



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

March 31, 2007

**REGISTERED MAIL**  
**RB 252 944 880 US**

Mount Rainier National Park  
National Park Service  
ATTN: Pat Iolavera  
55210 238<sup>th</sup> Avenue East  
Ashford, WA 98304

RE: Water Quality Certification Order No. 4211 for Corps Nationwide Permit 14 to install two culverts, place rock at culvert invert and outflow, and excavate a twenty foot-wide channel in Kautz Creek, Mount Rainier National Park, located in Pierce County, Washington.

Dear Ms. Iolavera:

On March 20, 2007, Mount Rainier National Park 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 to conduct work in Kautz Creek in response to a debris flow that blocked the flow of water in the previously existing channel and redirected the creek through the forest and across SR 706. The proposed project involves the installation of two 12-foot diameter culverts, placement of rock at the invert and outflow to protect the culverts, and excavation of a 20 foot-wide channel to help ensure creek flows stay within the culverts. The U.S. Army Corps of Engineers issued a Nationwide Permit 14 on March 21, 2007, 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.

This letter also serves as the State response to the Corps of Engineers' March 21, 2007 Nationwide Permit 14.



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,

Handwritten signature of Paula Ehlers in cursive script.

Perry J Lund  
Unit Manager  
Southwest Regional Office  
Shorelands and Environmental Assistance Program

PJL:LO:dn  
Enclosure

cc: Ron Wilcox, U S. Army Corps of Engineers

e-cc: Lori Ochoa – Ecology, SWRO SEA  
Penny Keys – Ecology, HQ SEA  
Loree' Randall – Ecology, HQ SEA  
Brad Murphy – Ecology SWRO SEA  
Deborah Cornett – Ecology SWRO WQ

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 4211</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2007-353-SO</b>
<b>CERTIFICATION TO</b>	)	Install two culverts, place rock at culvert invert
<b>Mount Rainier National Park</b>	)	and outflow, and excavate a twenty foot-wide
in accordance with 33 U.S.C. 1341	)	channel in Kautz Creek, Mount Rainier National
(FWPCA § 401), RCW 90.48.120, RCW	)	Park located in Pierce County, Washington.
90.48.260 and Chapter 173-201A WAC	)	
	)	
	)	

TO: Mount Rainer National Park  
National Park Service  
ATTN: Patricia Iolavera  
55210 238<sup>th</sup> Avenue East  
Ashford, WA 98304

On March 20, 2007, the Mount Rainier National Park 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 March 23, 2007.

The proposed project is in response to a debris flow in Kautz Creek that blocked the flow of water in the previously existing channel and redirected the creek through a forest and across SR 706. The proposed work entails the installation of two 12-foot diameter culverts, installation of rock at the invert and outflow to protect the culvert; and excavation of a 20-foot wide channel to help ensure that the creek continues to flow through the culverts at Mount Rainier National Park at milepost 3.7 inside the Nisqually entrance to the Park, Pierce County, Washington 98397. SE Section 36, Township 15N, Range 7E, WRIA# 10, Puyallup-White 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, 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 Mount Rainier National Park 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 Project Coordinator, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. 4211 and Corps No. NWS-2007-353-SO.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on March 20, 2007. 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.
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 does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.

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 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. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation for each day of continuing noncompliance.

#### **B. Timing Requirements**

1. This Order is valid until though March 21, 2009.

#### **C. Appeal Process:**

You have the right to appeal this Order to the Pollution Control Hearings Board. Pursuant to chapter 43.21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology within thirty (30) days of the date of your receipt of this document.

To appeal this Order, your notice of appeal must contain a copy of the Ecology Order you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board  
4224 - 6th Avenue SE, Rowe Six, Bldg. 2  
P.O. Box 40903  
Lacey, Washington 98504-0903

Your appeal must also be served on:

The Department of Ecology  
Appeals Coordinator  
P.O. Box 47608  
Olympia, Washington 98504-7608

In addition, please send a copy of your appeal to:

Federal Permit Appeals Coordinator  
Department of Ecology  
P.O. Box 47600  
Olympia, Washington 98504-7600

*For additional information Environmental Hearings Office Website:*  
*<http://www.eho.wa.gov>*

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

Dated 3.31.07 at Lacey, Washington.

  
Perry J Lund  
Shorelands and Environmental Assistance Program  
Department of Ecology  
Southwest Regional Office  
State of Washington