



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490

July 17, 2007  
REGISTERED MAIL

Chelan County Natural Resources Department  
Alan Schmidt  
411 Washington Street  
Wenatchee, WA 98801

RE: Water Quality Certification Order 4634 for Corps Public Notice No. **NWS-2007-120-CRC**, for the placement of 385 cubic yards of rock fill along 136 linear feet of bank below the Ordinary High Water Mark of the Wenatchee River near Peshastin, Chelan County, Washington. Section 36, Township 24, Range 18E, WRIA# 45.

Dear Mr. Schmidt:

On January 22<sup>nd</sup> 2007, subsequently updated on April 4<sup>th</sup>, 2007, Chelan County Natural Resources Department 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 May 25<sup>th</sup>, 2007.

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 4634.

This letter also serves as the State response to the Corps of Engineers May 11<sup>th</sup>, 2007, Nation Wide Permit # 27.



Chelan County Natural Resources Dept

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If you have any questions, please contact Gary Graff at (509) 454-4260. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Jeff Lewis

Central Regional Office

Shorelands and Environmental Assistance Program

JL:GG:jt070722

Enclosure

e-cc: Debbie Knaub - U.S. Army Corps of Engineers  
Bob Steele - WDFW  
Penny Keys - Ecology HQ  
Loree' Randall - Ecology HQ  
John Merz - Central Regional Water Quality Unit Supervisor  
Gary Graff - Central Regional Shoreline Permit Coordinator

**IN THE MATTER OF GRANTING A ) ORDER #4634**  
**WATER QUALITY ) Corps Reference #NWS-2007-120-CRC**  
**CERTIFICATION TO ) Placement of 385 cubic yards of rock fill along**  
**Chelan County Natural Resources ) 136 linear feet of bank below the Ordinary High**  
**Department in accordance with 33 ) Water Mark of the Wenatchee River near**  
U.S.C. 1341 (FWPCA § 401), RCW ) Peshastin, Chelan County, Washington.  
90.48.120, RCW 90.48.260 and Chapter )  
173-201A WAC

**TO: Chelan County Natural Resources Department**  
Alan Schmidt  
411 Washington Street  
Wenatchee, WA 98801

On January 22<sup>nd</sup> 2007, subsequently updated on April 4<sup>th</sup>, 2007, Chelan County Natural Resources Department 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 May 25<sup>th</sup>, 2007.

The proposed project entails the placement of 385 cubic yards of rock fill along 136 linear feet of bank below the Ordinary High Water Mark of the Wenatchee River, near Peshastin, Chelan County, Washington 98801. Section 36, Township 24, Range 18E, WRIA# 45.

#### **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 Chelan County Natural Resources Department, and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Central Region Office, Attn: Federal Project Coordinator, 15 West Yakima Avenue, Suite 200, Yakima, WA 98902. Any submittals shall reference Order #4634 and Corps # NWS-2007-120-CRC.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on January 22<sup>nd</sup>, 2007, and the subsequent updated JARPA received April 4<sup>th</sup>, 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 May 11th, 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

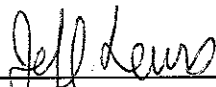
P.O. Box 47608  
Olympia, Washington 98504-7608.

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 July 17<sup>th</sup>, 2007 at Yakima, Washington.

  
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Jeff Lewis, Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology  
State of Washington

**ATTACHMENT A**

**Chelan County Natural Resources Department  
Water Quality Certification Order #4634**

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

I have read and understand the conditions of Order #4634 Section 401 Water Quality Certification for the Gagnon Off-Channel Habitat Restoration Project. I have also read and understand all permits, plans, documents, and approvals associated with the Gagnon Off-Channel Habitat Restoration Project referenced in this order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company