



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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December 22, 2021

Minor edit, see below

Cowlitz Indian Tribe
7700 NE 26th Ave
Vancouver, WA 98665
Attn: Pete Barber

RE: Water Quality Certification Order No. **20811** for Corps Reference No. **201801151**,
~~Kwoneessum~~ **Kwoneesum** Dam Removal, Skamania County, Washington

Dear Pete Barber:

On ~~June 21, 2021~~ **July 23, 2021**, Cowlitz Indian Tribe submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the ~~Kwoneessum~~ Kwoneesum Dam Removal, Skamania County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Water Quality Certification Request and supplemental documents 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.

Please ensure that anyone doing work under this Order has read, is familiar with, and is able to follow all of the provisions within the attached Order.

If you have any questions about this decision, please contact Jennifer Riedmayer at (360) 995-3252. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

A handwritten signature in blue ink, appearing to read "Perry J Lund", is written over a blue circular stamp.

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

~~Kwoneessum~~ Kwoneesum Dam Removal
Aquatics No. **140720**, Corps No. **201801151**
December 22, 2021
Page 2 of 2

Enclosure

e-cc:

Evan Carnes, Corps of Engineers
ECY RE FEDPERMITS
Loree' Randall – HQ SEA Program
Jennifer Riedmayer – HQ SEA Program
Lori Kingsbury – SWRO SEA Program
Miranda Adams- SWRO SEA Program
Martin Walther- HQ Dam Safety Program
Craig Jordan- HQ Dam Safety Program
Tammy Stout, Cascade Environmental Group
Ian Sinks- Columbia Land Trust

IN THE MATTER OF GRANTING A) WQC ORDER No. 20811
WATER QUALITY) Corps Reference No. 201801151
CERTIFICATION TO) ~~Kwoneessum~~ Kwoneesum Dam Removal,
Cowlitz Indian Tribe) Wildboy Creek located in Skamania County,
pursuant to 33 U.S.C. 1341 (FWPCA) Washington.
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)

Cowlitz Indian Tribe
7700 NE 26th Ave
Vancouver, WA 98665
Attn: Pete Barber

On July 23, 2021, the Cowlitz Indian Tribe submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the ~~Kwoneessum~~ Kwoneesum Dam Removal, Wildboy Creek located in Skamania County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on August 9, 2021.

The project proposes the removal of a human-built dam that will restore riverine processes and habitat to the three tributaries upstream from the dam, the reservoir footprint and reservoir pool to approximately one-half mile of Wildboy Creek downstream from the dam.

The project will start with the dewatering of three tributaries that flow into the reservoir and downstream of Wildboy Creek. Access roads and clearing will occur during the initial dewatering phase. The dewatering plan will use pumps, piping and agriculture sprayers to remove the clear and turbid water to designated locations identified within the project area. The dewatering plan calls for the use of evaporative measures once all water is cleared and dam demolition activities begin.

Demolition of the dam will occur after water drawdown and maintain 10-feet of freeboard on the dam to contain any turbidity generated. As grading is completed during this phase, any sediment or debris generated will be kept on site to use in the restoration project. Concrete from the dam and spillway removal will be hauled off site.

Temporary diversion dams made of gravel bulk bags will be installed on the three perennial tributaries and ephemeral tributary to prevent further mixing. Bulk bags will be removed or emptied on site when no longer needed. A temporary cofferdam will be installed inside the reservoir. Temporary fill and salvaged dam rock will be used to create any access roads and containment basins throughout the project area.

Materials such as sediment, salvaged rock, large woody debris, straw bales and slash generated from the demolition process will be used within the reservoir footprint or in the half mile downstream in the reconstruction of Wildboy Creek.

This project will self-mitigate for the loss of wetland area and function through dam removal. Existing wetlands will be permanently impacted along the reservoir fringe and stream corridors but wetlands will re-establish along the restored tributary margins within the reservoir footprint along Wildboy Creek following grading and dam removal.

In total, up to 0.43 of an acre of reservoir fringe wetlands will be permanently drained, 0.41 of an acre of wetland will be permanently impacted as a result of habitat improvement associated with Wildboy Creek restoration and 0.008 of an acre of wetlands will be temporarily impacted by the installation of diversions dams.

The 10.41-acre open water reservoir footprint and 0.25 acre dam spillway will be permanently lost as a result of the dam removal and habitat restoration. However, the restoration of Wildboy Creek and tributaries will result in the net gain of 2.17 acres of stream channel and riparian habitat and connect approximately 6.5 miles of stream habitat for Endangered Species Act (ESA) listed Lower Columbia Steelhead and restore geomorphic processes to the Washougal River watershed.

The project site parcel 02050000090000, Wildboy Creek, Skamania County, Washington, Section 8, Township 2 N., Range 5 E., within Water Resource Inventory Area (WRIA) 28 Salmon-Washougal.

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this WQC request 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;
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.
4. Conformance with Washington's prohibition on discharges that cause or tend to cause pollution of waters of the state of Washington. RCW 90.48.080.
5. The applicant of the project authorized is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, local or tribal authorities.

With this Water Quality Certification (WQC) Order, Ecology is granting with conditions, Cowlitz Indian Tribe request for a Section 401 Water Quality Certification for the Kwoneesum Dam Removal, Wildboy Creek located in Skamania County. Ecology has determined that the proposed discharges will comply

with all applicable state water quality requirements, provided the project is conducted in accordance with the Section 401 Water Quality Certification request that Ecology received on July 23, 2021, the supporting documents referenced in Table 1 below, **and the conditions of this WQC Order.**

Table 1. Supporting Documents

Date Received	Document Type	Title & Date	Author
7/23/2021	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA (6/18/2021)	Tammy Stout, Cascade Environmental Group, LLC
7/23/2021	Drawings	Kwoneesum Dam Draft Final Removal Design	William P. Norris, Parr Excellence
7/23/2021	Wetland Delineation	Kwoneesum Dam Removal Project Wetland Delineation Report (June/2021) Functions Assessment Memo (7/23/2021)	Brent Haddaway, Cascade Environmental Group, LLC
7/23/2021	Water Quality Monitoring and Protection Plan, Dewatering Plan, Materials Management Plan, and Spill Prevention and Control Plan	Water Quality Monitoring and Protection Plan (7/22/2021) Revised WQMPP(10/27/2021) Final WQMPP (12/3/2021)	Rod Lundberg, Cascade Environmental Group, LLC
7/23/2021	Stormwater Pollution Prevention Plan	Stormwater Pollution Prevention Plan (7/22/2021)	Rod Lundberg, Cascade Environmental Group LLC
7/23/2021	Final Design Report	Kwoneesum Dam Final Design Report (2/10/2020)	Parr Excellence and Inter-Fluve, Inc.

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Cowlitz Indian Tribe 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 Section 401 Water Quality Certification absolves the Cowlitz Indian Tribe

from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Water Quality Certification Conditions

The following conditions will be incorporated into the Corps permit and strictly adhered to by the Cowlitz Indian Tribe.

A. General Conditions

1. In this WQC Order, the term “Applicant” shall mean the Cowlitz Indian Tribe and its agents, assignees, and contractors.
2. All submittals required by this WQC Order shall be sent to Ecology’s Headquarters Office, Attn: Federal Permit Manager, via e-mail to fednotification@ecy.wa.gov and cc to Jennifer.Riedmayer@ecy.wa.gov. The submittals shall be identified with WQC Order 20811 and include the Applicant’s name, Corps permit number, project name, project contact, and the contact phone number.
3. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on July 23, 2021 and the supporting documentation identified in Table 1.
4. The Applicant shall keep copies of this WQC 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.
5. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, and/or necessary data collection, to ensure that conditions of this WQC Order are being met.
6. 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 WQC Order and all permits, approvals, and documents referenced in this WQC Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) before construction begins.
7. This WQC 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 WQC Order.
8. Failure of any person or entity to comply with the WQC Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the state’s water quality standards.

9. The Applicant shall provide Ecology documentation for review before undertaking any major changes to the proposed project that could significantly and adversely affect water quality, other than those project changes required by this WQC Order.
10. The Applicant shall send (per A.2.) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.
11. Nothing in this WQC Order waives Ecology's discretionary authority to issue additional Orders if Ecology determines that further actions are necessary to implement the water quality laws of the state.
12. This Order will automatically transfer to a new owner or operator if:
 - a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the WQC Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
 - b. A copy of this Order is provided to the new owner or operator; and
 - c. Ecology does not notify the new Applicant that a new WQC Order is required to complete the transfer.

B. Notification Requirements:

1. The following notification shall be made via e-mail to Ecology's Federal Permit Manager via e-mail to fednotification@ecy.wa.gov and cc to Jennifer.Riedmayer@ecy.wa.gov. Notifications shall be identified with WQC Order # 20811, Corps reference #, and include the Applicant name, project name, project location, project contact and the contact phone number.
 - a. Immediately following a violation of state water quality standards or when the project is out of compliance with any conditions of this WQC Order.
 - b. At least ten (10) days prior to conducting initial in-water work activities.
 - c. Within seven (7) days of completing in-water work activities of each in water work window.
2. In addition to the phone or e-mail notification required under B.1.a. above, the Applicant shall 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.
3. If the project construction is not completed within 13 months of issuance of this WQC Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction and mitigation are completed.

C. Timing

1. This WQC Order is not effective until the U.S. Corps of Engineers (Corps) issues an permit for this project and will remain valid for the duration of the associated Corps permit for the project.
2. The following in-water work windows apply to the project unless otherwise approved by Ecology:
 - a. All activities within the wetted perimeter of the project area may be conducted between May 15th and September 30th of any year. To the extent practicable, work within the wetted perimeter of the project area, work shall be conducted after May 15, 2022.
3. Any project change that requires a new or revised Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife should be sent to Ecology for review before the change is implemented. Proposed changes shall be implemented only with written approval from Ecology.

D. Water Quality Monitoring & Criteria

1. This WQC Order does not authorize the Applicant to exceed applicable turbidity standards beyond the limits established in WAC 173-201A-200(1)(e)(i)
2. For in-water activities within fresh waters (including wetlands) turbidity shall not exceed 5 NTU over background when the background is 50 NTU or less; or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU;
 - a. Temporary area of mixing for turbidity established within the state water quality standards for fresh waters (WAC 173-201A-200) is as follows:
 - i. For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from the activity causing the turbidity exceedance.
 - ii. For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of the activity causing the turbidity exceedance.
 - iii. For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of the activity causing the turbidity exceedance.
 - iv. For projects working within or along lakes, ponds, wetlands, or other non-flowing waters, the point of compliance shall be at a radius of one hundred fifty feet from the activity causing the turbidity exceedance.
3. If water quality exceedances for turbidity are observed outside the point of compliance, work shall cease immediately and the Applicant or the contractor shall assess the cause of the water quality problem and take immediate action to stop, contain, and correct the problem and prevent further water quality turbidity exceedances.

4. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity, shall be considered an exceedance of the standard.
5. The Applicant shall conduct water quality monitoring as described in the approved *Water Quality Monitoring and Protection Plan* as identified in Table 1 (hereafter referred to as the WQMP)
6. The Applicant shall implement the WQMP as proposed and approved by Ecology.
7. Monitoring results shall be submitted weekly during in water construction per condition A.2.
8. Ecology may ask or could use its discretionary authority to require the Applicant to provide mitigation and/or additional monitoring if the monitoring results indicate that the water quality standards have not been met.

E. Construction

General Conditions

1. All work in and near waters of the state shall be conducted to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMPs) suitable to prevent exceedances of state water quality standards shall be in place before starting maintenance and shall be maintained throughout the duration of the activity.
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. The Project Proponent shall obtain and comply with the conditions of the Construction Stormwater Permit (National Pollutant Discharge Elimination System - NPDES) issued for this project.
4. 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.
5. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
6. 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.
7. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.

Equipment & Maintenance

8. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands, unless otherwise authorized by Ecology.
9. 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.
10. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.
11. 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.
12. Wash water containing oils, grease, or other hazardous materials resulting from washing of equipment or working areas shall not be discharged into state waters. The Project Proponent shall set up a designated area for washing down equipment.
13. Turbidity curtains shall be properly deployed and maintained in order to minimize turbidity and re-suspension of sediment.

Dewatering

14. 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.
15. 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.
16. Dewatering water may not be discharged to the Wildboy Creek or conveyed to surface waters unless it meets Surface Water Quality Standards (Chapter 173-201A WAC) at the point of discharge, unless otherwise authorized by this WQC Order.
17. The dewatering outfall or method of discharge shall be designed and operated so as not to cause erosion or scour in state waters, banks, or vegetation.
18. All equipment associated with dewatering activities shall be properly operated and maintained.

Stream Bypass

19. Stream flow isolation work shall not scour the stream channel or banks of the water body in which the work is being done.
20. To minimize sediment releases into downstream water, water reintroduced to the channel shall be done gradually and at a rate not exceeding the normal stream flow.

Bank Stabilization

21. Prior to returning stream flow to the de-watered work area, all proposed bank protection measures shall be in place.

F. Emergency/Contingency Measures

1. The Project Proponent shall develop and implement a spill prevention and containment plan for this project.
2. The Project Proponent shall have adequate and appropriate spill response and cleanup materials available on site to respond to any release of petroleum products or any other material into waters of the state.
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. Work causing distressed or dying fish and 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 Project Proponent shall notify Ecology's Federal 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 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.
5. Notify Ecology's Regional Spill Response Office at 360-407-6300 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 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.

Filing an appeal with the PCHB

Mailing Address

Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

Street Address:

Pollution Control Hearings Board
1111 Israel RD SW
STE 301
Tumwater, WA 98501

Serving a copy of the appeal on Ecology:

Mailing Address:

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

Street Address:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

CONTACT INFORMATION

Please direct all questions about this WQC Order to:

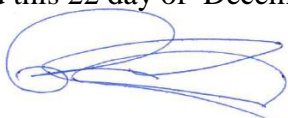
Jennifer Riedmayer
Department of Ecology
(360) 995-3252
Jennifer.Riedmayer@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
<http://www.eluho.wa.gov/Board/PCHB>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 WAC – Sediment Management Standards**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

SIGNATURE

Dated this 22 day of December 2021 at the Department of Ecology, Lacey, Washington



Perry J Lund, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office
Department of Ecology

12-22-2021

Date

Attachment A

**Statement of Understanding
Water Quality Certification Conditions**

Kwoneesum Dam Removal

Water Quality Certification WQC Order # 20811

As the Project Proponent for Kwoneesum Dam Removal project, I have read and understand the conditions of Washington State Department of Ecology WQC Order # 20811, and any permits, plans, documents, and approvals referenced in the WQC Order. I have and will continue to ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this WQC Order and any permits, plans, documents, and approvals referenced in the WQC Order.

Signature _____ Date _____

Title _____ Phone _____

Company _____