



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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November 19, 2013

Patty Criddle  
City of Redmond, Public Works Construction Division  
City of Redmond MS: 1NPW  
PO Box 97010  
Redmond, WA 98073

RE: Water Quality Certification Order #10336 for U.S. Army Corps of Engineers Public Notice #NWS-2012-701, Peters Creek Stream Enhancements Project, in Redmond, King County, Washington

Dear Ms. Criddle:

On August 22, 2013, City of Redmond 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 Peters Creek Stream Enhancements 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, Section Manager  
Northwest Regional Office  
Shorelands and Environmental Assistance Program

ES:rrp:cja

Enclosure

**By certified mail: 7011 0470 0003 3720 7684**

cc: Suzanne Anderson, U.S. Army Corps of Engineers  
Mark Daniel, The Watershed Company  
Jaime Bails, Washington Department of Fish and Wildlife  
e-cc: Loree' Randall – HQ  
Raman Iyer – NWRO  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)



**IN THE MATTER OF GRANTING A ) ORDER #10336**  
**WATER QUALITY ) Corps Reference #NWS-2012-701**  
**CERTIFICATION TO ) Peters Creek Stream Enhancements Project;**  
**CITY OF REDMOND ) Peters Creek, Redmond, King 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: Patty Criddle  
City of Redmond, Public Works Construction Division  
City of Redmond MS: INPW  
PO Box 97010  
Redmond, WA 98073

On August 22, 2013, City of Redmond 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 September 6, 2013.

The proposal is to excavate approximately 215 cubic yards and place approximately 87 cubic yards of fill in West Fork Peters Creek to construct an in-stream sediment detention facility and associated channel improvements. Work would occur in approximately 190 linear feet of stream.

The project includes:

- Regrading/excavation of an existing in-stream sediment pond
- Installation of a flow bypass system for use during future removal of accumulated sediment
- Reinforcement of an existing weir with boulders
- Placement of a gravel/boulder/cobble mix to create approximately 60 linear feet of engineered roughened channel for improved fish passage.
- Placement of boulders to demark the perimeter and bottom elevation of the sediment collection area for future sediment removal
- Regrading the existing access road
- Removal of non-native invasive species and installation of native trees and shrubs in the riparian buffer.

The project is located at 8500 148<sup>th</sup> Avenue NE, Redmond, King County, Washington, Peters Creek, Section 3, T. 25 N., R. 5E., WRIA 8:

#### **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, 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 meet the 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 City of Redmond 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 160<sup>th</sup> Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #10336 and Corps Reference #NWS-2012-701.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on August 22, 2013. This Order is limited to the construction of an in-stream sediment detention facility and associated channel improvements, and any maintenance of this facility would require separate review and authorization. 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. Native Planting Conditions:**
- B1. Except as modified by this Order, the native planting area is depicted on Sheet 10 of 12 of the Peters Creek Stream Enhancement Project JARPA, received on August 22, 2013.

B2. In addition to conditions in the above-referenced sheet, the following requirements shall be conditions of this Order:

- a. As-Built Report (Year 0): A report documenting the topographic contours and plants installed in the mitigation areas must be prepared when site construction and planting are completed. The report shall include the following:
- i. Vicinity map showing site access.
  - ii. Drawings that clearly identify in plan view the location and square footage of the planted area.
  - iii. The installed planting scheme showing approximate locations of plants and the time of planting.
  - iv. Photographs of planting areas taken from permanent reference points.
  - v. Locations of photopoints, and sampling sites.
  - vi. A description of any changes to the mitigation plan that occurred during construction.
  - vii. Provisions for maintenance and monitoring of plants.

A copy of the as-built report shall be sent to Ecology's Northwest Regional Office, per Condition A2, within 60 days of completing installation of the mitigation measures.

- b. Monitoring: The condition of riparian plantings shall be recorded in years 1, 3, and 5 after the Year 0 report. Monitoring reports should document plant survival and vigor and include representative photos from permanent locations. Copies of all monitoring reports shall be submitted to Ecology per Condition A2 above by December 31 of each year that they are due.
- c. Performance Standards: The project shall meet the following performance standards:
- Survival of plantings after 1st year: 100%; survival throughout all subsequent years: 80%. Percent cover shall achieve 30% cover by Year 3 and 75% cover by Year 5. Native "volunteer" vegetation may be included in determining the percent cover. Percent cover may be substituted for survival after year 3 if individual plants are difficult to locate.
- d. Maintenance: The Applicant is responsible for maintenance and protection of the native vegetation planting area both throughout and after the 5-year monitoring period for riparian plantings. All plants that fail to survive for one (1) year after planting shall be replaced before or at the beginning of the next growing season or until the performance standards have been met.

**C. Water Quality Condition:**

- C1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i).
- C2. The Applicant shall implement in-water construction water quality sampling and monitoring per the *Water Quality Protection and Monitoring Plan, Peters Creek Stream Enhancements*, prepared by The Watershed Company, dated November 2013, or as modified by this Order or revised and approved by Ecology.
- C3. Detection of exceedances: Water quality standards for turbidity in “Salmonid spawning, rearing, and migration” waters are as follows: turbidity shall not exceed 5 NTU over background conditions when the background is 50 NTU or less, or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU. If exceedances of this standard at the point of compliance specified in WAC 173-201A-200(1)(e)(i) is detected through water quality sampling and monitoring, the Applicant shall immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem. After such an event, the Applicant shall assess the efficacy of the site BMPs and update or improve the BMPs used at the work site in an effort to reduce or prevent recurrence of the turbidity exceedance.
- C4. Reporting: If no exceedances are detected, results of water quality sampling, as determined by the Plan, shall be forwarded to Ecology on a monthly basis in accordance to Condition A2.
- C5. Notification of exceedances: Notification of exceedances that are detected through water quality sampling shall be made to Ecology within 24 hours of occurrence. Notification shall be made with reference to Order #10336, Attn: 401/CZM Federal Project Manager, by telephone at (425) 649-7129 or (425) 649-7000, or by fax to (425) 649-7098. The Applicant shall, at a minimum, provide Ecology with the following information:
- i. A description of the nature and cause of exceedance.
  - ii. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance.
  - iii. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
  - iv. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the exceedance, turbidity results and location, photographs, and any other pertinent information.

**D. Conditions for Construction Activities:**

**Upland Conditions:**

- D1. 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.
- D2. Sediment and erosion control measures shall be inspected and maintained prior to and during project implementation.
- D3. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.

**In-Water Conditions:**

- D4. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
- D5. 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.
- D6. 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.
- D7. 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.
- D8. All manmade debris that has been deposited below the Ordinary High Water Line (OHWL) within the construction work area shall be removed and disposed of upland such that it does not enter waters of the state. Concrete rubble, metal debris, and other debris in the construction work corridor that have washed into freshwater areas shall be removed from the project area.
- D9. Excavated material shall not be stockpiled on a temporary or permanent basis below the OHWL.
- D10. Clean Fill Criteria: Applicant shall ensure that fill (soil) placed for the proposed project does not contain toxic materials in toxic amounts.
- D11. All collected silt-laden water shall be pumped to upland areas for discharge, biofiltration, and/or infiltration.

**E. Emergency/Contingency Measures:**

- E1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.
- E2. 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.
- E3. 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.
- E4. 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.

**F. Timing Requirements**

- F1. Work below the Ordinary High Water Line (OHWL) shall not occur from October 1 through June 30 of any year for the protection of fish.
- F2. This Order expires three (3) years from the date of issuance of the Corps permit.

**G. Reporting and Notification Requirement Conditions**

- G1. 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.
- G2. 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-2012-701, Order #10336 can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.
- G3. If the project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction is complete.

**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
<p><b>Department of Ecology</b>                      Attn: Appeals Processing Desk                      300 Desmond Drive SE                      Lacey, WA 98503</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>                      1111 Israel Road SW                      STE 301                      Tumwater, WA 98501</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:

Rebekah Padgett  
Department of Ecology  
Northwest Regional Office  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008  
(425) 649-7129  
[rebekah.padgett@ecy.wa.gov](mailto:rebekah.padgett@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 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](http://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](http://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](http://www.ecy.wa.gov/biblio/wac173201A.html)

## SIGNATURE



Erik Stockdale, Section Manager  
Shorelands and Environmental Assistance Program  
Northwest Regional Office

11.19.2013

November 19, 2013

**ATTACHMENT A**

**CITY OF REDMOND  
PETERS CREEK STREAM ENHANCEMENTS PROJECT  
Water Quality Certification Order #10336**

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

I have read and understand the conditions of Order #10336 Section 401 Water Quality Certification for the City of Redmond Peters Creek Stream Enhancements 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