



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

*Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000*

July 13, 2006

**REGISTERED MAIL**  
**RB 670 437 749 US**

Northwest Pipeline Corporation  
Attn: Serge Theroux  
295 Chipeta Way  
Salt Lake City, UT 84108

**RE: Water Quality Certification Order #3262 for U.S. Army Corps of Engineers (Corps) Reference #200600181, Swift Creek Grade Control Project, Swift Creek, Whatcom County, Washington**

Dear Mr. Theroux:

On February 13, 2006, Northwest Pipeline Corporation submitted a Joint Aquatic Resources 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 Swift Creek Grade Control Project. The project proposes to construct two grade control structures and three rock weirs in order to protect the existing 26-inch and 30-inch natural gas pipeline and the proposed 36-inch natural gas pipeline (Corps Reference #200400304) from head-cut erosion occurring within Swift Creek. The U.S. Army Corps of Engineers issued a public notice on March 17, 2006 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.

On February 16, 2006, Northwest Pipeline Corporation, submitted a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the applicant's determination that the proposed work is consistent with Washington's CZMP. This concurrence is based upon the applicant's compliance with all applicable enforceable policies of the CZMP, including Section 401 of the Federal Water Pollution Control Act.

This letter also serves as the State response to the Corps of Engineers' March 17, 2006 Public Notice.



Northwest Pipeline Corporation

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If you have any questions, please contact Rebekah Padgett at 425-649-7129. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Geoff Tallent  
Section Manager  
Northwest Regional Office  
Shorelands and Environmental Assistance Program

GT:rrp:cja

Enclosure

cc: Olivia Romano, U.S. Army Corps of Engineers  
Pete Castle, Washington Department of Fish and Wildlife  
Carolyn Last, Edge Environmental, Inc.  
Tom Westergreen, Great Western Lumber Company

e-cc: Penny Keys – HQ  
Loree Randall – HQ  
Andrew Craig – Bellingham Field Office  
Patricia Olson – HQ

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER #3262</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. #200600181</b>
<b>CERTIFICATION TO</b>	)	Construction of two grade control structures and
<b>Northwest Pipeline Corporation</b>	)	three rock weirs in order to protect the existing
in accordance with 33 U.S.C. 1341	)	26-inch and 30-inch natural gas pipeline and the
(FWPCA § 401), RCW 90.48.120, RCW	)	proposed 36-inch natural gas pipeline (Corps
90.48.260 and Chapter 173-201A WAC	)	Reference #200400304) from head-cut erosion,
	)	Swift Creek, Whatcom County, Washington.

TO: Northwest Pipeline Corporation  
 Attn: Serge Theroux  
 295 Chipeta Way  
 Salt Lake City, UT 84108

On February 13, 2006, Northwest Pipeline Corporation 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 the U.S. Army Corps of Engineers for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on March 17, 2006.

The proposed project entails construction of two grade control structures and three rock weirs in order to protect the existing 26-inch and 30-inch natural gas pipeline and the proposed 36-inch natural gas pipeline (Corps Reference #200400304) from head-cut erosion occurring within Swift Creek. The proposed work includes:

- Excavation of up to 8,300 cubic yards of native material and the placement of up to 3,200 cubic yards of riprap for the two structures, the rock weirs, and the backfill of up to 5,100 cubic yards of native material.
- An approximately 860-foot-long temporary stream by-pass channel, 2 feet wide and 2 feet deep will be created and the stream temporarily diverted for the project duration. Up to 127 cubic yards of native material will be excavated from the by-pass channel and placed adjacent to the by-pass channel within a dry portion of the streambed. Sandbags will be used to divert the water from the main active channel to the by-pass channel and to prevent backflow into the active channel below the construction area. After completion of the project, the by-pass channel will be backfilled with native material.

The project site is located in Swift Creek near Nooksack, Section 34, Township 40 North, Range 4 East, WRIA #1, Whatcom County.

**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 Northwest Pipeline Corporation, and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Northwest Regional Office, Attn: 401/CZM Federal Project Manager, 3190 160<sup>th</sup> Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #3262 and Corps Reference #200600181.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on February 13, 2006. 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 shall be rescinded if the US Army Corps of Engineers does not issue an individual 404 permit.
- A6. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
- A7. 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.
- A8. 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.
- A9. 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.
- A10. 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 or mitigation sites.
- A11. 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.
- A12. 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) per violation for each day of continuing noncompliance.

**B. Water Quality**

- B1. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup or surface waters or sediments occurring as a result of project construction or operations.
- B2. Turbidity shall be visually assessed and recorded at a minimum of every four (4) hours during periods of active in-water work. Monitoring points shall be 100 feet upstream (representative background), 100 feet downstream, and at the discharge point. A turbidimeter is recommended, however, visual gauging of turbidity is acceptable. Visible project-related turbidity at 100 feet below the discharge point is considered to be an exceedance of the standard. If an exceedance of 5NTU over background turbidity when the background turbidity is 50 NTU or less, or have more than a ten (10) percent increase in turbidity when the background turbidity is more than 50 NTU, occurs at 100 feet below the project site, modify the activity causing the problem and continue to monitor every four (4) hours. If exceedances occur with two (2) consecutive measurements (four (4) hours apart), stop the activity causing the turbidity until the problem is resolved. Notification of any turbidity exceedances during in-water work shall also be reported within 24 hours to Ecology's Bellingham Field Office, Attn: Andrew Craig or Mark Kaufman, by phone at 360-738-6250 or fax at 360-738-6253.

**C. Construction**

- C1. Construction Stormwater and Erosion Control: Work in or near waters of the state 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 (e.g., a perimeter erosion control silt fence, etc.), shall be in place before starting clearing, filling, and grading work at the site.
- C2. An adequate Stormwater Pollution Prevention Plan (SWPPP) for construction activity shall be prepared and implemented in accordance with the requirements of this permit beginning with initial soil disturbance and until final stabilization.

- a. The SWPPP shall meet the following objectives:
- i. To implement BMPs to prevent erosion and sedimentation, and to identify, reduce, eliminate or prevent stormwater contamination and water pollution from construction activity.
  - ii. To prevent violations of surface water quality, ground water quality, or sediment management standards.
  - iii. To control peak volumetric flow rates and velocities of stormwater discharges.

b. General Requirements:

- i. The SWPPP shall include a narrative and drawings. All BMPs shall be clearly referenced in the narrative and marked on the drawings.

The SWPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project. Documentation shall include:

- Information about existing site conditions (topography, drainage, soils, vegetation, etc.);
  - Potential erosion problem areas;
  - Construction phasing/sequence and general BMP implementation schedule;
  - The actions to be taken if BMP performance goals are not achieved; and
  - Engineering calculations for ponds and any other designed structures.
- ii. The Applicant shall modify the SWPPP if, during inspections or investigations conducted by the owner/operator, or the applicable local or state regulatory authority, it is determined that the SWPPP is, or would be, ineffective in eliminating or significantly minimizing pollutants in stormwater discharges from the site. The Applicant shall take the following actions:
    - Review the SWPPP and make appropriate revisions within 7 days of the inspection or investigation;
    - Fully implement and maintain appropriate source control and/or treatment BMPs as soon as possible, but no later than 10 days from the inspection or investigation; and
    - Document BMP implementation and maintenance in the site log book.
  - iii. The Agent shall modify the SWPPP whenever there is a change in design, construction, operation, or maintenance at the construction site that has, or

could have, a significant effect on the discharge of pollutants to waters of the state.

- c. Stormwater BMPs:
- i. BMPs shall be consistent with the 2005 Stormwater Management Manual for Western Washington; or
  - ii. Other stormwater management guidance documents or manuals which provide an equivalent level of pollution prevention and are approved by Ecology; or
  - iii. Documentation in the SWPPP that the BMPs selected provide an equivalent level of pollution prevention, compared to the 2005 Stormwater Management Manual for Western Washington, including:
    - The technical basis for the selection of all stormwater BMPs (scientific, technical studies, and/or modeling) which support the performance claims for the BMPs being selected; and
    - An assessment of how the selected BMP will satisfy AKART requirements and the applicable federal technology-based treatment requirements under 40 CFR part 125.3.
- d. SWPPP – Narrative Contents and Requirements:
- i. The Applicant shall include each of the elements below in the narrative of the SWPPP and ensure that they are implemented unless site conditions render the element unnecessary and the exemption from that element is clearly justified in the SWPPP:
    1. Install Sediment Controls
      - a. Stormwater runoff from disturbed areas shall pass through a sediment pond or other appropriate sediment removal BMP, prior to leaving a construction site or prior to discharge to an infiltration facility.
      - b. Sediment control BMPs (sediment ponds, traps, filters, etc.) shall be constructed as one of the first steps in grading. These BMPs shall be functional before other land disturbing activities take place.
      - c. BMPs intended to trap sediment on site shall be located in a manner to avoid interference with the movement of juvenile salmonids attempting to enter off-channel areas or drainages.
    2. Stabilize Soils
      - a. Exposed and unworked soils shall be stabilized by application of effective BMPs that prevent erosion. Applicable BMPs include, but are not limited to: temporary and permanent seeding, sodding, mulching, plastic covering, erosion control fabrics and matting, soil application of polyacrylamide (PAM), the early

application of gravel base on areas to be paved, and dust control.

- b. No soils shall remain exposed and unworked for more than the time period set forth below to prevent erosion:
  - i. During the dry season (May 1–Sept. 30): 7 days
  - ii. During the wet season (Oct. 1–April 30): 2 days

The time period may be adjusted by a local jurisdiction, if the jurisdiction can show that local precipitation data justify a different standard.

- c. Soils shall be stabilized at the end of the shift before a holiday or weekend if needed based on the weather forecast.
  - d. Soil stockpiles shall be stabilized from erosion, protected with sediment trapping measures, and where possible, be located away from storm drain inlets, waterways, and drainage channels.
3. Maintain BMPs
- a. All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function in accordance with BMP specifications.
  - b. All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed.
4. Manage the Project
- a. Development projects shall be phased to the maximum degree practicable and shall take into account seasonal work limitations.
  - b. Inspection and Monitoring

All BMPs shall be inspected, maintained and repaired as needed to assure continued performance of their intended function.

- C3. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
- C4. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.

**D. Emergency/Contingency Measures**

- D1. The Applicant shall develop a spill prevention and containment plan for all aspects of this project.
- D2. The facility shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.
- D3. 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.
- D4. 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 these occur, the Applicant shall immediately take the following actions:
- a. Cease operations at the location of the violation.
  - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
  - c. Notify Ecology of the failure to comply. All oil spills shall be reported immediately to Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's 401/CZM Federal Project Manager at (425) 649-7129 or (425) 649-7000.
  - d. Submit a detailed written report to Ecology within five (5) days 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.
- D5. Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.
- D6. 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. Timing Requirements**

E1. This Order is valid until all compliance requirements in this document have been met.

**F. Notification Requirements**

F1. Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager at least three (3) days prior to the start of construction, and within 14 days after completion of construction at the project site. Notification, referencing Corps Reference #200600181, Order #3262, can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.

**G. 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.

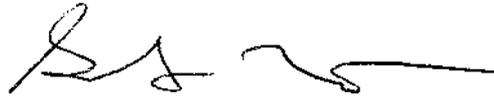
In addition, please send a copy of your appeal to:

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](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 13, 2006 at Bellevue, Washington.



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Geoff Tallent, Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology  
State of Washington

**ATTACHMENT A**

**SWIFT CREEK GRADE CONTROL  
Water Quality Certification Order #3262**

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

I have read and understand the conditions of Order #3262 Section 401 Water Quality Certification for the Swift Creek Grade Control Project. I have also read and understand all permits, plans, documents, and approvals associated with the Swift Creek Grade Control Project referenced in this order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company