



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

*P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006*

August 7, 2007

REGISTERED MAIL

Washington State Department of Transportation
Joe Williams, Environmental Maintenance Coordinator
PO Box 98
Wenatchee, WA 98807-0098

RE: Water Quality Certification Order No. 4493 and for Corps Reference No. 200700104, Bonaparte Creek scour repair, in Okanogan County, Washington.

Dear Mr. Williams:

On June 13, 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 project which would repair the scour that undermines the box culvert and install check dams to provide for fish passage and back water the outlet of the pipe to minimize future scour in Bonaparte Creek, located in Okanogan County, Washington. Ecology issued a public notice on June 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.



Bonaparte Creek Scour
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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 'Brenden McFarland', with a long horizontal flourish extending to the right.

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

Enclosure

e-cc: Richard Pratt – Corps of Engineers
Penny Keys – HQ
Loree' Randall – HQ

IN THE MATTER OF GRANTING A) ORDER #4493
WATER QUALITY) Corps Reference #200700104
CERTIFICATION TO) Repair the scour which undermines the box
Washington State Department of) culvert and install check dams to provide for fish
Transportation) passage and back water the outlet of the pipe to
in accordance with 33 U.S.C. 1341) minimize future scour in Bonaparte Creek
(FWPCA § 401), RCW 90.48.120, RCW) located in Okanogan County, Washington.
90.48.260 and Chapter 173-201A WAC

TO: Washington State Department of Transportation
Joe Williams, Environmental Maintenance Coordinator
PO Box 98
Wenatchee, WA 98807-0098

On June 13, 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 21, 2007.

The proposed project entails eight grade control structures over 130 feet below the culvert to back water the pipe outlet and allow fish passage. The scour hole is to be filled with quarry spalls to allow the support for the culvert apron and covered with one foot of streambed gravel. Each grade control structure will be constructed of riprap up to three feet in diameter and a mix of streambed gravels and material excavated for the keys to fill voids and force the stream to flow over the structures. The drop of no more than 0.8 feet will be constructed to be consistent with WDFW guidelines. To prevent the stream from moving around the structures, the grade control structures will be V-shaped and keyed into the banks. Live stakes will be installed along the sides of the keys to add additional bank stability. The project is located at SR 20, MP 278.55, approximately 16.7 miles east of Tonasket, Okanogan, Washington. Section 23, Township 37N, Range 29E, WRIA 49.

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 WSDOT, and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Headquarters, Attn: Federal Project Coordinator, PO Box 47600, WA 98504. Any submittals shall reference Order No. 4493 and Corps #200700104.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on June 13, 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 July 26, 2009.

C. Appeal Process:

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

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

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

Kerry Carroll
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

*For additional information visit the Environmental Hearings Office Website:
<http://www.eho.wa.gov>
To find laws and agency rules visit the Washington State Legislature Website:
<http://www1.leg.wa.gov/CodeReviser>*

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 this 7th day of August, 2007 at Lacey, Washington.



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

ATTACHMENT A

**Washington State Department of Transportation
Water Quality Certification Order #4493**

**Statement of Understanding of
Water Quality Certification Conditions**

I have read and understand the conditions of Order #4493 Section 401 Water Quality Certification for the SR 20 Bonaparte Creek Scour Repair Project. I have also read and understand all permits, plans, documents, and approvals associated with the SR 20 Bonaparte Creek Scour Repair Project referenced in this order.

Signature

Date

Title

Company