



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 7011 3500 0003 5810 6004

cc: Steve Manlow, Corps of Engineers  
Andrew Jansky, Flowing Solutions  
Steve West, WDFW  
Jon Wagner, City of Vancouver

e-cc: Ecyrefedpermits  
Lori Ochoa, Ecology – SWRO SEA  
Loree' Randall, Ecology – HQ  
Rebecca Schroeder, Ecology – SWRO SEA  
Deborah Cornett, Ecology –SWRO WQ

**IN THE MATTER OF GRANTING A ) ORDER No. 10396**  
**WATER QUALITY ) Corps Reference No. NWS 2012-0925**  
**CERTIFICATION TO ) West End Tidewater Cove**  
**The City of Vancouver ) Renaissance Trail Repair Project**  
in accordance with 33 U.S.C. 1341 ) Columbia River, Vancouver, Clark County,  
(FWPCA § 401), RCW 90.48.120, RCW ) Washington  
90.48.260, and Chapter 173-201A WAC )

TO: City of Vancouver  
ATTN: Mr. Dan Swensen  
PO Box 1995  
Vancouver, Washington 98668-1995

On September 17, 2012, you submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A revised JARPA was submitted on April 30, 2013, and an amendment to that application was submitted on November 12, 2013. A 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 Chapter 173-225 WAC on December 21, 2012.

The proposed project will construct bank stabilization along 1500 linear feet of shoreline on the northern bank of the Columbia River at the western edge of Tidewater Cove. The purpose of the project is to stabilize the bank where erosion has undermined the existing trail, making it unsafe for use. The work will include: placing 150 logs with attached rootwads, constructing five 30-foot by 25-foot rock and wood barbs; installing 400 vertical anchor piles, excavating 2,800 cubic yards of sediment; placing 4,950 cubic yards of rock fill and boulder ballast; and planting 4,000 woody plants. Concrete from failed sections of the trail will be removed, and once the slope work is complete, the concrete trail will be repaired or replaced within the original footprint where needed. Native shrubs will be planted throughout the slope repair area to provide further stability.

Additionally, planting and slope stabilization previously installed on the east end of the area has been unsuccessful in some places, and the synthetic barrier fabric is exposed and intertwined in existing vegetation. The fabric will be cut away where necessary and staked to the ground, then covered with more stable gravel and cobble. Native vegetation will not be removed.

The project is located along the north bank of the Columbia River between approximately River Mile 109 and 110, near 5421 SE Scenic Drive, Vancouver, Clark County, Washington; SW Quarter Section 31, Township 2 North, Range 2 East, WRIA No. 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 City of Vancouver 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, P.O. 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. **10396** and Corps No. **NWS-2012-0925**.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on September 17, 2012, and as revised in the JARPA received on April 30, 2013, and the amendment received on November 12, 2013. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the referenced submittals 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. 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.
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 the terms of this order.

**B. Water Quality Conditions:**

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 Columbia River from the mouth to river mile 309.3 is classified as "Salmonid Spawning, Rearing, and Migration" and the criteria of that class apply except as specifically modified by this Order.
  - a. Water Quality compliance shall not exceed 5 NTU over background turbidity when the background turbidity is 50 NTU or less. A 10 percent increase in turbidity is allowed when the background turbidity is more than 50 NTU.
  - b. The point of compliance shall not exceed 300 feet downstream of the source.
3. Water Quality Monitoring: The Applicant or their contractor shall monitor for turbidity discharges during any work conducted below the Ordinary High Water Mark (OHWM) of the Columbia River. A turbidimeter is recommended; however, visual gauging and photo documentation is acceptable.
  - a. Parameter to be monitored: Water Quality shall be monitored for turbidity.
  - b. Monitoring Frequency: Water Quality monitoring and recording shall take place a minimum of three times per day during any work conducted below the OHWM.
  - c. Location of Monitoring Points: At a minimum, water quality monitoring shall take place at:

- i. An early warning point 150 feet downstream from the activity;
  - ii. At the 300 foot downstream point of compliance. Visible turbidity at this point of compliance is considered to be an exceedance of the standard.
- d. Equipment: A turbidimeter that has been properly calibrated according to the operator's manual is recommended for monitoring turbidity. If visual monitoring is conducted, a camera must be used to document each monitoring event.
- e. Documenting and Reporting: Results of the water quality monitoring shall be recorded a minimum of three times per day during in-water work. Data sheets (and associated photos for visual monitoring) shall be submitted to Ecology weekly in accordance with conditions A.2, above. (See Attachment B for an example.) At a minimum the monitoring submittals must include:
- i. Date and time of sample;
  - ii. Sample location;
  - iii. Associated photo documentation or turbidity reading;
  - iv. Name of person collecting sample;
  - v. Weather conditions.

#### Detection of Exceedances:

If turbidity exceedances are observed at the early detection point identified above, contingency measures and additional BMPs shall be implemented to prevent exceedances at the point of compliance.

If an exceedance of the turbidity standard is detected through the use of a turbidimeter, an immediate follow-up sample shall be taken to confirm the reading. If using the visual monitoring method; visible turbidity at the point of compliance identified above is considered to be an exceedance of the standard. If an exceedance has occurred, the Applicant or their contractor shall take immediate action to stop, contain, and correct the problem and prevent further water quality exceedances.

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 prevent a recurrence of the exceedance. If an exceedance occurs, the Applicant or their contractor shall follow the protocols and notification procedures outlined below.

5. Notification of Exceedances: Notification of exceedances that are detected through water quality monitoring shall be made to Ecology's Federal Permit Manager **within 24 hours of occurrence**. Notification shall be made per Condition A.2 above. The Applicant shall, at a minimum, provide Ecology with the following information:
  - a. A description of the nature and cause of non-compliance, including the quantity and quality of any unauthorized discharges;
  - b. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance;

- c. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
- d. 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 violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, photographs, and any other pertinent information.

Mitigation and/or additional monitoring may be required if water quality standards are not met.

**C. Timing:**

1. This Order will expire five (5) years from the date of issuance of the Corps permit.
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 (WDFW) for this project.

**D. Notification Conditions:**

1. The Applicant shall provide a copy of the final Corps Permit to Ecology's Southwest Regional Office Federal Permit Manager, in accordance with condition A.2 above, within two (2) weeks of receipt of the permit.
2. 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 in-water work for each construction season.
  - b. Within ten (10) days after the completion of construction for each construction season.
  - c. Immediately following a violation of the state water quality standards or any condition of this Order.
3. If project construction is not completed within thirteen (13) months of issuance of this Order, the Applicant shall submit a written construction status report. Status reports shall be submitted every twelve (12) months thereafter until project construction is complete.

**NOTE:** These notifications shall include the Applicant's name, project name, Order No. **10396**, Corps Reference No. **NWS-2012-0925**, project location, contact name, and contact's phone number.

**E. Construction Conditions:**

1. The Applicant shall obtain coverage and comply with the conditions of the current National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit issued 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 (BMPs) suitable to prevent exceedances of state water quality

standards shall be in place before starting work and shall be maintained throughout construction.

3. 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 their 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 corridors.
4. The Applicant shall establish a separate contained area for washing down vehicles and equipment that does not have any possibility of draining to surface waters and wetlands. No wash water containing sediments, oils, grease, or other hazardous materials resulting from wash down of the work area, tools, and equipment, including concrete delivery trucks or other equipment used for concrete work, shall be discharged into state waters or storm drains.
5. Machinery and equipment used during construction shall be serviced, fueled, and maintained in a confined upland area in order to prevent containment to waters of the state. Fueling areas shall be located a minimum of 100 feet from waters of the state, including wetlands, and shall be provided with adequate spill containment.
6. Equipment used for this project shall be free of external petroleum-based products while operating near waters of the state.
7. All equipment used below the OHWM shall utilize bio-degradable hydraulic fluid and be checked daily for drips or leaks.
8. Access to the project site shall be from the public right-of-way, and primary material supply and access shall occur from the top of the bank.
9. Equipment operation on the beach shall be kept to a minimum, with limited access areas.
10. Project activities shall be conducted in the dry during low water to minimize impacts to water quality.
11. Excavated material from the project area shall not be stockpiled within the OHWM of the Columbia River or used to create a berm on the beach.
12. Material to be used for the bank stabilization shall be placed in a controlled manner to minimize turbidity.
13. Clean Fill Criteria: Applicant shall ensure that fill placed for the proposed project does not contain toxic materials in toxic amounts.
14. A full-depth, bottom-weighted sediment curtain with a floating boom shall be deployed and maintained in a functional manner to contain suspended sediments at the work site during all work within the OHWM.
15. The curtain shall be inspected daily. In the event that the sediment curtain fails, project activity shall cease until the curtain is repaired or a new curtain is installed.
16. The Applicant shall have a boat available and on site during in-water activities to retrieve any debris entering the water.

**G. Emergency/Contingency Measures:**

1. The Applicant shall develop and implement a Spill Prevention, Containment, and Control (SPCC) 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, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these 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 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**

<b>Street Addresses</b>	<b>Mailing Addresses</b>
<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  
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 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>

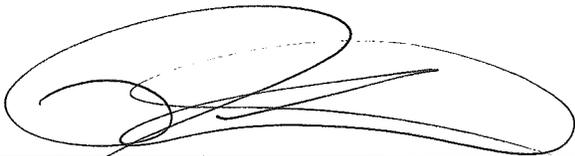
Chapter 173-204 WAC – Sediment Management Standards

[www.ecy.wa.gov/biblio/wac173204.html](http://www.ecy.wa.gov/biblio/wac173204.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)

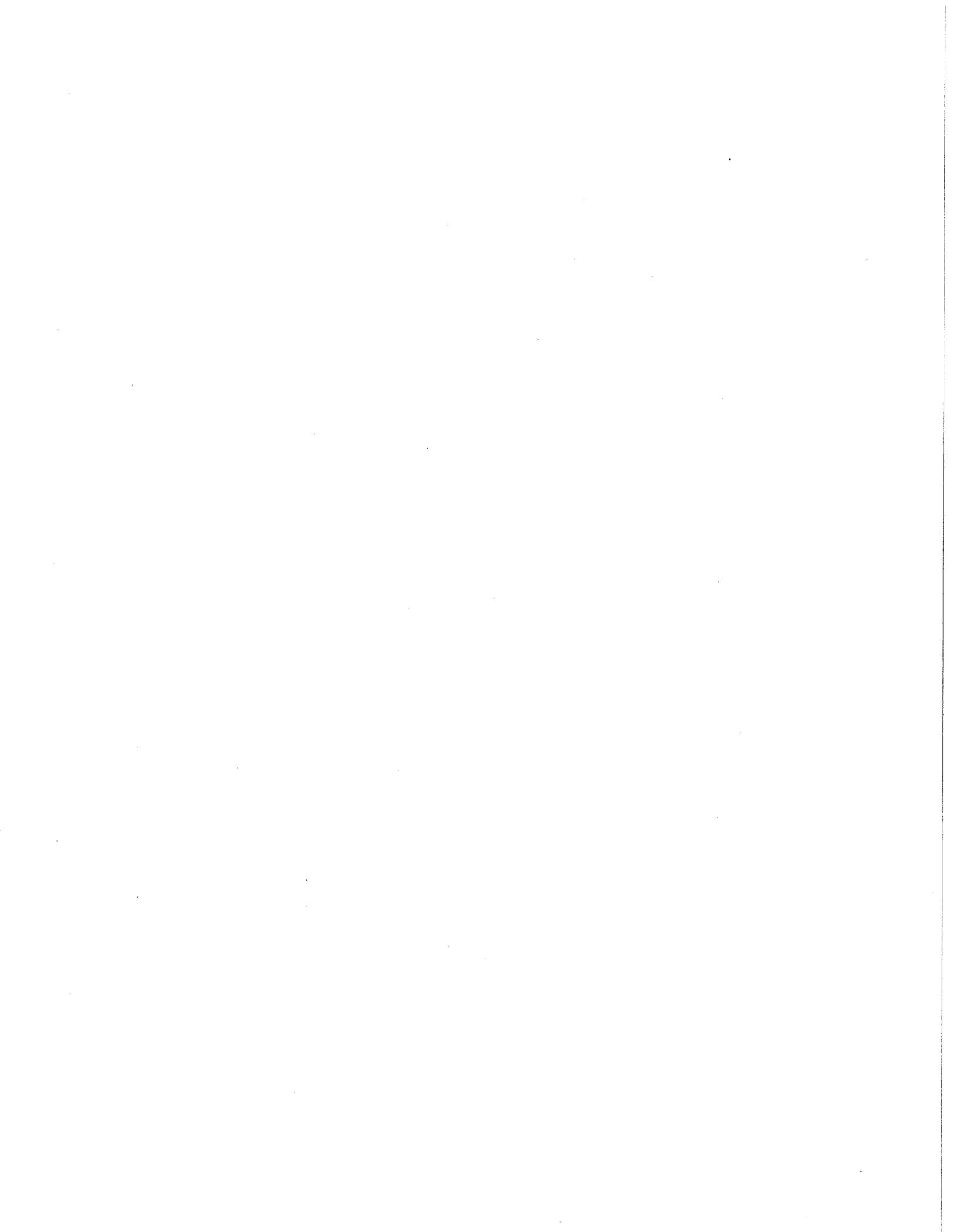
**SIGNATURE**



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

Date

12/11/13



## Attachment A

West End Tidewater Cove - Renaissance Trail Repair Project  
Corps of Engineers Reference No. **NWS-2012-0925**  
Water Quality Certification Order No. **10396**  
Statement of Understanding  
Water Quality Certification Conditions

I, \_\_\_\_\_, state that I will be involved as an agent or contractor for the City of Vancouver in the construction of the West End Tidewater Cove - Renaissance Trail Repair Project located along the north bank of the Columbia River between approximately River Mile 109 and 110, near 5421 SE Scenic Drive, 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 No. **10396** 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





