



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

June 2, 2015

Upper Valley M.E.N.D.
Attn: Mr. Chuck Reppas
PO Box 772
Leavenworth, WA 98826

RE: Water Quality Certification Order No. 11420 for Corps Public Notice NWS-2014-903

Dear Mr. Reppas:

On September 29, 2014, Upper Valley M.E.N.D. "Meeting Each Need with Dignity" submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification.

The Meadowlark project by Upper Valley M.E.N.D. is proposing to trench within a wetland to locate drainage tiles for future restoration of the wetland as mitigation for unavoidable impacts associated with a multi-phased planned residential development, which will be situated in the City of Leavenworth off of Titus Road and south of Ski Blick Road, in Chelan County, Washington. The project is situated in Section 1, Township 24 North, Range 17 East, Willamette Meridian.

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 May 6, 2015.

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 Andrea Jedel at (509) 454-4260. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Gary Graff, PWS
Regional Section Manager
Shorelands and Environmental Assistance Program

Enclosure

By certified mail: 7010 0290 0000 7127 4451

ec: Tim Erkel, U.S. Army Corps of Engineers (w/ enclosures)
ecyrefedpermits@ecy.wa.gov – Ecology HQ
Nathan Pate, City of Leavenworth
Ryan Walker, Grette Associates, LLC
Andrea Jedel – Ecology Central Regional Federal Permit Coordinator





IN THE MATTER OF GRANTING A) ORDER # 11420
WATER QUALITY) Corps Reference No. NWS-2014-903 (NWP #6)
CERTIFICATION TO) Wetland exploration, side cast and backfill to
Upper Valley M.E.N.D.) provide information on the existence and location
in accordance with 33 U.S.C. 1341) of drain tiles for the potential enhancement of the
(FWPCA § 401), RCW 90.48.120, RCW) wetland as mitigation for Upper Valley M.E.N.D.
90.48.260 and Chapter 173-201A WAC) housing development in the City of Leavenworth,
) located in Chelan County, Washington.
)

TO: Upper Valley M.E.N.D.
Mr. Chuck Reppas
P.O. Box 772
347 Division Street
Leavenworth, WA 98826

On September 29, 2014 Upper Valley M.E.N.D. "Meeting Each Need with Dignity" 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 Chapter 173-225 WAC on May 6, 2015.

The Meadowlark project by Upper Valley M.E.N.D. is proposing to trench within a wetland to locate drainage tiles for future restoration of the wetland as mitigation for unavoidable impacts associated with a multi-phased planned residential development, which will be situated in the City of Leavenworth off of Titus Road and south of Ski Blick Road, in Chelan County, Washington. The project is situated in Section 1, Township 24 North, Range 17 East, Willamette Meridian.

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 Upper Valley M.E.N.D, and its agents, assignees and contractors.
2. All submittals required by this Order shall be sent by mail and electronically to Ecology's Central Regional Office, Attn: Andrea Jedel, Federal Permit Coordinator, SEA Program, 15 W Yakima Avenue, Suite 200, Yakima, Washington 98902. The submittals shall be identified with Order No. 11420 and include the Applicant's name, project name, project location, the project contact and the contact's phone number.
3. All notifications listed below shall be made via phone to Andrea Jedel, phone (509) 454-4260 or e-mail at ajed461@ecy.wa.gov. These notifications shall be identified with Order No. 11420 and include the Applicant's name, the project contact, and the contact's phone number.
 - a. At least fourteen (14) days prior to the start of construction.
 - b. Within at least seven (7) days after completion of construction.
4. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on September 26, 2014 unless otherwise authorized by Ecology.

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. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
7. 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.
8. 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.
9. 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.
10. 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. Furthermore, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified or if additional conditions are necessary to further protect water quality.
11. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48), or the federal Clean Water Act, Ecology will issue an administrative order to incorporate any such changes or amendments applicable to this project.
12. 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.

13. 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.
14. 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.
15. This Order will automatically transfer to a new owner or operator if:
 - a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
 - b. A copy of this Order is provided to the new owner or operator; and
 - c. If Ecology does not notify the new Applicant that this Order must be modified to complete the transfer.

B. Construction Conditions:

1. 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 and staked prior to construction. Clearing limits, travel corridors, stockpile sites, staging areas, and refueling areas shall be clearly marked. Critical 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.
3. Routine inspections should be conducted to verify that structural controls are maintained and operating effectively throughout construction, and that soil structure and vegetation are maintained within protection areas. If controls are not adequately protecting designated areas, adjust existing or implement additional protection measures.
4. 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.

C. Timing Requirements:

1. This Order is valid until though March 18, 2018.

D. Notification Requirements:

1. 1. The Applicant shall provide written notification (email or mail) to Ecology's Central Regional Office Federal Permit Coordinator in writing at least 14 days prior to the start of construction, and within 7 days after completion of construction at the project site. Notification should be made using all the information required in Condition A2.

E. Emergency/Contingency Measures:

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. Any work that is out of compliance with the provisions of this Order, 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 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 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 24-Hour Spill Response Team at 1-800-258-5990, the National Response Center at 1-800-424-8802 **and** within 24 hours of spills or other events Ecology's 401 Federal Permit Coordinator at (509) 454-4260.
 - e. 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.

3. 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.

4. 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. No refueling of equipment shall occur over, or within 100 feet of creeks, rivers, lakes, or wetlands.

5. 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 using the above phone numbers.

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

Order #11420, Corps No.NWS-2014-815
Upper Valley M.E.N.D.
June 2, 2015
Page 7 of 8

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:

Andrea Jedel
Department of Ecology
Central Region Office
15 W Yakima Avenue
Suite 200
Yakima, WA 98902

(509) 454-4260
andrea.jedel@ecy.wa.gov

MORE INFORMATION

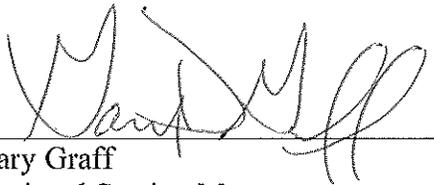
- **Pollution Control Hearings Board Website**
www.eho.wa.gov/Boards_PCHB.aspx
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **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>

Order #11420, Corps No.NWS-2014-815
Upper Valley M.E.N.D.
June 2, 2015
Page 8 of 8

- **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

DATED this day of 2 June, 2015 at Yakima, Washington.



Gary Graff
Regional Section Manager
Shorelands & Environmental Assistance Program
Central Regional Office – Ecology
State of Washington

Attachment A
Statement of Understanding
Water Quality Certification Conditions

MEND Meadowlark Planned Development
Upper Valley M.E.N.D.
Water Quality Certification Order No. **11420**
and
Corps Reference No. **NWS-2014-903**

I, _____, state that I will be involved as an agent or contractor for Upper Valley M.E.N.D in the drain tile exploration in the Aldea wetland located in the City of Leavenworth off of Titus Road and south of Ski Blick Road, in Chelan County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. 11420 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