



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

March 23, 2005

**REGISTERED MAIL**

Mr. Tom Mueller, Chief  
US Army Corps of Engineers  
Regulatory Branch  
P.O. Box 3755  
Seattle, WA 98124

Mr. Rob Sanders  
342 Matson Road  
Kalama, WA 98625

Dear Mr. Mueller and Mr. Sanders:

Re: Department of Ecology's Review of Corps Reference No. 200400786 for Water Quality Certification for the Proposed Brooks Slough Restoration, Wahkiakum County, Washington

On September 27, 2004, the US Army Corps of Engineers (Corps) issued Nationwide Permit 27, "Stream and Wetland Restoration Activities," authorizing construction of a water control structure, replacement of several culverts, raising three existing farm roads, and construction of two small levees as part of a project to enhance wetlands on your property located approximately two miles east of the City of Skamokowa. As a condition of the Corps Nationwide Permit, you were required to obtain a WQC and CZM consistency determination from the Department of Ecology (Ecology). Ecology's role is to evaluate your project and certify that the state has reasonable assurance that the project meets state water quality statutes and regulations. In order to do this, Ecology requested a copy of the Joint Aquatic Resource Permit Application (JARPA) that had been prepared for this project. On January 14, 2005, Ecology received the JARPA for the project authorized in the NWP issued in September 27, 2004.

On February 3, 2005, Ecology received a revised JARPA reflecting changes to the original proposal. The Corps has notified Ecology that it intends to re-issue the Nationwide Permit 27 to incorporate the changes contained in the February 3, 2005, JARPA. This revised application initiates a new review period for Ecology. Ecology will evaluate the project under the new JARPA submittal.

Because of the changes to the original project, Ecology is unable to certify that the proposal authorized in the Nationwide Permit 27 issued on September 27, 2004, meets the aquatic protection requirements of the state of Washington, as required by Section 401 of the federal Clean Water Act. A water quality certification for that project is therefore denied without prejudice.

Any person aggrieved by this denial of the Section 401 Certification may obtain review thereof by appeal to the Pollution Control Hearings Board within 30 days of the date of receipt of this decision. Any such appeal must be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, Attn: Loree' Randall, PO Box 47600, Olympia, WA 98504-7600.

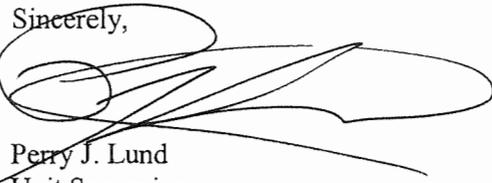


Mr. Tom Mueller  
March 23, 2005  
Page 2

These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Please contact Lori Ochoa (360-407-7391) of my staff if you have any questions or would like more information.

Sincerely,

A handwritten signature in black ink, appearing to read "Perry J. Lund", is written over a large, irregular scribble or stamp.

Perry J. Lund  
Unit Supervisor  
Shorelands and Environmental Assistance Program

PL:LO:le(1/sea)

cc: Dave Martin, Corps Project Manager  
Chuck Lobdell, Ducks Unlimited, Inc.  
Penny Keys, Ecology