



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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June 18, 2007

REGISTERED MAIL

Ben Brown
Washington State Department of Transportation
Post Office Box 330310
Seattle, WA 98133-9710

RE: Water Quality Certification Order No. 4476 and for Corps Reference No. 200700723, to repair and stabilize three stream and stream buffer locations of Hylebos Creek along SR 161 where erosion has occurred located in King County, Washington.

Dear Mr. Brown:

On June 4, 2007 the Washington State Department of Transportation, submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the Federal Clean Water Act for the proposed repair and stabilization of 3 stream and stream buffer locations of Hylebos Creek. The project proposes to repair 3 sites along SR 161 of the East Fork of Hylebos Creek. The proposed sites are, erosion damage at MP 33.47, repair an existing hill slope failure at MP 33.70, and to replace eroded soils and gravels at MP 34, in King County, Washington. Ecology issued a public notice on June 6, 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.

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If you have any questions, please contact Kerry Carroll, Ecology's Federal Project Coordinator for this project at 360-407-7503 or via e-mail at kstr461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. McFarland', with a long horizontal line extending to the right.

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

Enclosure

e-cc: Rebecca McAndrew – Corps of Engineers
Penny Keys – HQ
Loree' Randall – HQ

IN THE MATTER OF GRANTING A) ORDER #4476
WATER QUALITY) Corps Reference #200700723
CERTIFICATION TO) The repair and stabilization of three stream and
Washington State Department of) stream buffer locations of the East Fork of
Transportation) Hylebos Creek on SR 161 located in King
in accordance with 33 U.S.C. 1341) County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

TO: Washington State Department of Transportation
Ben Brown
PO Box 330310
Seattle, WA 98133-9710

On June 4, 2007 the Washington State Department of Transportation (WSDOT) submitted a Joint Aquatic Resources 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 of Chapter 173-225 WAC on June 6, 2007.

The proposed project entails the repair and stabilization of three stream and stream buffer locations of the East Fork of Hylebos Creek on SR 161 between MP 33.47 and MP 34 to prevent further damage. Site 1 is erosion that has occurred at the outflow of an 18” diameter culvert located at MP 33.47. Unstable embankments adjacent to the outfall will be permanently stabilized with gabion wire-mesh retaining walls. The disturbed area will be restored with indigenous plant species. Site 2 at MP 33.70 will repair an existing hill slope failure by installing a new catch basin and re-locating the outflow pipe closer to the toe of the slope. After repairs, the slope will be filled and re-contoured to pre disturbance gradients and planted with indigenous plant species appropriate to the area and hydrology. Site 3 at MP 34 will restore approximately 75 lineal feet of eroded stream bed. Rock check dams will be placed at 15’ intervals to slow the velocity of the water and prevent future erosion. All areas disturbed by the repairs will be restored with native plants appropriate to the area. The project is located in King County, Washington 98096. Section 28 and 33, 3 and 4, Township 21N, 20N, Range 4E, 4E, WRIA# 10.

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:

- A1. For purposes of this Order, the term "Applicant" shall mean Washington State Department of Transportation, and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology Headquarters Building, Attn: Federal Project Coordinator, PO Box 47600, Olympia, WA 98504. Any submittals shall reference Order #4476 and Corps #200700723.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on June 4, 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.

- A4. Within 30 days of receipt of an updated JARPA Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
- A5. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
- A6. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
- A7. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
- A8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
- A9. 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.
- A10. 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

B1. This Order is valid until though June 13, 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.

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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 June 18, 2007 at Lacey, Washington.



Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington