required.
4. Any changes to the monitoring requirements must be approved in writing by Ecology.

G. Construction:

1. Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control, and best management practices suitable to prevent exceedances of state water quality standards (e.g., hay bales, detention areas, silt fences, etc.), shall be in place before starting clearing, filling, and grading work at the impact sites.
2. Prior to clearing and grading in wetlands, the adjacent wetlands shall be protected from construction impacts. Construction fencing or flagging (using brightly colored tape at no less than twenty-five foot (25') intervals) of the existing wetlands and stream channels to be protected shall be completed prior to clearing. All project staff shall be trained to recognize construction fencing or flagging that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channels that are not authorized to be filled.
4. During clearing and filling at the project site, the Applicant shall take all necessary measures to minimize the alteration or disturbance of existing wetland and upland vegetation.
5. No existing shoreline or lake material (i.e., logs, rocks, gravel, cobbles, woody debris or other lakebed material,) shall be used as bulkhead armor, or for any other purposes, except that work described in submitted project documents.

6. All equipment must be clean and free of oils, hydraulic fluid, and other contaminants prior to entering all areas below the OHWM of Willow Lake.
7. 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.
8. Clean Fill Criteria: The Applicant shall ensure that fill placed for the proposed project does not contain toxic materials in toxic amounts.

H. Emergency/Contingency Measures:

1. 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 the potential for entry into state waters is prohibited. If these occur, or in the event the Applicant is unable to comply with any of the permit terms and conditions due to any cause, the Applicant shall:
 - i. Cease operations that are causing the compliance problem.
 - ii. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - iii. Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (509) 575-2490, and within 24 hours to Ecology's Federal Permit Coordinator at (509) 454-4260.
 - iv. Submit a detailed written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
2. 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. No refueling of equipment shall occur over, or within 100 feet of creeks, rivers, lakes, or wetlands.

I. 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:

Catherine Reed
Department of Ecology
Central Regional Office
15 West Yakima Avenue, Suite 200
Yakima, WA 98902
509-575-2616
craj461@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 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 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

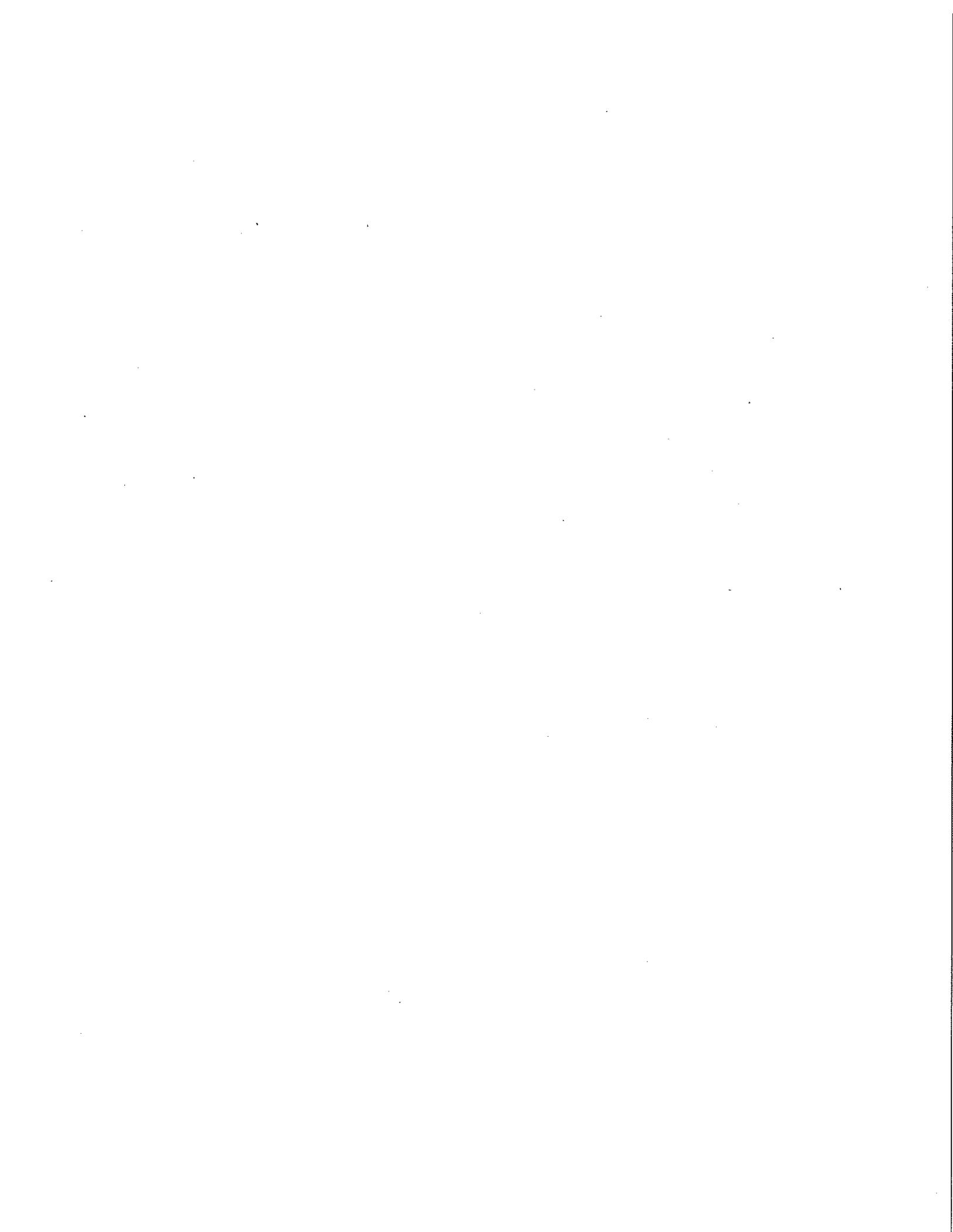
Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington

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



DATED this day of 21 September, 2012 at Yakima, Washington.

Jeff Lewis, Section Manager
Shorelands & Environmental Assistance Program
Central Regional Office – Ecology
State of Washington



ATTACHMENT A

**Applicant/Responsible Party
Water Quality Certification Order #9518**

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

I have read and understand the conditions of Order #9518 Section 401 Water Quality Certification for the Warehouse Construction/Pond 3 and 4 Fill Project (Project) at 3107 River Road. I have also read and understand all permits, plans, documents, and approvals associated with the Project referenced in this order.

Printed Name

Signature

Date

Title

Company

Sign and date ATTACHMENT A and mail the original to:

Ecology's Central Regional Office
Attn: Federal Permit Coordinator
SEA Program
15 West Yakima Avenue, Suite 200
Yakima, Washington 98902