



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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May 15, 2015

Evan Lewis
U.S. Army Corps of Engineers, Seattle District
PO Box 3755
Seattle, WA 98124

RE: Water Quality Certification Order #11422 for Interim Repair and Replacement of
Mud Mountain Dam White River Barrier Structure Apron Project, White River,
King and Pierce Counties, Washington

Dear Mr. Lewis:

On March 30, 2015, the U.S. Army Corps of Engineers, Seattle District, submitted an application to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the above project.

On behalf of the State of Washington, Ecology certifies that the work described in the application 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 Rebekah Padgett at (425) 649-7129. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Paul Anderson, Unit Supervisor
Shorelands and Environmental Assistance Program
Northwest Regional Office

PA:rrp:ap

Enclosure

Evan Lewis
May 15, 2015
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By certified mail: 7012 1640 0000 6245 9320

cc: Joanne Gardiner, U.S. Army Corps of Engineers
Doug Wiedemeier, Washington Department of Fish and Wildlife
Larry Fisher, Washington Department of Fish and Wildlife
Marcia Lucero, Pierce County Planning & Land Services
Laura Casey, King County Department of Permitting & Environmental Review
Nancy Brennan-Dubbs, U.S. Fish & Wildlife Service
Steve Fransen, NOAA Fisheries

e-cc: Misty Blair, Greg Stegman, Patrick McGraner, Dave Radabaugh,
Raman Iyer -NWRO
Alex Callender, Mike Gallagher, Derek Rockett, Lori Kingsbury - SWRO
James DeMay, Jennifer Holderman, Loree' Randall - HQ
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Michael Gagliardo, Cascade Water Alliance mgagliardo@cascadewater.org
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A) ORDER #11422
WATER QUALITY) Interim Repair and Replacement of Mud
CERTIFICATION TO) Mountain Dam White River Barrier Structure
U.S. ARMY CORPS OF ENGINEERS,) Apron Project; White River, King and Pierce
SEATTLE DISTRICT) Counties, 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: U.S. Army Corps of Engineers, Seattle District
Attn: Evan Lewis
PO Box 3755
Seattle, WA 98124

On March 30, 2015, U.S. Army Corps of Engineers, Seattle District (Corps) submitted a request to the Department of Ecology (Ecology) for 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 April 9, 2015.

The proposed barrier apron repair and replacement includes:

- Barrier apron repair: Repair failed flashboards; install new posts, support tie rods, and knee braces; replace timber and steel flashboards; install boards in the barrier structure; evacuate equipment from the channel; and install metal panels at each end of the structure.
- Excavate and place exposed bedload: Exposed bedload would be excavated and placed within the river bed in order to redirect water flow and construct earthen cofferdams and plugs. This work would include excavation of a temporary diversion channel through the upstream gravel bar behind the barrier dam and construction of two temporary cofferdams consisting of alluvium and supersacks.
- Barrier apron demolition and repair: Steel plates would be installed over the existing horizontal and sloped timbers, with a bed of leveling grout applied over the horizontal timbers as necessary. Some timbers would be removed and the sloped section replaced with concrete supported by a fabric filter with an internal drain system.
- Construction of temporary earthen access roads: A temporary access road would be constructed across the right bank diversion channel, upstream of the barrier structure, to provide access during upstream cofferdam construction. A temporary access road would be constructed from downstream right bank out to the lower horizontal apron timbers.
- Installation of culvert: A 36-inch diameter corrugated metal pipe with sealed joints would be installed from the entrance of the Muckleshoot Tribe hatchery fishway through downstream cofferdam.

The project is located at the Mud Mountain Dam White River Barrier Structure, near Buckley, King and Pierce Counties, Washington, White River, Section 2, T. 19 N., R. 6E., WRIA 10.

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, 302, 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 meet the 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 U.S. Army Corps of Engineers, Seattle District, 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 160th Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #11422.
- A3. Work authorized by this Order is limited to the work described in the application received by Ecology on March 30, 2015; Memorandum from Jo Gardiner, Corps, Seattle District, to Rebekah Padgett, Ecology, RE: Revised Project Description for Mud Mountain Dam Interim Barrier Apron Repair and Replacement, dated May 12, 2015; and Sheets 1 of 24 to 24 of 24, dated April 7, 2015. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the application is voided by subsequent changes to the project not authorized by this Order.
- A4. Within 30 days of receipt of an updated application, 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. 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.
- A6. The Applicant shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
- A7. 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.
- A8. 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.
- A9. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state (including wetlands) or related aquatic resources, except as specifically provided for in conditions of this Order.

A10. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

B. Water Quality Conditions:

B1. This Order does not authorize exceedances of water quality standards beyond the limits established in WAC 173-201A, except as specifically modified by this Order in Condition B2 below.

B2. In-water construction activities may cause water quality effects that will exceed the turbidity criteria specified in Chapter 173-201A-200 WAC. Per WAC 173-201A-410, Ecology may grant a temporary mixing zone on a short-term basis for the disturbance of in-place sediments during and immediately after essential activities. For the specific activities below, Ecology is authorizing a temporary turbidity mixing zone of 600 feet from the edge of the in-water activities:

- a. Installation and removal of temporary diversion channels,
- b. Installation and removal of temporary earthen cofferdams and plugs,
- c. Installation and removal of temporary earthen access roads, and
- d. Installation of the downstream end of the culvert.

B3. Ecology has reviewed the *Water Quality Monitoring Plan, White River Barrier Structure Interim Apron Repair and Replacement June 2015* (hereafter called the "Water Quality Monitoring Plan") prepared by U.S. Army Corps of Engineers, Seattle District, and dated May 12, 2015, and the Applicant shall submit a revised Water Quality Monitoring Plan that includes all changes and additions to the current Plan, as modified by this Order. The revised plan shall be submitted per Condition A2 on or before May 22, 2015. No work below the OHWM may begin until Ecology approves the revised Plan.

B4. If further changes to the Water Quality Monitoring Plan are proposed through the duration of this Order, the Applicant shall submit them to Ecology for review and approval (see A2) prior to implementation. Following Ecology's approval, the Applicant shall comply with the approved, revised Plan.

B5. If monitoring results demonstrate that the applicable water quality standards or project performance standards are not being met, Ecology may require additional monitoring and/or mitigation.

B6. Visual monitoring for turbidity shall be conducted during all work below the OHWM.

B7. Location of turbidity samples: Turbidity shall be sampled for this project at 300 feet downstream from the activity causing the turbidity for all work below the OHWM.

- a. Additionally, for activities outlined in Condition B2:
- i. If there is turbidity at 600 feet downstream from the activity, then turbidity shall also be sampled at 0.5 mile downstream from the activity causing turbidity.
 - ii. If there is turbidity at 0.5 mile downstream from the activity, then turbidity shall also be sampled at 1.0 mile downstream from the activity causing turbidity.

Sampling for turbidity is to be accomplished using a turbidometer properly calibrated according to the operator's manual.

- B8. Detection of exceedances: If exceedances at the point of compliance are detected through water quality sampling and monitoring, the Applicant shall immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem. After such an event, the Applicant shall assess the efficacy of the site BMPs and update or improve the BMPs used at the work site in an effort to reduce or prevent recurrence of the turbidity exceedance.
- B9. Reporting: If no exceedances are detected, results of water quality sampling, as determined by the Plan, shall be forwarded to Ecology on a monthly basis in accordance to Condition A2.
- B10. Notification of exceedances: Notification of exceedances (including visual) that are detected through water quality sampling shall be made to Ecology within 24 hours of occurrence. Notification shall be made with reference to Order #11422, Attn: 401/CZM Federal Project Manager, by telephone at (425) 649-7129 or (425) 649-7000, or by fax to (425) 649-7098. The Applicant shall, at a minimum, provide Ecology with the following information:
- i. A description of the nature and cause of exceedance.
 - ii. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance.
 - iii. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
 - iv. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the exceedance, sampling results and location, photographs, and any other pertinent information. The report shall also identify what additional BMPs were or will be implemented to prevent further exceedances.

C. Dewatering Conditions:

- C1. Dewatering water from the cofferdams and any in-water activities may not be discharged to the White River or conveyed to surface waters unless it meets Surface Water Quality Standards (Chapter 173-201A WAC) for pollutants of concern (e.g., turbidity and pH).
- C2. The method of discharge shall be designed and operated so as not to cause erosion or scour in state waters, banks, or vegetation.
- C3. The Applicant shall identify treatment and disposal contingencies that will be used if the dewatering water does not meet standards for discharge to surface waters.
- C4. All equipment associated with dewatering activities shall be properly operated and maintained.

D. Conditions for Construction Activities:

Upland Conditions

- D1. Machinery and equipment used during construction shall be serviced, fueled, and maintained upland, at least 100 feet from state waters, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.
- D2. 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.
- D3. Equipment used for this project shall be free of external petroleum-based products while working in or around state waters.
- D4. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to its working in or adjacent to state waters.
- D5. Equipment such as track hoes, backhoes, bulldozers, and bobcats shall remain outside of flowing water, to the extent practicable.
- D6. Work shall be completed in the dry whenever possible.

In-Water Conditions

- D7. The Applicant shall use biodegradable hydraulic fluids for all equipment working within the watercourse.

- D8. When constructing the upstream and downstream cofferdams, the Applicant shall, to the extent practicable, place supersacks prior to performing in-river bedload movement for cofferdam construction in order to minimize turbidity.
- D9. All cofferdams shall be removed at the end of the project and the riverbed restored.
- D10. Work in or near the water that may affect fish migration, spawning, or rearing shall cease immediately upon a determination by Ecology that fisheries resources may be adversely affected.
- D11. 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.
- D12. The Applicant shall use tarps or other containment method when cutting or drilling over water to prevent debris, sawdust, and other materials from entering the water.
- D13. All manmade debris that has been deposited below the OHWL within the construction work area shall be removed and disposed of upland such that it does not enter waters of the state. Concrete rubble, metal debris, and other debris in the construction work corridor that have washed into marine areas shall be removed from the project area.
- D14. If cast in place, wet concrete/grout shall be prevented from entering waters of the state. Forms for any concrete/grout structure shall be constructed to prevent leaching of wet concrete/grout. Impervious materials shall be placed over any exposed concrete/grout not lined with the forms that will come in contact with state waters. Forms and impervious materials shall remain in place until the concrete/grout is cured.
- D15. Project activities shall be conducted to minimize siltation of the river bed, to the extent practicable.
- D16. Clean Fill Criteria: Applicant shall ensure that fill (soil, sand, or other material) placed for the proposed project does not contain toxic materials in toxic amounts.
- E. Emergency/Contingency Measures:**
- E1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.
- E2. The Applicant 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.

- E3. 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.
- E4. 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 or spill.
 - 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.

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.

F. Timing Conditions

- F1. This Order expires one (1) year from the date of issuance of this Order.
- F2. Work below the Ordinary High Water Line (OHWL) shall not occur from August 16 through May 31 of any year for the protection of fish.

G. Reporting and Notification Requirement Conditions

- G1. 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 Order #11422 can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do both of the following within 30 days of the date of receipt of this Order:

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Rebekah Padgett
Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008
(425) 649-7129
rebekah.padgett@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website

www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board

<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

Chapter 371-08 WAC – Practice And Procedure

<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>

Chapter 90.48 RCW – Water Pollution Control

<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

Chapter 173-204 WAC – Sediment Management Standards

www.ecy.wa.gov/biblio/wac173204.html

Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173200.html

Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE



Paul Anderson, Unit Supervisor
Shorelands and Environmental Assistance Program
Northwest Regional Office



Date

ATTACHMENT A

**U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT
INTERIM REPAIR AND REPLACEMENT OF MUD MOUNTAIN DAM
WHITE RIVER BARRIER STRUCTURE APRON
Water Quality Certification Order #11422**

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

I have read and understand the conditions of Order #11422 Section 401 Water Quality Certification for the U.S. Army Corps of Engineers, Seattle District, Interim Repair and Replacement of Mud Mountain Dam White River Barrier Structure Apron Project. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this Order.

Signature

Date

Title

Company