



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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February 16, 2007

REGISTERED MAIL
RB 252 944 828 US

U.S. Department of the Interior
National Park Service – Olympic National Park
Attn: Brian Winter
826 East Front Street, Suite A
Port Angeles, WA 98362

RE: Water Quality Certification Order # 3959 (Corps No. 200600334)
Elwha River Ecosystem Project, Clallam County, Washington

Dear Mr. Winter:

On June 7, 2007, the U.S. Department of the Interior National Park Service 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 (CWA) for the proposed above project.

On behalf of the State of Washington, through the enclosed Order, Ecology certifies that the work described in the JARPA and the public notice issued November 8, 2006, 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 me at 360-407-0271 or Loree' Randall at 360-407-6068. The enclosed Order may be appealed by following the procedures described within.

Sincerely,

Paula Ehlers, Section Manager
Southwest Regional Office
Shorelands and Environmental Assistance Program

PE:dn
Enclosure



IN THE MATTER OF GRANTING A)	ORDER # 3959
WATER QUALITY)	Corps Reference No. 200600334
CERTIFICATION TO)	Full restoration of the Elwha River ecosystem
U.S. Department of the Interior)	and native anadromous fisheries by removing the
National Park Service – Olympic)	Elwha and Glines Canyon Dams located in the
National Park in accordance with 33)	Olympic National Park, Clallam County,
U.S.C 1341 (FWPCA § 401), RCW)	Washington.
90.48.120, RCW 90.48.260 and Chapter)	
173-201A WAC)	

TO: U.S. Department of the Interior
National Park Service – Olympic National Park
Attn: Brian Winter
826 East Front Street, Suite A
Port Angeles, WA 98362

On June 7, 2006, the U.S. Department of the Interior - Olympic National Park Service submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A joint 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 November 8, 2006.

The project includes the full restoration of the Elwha River ecosystem and native anadromous fisheries by removing two hydroelectric dams (Elwha Dam and Glines Canyon Dam) and implementing a revegetation plan and fisheries restoration projects. Removing the dams will achieve the project's purpose and comply with the Elwha River Ecosystem and Fisheries Restoration Act (Elwha Act; PL 102-495). Both the Elwha Dam, which impounds Lake Aldwell, and Glines Canyon Dam, which impounds Lake Mills, will be removed by a combination of controlled blasting and cutting of concrete blocks. Sediment will be eroded naturally by the river. The natural sediment flow in the river will allow sediments to accumulate in areas that have eroded since the dams were built.

The Elwha Restoration Act (ERA) requires that the Department of Interior (DOI) maintain the existing level of flood protection that currently exists for the developments along the Elwha River. In addition, the DOI must protect those water users (industrial and municipal) from the adverse water quality impacts of the project.

The following elements have been incorporated into the project to mitigate any adverse project impacts, as well as provide additional long term benefits to the Elwha River ecosystem:

1. Constructing water supply facilities (surface water intake, industrial and fish hatchery water treatment facility, fish diversion screens, municipal water treatment facility, and pipeline to the Tribe's fish hatchery) to maintain the existing water quality for the City of Port Angeles' municipal and industrial water users, the Tribe, and others;
2. Replacing the existing water supply rock diversion dam at River Mile (RM) 3.5 with an "engineered riffle";
3. Raising the 8,000-foot-long Lower Elwha (Federal) Flood Control Levee and extending it north about 450 feet and south to 1,600 feet to maintain the existing level of flood protection;
4. Raising the private 900-foot-long levee found along the west side of the Elwha River mouth to maintain the existing level of flood protection, or relocate it to the west;
5. Removing Elwha and Glines Canyon Dams and their impoundments (reservoirs);
6. Removing the Elwha spillways, powerhouse, transformers, penstocks, surge tank, power lines, intake structures, switchyard, and related facilities, removal of unneeded buildings and structures, and cleanup or remediation of hazardous waste;
7. Removing the intake tower, surge tank, left abutment dike and boat house and retaining the left (including spillway) and right abutments, gatehouse, penstock, and powerhouse at Glines Canyon Dam;
8. Improving roadways, including raising, widening, and resurfacing of portions of the Olympic Hot Springs Road, and improving access to the Elwha Dam;
9. Relocating the Tribal hatchery on the east side of the current southern terminus of the Federal levee;
10. Intensified broodstock collection of returning pre-spawn adult Chinook for hatchery incubation and rearing to maximally sustain the population during dam removal;
11. Out-planting juvenile anadromous fish from the hatchery into the upper Elwha watershed by helicopter;
12. Revegetation of the banks, terraces, and hill slopes currently inundated by the two reservoirs and other revegetation actions; and,
13. Continuous monitoring of sediment transport and aggradation.

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 the U.S. Department of the Interior- Olympic National Park Service, and its agents, assignees, and contractors.
- A2. For purposes of this Order, all submittals and notifications required shall be made to Ecology's Southwest Regional Office, Attn: Federal Project Manager, at 360/407-6926, fax 360/407-6305 or mail P.O. Box 47600, Olympia, WA 98504-7600. Any submittals shall reference Order # 3959 and Corps Reference # 200600334.
- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on June 7, 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 Corps does not issue a Section 10 of the Rivers and Harbors Act of 1899 permit and a Section 404 of the CWA 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 all project 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 and deposition, 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.
- A13. The Applicant shall follow the construction, monitoring, and mitigation measures described in the following documents, except where the conditions of this Order require specific plan revisions prior to commencing construction:
- (a) Elwha River Restoration Project Draft Sediment Management and Monitoring Plan (May 2006)

- (b) Technical Workshop on Nearshore Restoration in the Central Strait of Juan de Fuca Report (June 2004)
- (b) Endangered Species Act Section 7 formal Consultation for Elwha River Ecosystem and Fisheries Restoration Project (November 20, 2006)
- (c) Elwha River Ecosystem Restoration Implementation Final Supplement to the Final Environmental Impact Statement (July 2005);
- (d) Glines Canyon Dam – Lake Mills Reservoir Revegetation Plan (Final Draft)
- (e) Elwha River Ecosystem and Fisheries Restoration Project (PN-95-8) – Water Quality Analysis and Mitigation Measures (March 1997)

B. Short-Term Water Quality Standards Modification:

The removal of the Glines and Elwha Dams will result in elevated levels of turbidity in the Elwha River. Under WAC 173-201A-110 (1997) and WAC 173-201A-410 (2003), the water quality criteria can be modified when necessary to accommodate essential activities, respond to emergencies, or otherwise protect the public interest, even though such activities may result in a temporary reduction of water quality below those criteria. Pursuant to those regulations, Ecology hereby modifies the turbidity water quality standards to the extent necessary to accommodate the in-water activities of the proposed project. Modeling shows that during the project, turbidity standards for the Elwha River will be periodically exceeded. This short-term modification is intended to govern those periodic exceedances.

The modification of the turbidity standard shall apply to all in-water activities in the Elwha River and downstream of the proposed project. This modification shall be effective from the breaching of the dams and during high flows following dam removal, lasting until the system is determined to be at its natural state. The modification is based on modeling, the prediction of turbidity exceedances, and activities by the Applicant intended to minimize turbidity impacts.

C. Adaptive Management Monitoring:

Adaptive management monitoring is intended to be conducted in “real time”. Information developed as part of the adaptive management monitoring will be used to verify or modify dam removal scheduling, and to trigger contingency actions required to protect downstream water quality, property and infrastructure. Adaptive management responses are the following options:

- Accept the impact and proceed with dam removal and reservoir drawdown.
- Modify monitoring methods, locations, or frequencies.
- Modify water treatment techniques.
- Take remedial actions to locally protect downstream infrastructure, wells, and property.
- Alter the rate of dam removal and reservoir drawdown.

- Temporarily halt dam removal and reservoir drawdown.
- C1. Ecology's requirements for adaptive management monitoring shall cease when monitoring data demonstrates that the sediment impacts from dam removal are no longer detectable in the downstream river channels relative to the re-established natural sediment supply and the river is considered to be at natural condition. A determination that natural conditions have been achieved for suspended sediment concentration and turbidity would be based on achieving the following three conditions:
- Condition 1: Stable Relationship between Upstream and Downstream Suspended Sediment Concentrations or Turbidities. This determination will be based upon a comparison of weekly average above a threshold, weekly maximum values, or weekly sediment loads.
 - Condition 2: No Significant Change in Reservoir Sediment Volume. Condition 2 will be met when the net erosion of reservoir sediments since the last semi-annual measurement in the former Lake Mills and Aldwell is insignificant (less than 5 percent) relative to the long-term average annual sediment load of the Elwha River.
 - Condition 3: Hydrologic and Geomorphic Evidence of Stabilized Reservoir Sediments. Condition 3 will be met when the remaining reservoir sediment terrace banks are determined to have attained a level of geomorphic stability comparable to the reference reach at Krause Bottom (Geysir Valley).
- C2. The Applicant shall include Ecology as a member of the Elwha Project Management Team and technical support team. As a member of these Teams Ecology will:
- (a) receive monitoring results, interpretations, future predictions, and recommendations from dam removal process reports including those identified in the *6/4/2006 Draft Sediment Management and Monitoring Plan, Section 4.3 Key Reporting Times For Adaptive Management, including Table 6, and any other reporting events as conditions warrant*
 - (b) be included in the decisions regarding adaptive management measures that need to be implemented
- C3. The Applicant will obtain LIDAR data to support the baseline information prior to dam removal. At Year Three or another time agreed to by Ecology and the project team, after Dam removal the applicant will obtain LIDAR data that supplements the data collected as part of the Sediment Management and Monitoring Plan and documents the restoration of the Elwha River Ecosystem.
- C4. The Applicant shall develop and submit to Ecology a plan for documenting establishment of vegetative cover within the former reservoirs and throughout the river corridor. The plan will include areas affected directly by project activities associated with the dam removals and indirectly by re-distribution of sediment throughout the river corridor after dam removal. The plan shall consist of:

- (a) a photo-monitoring plan that documents the progress of vegetation development and restoration of the Elwha River on an annual basis for a minimum of ten years.
 - (b) the location of photo monitoring transects throughout the project corridor that support conclusions about the establishment of vegetative cover within the project corridor.
 - (c) vegetation analysis that identifies the dominant plant species that are establishing the cover identified in photo-monitoring results.
 - (d) vegetation analysis that identifies whether any noxious non-native species are establishing within the restoration corridor. If noxious non-native vegetation is identified within the corridor, a plan will be developed and submitted to Ecology that identifies what actions will be taken to control and eradicate the identified noxious non-native vegetation. This plan will be updated and submitted yearly as necessary to document activities taken to identify, control, and eradicate noxious non-native vegetation in the project corridor.
 - (e) schedule for submission of photo-monitoring documentation and associated observations data to document the establishment of vegetation and related restoration of the Elwha River. (LIDAR and/or orthophotography could be part of the documentation of vegetative cover in years when that data is available).
 - (f) at year ten the project team in consultation with Ecology will assess whether monitoring of the vegetation re-establishment is required, and if needed a continuation of the plan will be developed and submitted to Ecology.
- C5 The Applicant shall update and submit to Ecology's Federal Project Manager for approval a revised Elwha River Restoration Project Sediment Management and Monitoring Plan prior to construction. This revised plan shall include the following:
- (a) A detailed implementation plan for the adaptive management monitoring plan, including who will be conducting the various tasks, when the tasks will be completed, and which tasks may not be conducted due to funding limitations.
 - (b) Place a continuous monitoring station above the water quality treatment plant and either at the mouth of the river or approximately 1000 feet off shore in the Straits of Juan De Fuca.
 - (c) Add an additional monitoring location below the discharge point for the water quality treatment plant.

D. In-Water Construction Conditions:

- D1 For work conducted in an active channel the water shall be diverted around the project site. Any instream diversion shall be in constructed in accordance with guidelines developed by the Washington Department of Fish and Wildlife and NOAA Fisheries Service.

- D2. Material removed from inside cofferdams shall be disposed of outside of the flood plain of the river.
- D3. Equipment used below the ordinary high water line shall utilize bio-degradable hydraulic fluid.
- D4. Machinery maintenance involving potential contaminants (fuel, oil, hydraulic fluid, etc.) shall occur outside the riparian area, defined as the entire channel migration zone or a distance greater than 150 feet from the stream edge.
- D5. Prior to starting work each day, all machinery shall be inspected for leaks and all necessary repairs shall be made before the commencement of work.
- D6. Turbine runners from the powerplant shall be removed and disposed of as a hazardous material.
- D7. Rock used for the construction of the temporary diversion channel and constructed riffle, shall be composed of clean, angular material of sufficient size to prevent its being washed away by high water.
- D8. All trenches, depressions, or holes crested within the ordinary high water line shall be backfilled prior to inundation by high water or wave action.
- D9. Bank protection work shall be restricted to work necessary to protect the existing and new structures.
- D10. Bank sloping shall be accomplished in a manner that avoids release of overburden material into the water. Overburden material resulting from the project shall be deposited so it will not re-enter the water.
- D11. All excavated materials from the removal of the Elwha Dam, not used for site restoration, shall be hauled to an approved waste disposal facility. Upon request, the Applicant shall provide a report to Ecology listing all the disposal locations and approximate quantity of waste material disposed.
- D12. All waste materials from the removal of the Glines Canyon Dam shall be disposed of at an approved waste disposal facility outside the national park. Upon request, the Applicant shall provide a report to Ecology listing all the disposal locations and approximate quantity of waste material disposed.

E. Conditions for Upland Construction Activities:

- E1. For upland construction activities, the Applicant shall obtain coverage under Ecology's General Construction Stormwater NPDES General Permit and comply with its requirements.
- E2. The Applicant shall submit to Ecology for review a Stormwater Pollution Prevention (SWPPP) Plan at least 30 days prior to beginning construction. The Applicant shall follow and implement all specification of the SWPPP.
- E3. Excess material (spoils) shall be disposed of at least 300 feet from the active stream channel or channel migration zone, unless a shorter distance is authorized by Ecology.
- E4. No construction staging areas will be allowed within 300 feet of any waterway, unless a shorter distance is authorized by Ecology.
- E5. Construction stormwater, sediment, and erosion control BMPs (e.g., detention areas, filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting construction at the site.
- E6. Direct discharge of construction stormwater to waters of the state (including wetlands) is prohibited. All stormwater from disturbed areas must be treated before discharge and/or managed on site.
- E7. The project shall be clearly marked/staked prior to commencing any construction activities. Clearing limits, travel corridors, and stockpile sites shall be clearly marked. Sensitive areas to be protected from disturbance shall be delineated and marked with brightly colored construction fence, so as to be clearly visible to equipment operators. All project staff shall be trained to recognize construction fencing that identifies sensitive area boundaries (wetlands, stream, riparian corridors, buffers, etc.). Equipment shall enter and operate only within the delineated clearing limits, corridors and stockpile areas.

F. Wetlands/Revegetation

- F1. All wetlands temporarily disturbed by project activities shall be restored to original grade and revegetated by planting or seeding with native vegetation.
- F2. The Applicant shall prepare and submit to Ecology, at least 30 days prior to the start of restoration activities, a plan demonstrating the anticipated restoration of areas of native vegetation that will be temporarily disturbed by project activities due to infrastructure improvements or flood protection measures immediately adjacent to and within 150 feet of the Elwha River or associated wetlands. The plan shall include:
 - (a) a description of the relative extent and location of the temporary impact;

- (b) a description of the type of vegetation being impacted;
- (c) details that describe activities needed to restore grade and/or soil to suitable condition for planting; and,
- (d) details that describe the plant material and typical installation methods that will be employed.

- F3. Ecology shall be notified at least 48 hours before the start of planting activities.
- F4. Any emergency bank stabilization projects will be mitigated within two (2) months of the stabilization. Plans for emergency work will be submitted to Ecology as part of the project team coordination activities.

G. Reporting Requirements

- G1. The Applicant shall report weekly to Ecology's Federal Project Manager, the monitoring data and detailed results indicating variation in predicted response of sediment, channel, hydrologic, and hydraulic parameters.
- G2. The Application shall provide a report to Ecology on results and interpretations on data acquired through the Sediment Management and Monitoring Plan. Reporting to be at least yearly and consistent with *6/4/2006 Draft Sediment Management and Monitoring Plan, Section 4.3 Key Reporting Times For Adaptive Management*, including Table 6, and any other reporting events as conditions warrant.
- G3. Restoration monitoring activities shall be used to measure project performance and will result in a body of scientific knowledge applicable to both understanding and interpreting natural river restoration and healing. The Applicant shall submit the following reports when they are completed:
 - (a) National Park Service Monitoring of Lake Mills Reservoir Revegetation Plan;
 - (b) Lower Elwha Klallam Tribal Comprehensive Assessment of the Elwha River Nearshore Interface, Lake Aldwell Reservoir Revegetation Plan (LEKT); and,
 - (c) Beach Profile Monitoring of the Elwha River Delta Coast (USGS).
- G4. Applicant is required to provide Ecology annually with a list of all reports completed by members of the participating agencies or members of the Elwha research consortium.
- G5. The Applicant shall provide Ecology with a copy of the following reports as they become available to help Ecology understand the overall restoration of the Elwha River System.
 - (a) the following reports from the Lower Elwha Klallam Tribal Comprehensive Assessment of the Elwha River Nearshore Interface:
 - (1) Vegetative Community Analysis

- (2) Nutrient Analysis – additional funding may be required to supplement Wetland Grant funding
- (3) Wetlands Topography and Aerial Extent – to be addressed under EPA Wetland Grant
- (4) Animal Use Assessment (other vertebrates)
- (5) Sediment Characterization – to be addressed under EPA Wetlands Grant
- (6) Water Quality Analysis – to be addressed under EPA Water Quality (106) funding
- (b) Landslide Hazard Zonation (LHZ) of the Lower Elwha Watershed (USGS)
- (c) Photographic Monitoring of the Central Straits Shoreline (The Surfrider Foundation)

H. Timing Requirements

H1. Physical removal of the Elwha and Glines Canyon dams shall not begin until the completion of the water treatment plants designed to address high sediment loads that will occur as a result of the dam removal activities.

H2. Timing windows:

- (a) To protect fisheries resources, construction activities for the mitigation facilities adjacent to or in waterways shall occur during the dry season from July through October, unless otherwise approved by Ecology.
- (b) Dam removal and reservoir drawdown shall not occur during certain periods designated as fish windows. Fish windows are time periods during which adult fish may be migrating into the river channel for spawning or for when juvenile fish are migrating back to sea.

Year of reservoir drawdown	Begin Fish Window	End Fish Window
1	November 1 st	December 31 st
2	May 1 st	June 30 th
2	August 1 st	September 14 th
2	November 1 st	December 31 st
3	May 1 st	June 30 th
3	August 1 st	September 14 th
3	November 1 st	December 31 st

I. Notification Requirements:

I1. Notification shall be provided to Ecology’s Federal Project Manager per condition A2 above per the following schedule:

- (a) at least ten (10) days prior to the pre-construction meeting to review environmental permits and conditions;

- (b) at least ten (10) days prior to starting construction of each in-water activity; and,
- (c) within seven (7) days after the completion of the construction of each in-water activity.

J. Emergency/Contingency Measures

- J1. The Applicant shall develop and implement if needed a spill prevention and containment plan for all aspects of this project. This plan shall be on site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
- J2. Spill clean-up material (Spill Kits) shall be on site at all construction sites at all times.
- J3. Any discharge of oil, fuel, or chemicals into state waters or onto land with a potential for entry into state waters, is prohibited. If such discharge occurs, the Applicant shall immediately take the following actions:
 - (a) Cease operations at the location of the discharge. Containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work.
 - (b) Assess the cause of the problem and take appropriate measure to correct the problem and/or prevent further environmental damage.
 - (c) Notify Ecology of the discharge or spill. Spill events shall be reported immediately to Ecology's 24-hour Spill Response Team at 360/407-6300, and within 24 hours of other events contact Ecology's Federal Permit Manager per condition A2 above.
 - (d) A detailed written report shall be submitted to Ecology (per condition A2 above) within five (5) days of the event describing the nature of the event, any corrective action taken and/or planned, steps to be taken to prevent a recurrence and any other pertinent information.

Compliance with these requirements 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.

- J4. If at any time during the project the Applicant finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the Applicant shall immediately notify the Ecology's SWRO Spill Response Office at 360/407-6300.

K. 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 2-16-07 at Lacey, Washington.



Paula Ehlers, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington

Order # 3959, Corps Reference #. 200600334

February 16, 2007

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ATTACHMENT A

**ELWHA RIVER ECOSYSTEM RESTORATION PROJECT
Water Quality Certification Order #3959**

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

I have read and understand the conditions of Order #3959 Section 401 Water Quality Certification for the Elwha River Ecosystem Restoration Project. I have also read and understand all permits, plans, documents, and approvals associated with the Elwha River Ecosystem Restoration Project referenced in this order.

Signature

Date

Title

Company