



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Eastern Regional Office- Spokane
4601 N. Monroe St. • Spokane, WA 99205 • (509) 329-3400

September 29, 2017

Mr. Jim Mital
U.S. Army Corps of Engineers, Walla Walla District
Walla Walla District
201 North 3rd Avenue
Walla Walla, Washington 99362

Dear Mr. Mital:

On November 17, 2016 the U.S. Army Corps of Engineers, Walla Walla District (Corps) requested a Section 401 Water Quality Certification (WQC) for the Swallows Beach Restoration Project located in Clarkston, WA. A joint public notice regarding the request was distributed by the Corps on November 10, 2016.

The purpose of the Swallows Beach Restoration Project is to restore a degraded swimming area, provide safe access to the Snake River, and address public health/safety concerns on Corps managed federal lands at Swallows Park in Clarkston, WA. Approximately 1.4 of wetlands will be impacted as a result of the project. To mitigate for the impacts, the Corps created a plan that will preserve 29.5 acres of wetlands in total, with 31.8 acres of buffers. The Mitigation plan has been reviewed and accepted by the Washington Department of Ecology.

On behalf of the State of Washington, Ecology certifies that the work described in the November 17, 2016, Request for Water Quality Certification and November 10, 2016 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. The certification is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Hallie Ladd at (509) 329-3474 or via email at Hallie.Ladd@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order

Sincerely,

Sara Hunt
Section Manager
Shorelands and Environmental Assistance Program
Eastern Regional Office - Spokane

Enclosure

e-cc: Loree' Randall, Ecology HQ
Hallie Ladd, Ecology Eastern Regional Federal Permit Coordinator
ecyrefedpermits@ecy.wa.gov, Ecology HQ
Michael Francis, USACE

IN THE MATTER OF GRANTING A) ORDER # 15415
WATER QUALITY) Corps Reference No. PM-EC-2016-17
CERTIFICATION TO) Swallows Beach Restoration Project located in
The U.S. Army Corps of Engineers,) Asotin County, Washington.
Walla Walla District)
in accordance with 33 U.S.C. 1341)
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

Mr. Jim Mital
U.S. Army Corps of Engineers
Walla Walla District
201 North 3rd Avenue
Walla Walla, Washington 99362

On November 17, 2016 the U.S. Army Corps of Engineers, Walla Walla District (Corps) requested a Section 401 Water Quality Certification (WQC) for the Swallows Beach Restoration Project located in Clarkston, WA. A joint public notice regarding the request was distributed by the Corps on November 10, 2016.

The Corps proposes to restore a degraded swimming area, provide safe access to the Snake River, and address public health/safety concerns on Corps managed federal lands at Swallows Park in Clarkston, WA. The facilities at Swallows Park are part of the Lower Granite Lock and Dam Project. Safe beach access has not been possible for several years due to shallow waters resulting from sedimentation and degraded water quality, nutrient load, and eutrophic conditions caused by high densities of Canada geese and other birds.

The proposed project entails creating a safe beach access area and filling a degraded swimming area with clean soil to address intensive recreational use needs and public health concerns. Native vegetation would be planted over the fill. Work would be accomplished during low water periods by Corps Lower Granite Natural Resource Management Office personnel using heavy equipment. Staging areas would be located close to the work site and would be situated above the Ordinary High Water Mark (OHWM).

Due to its proximity to the Snake River, a variety of aquatic habitats are present in the Swallows Beach area including wetlands, shallow pools, and shoreline mudflats. Approximately 1.4 acres of category III wetlands will be impacted as a result of the Swallows Beach Restoration project. To mitigate for the impacts, the Corps created a plan that will preserve 29.5 acres of category I and II wetlands in total, with 31.8 acres of buffers. This Mitigation Plan has been reviewed and accepted by the Washington Department of Ecology.

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed 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 comply with 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 Corps to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification absolves the Corps from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

A. General Conditions

1. In this Order, the term “Applicant” shall mean the U.S. Army Corps of Engineers and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to Ecology’s Eastern Regional Office, Attn: Federal Permit Manager, 4601 N Monroe St., Spokane, WA 99205-1295 or via e-mail (preferred), to fednotification@ecy.wa.gov, with a cc: to Ecology’s Federal Permit Manager, Hallie Ladd, at Hallie.Ladd@ecy.wa.gov.

Any submittals shall be identified with Order No. 15415 and include the Applicant’s name, project name, project location, the project contact and the contact’s phone number.

3. Work authorized by this Order is limited to the work described in the letter received by Ecology on November 17, 2016 and the revised Mitigation Plan dated August 2017. The Applicant will be out of compliance with this Order and must submit an updated

information if any information contained in the letter and revised Mitigation Plan is voided by subsequent changes to the project not authorized by this Order.

4. Within 30 days of receipt of any updated information, 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. The Applicant shall keep copies of this Order 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.

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.

6. 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.
7. The Applicant shall ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order.
8. 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.
9. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

B. Notification Requirements

1. Notification shall be made under each of the following circumstances. Notification shall be made condition A2 above. Notifications shall be identified with Order No. 15415 and include the Applicant's name, project name, project location, project contact, and the contact's phone number.
 - a. Immediately following a violation of state water quality standards or when the project is out of compliance with any of the Order's conditions.
 - b. At least ten (10) days prior to conducting initial in-water work activities.
 - c. At least seven (7) days within project completion.

C. Timing

1. This Order is valid until all compliance requirements in the Order have been met and the applicant has received written notification from Ecology to that effect.
2. All in-water work activities shall be restricted to times when the water level in Lower Granite Reservoir is at minimum operating pool (MOP), 733-foot elevation, (typically the first of April through the end of August).

D. Water Quality Monitoring & Criteria

1. This Order does not authorize the Applicant to exceed applicable state water quality standards for turbidity as described in WAC 173-201A-200 (1)(e).
2. The Applicant shall submit a Water Quality Monitoring and Protection Plan (WQMPP) to the Federal Permit Manager for review and approval at least 20 days prior to beginning work for each activity below the ordinary high water line (OHWL), in-water and over-water. **Work is not authorized to begin until approval is received.** At a minimum, the WQMPP shall include:
 - a. The names(s) and phone numbers (s) of the Pollution control inspector and the person responsible for on-site monitoring and report;
 - b. The BMPs and procedures to be used to protect water quality during specific proposed below the ordinary high water mark, in-water and over-water activities;
 - c. A water sampling plan for turbidity, which include sample locations and frequency;
 - d. Sampling locations for turbidity shall include, but are not limited to; background, half the distance to the point of compliance and at the point of compliance, unless otherwise approved by Ecology.
 - e. A map with numbered or named sampling locations associated with the in-water work activities.
 - f. Contingencies during in-water work activities
3. Ecology must approve, in writing, any changes or additions to the WQMPP.
4. Monitoring results shall be submitted monthly to the Ecology Federal Permit Manager.
5. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

E. Construction

General Conditions

1. Within the project limits¹ all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, and mitigation areas shall be fenced with high visibility construction (HVF) prior to commencing construction activities. Construction activities include equipment staging, materials storage, and work vehicle parking. *Note: This condition does not apply to activities such as pre-construction surveying and installing HVF and construction zone signage.*
2. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
3. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
4. All construction debris, excess sediment, and other solid waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
5. Turbid de-watering water associated with in-water work shall not be discharged directly to waters of the state, including wetlands. Turbid de-watering water shall be routed to an upland area for on-site or off-site settling.
6. Clean de-watering water associated with in-water work that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state including wetlands. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.

Equipment & Maintenance

1. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands. If a staging area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation and obtain approval from Ecology's Federal Permit Manager before placing the staging area in the setback area.
2. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the state, including wetlands. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state, including wetlands.

¹ Project limits include mitigation sites, staging areas, borrow sources, and other sites developed or used to support project construction.

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.
4. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.

F. Wetland Mitigation Conditions

1. The Applicant shall mitigate aquatic resource impacts as described in the *Swallows Beach Restoration Project Wetland/Riparian Mitigation Plan*, prepared by the U.S. Army Corps of Engineers, dated August 2017.
2. In addition to the mitigation measures identified in F.1. above, the Applicant shall submit a native vegetation planting plan to establish native riparian vegetation adjacent to areas disturbed by the lagoon and beach fill actions. The plan shall be designed so that the new plantings tie into the existing riparian vegetation the currently exists in the park, with particular focus on the upstream inlet and downstream interface with the new beach. The plan should include description of maintenance and contingency measures to ensure success. **This planting plan must be submitted and approved by Ecology before construction commences.**
3. The Applicant shall notify Ecology of any changes to the amount of wetland impacts or revisions to the Mitigation Plan.

G. Emergency/Contingency Measures

1. The Applicant shall develop and implement a spill prevention and containment plan for this project and shall have spill cleanup material available on site at all times during construction.
2. Work that is out of compliance with the provisions of this Order, conditions causing distressed or dying fish, discharges of oil, fuel, or chemicals into state waters or onto land with a potential for entry into state waters, is prohibited. If such work, conditions, or discharges occur, the Applicant shall notify the Ecology Permit Manager per condition A2 and immediately take the following actions:
 - a. Cease operations at the location of the non-compliance.
 - 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 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.

- d. Immediately notify Ecology's Regional Spill Response Office and the Washington State Department of Fish & Wildlife with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems.
 - e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
3. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.

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 all 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
<p>Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503</p> <p>Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501</p>	<p>Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608</p> <p>Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903</p>

CONTACT INFORMATION

Please direct all questions about this Order to:

Hallie Ladd
Department of Ecology
Eastern Regional Office
4601 N Monroe St
Spokane, WA 99205-1295
(509) 329-3474
Hallie.Ladd@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 34.05 RCW – Administrative Procedure Act**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 Washington Administrative Code (WAC) Sediment Management Standards**
<http://www.ecy.wa.gov/biblio/wac173204.html>
- **Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173200.html>
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173201A.html>

SIGNATURE

Dated this 29 day of September 2017 at the Department of Ecology, Spokane, Washington



Sara Hunt
Section Manager
Shorelands and Environmental Assistance Program
Eastern Regional Office - Spokane