



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

October 9, 2007

**REGISTERED MAIL**  
**RB 252 945 298 US**

Skamania County  
Public Works Department  
ATTN: Mr. Larry Douglass  
170 NW Vancouver Ave  
Stevenson, WA 98648

RE: Water Quality Certification Order No. 5122 for Corps Public Notice No. NWS-2007-192-CRS to excavate accumulated sediments from Rock Creek, Skamania County, Washington.

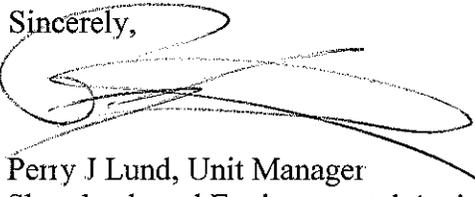
Dear Mr. Douglass:

On May 22, 2007, Skamania County Public Works Department 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 excavation of accumulated sediments within Rock Creek to protect bridges and other infrastructure from potential flooding as a result of an extensive landslide upstream of the project site. The project is located within Rock Creek at approximately 600 SW Rock Creek Drive, in the City of Stevenson, Skamania County. The U.S. Army Corps of Engineers issued a public notice on April 19, 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.

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 Manager  
Shorelands and Environmental Assistance Program  
Southwest Regional Office

PJL:LO:dn  
Enclosure



cc: John Pell, U.S. Army Corps of Engineers  
Tod Lefevre, Skamania County  
Tim Rymer, WDFW

e-cc: Lori Ochoa, Ecology SWRO  
Penny Keys, Ecology HQ  
Loree' Randall, Ecology HQ  
Deborah Cornett, Ecology SWRO  
Kevin Farrell, Ecology SWRO

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 5122</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2007-192-CRS</b>
<b>CERTIFICATION TO</b>	)	Remove accumulate sediments within Rock
<b>Skamania County Public Works</b>	)	Creek, City of Stevenson, Skamania County,
in accordance with 33 U.S.C. 1341	)	Washington.
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	
	)	
	)	

TO: Skamania County Public Works  
ATTN: Larry Douglass  
170 NW Vancouver Ave  
Stevenson, WA 98648

On May 22, 2007, the Skamania County Public Works Department submitted a Joint Aquatic Resource 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 (Corps) for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on April 19, 2007.

The proposal involves the removal of accumulated sediments from within Rock Creek in the vicinity of the Rock Creek Drive Bridge at approximately 600 SW Rock Creek Drive, Stevenson, Skamania County, Washington 98648. Section 01, Township 2 North, Range 7 East, WRIA# 29, Wind-White Salmon Watershed.

The project proposes to excavate accumulated sediments from rock Creek to be able to increase the capacity to accept additional sediments anticipated from an extensive natural landslide upstream. The purpose of the project is to protect adjacent bridges and property from being damaged from sediment flow and/or flooding as a result of the upstream landslide activity. The excavated material will be placed in several upland locations near the work site

**AUTHORITIES:**

In exercising authority under 33 U.S.C. § 1341, 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 Skamania County Public Works Department, 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, SEA Program, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. **5122** and Corps No. **NWS-2007-192-CRS**.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on May 22, 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.
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.
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. This Order does not authorize temporary exceedances of the turbidity standard beyond the limits established in WAC 173-201A-200(1)(e). 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. 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 Applicant shall establish a separate contained area for washing down vehicles and 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 or storm drains.
3. 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. Fueling equipment and vehicles within 100 feet of state waters and wetlands is not allowed, unless approved by Ecology.
4. Appropriate Best Management Practices (BMP's) shall be implemented to minimize track-out during construction.

#### **D. Timing Requirements**

1. This Order is valid until all compliance requirements in this document have been met.
2. In-water work shall be subject to the timing limitations imposed by the most current Hydraulic Project Approval (HPA) issued by the Washington Department of Fish and Wildlife's (WDFW) for this project.

#### **E. 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, Order No. **5122**, Corps Reference No. NWS-2007-192-CRS, project location, contact and contact's phone number.

**F. 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.
  - f. Submit a detailed written report to Ecology's Federal Permit Coordinator 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.
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.

## G. 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

Deliver your appeal in person to:

OR 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

Deliver your appeal in person to:

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

### 3. And send a copy of your appeal to:

Lori Ochoa  
Department of Ecology  
Southwest Regional Office  
P.O. Box 47775  
Lacey, WA 98504-7775

*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>*

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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 9 day of OCTOBER, 2007 at Lacey, Washington.

A handwritten signature in black ink, appearing to read "Perry J Lund", is written over a horizontal line. The signature is stylized and somewhat cursive.

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

