



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

August 9, 2023

Lower Columbia Fish Enhancement Group
ATTN: Brice Crayne
11018 NE 51st Circle
Vancouver, WA 98682

Re: Water Quality Certification Order No. **22143** (Corps No. **NWS-2023-0300**), Baird Creek Liberation, Cowlitz County, Washington

Dear Brice Crayne:

On June 1, 2023, Lower Columbia Fish Enhancement Group submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Baird Creek Liberation, Cowlitz 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 enclosed Water Quality Certification Order (WQC Order).**

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

If you have any questions about this decision, please contact Sonia Mendoza at (360) 918-1342. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Loree' Randall, Section Manager
Federal Permitting Section
Shorelands and Environmental Assistance Program

WQC Order No. 22143, Corps No. NWS-2023-0300

Aquatics ID No. 142539

August 9, 2023

Page 2 of 2

Enclosure (1)

By certified mail: 9489 0090 0027 6383 6851 99

Sent via e-mail: bricecrayne@outlook.com

E-cc: Brad Johnson, U.S. Army Corps of Engineers
Sonia Mendoza, Ecology
ECYREFEDPERMITS@ecy.wa.gov

In The Matter of Granting a Water Quality
Certification to Lower Columbia Fish Enhancement Group
pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW
90.48.260 and Chapter 173-201A WAC

Lower Columbia Fish Enhancement Group
Attn: Brice Crayne
11018 NE 51st Circle
Vancouver, WA 98682

WQC Order No.	22143
Corps Reference No.	NWS-2023-0300
Site Location	Baird Creek Liberation project located within Baird Creek, near Kelso, Cowlitz County, Washington.

Lower Columbia Fish Enhancement Group submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Baird Creek Liberation project, Cowlitz County, Washington. The following required processing dates are listed below:

- On 4/4/2023, the Lower Columbia Fish Enhancement Group submitted a pre-filing meeting request.
- On 4/24/2023 the U.S. Army Corps of Engineers (Corps) sent an email notification to Ecology that they are reviewing the project for authorization under Nationwide Permit No. 27 and requires an individual Section 401.
- On 6/1/2023, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 6/23/2023, Ecology issued a public notice for the project.

This project proposes to culminate instream fish habitat restoration in Baird Creek from its confluence with the Coweeman's River Mile (RM) 26 to the end of fish at about RM 4. Establish fish passage upstream, and sediment and large woody debris (LWD) passage downstream of the historic Baird Creek splash dam which has been in place since about 1901. In addition, enhance instream conditions in bedrock-dominant reaches and create and implement a riparian revegetation plan in the headwaters of Baird Creek upstream of the splash dam that is conducive to beaver establishment via beaver dam analog (BDA) installation and revegetation efforts.

The project site is adjacent to Logging Roads 100 and 129 in Weyerhaeuser St. Helens Tree Farm, within Baird Creek, near Kelso, Cowlitz County, Washington, ¼ Section E, Section 18, Township 8 N., Range 2 E., ¼ Section N, Section 17, Township 8 N., Range 2 E., ¼ Section S ½

and E ½, Section 9, Township 8 N. Range 2 E., within Water Resource Inventory Area (WRIA) 26 - Cowlitz.

With this WQC Order, Ecology is granting with conditions Lower Columbia Fish Enhancement Group's request for a Section 401 Water Quality Certification for the Baird Creek Liberation project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 6/1/2023, and the following supporting documentation:

1. E-mail to Ecology dated 7/3/2023, regarding the project's Demolition Plan.
2. E-mail to Ecology dated 7/28/2023, regarding the project's Hydraulic Project Approval.
3. E-mail to Ecology dated 8/8/2023, regarding the project's Updated Water Quality Monitoring and Protection Plan.

Based on the information submitted, Ecology has determined that the discharge from the project will comply with state water quality requirements. Prior to undertaking any changes that materially alter the project, Lower Columbia Fish Enhancement Group must contact Ecology to determine whether a new Section 401 Water Quality Certification is required.

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Lower Columbia Fish Enhancement Group 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 Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Special Condition:

1. Any work that causes distressed or dying fish or discharges of oil, fuel, or other chemicals into state waters or onto land with a potential for entry into state waters is prohibited¹. If such work, conditions, or discharges occur, immediately notify² Ecology's Regional Spill Response Office at 360-407-6300 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. You will also need to notify the Washington Emergency Management Division³ at 1-800-258-5990, for spills to water only. This condition is necessary to prevent oil and other hazardous materials spills from causing environmental damage

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm.

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, this WQC is granted with conditions to the Lower Columbia Fish Enhancement Group for the Baird Creek Liberation project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues a Department of the Army (DA) permit for this project. WQC Order No. **22143** will remain valid for the duration of the associated DA permit. Lower Columbia Fish Enhancement Group should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

Your right to appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt. 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 notice of appeal and a copy of this Order with the PCHB (see filing information below). "Filing" means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. "Notice of appeal" is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this Order on the Department of Ecology mail, in person, or by email (see addresses below).

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

Filing an appeal

Filing with the PCHB

For the most current information regarding filing with the PCHB, visit: <https://elaho.wa.gov/> or call: 360-664-9160.

Service on Ecology

Street Addresses:

Department of Ecology

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

Mailing Addresses:

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

E-Mail Address:

ecologyappeals@ecy.wa.gov

Americans with Disabilities Act Information

Accommodation Requests

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

Contact Information

Please direct all questions about this WQC Order to:

Sonia Mendoza
Department of Ecology
(360) 918-1342
Sonia.mendoza@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
<https://elaho.wa.gov>
- **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 9th day of August, 2023, at the Department of Ecology, Lacey, Washington.



Loree' Randall, Section Manager
Federal Permitting Section
Shorelands and Environmental Assistance Program