



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

April 23, 2012

Loren Meagher
Central Klickitat Conservation District
1107 South Columbus Avenue
Goldendale, WA 98620

RE: Order # 9138 - Water Quality Certification for Central Klickitat Conservation District;
Swale Creek Stream Restoration; Corps reference number NWS-2012-89

Dear Mr. Meagher:

The request for certification for proposed work in Swale Creek tributary wetlands and adjacent waters 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 letter also serves as the State response to the Corps of Engineers.

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. Written comments can be sent to her at the Department of Ecology, Central Regional Office or at craj461@ecy.wa.gov. 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

cc: Corps of Engineers, Vancouver field office – Peter D. Olmstead
ecc: Anne Friesz, Vancouver WDFW
Joe Sheridan, Klickitat County
Jessica Moore, Ecology SEA HQ

By certified mail: 7009 2250 0004 4951 3076



IN THE MATTER OF GRANTING A) ORDER # 9138
WATER QUALITY) Corps Reference No. NWS-2012-89
CERTIFICATION TO) To do bank stabilization and channel
Central Klickitat Conservation District,) modification by constructing 7 rock riffle
in accordance with 33 U.S.C. 1341) structures with exclusion fencing and riparian
(FWPCA § 401), RCW 90.48.120, RCW) plantings on a 2500 foot stream reach of a
90.48.260 and Chapter 173-201A WAC) tributary to Swale Creek located in Klickitat
) County, Washington.
)

TO: Central Klickitat Conservation District
Attn: Loren Meagher
1107 South Columbus Avenue
Goldendale, WA 98620

On January 30, 2012, Jim Hill, on behalf of the Central Klickitat Conservation District 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 April 6, 2012.

The project proposes to construct seven rock riffle structures within portions of a ½ mile reach of a tributary to Swale Creek. The project is located south of the City of Goldendale in Klickitat County, Washington. The project is located in the SW ¼ of Section 26, Township 3N, Range 15E, in WRIA # 30, (Klickitat) about ½ mile north of Rattlesnake Road.

The largest rock structures will be placed in the upper 2/3 of the stream where the most damage from erosion has occurred. Each rock structure will be placed across the stream bed and will be keyed about 1.5 feet into the banks, and will be up to 60 to 80 feet long within the stream bed. Rock will be placed into the channel starting at the downstream end of each riffle and constructed in the upstream direction with an approximately 15:1 (longitudinal: horizontal) face. The constructed riffles will act as check dams to backwater the channel flows. This is expected to reduce erosion due to a reduction in water velocity and raise the groundwater table levels in the adjacent floodplain. About 1500 cubic yards of rock will be used to construct the riffle structures, and up to 40 cubic yards of material will be removed from the creek.

Disturbed areas will be seeded with native grass species mix, and coyote willow will be planted in the vicinity of the in-stream structures and on the river bar at the downstream end of the project. Willow fascine bundles will be installed. Shrub distribution will be random, but at a rate of about 1 cutting per every foot of channel length as described in the re-vegetation plan. An exclusion fence will be constructed in the spring following construction. The fence will be placed about 30 feet from the stream bank, and riparian

areas within the exclusion zone will be planted with 2500 willow cuttings and 500 Lewis' Mock orange shrubs.

The project is self-mitigating in that the project purpose is to re-establish floodplain processes and reduce erosional forces, lessening sediment transport off agricultural lands from this area into the downstream 303d- listed Swale Creek .

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 Central Klickitat Conservation District and its agents, assignees and contractors.
2. All submittals required by this Order shall be sent to Ecology's Central Regional Office, Attn: Federal Project Coordinator, 15 West Yakima Avenue, Suite 200,

Yakima, WA 98902 or via e-mail (preferred), if possible, to the Coordinator assigned to this project. The submittals shall be identified with Order No. 0138 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 January 30, 2012, the Revegetation, Monitoring and Maintenance Plan for the Kayser Project (January 2012), and the Pumping Plan for Dewatering the Kayser project (January 2012), received via e-mail on Wednesday, April 4, 2012, unless otherwise authorized by Ecology.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
5. Within 30 days of receipt of any updated information, 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. The Applicant shall keep copies of this Order 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. 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.
10. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

B. Water Quality

1. This Order does not authorize temporary exceedances of the turbidity standard beyond the limits established in WAC 173-201A-200.

C. Construction Conditions

1. The Applicant shall comply with all stormwater requirements within the National Pollutant Discharge Elimination System (NPDES) Stormwater General Permit for Construction Activity for this project.
2. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMP's) 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.

D. Wetland Mitigation and Monitoring:

1. The Applicant shall mitigate wetland impacts as described in the Revegetation, Monitoring and Maintenance Plan for the Kayser Project (January 2012), (hereafter called the "Mitigation Plan") 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. Unless otherwise approved by Ecology in writing, the Applicant shall begin the mitigation project before, or concurrent with, impacting wetlands or Ecology may require additional compensation to account for additional temporal loss of wetland functions.
4. 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.
5. The Applicant shall ensure that no material is stockpiled within existing wetlands and their buffers at the mitigation site(s) at any time, unless provided for in the Ecology-approved Mitigation Plan.

6. 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.
7. The Applicant shall not use polyacrylamide on exposed or disturbed soil at the mitigation site(s).
8. The Applicant shall add a provision to the Mitigation plan which provides for monitoring and control of noxious weeds in the disturbed areas for a 3-year period after site disturbance. The trigger (percent cover of noxious weeds, for example) at which control of noxious weeds will occur should be specified in the plan.
9. 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.
10. If seeding is used at the wetland mitigation site, the seed mix must contain only native, non-invasive plant species.

E. Timing Requirements

This Order is valid until April 16, 2014 **NWS-2012- 89**, or as extended by Ecology and the Corps of Engineers. A written request to Ecology for extension of this permit must be made if activities extend beyond April 16, 2014.

F. Notification Requirements

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 construction at the project site.
2. The Applicant shall provide written notification to Ecology's Central Regional Office Federal Permit Coordinator in writing 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.

1. The Applicant shall develop and implement a spill prevention and containment plan for this project and shall have spill cleanup material available on site at all times during construction.
2. Work that is out of compliance with the provision of this Order, conditions causing distressed or dying fish, discharges 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 shall take the following actions:

- a. Cease operations at the location of the non-compliance.
 - 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 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.
 - d. Immediately notify Ecology's Regional Spill Response Office and the Washington State Department of Fish & Wildlife the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems.
 - e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
3. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.

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:

- 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 RD 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:

Catherine D. Reed
Department of Ecology
15 West Yakima Avenue, Suite 200
Yakima, WA 98902
509 575-2616
Craj461@ecy.wa.gov

MORE INFORMATION

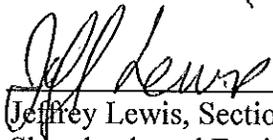
Pollution Control Hearings Board Website

www.eho.wa.gov/Boards_PCHB.aspx

- **Chapter 43.21B RCW - Environmental 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



Jeffrey Lewis, Section Manager
Shorelands and Environmental Assistance Program
Central Regional Office, Department of Ecology
State of Washington