



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

September 7, 2016

City of Cosmopolis  
ATTN: Mr. Darrin Raines  
PO Box 2007  
Cosmopolis, WA 98537

RE: Water Quality Certification Order No. **13742** for Corps Public Notice Reference No. NWS-2015-290 for the Mill Creek Dam Improvements Project, Mill Creek, Grays Harbor County, Washington.

Dear Mr. Raines:

On September 9, 2015, the City of Cosmopolis 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 Mill Creek Dam Improvements Project. The U.S. Army Corps of Engineers issued a joint public notice on September 22, 2015, for the proposed 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 Lori Kingsbury 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 91 7199 9991 7036 8381 6523



cc: Darren Habel, U.S. Army Corps of Engineers  
Lisa Danielski, HDR Engineering  
Michelle Gordon  
Patricia Gordon  
L.H. Palmer  
Nancy Nix  
Kathy Swanson  
Allen Smith  
Mary Kernath  
Brenda Blece  
Helen King  
Frank Gordon  
Frank Lersh  
J. Powell

e-cc: [ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)  
Amy Spoon, WDFW  
Lori Kingsbury, Ecology, SWRO SEA  
Loree' Randall, Ecology, HQ SEA  
Rick Mraz, Ecology, SWRO SEA  
Chris Montague-Breakwell, Ecology, SWRO WQ

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 13742</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2015-290</b>
<b>CERTIFICATION TO</b>	)	Mill Creek Park Dam Improvements Project,
<b>The City of Cosmopolis</b>	)	Mill Creek, Grays Harbor County, Washington
in accordance with 33 U.S.C. 1341	)	
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260, and Chapter 173-201A WAC	)	

TO: City of Cosmopolis  
ATTN: Mr. Darrin Raines  
PO Box 2007  
Cosmopolis, WA 98537

On September 9, 2015, the City of Cosmopolis submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting 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 Chapter 173-225 WAC on September 22, 2015.

The project proposes to replace a pre-existing dam that was breached during a storm in 2008 with a concrete gravity dam of similar structure. The project consists of the following main elements:

- Replace the breached dam with a mass-concrete gravity dam of like structure;
- Construct a new fish passage facility around the dam structure;
- Restore the impoundment pond area by re-grading and re-vegetating with native wetland vegetation; and,
- Replace a failed footbridge with a new foot bridge.

The overall purpose of the proposed project it to reduce flood hazards in the Mill Creek Watershed, re-establish fish passage in Mill Creek, and provide recreational opportunities for the public at the Mill Creek Park.

The replacement concrete dam will be founded on and anchored to rock with a rock abutment on the left side of the dam. The right side of the dam will tie into the fish passage structure constructed in the existing right abutment. The dam will have two upstream gated outlet structures at the base to pass instream winter flows and provide winter fish passage. The dam will also have a two-foot gated pipe to facilitate the transition from the recreation pool to run-of-river operations and vice versa. An ungated bypass control structure will be provided on the right side of the dam.

The fish passage structure would be constructed immediately to the right of the bypass control structure and consists of three major components: the fish-way entrance at the downstream end of the project, the fish ladder, and the fish-way exit upstream. During full pool operations the combination fish ladder, which consists of a conventional fish ladder and nature-like fish-way

will provide fish passage. Concrete cross-vane weirs will be installed in the stream channel downstream of the dam to provide fish passage upstream during low flow periods.

The impoundment area will be managed for recreational impoundment from May through September. From October through April, flows will be released through the slide gates, converting the upstream pond to a river channel. This will enable the use of the available reservoir area to provide flood flow attenuation during the winter months.

The project will permanently impact approximately 0.07 acres of Category III and IV wetlands. The project will also temporarily impact 2.19 acres of Category III & IV wetlands. Wetlands that are temporarily impacted will be restored to pre-construction contours and will be replanted with native wetland vegetation. Mitigation to compensate for permanent wetland impacts will be in the form of enhancement to 0.3 acres of onsite wetlands. Additionally, the project will create a new fish passage facility and enhance 0.36 acres of wetland buffers onsite by removing invasive species and providing additional plantings.

The project is located within Mill Creek at Mill Creek Park, an approximately 26-acre city-owned parcel that is located just west of the intersection of C Street and 5<sup>th</sup> Street in Cosmopolis, Grays Harbor County, Washington; NW Quarter of Section 23, Township 17 North, Range 9 West; WRIA 22, Lower Chehalis Watershed.

#### **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 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 Cosmopolis 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, PO Box 47775, Olympia, WA 98504-7775 or by e-mail (preferred) to [Lori.kingsbury@ecy.wa.gov](mailto:Lori.kingsbury@ecy.wa.gov). Any submittals shall reference Order No. **13742** and Corps Reference No. **NWS-2015-290**.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on September 9, 2015. The Applicant will be out of compliance with this Order and must submit an updated JARPA if the information contained in the JARPA or the BMPs 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 whether 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 permit for this project.
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. 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.
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 at the project.

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 its terms.

**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) and WAC 173-201A-200(1)(g).
2. Water Quality Sampling and Monitoring: The Applicant shall conduct water quality monitoring as described in the approved *Water Quality Monitoring Plan(WQMP)-FINAL-Mill Creek Park Dam Improvements Project*, Prepared by Chad Wiseman, HDR; Lisa Danielski, HDR; dated August 25, 2016.
3. Ecology must approve, in writing, any changes to the approved Final WQMP prior to implementing the changes.
4. Reporting: Results of the water quality monitoring shall be documented in the proposed data sheet and submitted weekly to Ecology's Federal Permit Manager during the identified in-water work activities per Condition A.2 of this Order.
5. Water Quality Exceedances: If water quality exceedances are detected 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 immediate action to stop, contain, and correct the problem and prevent further water quality exceedances. If an exceedance occurs, the Applicant shall follow the notification procedures outlined below.
6. 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 No. 13742**, Attn: Federal Permit Manager, by telephone at (360) 407-6926, or by e-mail at [lori.kingsbury@ecy.wa.gov](mailto:lori.kingsbury@ecy.wa.gov). The Applicant shall, at a minimum, provide Ecology with the following information:
  - a. A description of the nature, extent, and cause of the exceedance.
  - b. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the project 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 exceedance, water quality monitoring results and location, photographs, and any other pertinent information.

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

**C. Timing:**

1. This Order shall remain in effect for a period of five (5) years from the date of issuance. Continuing this project beyond the five-year term of this Order will require the Applicant to apply for an extension prior to expiration of this Order.
2. All in-water work shall be completed within the following work windows:
  - a. U.S. Army Corps of Engineers: June 1 through October 31
  - b. Washington Department of Fish and Wildlife: June 1 through September 30

Should any work need to be conducted outside of the above work windows, the Applicant shall submit a request for an extended work window to the agencies for approval.

**D. Notification Requirements:**

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 weeks of receipt of the permit.
2. Written notification (e-mail is preferred) shall be made to Ecology's Southwest Regional Office Federal Permit Manager for the following activities:
  - a. At least ten (10) days prior to the start of construction for each construction season.
  - b. Within ten (10) days after the completion of project construction.
  - c. These notifications shall be made as outlined in Condition A.2 above.
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.

**E. Wetland Conditions**

1. The Applicant shall mitigate wetland impacts as described in the *Wetland Mitigation Plan, Mill Creek Park Dam Improvements Project*, USACE reference Number: NWS-2015-290, Cosmopolis, WA prepared by HDR, Inc., revised August 30, 2016, or as modified by this Order or revised and approved by Ecology.
2. The Applicant shall submit any changes to the Mitigation Plan in writing to Ecology (per condition A.2 of this Order) for review and approval before work begins.
3. The Applicant shall get review and written approval from Ecology of any plan changes required if problems arise during construction and planting of the wetland mitigation site.
4. The Applicant shall have a wetland professional at the wetland mitigation site to supervise during construction and planting.

Implementation

5. Unless otherwise approved by Ecology in writing, the Applicant shall begin the compensatory mitigation project before, or concurrent with, impacting the wetlands or Ecology may require additional compensation to account for additional temporal loss of wetland functions.
6. If the wetland mitigation site cannot be completed within 13 months of the date of this Order, the Applicant shall inform Ecology in writing of the status of:
  - a. The Mill Creek Park Dam Improvements Project;
  - b. The On-site Wetland Mitigation.With the:
  - c. Reason for the delay;
  - d. Expected date of completion.The Applicant shall submit an updated written notification every 12 months thereafter until the Mill Creek Park Dam Improvements Project and the on-site wetland mitigation are complete.
7. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of the wetlands and their buffers at the wetland mitigation site and above the 100-year floodplain.
8. The Applicant shall ensure that no material is stockpiled within existing wetlands and their buffers at the wetland mitigation site at any time unless provided for in the Ecology-approved Mitigation Plan.
9. The Applicant shall ensure that no construction debris is deposited within existing wetlands and their buffers at the wetland mitigation site at any time unless provided for in the Ecology-approved Mitigation Plan.
10. The Applicant shall no use polyacrylamide at the mitigation site.
11. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site.
12. Aquatic herbicides can be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category. Applicators are required to be permitted under Ecology's Noxious Weed Control Permit. Applicators shall comply with all conditions of the Noxious Weed Control Permit.
13. 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.

14. If seeding is used as a best management practice for temporary erosion control, it must be a seed mix consisting of native, annual, non-invasive plant species
15. The Applicant shall not use solid or mesh plant protector tubes at the mitigation site unless otherwise approved by Ecology.
16. The Applicant shall place signs at the mitigation area's boundaries, including buffers, every 100 feet to mark the area as a wetland mitigation site.
17. Upon completion of site-grading and prior to planting, the Applicant shall submit to Ecology written confirmation, from a surveyor or project engineer, that the finished grades are consistent with the approved Mitigation Plan or subsequent Ecology-approved plan changes. The confirmation should indicate how final elevations were confirmed. The written confirmation can be in the form of an email or signed letter.
18. After completing construction and planting of the mitigation sites(s), the Applicant shall submit to Ecology (per condition A.2 of this Order) an as-built report, including plan sheets, documenting site conditions at Year Zero. The as-built report must:
  - a. Be submitted within 90 days of completing construction and planting. Include one hard copy and one electronic file.
  - b. Include the information listed in Attachment B (Information Required for As-built Reports).
  - c. Include documentation of the recorded legal mechanism required in Condition E.19.
19. Within 90 days of completing construction and planting of the on-site wetland mitigation area, the Applicant shall record a restrictive covenant, a copy of this Order, and the site map from the final wetland Mitigation Plan or as-built indicating the location of wetlands and their buffers. These documents must be recorded with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.

Monitoring and Maintenance

20. The Applicant shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards. If an irrigation system is installed, it shall be removed by the end of year three unless permission is received in writing from Ecology to allow the system to remain for a longer period.
21. The Applicant shall monitor the mitigation site for a minimum of five (5) years. The Applicant shall use the monitoring methods described on page(s) 29 and 30 of the Mitigation Plan.
22. The Applicant shall submit to Ecology (per condition A.2 of this Order) monitoring reports documenting mitigation site conditions for years 1, 2, 3, and 5. The monitoring reports must:
  - a) Be submitted by December 31 of each monitoring year. Include one hard copy and one electronic file.

- b) Include the information listed in Attachment C (Information Required for Monitoring Reports).
- 23. The Applicant shall implement the Mitigation Plan's contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.
- 24. Prior to implementing contingency measures not specified in the Mitigation Plan, the Applicant shall consult with and obtain written approval from Ecology for the changes.
- 25. When necessary to meet the performance standards, the Applicant shall replace dead or dying plants with the same species, or an appropriate native plant alternative, during the first available planting season and note species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.
- 26. At the end of the monitoring period, the Applicant shall use the October 2014 version of the "Washington State Wetlands Rating System for Western Washington" to rate all wetlands (except those that have been preserved) and include the information in the monitoring report.
- 27. If the Applicant has not met all conditions, including performance standards for the mitigation site at the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both.
- 28. Until the Applicant has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Applicant's obligation under Condition F.1 of this Order to mitigate for wetland impacts is not met.

**F. Construction Conditions:**

General Construction

- 1. The Applicant shall obtain 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 clearing, filling, or grading work and shall be maintained throughout construction.
- 3. The project 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 clearing limits corridors and stockpile areas.
- 4. Appropriate BMPs shall be implemented to minimize track-out during construction.

5. Staging and stockpile areas shall be located a minimum of 50 feet from waters of the state, including wetlands. If a staging and/or stockpile area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation (with additional BMPs) and obtain written approval from the Ecology Federal Permit Manager before placing the staging/stockpile location within the setback area.
6. Clean Fill Criteria: Applicant shall ensure that any fill (soil) placed for the proposed project does not contain toxic materials in toxic amounts.
7. The Applicant shall have a boat available and on site during in-water activities to immediately retrieve any debris entering the water.
8. All construction debris, waste material, excess sediment, rock, concrete, and other solid waste, shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
9. No petroleum products, fresh concrete, grout, lime, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
10. The sheet pile retaining wall along the right bank of the creek shall be installed using vibratory methods.

Equipment & Maintenance

11. All equipment operating within an over waters of the state shall utilize vegetable-based biodegradable hydraulic fluid.
12. All construction equipment shall be clean and inspected daily before use to ensure that the equipment is free from external petroleum products and has no fluid leaks.
13. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to its working below the OHWM.
14. 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/or 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.
15. Machinery and equipment used during project construction shall be serviced, fueled, and maintained in a confined upland area in order to prevent entry to waters of the state. Fueling areas shall be located a minimum of 50 feet, and where practical, 100 feet, from waters of the state, including wetlands, and shall be provided with adequate spill containment.
16. Wash-water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working area shall not be discharged into state waters. The Applicant shall establish a separate, contained area for washing down vehicles and equipment that does not have any possibility of draining to waters of the state.

Temporary Diversion Structure and Dewatering

17. All work within the OHWM of the creek will occur in isolation behind a temporary coffer dam. The temporary cofferdam used to divert water around the work area shall be in place prior to initiation of any work within the wetted perimeter of the work area.
18. The temporary diversion shall be of sufficient size and height, constructed of non-erosive materials, and installed to be able to divert the entire flow around the isolated work area with no chance of water overtopping the structure for the duration of the project.
19. The diversion system shall be designed and operated so as not to cause scour or erosion in the channel or on the bank of the waterbody in which the work is being conducted.
20. Temporary sediment traps and intake pumps used in the diversion structure shall be cleared of debris and sediment throughout project operations to maintain the bypass flow. Accumulated sediment and debris shall be removed to uplands with no possibility of re-entry into surface waters.
21. Prior to returning water flow to the work area, all bank protection measures shall be in place.
22. Re-introduction of water into the isolated work area shall be done gradually, and at a rate not higher than the normal flow, in order to minimize the mobilization of sediments and fines.
23. Upon completion of the project, all material used for the temporary diversion shall be removed from the site.
24. Turbid dewatering water shall not be discharged directly into waters of the state. Turbid water shall be pumped to an upland area to allow the turbid water to settle. The discharge from the upland areas shall meet water quality criteria at the point of discharge into surface waters.
25. Dewatering water that is not turbid may be discharged directly to surface waters and/or wetland provided that: a) waste water containing raw concrete or other harmful material has not been in contact with the water to be discharged, and b) the water will meet **all of the water quality standards at the point of discharge.**
26. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, along the banks, or in the vegetated areas.

Concrete Work

27. If cast in place, wet concrete/grout shall be prevented from entering waters of the state. Uncured concrete and concrete by-products shall be completely sealed off and totally contained using sealed forms or other leak-proof containment systems.
28. Spill protection measures shall be in place prior to any concrete delivery over and/or near waters of the state.
29. Concrete delivery systems shall be inspected daily to prevent any discharges of concrete and/or slurry water into waters of the state.

30. All concrete shall be poured in the dry, or within confined waters not being dewatered, and shall be completely cured prior to coming into contact with waters of the state.
31. Concrete process water shall not enter waters of the state. Any concrete process/contact water discharged from a confined area shall be routed to a contained area to be treated and disposed of appropriately with no possible entry to waters of the state.
32. All concrete, cement, and/or grout must be completely cured prior to any contact with surface waters.

**G. Emergency/Contingency Measures:**

1. The Applicant shall develop and implement a Spill Prevention Control and Countermeasures (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 or onto land with a potential for entry into state waters, is prohibited. If such work, conditions, or discharges 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 24-hour Spill Response Team at 360-407-6300 **and** within 24-hours of the event, notify Ecology's Federal Permit Manager at 360-407-6926.
  - f. Submit a detailed written report to Ecology's Federal Permit Manager within five (5) days of the event 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. 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 Applicant or its contractor finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the Applicant or its contractor shall immediately notify Ecology using the phone numbers listed above.

#### **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**

<b>Street Addresses</b>	<b>Mailing Addresses</b>
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Rd SW, Suite 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

#### **CONTACT INFORMATION**

Please direct all questions about this Order to:

Lori Kingsbury, Federal Permit Manager  
Department of Ecology  
Southwest Regional Office  
P.O. Box 47775  
Lacey, WA 98504-7775  
[Lori.kingsbury@ecy.wa.gov](mailto:Lori.kingsbury@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 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>

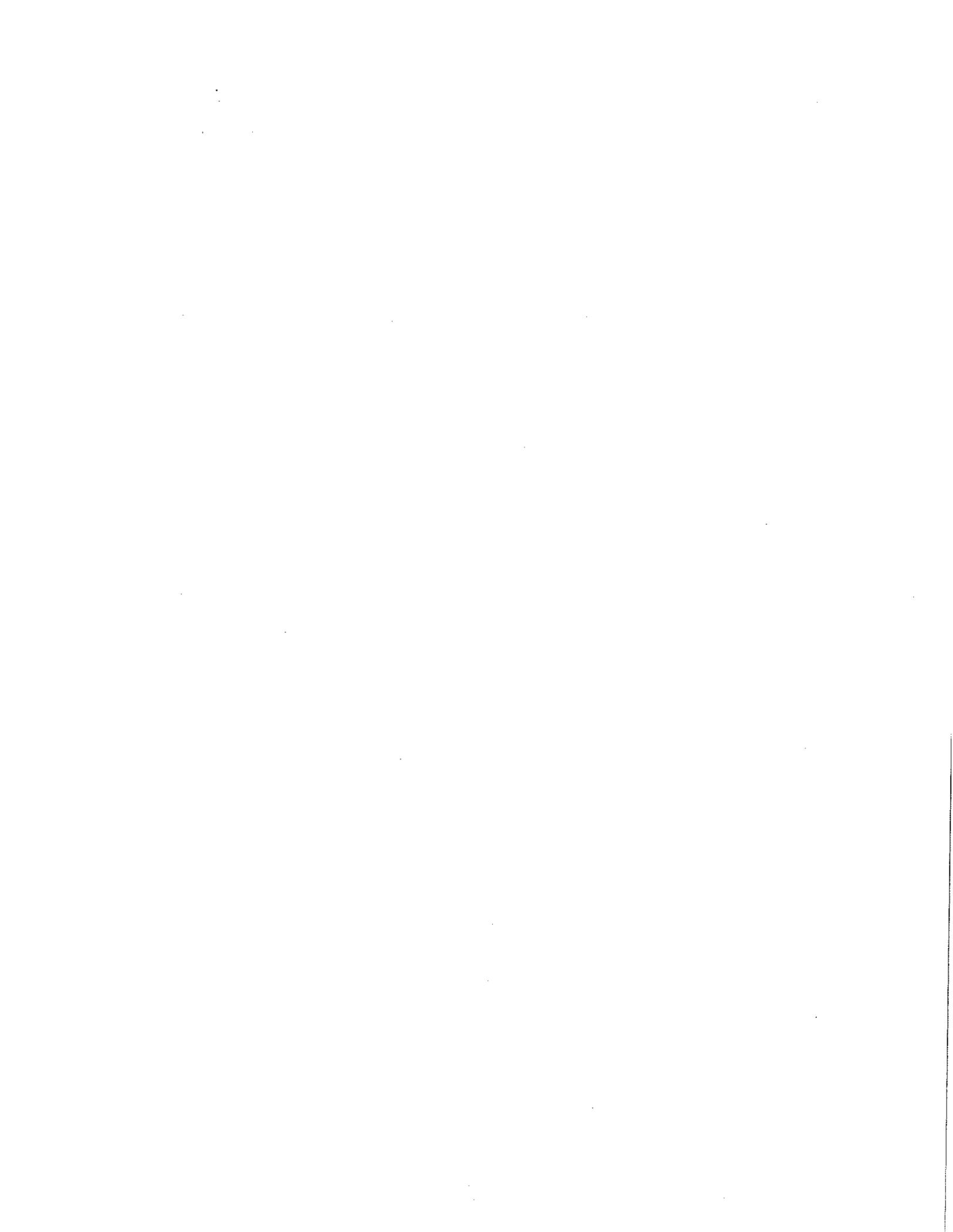
**SIGNATURE**



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

Date

9/7/2016



**Attachment A**

City of Cosmopolis  
Mill Creek Park Dam Improvements Project  
Order No. 13742  
And  
Corps Reference No. NWS-2015-290  
Statement of Understanding  
Water Quality Certification Conditions

I, \_\_\_\_\_, state that I will be involved as an agent or contractor for the City of Cosmopolis in the site preparation and/or construction of the Mill Creek Park Dam Improvements Project located within Mill Creek at Mill Creek Park, Cosmopolis, Grays Harbor 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. 13742 and the applicable permits and approvals referenced therein that pertain to the project-related work for which I am responsible.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Company



**Attachment B:**  
**Information Required for As-built Reports**

Mill Creek Park Dam Improvements Project  
Water Quality Certification Order No. 13742  
And  
Corps Reference No. NWS-2015-290

Ecology requires the following information for as-built reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

**Background Information**

- 1) Project name.
- 2) Ecology Order number and the Corps reference number.
- 3) Name and contact information of the person preparing the as-built report. Also, if different from the person preparing the report, include the names of:
  - a) The applicant
  - b) The landowner
  - c) Wetland professional on site during construction of the mitigation site(s).
- 4) Date the report was produced.

**Mitigation Project Information**

- 5) Brief description of the final mitigation project with any changes from the approved plan made during construction. Include:
  - a) **Actual** acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
  - b) Important dates, including:
    - i. Start of project construction.
    - ii. When work on the mitigation site began and ended.
    - iii. When different activities such as grading, removal of invasive plants, installing plants, and installing habitat features began and ended.
- 6) Description of any problems encountered and solutions implemented (with reasons for changes) during construction of the mitigation site(s).
- 7) List of any follow-up actions needed, with a schedule.
- 8) Vicinity map showing the geographic location of the site(s) with landmarks.
- 9) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
  - a) Boundary of the site(s).
  - b) Topography (with a description of how elevations were determined).
  - c) Installed planting scheme (quantities, densities, sizes, and approximate locations of plants, as well as the source(s) of plant material).
  - d) Location of habitat features.
  - e) Location of permanent photo stations and any other photos taken.Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions after the site work is completed.
- 10) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction from which each photo was taken. Photo pans are recommended.
- 11) A copy of any deed notifications, conservation easements, or other approved site protection mechanism.



**Attachment C**  
**Information Required for Monitoring Reports**

Mill Creek Park Dam Improvements Project

Ecology Order No. 13742

And

Corps Reference No. NWS-2015-290

Ecology requires the following information for monitoring reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

**Background Information**

- 1) Project name.
- 2) Ecology Order number and the Corps reference number.
- 3) Name and contact information of the person preparing the monitoring report. Also, if different from the person preparing the report, include the names of:
  - a) The applicant
  - b) The landowner
  - c) The party responsible for the monitoring activities.
- 4) Dates the monitoring data were collected.
- 5) Date the report was produced.

**Mitigation Project Information**

- 6) Brief description of the mitigation project, including acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
- 7) Description of the monitoring approach and methods. For each performance standard being measured provide the following information:
  - a) Description of the sampling technique (e.g., monitoring point for soil or hydrology, line or point intercept method, ocular estimates in individually placed plots). If you are using a standardized technique, provide a reference for that method.
  - b) Size and shape of plots or transects.
  - c) Number of sampling locations and how you determined the number of sampling locations to use.
  - d) Percent of the mitigation area being sampled.
  - e) Locations of sampling (provide a map showing the locations), how you determined where to place the sampling locations (e.g., simple random sample), and whether they are permanent or temporary.
  - f) Schedule for sampling (how often and when).
  - g) Description of how the data was evaluated and analyzed.
- 8) Summary table(s) comparing performance standards with monitoring results and whether each standard has been met.

- 9) Discussion of how the monitoring data were used to determine whether the site(s) is meeting performance standards.
- 10) Goals and objectives and a discussion of whether the project is progressing toward achieving them.
- 11) Summary, including dates, of management actions implemented at the site(s), for example, maintenance and corrective actions.
- 12) Summary of any difficulties or significant events that occurred on the site that may affect the success of the project.
- 13) Specific recommendations for additional maintenance or corrective actions with a timetable.
- 14) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction the camera is facing. Photo pans are recommended.
- 15) Vicinity map showing the geographic location of the site(s) with landmarks.
- 16) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
  - a) Boundary of the site(s).
  - b) Location of permanent photo stations and any other photos taken.
  - c) Data sampling locations, such as points, plots, or transects.
  - d) Approximate locations of any replanted vegetation.
  - e) Changes to site conditions since the last report, such as areas of regrading, a shift in the location of Cowardin classes or habitat features, or a change in water regime.Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions during the most recent monitoring year.