



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

September 5, 2006

REGISTERED MAIL
RB 252 974 042 US

Hood Canal Salmon Enhancement Group
ATTN: Mr. Neil Werner
P.O. Box 2169
Belfair, WA 98528

Dear Mr. Werner:

RE: Water Quality Certification Order **3801** and Coastal Zone Management consistency determination for Corps Nationwide Permit 27, Stream and Wetland Restoration Projects, Reference No. 200600888 to restore the Big Mission Creek estuary by removing fish passage barriers and reconnecting the creek to tidal basins at the end of Hood Canal, within the Belfair State Park, Mason County, Washington.

On August 9, 2006 the Hood Canal Salmon Enhancement Group, 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 Big Mission Creek Restoration project. The project proposes to restore the Big Mission Creek estuary and remove fish passage barriers. The existing dike area that forms a swimming lagoon will be removed and Big Mission Creek will be redirected from an artificially straightened channel back into the area of its historic location. The project will reconnect the Creek to tidal basins on Lynch Cove at the end of Hood Canal, adding 6.5 acres of estuary to the Lower Hood Canal. The Department of Ecology issued a Public Notice for the proposed project on August 11, 2006. The Corps of Engineers issued a Nationwide Permit 27, on August 30, 2006.

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 August 25, 2006 the Hood Canal Salmon Enhancement Group, 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.



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,



Perry J. Lund, Unit Supervisor
Southwest Regional Office
Shorelands and Environmental Assistance Program

PJL:LO:th
Enclosure

cc: Jim Green, U.S. Army Corps of Engineers
Charles Mc Coy III, Mason County DCD
Deb Peterson, Washington State Parks
Pat McCullough, P.E.
Margie Schirato, WDFW

e-cc: Penny Keys – HQ
Loree' Randall, Ecology/HQ
Rick Mraz, Ecology/SWRO/SEA
Kim Van Zwalenburg, Ecology/SWRO/SEA
Deb Cornett, Ecology/SWRO/WQ
Kevin Farrell, SWRO/SEA
Lori Ochoa, SWRO/SEA

IN THE MATTER OF GRANTING A) **ORDER # 3801**
WATER QUALITY CERTIFICATION) **Corps Reference No. 200600888**
TO) Big Mission Creek Restoration Project located within
The Hood Canal Salmon Enhancement) in the Belfair State Park located at 410 NE Beck
Group) Road, Mason County, Washington.
in accordance with 33 U.S.C. 1341 (FWPCA)
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)
)

TO: The Hood Canal Salmon Enhancement Group
ATTN: Mr. Neil Werner
P.O. Box 2169
Belfair, WA 98528

On August 9, 2006 the Hood Canal Salmon Enhancement Group submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. The Corps issued a Nationwide Permit (NWP) #27, Stream and Wetland Restoration Activities, for the project on August 30, 2006. During review of the project, Ecology determined that an individual Section 401 water quality certification would be required. 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 August 11, 2006.

This project will restore the Big Mission Creek estuary and remove fish passage barriers. The existing dike area that forms a swimming lagoon will be removed and Big Mission Creek will be redirected from an artificially straightened channel back into the area of its historic location. Large woody debris will be added to the river channel and approximately 300 feet of beach will be reconstructed along the east bank of the existing creek channel. The project will reconnect Big Mission Creek to tidal basins on Lynch Cove at the end of Hood Canal, adding 6.5 acres of estuary to the Lower Hood Canal.

The proposed project will take place in Big Mission Creek at North Hood Canal within the Belfair State Park, 410 NE Beck Road, Belfair, Mason County, Washington; NW quarter Section 1, Township 22 North, Range 2 West, WRIA 15, in the Kitsap 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 the Hood Canal Salmon Enhancement Group, 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 Permit Coordinator, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. 3607 and Corps No. 200600253.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on August 9, 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.
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. Water Quality:

1. The Big Mission Creek at North Hood Canal (WRIA 15) is a Class AA water of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (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.
2. This segment of the of the Hood Canal at Big Mission Creek has been identified on the current 303(d) list of impaired water bodies for exceeding water quality standards for fecal coliform and dissolved oxygen. This proposed project shall not result in further exceedances of those standards, and will be out of compliance with this certification if discharges from the project exceed limits for those contaminants identified in 173-201A-030(2) WAC and/or 173-201A-040 WAC.
3. This Order does not authorize temporary exceedances of the turbidity standard 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 of surface waters or sediments occurring as a result of project construction or operations.

C. Timing Requirements:

1. This Order is valid until all compliance requirements in this document have been met.
2. In-water work is subject to the fishery closure window determined by Washington State Department of Fish and Wildlife's (WDFW) Hydraulic Project Approval (HPA) Number 105841-1 issued for this project.

D. Notification Requirements:

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Southwest Regional Office Federal Permit Coordinator in writing at least three (3) days prior to the start of construction at the project site.
2. The Applicant shall provide written notification to Ecology's Southwest Regional Office Federal Permit Coordinator in writing within fourteen (14) days after completion of construction.

NOTE: These notifications shall include the Applicant's name, project name, project location, the number of this Order, contact and contact's phone number.

E. Construction Conditions:

1. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMP's) suitable to prevent exceedances of state water quality standards shall be in place before starting clearing, filling and grading work and shall be maintained throughout construction.
2. The project shall be clearly marked/staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas and buffers that are to be protected from disturbance shall be marked so as to be clearly visible to equipment operators. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.
3. The Applicant shall establish a separate contained area for washing down equipment, which does not have any possibility of draining to surface waters and wetlands. No wash water containing sediments, oils, grease, or other hazardous materials resulting from wash down of the work area, tools, and equipment including concrete delivery trucks or other equipment used for concrete work shall not be discharged into state waters.
4. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in a confined area in order to prevent containment to waters of the state. Fueling areas will be provided with adequate spill containment.
5. Appropriate BMP's shall be implemented to minimize track-out during construction.

F. Monitoring and Reporting:

1. Visual monitoring of the restoration area shall be done during the growing season of the 1st, 2nd and 3rd years after construction, or until the intertidal portion of the enhancement area has sustained at least 50% native vegetative cover, whichever occurs first.
2. A qualitative monitoring report shall be submitted annually to the Federal Permit Coordinator, Department of Ecology SWRO, PO Box 47775, Olympia, WA 98504-7775 within 60 days of completion of monitoring activity. The report shall include the following:
 - a. A qualitative description of the location, general density, and species distribution of the native vegetative recruitment.
 - b. A qualitative assessment of the primary stream channel (thalweg) location in comparison to the as-built drawings.

- c. Observation and notation of the presence of increased sedimentation, if present, in the natural estuarine vegetative community south of the restoration site.
3. If the Hood Canal Salmon Enhancement Group conducts monitoring that exceeds the performance standards listed above, submittal of copies of those results to the Federal Permit Coordinator shall satisfy the monitoring requirement.

G. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list available on site.
2. 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, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing the compliance problem.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. 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. Immediately notify Ecology's Southwest Regional Spill Response Office at (360) 407-6300 and the Washington State Department of Fish and Wildlife of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.
3. 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, including wetlands.
4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology's Southwest Regional Spill Response Office at 360 407-6300.

H. 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 5 September 2006 at Lacey, Washington.



Perry J. Lund, Unit Supervisor
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington