



**STATE OF WASHINGTON**  
**DEPARTMENT OF ECOLOGY**

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

March 22, 2024

Clallam County  
ATTN: Cathy Lear  
223 East 4<sup>th</sup> Street, Suite 5  
Port Angeles, WA 98362

Re: Amendment to 401 Water Quality Certification Order No. 16239 for U.S. Army Corps of Engineers (Corps) Reference No. NWS-2017-719, Lower Dungeness River Floodplain Restoration and Levee Realignment Project, within Dungeness River, Meadowbrook Creek, and Wetlands, Sequim, Clallam County, Washington

Dear Cathy Lear:

Enclosed is an amendment to Water Quality Certification Order No. 16239, issued on April 19, 2019, for the above project. We have also included a strikeout version of the Water Quality Certification that reflects the changes made. All other conditions of Water Quality Certification No. 16239 remain in effect.

The purpose of this amendment is to extend the Water Quality Certification to coincide the current end date of the U.S. Army Corps of Engineers individual permit.

If you have any questions, please contact Sonia Mendoza at (360) 918-1342. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

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Loree' Randall, Section Manager  
Aquatic Permitting & Protection Section  
Shorelands and Environmental Assistance Program

Enclosures (2)

Second Amendment to Order No. 16239  
Aquatics No. 136222, Corps No. NWS-2017-719  
March 22, 2024  
Page 2 of 2

By certified mail: 9489 0090 0027 6347 8919 63

Sent via e-mail: [clear@co.clallam.wa.us](mailto:clear@co.clallam.wa.us)

E-cc: Pamela Sanguinetti, U.S. Army Corps of Engineers  
Amy Summe, Shannon & Wilson, Inc.  
Sonia Mendoza, Ecology  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)

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

Clallam County  
Attn: Cathy Lear  
223 East 4<sup>th</sup> Street, Suite 5  
Port Angeles, WA 98362

<b>WQC Order No.</b>	<b>16239</b> , Second Amendment
<b>Corps Reference No.</b>	NWS-2017-719
<b>Site Location</b>	Lower Dungeness Floodplain Restoration and Levee Realignment project located within Dungeness River, Meadowbrook Creek, and Wetlands, Sequim, Clallam County, Washington.

On April 19, 2019, the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to Clallam County for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request March 5, 2024, to extend the Water Quality Certification to coincide the current end date of the U.S. Army Corps of Engineers Individual Permit.

WQC Order No. 16239 dated April 19, 2019, is hereby amended as follows:

I. Condition number C.1. which reads:

This Order will expire five (5) years from the date of issuance. Continuing this Order beyond the five-year term of this Order will require the Applicant to apply for an extension prior to the expiration of this Order.

Is replaced with:

This Order shall remain in effect to November 24, 2024.

No other conditions or requirements of the above referenced Order are affected by this amendment.

Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

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

## 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 options 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](mailto:ecologyappeals@ecy.wa.gov)

## Contact Information

Please direct all questions about this Order to:

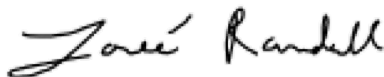
Sonia Mendoza  
Department of Ecology  
(360) 918-1342  
[Sonia.mendoza@ecy.wa.gov](mailto:Sonia.mendoza@ecy.wa.gov)

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

## Signature

Dated this 22nd day of March 2024 at the Department of Ecology, Lacey, Washington.



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Loree' Randall, Section Manager  
Aquatic Permitting & Protection Section  
Shorelands and Environmental Assistance Program

This document shows the activities and conditions that have been amended since the original Order was issued. Therefore, it is not the official certification and should be used for information purposes only.

**IN THE MATTER OF GRANTING A )  
WATER QUALITY )  
CERTIFICATION TO )  
Clallam County )  
ATTN: Cathy Lear )  
in accordance with 33 U.S.C. 1341 )  
(FWPCA § 401), RCW 90.48.120, RCW )  
90.48.260, and Chapter 173-201A WAC )** **ORDER No. 16239, First Amendment, Second  
Amendment**  
Lower Dungeness River Floodplain Restoration,  
and Levee Realignment Project, The Dungeness  
River, Meadowbrook Creek, and Wetlands,  
Clallam County, Washington

TO: Clallam County  
ATTN: Cathy Lear  
223 East 4<sup>th</sup> Street, Suite 5  
Port Angeles, WA 98362

On April 23, 2018 the Department of Ecology (Ecology) received a Joint Aquatic Resources Permit Application (JARPA) from Clallam County requesting a Section 401 Water Quality Certification under the federal Clean Water Act to construct the Lower Dungeness River Floodplain Restoration, and Levee Realignment Project. The U.S. Army Corps of Engineers issued a joint public notice for the project on June 27, 2018.

The project involves the restoration and reconnection of the Lower Dungeness River floodplain through the removal of 4,230 linear feet of the existing federal levee that was built in 1963 along the east riverbank. The project will construct a new 5,520-foot-long setback levee and a 1,650-foot-long spur levee between River Mile (RM) 0.8 and RM 1.8 of the Dungeness River. A rip-rap protected spur levee will be constructed at the upstream end of the levee removal to guide river flows into the restored floodplain area and protect the adjacent farmlands and structures from channel migration and backwater flooding.

In addition, 3,400 linear feet of the existing Towne Road will be removed from the restored floodplain and a new Towne Road will be constructed on top of the setback levee. The relocated road will include a new intersection at East Anderson Road and Sequim-Dungeness Way.

A new gravel emergency access road will be constructed to the levee south of the proposed project along the eastern edge of an agricultural field near the toe of a wooded slope. Several culverts will be installed/replaced at multiple locations within the project area.

The project will impact approximately 14.08 acres of Category II, III, and IV wetlands resulting from the construction of the setback levee. However, the levee setback and Towne Road relocation project will provide a net increase of wetland function as a result of the restored floodplain hydrology with approximately 80 acres of newly restored and fully connected river and floodplain habitat restoration with a net increase of 11.3 acres of wetland, and reconnection of more than 3,000 feet of historic side channels.

The purpose of the proposed project is to restore the Lower Dungeness River's riverine and historic floodplain processes and functions between RM 0.8 and 1.8, maintain flood protection, and provide safe route continuity for the section of Towne Road.

The project is located west of Anderson Road, approximately 4 miles north of the City of Sequim in unincorporated Clallam County along the east bank of the Dungeness River, from RM 0.8 to 1.8, approximately 1 mile upstream of its outlet into Dungeness Bay and the Strait of Juan de Fuca; Section 36, Township 31 North, Range 4 West; Section 31, Township 31 North, Range 3 West; and Section 01, Township 30 North, Range 4 West; WRIA 18, Elwha-Dungeness Watershed.

#### **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 comply with 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 Clallam County subject to the conditions within this Order.

Certification of this proposal does not authorize Clallam County 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 resulting from project construction or operations.

#### **A. General Conditions:**

1. For purposes of this Order, the term “Applicant” shall mean Clallam County and its agents, assignees, and contractors.
2. All submittals required this Order shall be sent to The Department of Ecology, Southwest Regional Office, Attn: Federal Permit Manager, SEA Program, P.O. Box 47775, Olympia, WA 98504-7775 or by e-mail (preferred) to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) with a copy to [lori.kingsbury@ecy.wa.gov](mailto:lori.kingsbury@ecy.wa.gov). All submittals shall reference Order No. **16239** and

include the Applicant name, project name, project contact, and the contact phone number.

3. Work authorized by this Order is limited to the work described in the JARPA package received by Ecology on April 23, 2018 and as updated in the revised December 7, 2018 submittal package.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality other than those project changes required by this Order.
5. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new Public Notice and Water Quality Certification or if a modification to this Order is required.
6. This Order shall be rescinded if the US Army Corps of Engineers does not issue a Section 404 permit for this project.
7. The Applicant shall send (per Condition A.2, above) a copy of the final Section 404 Permit to Ecology's Federal Permit Manager within two weeks of receiving it.
8. 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.
9. 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.
10. 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.
11. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48) or the federal Clean Water Act, Ecology may issue an amendment to this Order to incorporate any such changes or amendments applicable to this project.
12. The Applicant shall ensure that all appropriate 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. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) that they have read and understands the conditions of this Order and any permits, plans, documents and approvals referenced herein. The signed statement shall



be submitted to Ecology (per Condition A2 of this Order) at least 7 days prior to start of in-water work.

13. 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 the conditions of this Order.
14. Failure of any persons or entity to comply with this 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. The following notification shall be made via e-mail to the Federal Permit Manager at [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) with a copy to the [Lori.Kingsbury@ecy.wa.gov](mailto:Lori.Kingsbury@ecy.wa.gov). Notifications shall be identified with Order No. **16239** and include the Applicant name, project name, project location, project contact and the contact's phone number.
  - a. Immediately following a violation of the state water quality standards or any condition of this Order.
  - b. At least ten (10) days prior to the start of work for each construction season.
  - c. Within ten (10) days after the completion of construction for each construction season.
2. If project construction is not completed within thirteen (13) months of issuance of this Order, the Applicant shall submit a written construction status report per Condition A.2. of this Order. Status reports shall be submitted every twelve (12) months thereafter until project construction and mitigation are completed.

#### **C. Timing Requirements:**

1. ~~This Order will expire five (5) years from the date of issuance. Continuing this Order beyond the five year term of this Order will require the Applicant to apply for an extension prior to the expiration of this Order.~~  
~~This Order shall remain in effect to November 24, 2024~~
2. The following in-water work windows shall apply to this project unless otherwise approved by Ecology:
  - a. Dungeness River: July 16 – ~~August 15~~ **October 31, 2023**;
  - b. Meadowbrook Creek: July 16 – ~~August 15~~ **October 31, 2023**.
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.

#### **D. Water Quality Monitoring & Criteria Conditions:**

1. The Lower Dungeness River is categorized as core summer salmonid habitat and Meadowbrook Creek is categorized as salmonid spawning and rearing. The criteria of those categorizations apply as described in WAC 173-201A-200(1), except as specifically modified by this Order.
2. This Order does not authorize the Applicant to exceed applicable turbidity standards beyond the limits established in WAC 173-201A-200(1)(e)(i).
3. The Applicant shall revise the *Draft Construction Water Quality Monitoring Plan, Lower Dungeness River Floodplain Restoration* prepared by Shannon & Wilson for Clallam County, dated December 13, 2018 to address Ecology review comments made on **April 15, 2019** and to be consistent with the conditions of this Order. A final WQMPP shall be submitted to Ecology's Federal Permit Manager (per Condition A.2. of this Order) **for review and approval** at least 30 days prior to beginning any work covered by this plan on the project site.
4. Ecology must approve, in writing, any changes or additions to the WQMPP prior to implementation of the changes or additions.
5. Results of the water quality monitoring shall be documented in a report and submitted to Ecology's Federal Permit Manager weekly during the identified in water work activities, per Condition A.2.
6. If water quality exceedances 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, correct the problem, and prevent further water quality turbidity exceedances.
7. Notification of exceedances shall be made to Ecology **within 24 hours of occurrence**. Notification shall be made with reference to Order No. **16239**, Attn: Federal Permit Manager, by telephone at (360) 407-6926 or by e-mail at [lori.kingsbury@ecy.wa.gov](mailto:lori.kingsbury@ecy.wa.gov). The Applicant shall, at a minimum, provide Ecology with the following information:
  - a. A description of the nature, extent, and cause of the exceedance.
  - b. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the project will return to compliance.
  - c. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
  - d. 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, water quality monitoring results and location, photographs, and any other pertinent information.

8. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

**E. Construction Conditions:**

*General*

1. The Applicant shall obtain and comply with the conditions of the current Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) issued for this project.
2. All work in and near waters of the state shall be conducted so as 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 clearing, filling, and grading work and shall be maintained throughout construction.
3. The project shall be clearly marked/staked prior to construction. All clearing limits, travel corridors, stockpile locations, and staging areas shall be clearly marked. Sensitive areas and their buffers that are to be protected from disturbance shall be marked so as to be clearly visible to equipment operators. All project staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.
4. The Applicant shall establish a separate, contained area for washing down vehicles and equipment that does not have any possibility of draining to surface waters and/or wetlands. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working area shall be contained for proper disposal, and shall not be discharged into waters of the state.
5. No construction or waste material shall be stored or stockpiled on a temporary or permanent basis at or below the OHWM. 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.
6. No petroleum products, fresh concrete, lime, concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
7. In-water work shall be conducted during periods of low-flow to the extent practicable.
8. The Applicant shall have a boat available on site during in- and over-water construction activities to immediately retrieve any debris entering the water.

*Equipment & Maintenance*

9. All equipment operating within and over state waters shall utilize only vegetable-based biodegradable hydraulic fluid.

10. 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 (with additional BMPs) and obtain approval from Ecology's Federal Permit Manager before placing the staging area within the 50-foot setback area.
11. All equipment operating within or directly over waters of the state shall be free of external petroleum-based products. Equipment shall be inspected daily for leaks, accumulation of grease, etc. Any identified problems shall be fixed before operating over or within waters of the state.
12. Accumulation of soils or debris shall be removed from the drive mechanisms and the undercarriage of equipment prior to use. Appropriate BMPs shall be implemented to minimize track-out during construction.
13. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands a minimum of 50 feet, and where practical, 200 feet from waters of the state in order to prevent contamination of surface waters.
14. Turbid de-watering water shall not be discharged directly to waters of the state, including wetlands. Turbid de-watering water shall be routed to an upland area for settling.
15. Clean de-watering water 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, along the banks, or within the vegetation.

*Culverts /Temporary Diversion Structures/ Dewatering*

16. Culvert replacement /installation shall be conducted in the dry or in isolation from surface waters.
17. Culverts shall be installed and maintained to avoid inlet scouring and prevent erosion.
18. The culverts shall be installed and maintained to avoid inlet scouring and prevent downstream bank erosion.
19. Temporary cofferdams, bladder dams, sandbag dams, floating turbidity curtains, and bypasses used to divert water around the work area shall be in place prior to initiation of work within the wetted perimeter.
20. The temporary diversion/bypass shall be of sufficient size, constructed of non-erosive materials, and installed to divert the entire flow through the bypass or around the isolated work area for the duration of the project.
21. The diversion system shall be designed and operated so as not to cause erosion in the channel or on the bank of the waterbody in which the work is being conducted.

22. Turbid de-watering water shall not be discharged directly to waters of the state, including wetlands. Turbid de-watering water shall be routed to an upland area for settling.
23. Clean de-watering water 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, along the banks, or within the vegetation.
24. Pumps and other equipment associated with dewatering activities shall be inspected a minimum of twice per day when in use to ensure proper operation and maintenance.
25. Prior to returning water flow to the work area, all bank protection measures shall be in place.
26. To minimize sediment releases, re-introduction of water into the isolated work area shall be done gradually, in order to minimize the mobilization of sediments and fines.
27. Upon completion of the project, all material used in the temporary bypass shall be removed from the site and the site returned to pre-project or improved conditions.

#### **F. Wetland Mitigation Conditions**

1. The Applicant shall mitigate wetland impacts as described in the *Habitat Management Plan for the Lower Dungeness River Floodplain Restoration and Levee Realignment Project* (hereafter called the “Habitat Management Plan”) prepared by Shannon & Wilson, Inc. for Clallam County, and dated December 2018, or as modified by this Order or revised and approved by Ecology.
2. The Applicant shall submit any proposed changes to the Habitat Management Plan in writing to Ecology (per Condition A.2. of this Order) for review and approval before implementing the changes.
3. The Applicant shall have a qualified wetland professional at the wetland mitigation site to supervise during construction and planting.

#### *Implementation*

4. The timeline for mitigation is to be followed according to Section 6.0 of the Habitat Management Plan. IF the mitigation cannot occur consistent with this section, the Applicant shall inform Ecology, in writing, of the status of:
  - a. Lower Dungeness River Floodplain Restoration and Levee Realignment Project.
  - b. Wetland Mitigation.

With the:

- c. Reason for the delay.
- d. Expected date of completion.

- e. The Applicant shall submit an updated written notification every 12 months thereafter until the Lower Dungeness River Floodplain Restoration and Levee Realignment Project and wetland mitigation are complete.
5. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers and landward of the 100-year floodplain, unless otherwise provided for in the Habitat Management Plan.
6. The Applicant shall ensure that no material is stockpiled within existing wetlands or their buffers at the wetland mitigation site(s) at any time, unless otherwise provided for in the Habitat Management Plan.
7. The Applicant shall ensure that no construction debris is deposited within existing wetlands or their buffers at the wetland mitigation site(s) at any time, unless otherwise provided for in the Habitat Management Plan.
8. The Applicant shall not use polyacrylamide at the mitigation site(s).
9. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site(s), unless otherwise approved by Ecology.
10. Aquatic herbicides can be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category.
  - a. Applicators are required to be permitted under Ecology's Noxious Weed Control Permit.
  - b. Applicators shall comply with all conditions of the Noxious Weed Control Permit.
11. If weed-barrier fabric is used on the site, the Applicant shall use only water-permeable, fully biodegradable, non-toxic weed-barrier fabric for the entire-site and/or individual plant weed control, unless otherwise approved by Ecology. If non-biodegradable plastic weed-barrier fabric is approved by Ecology, it shall be used only at the base of individual plants and shall be removed before it starts to break down, before it interferes with plant growth, or before the end of the monitoring period, whichever comes first.
12. If seeding is used for temporary erosion control, it must be a seed mix consisting of native, annual, non-invasive plant species, unless otherwise approved by Ecology.
13. The Applicant shall not use solid or mesh plant protector tubes at the mitigation site(s) unless otherwise provided for in the Habitat Management Plan.
14. After completing construction and planting of the mitigation sites(s), the Applicant shall submit to Ecology (per Condition A.2. of this Order) an as-built report, including plan sheets, documenting site conditions at Year Zero. The as-built report must:
  - a. Be submitted within 90 days of completing planting. Include one hard copy and one electronic file.

- b. Include the information listed in Attachment B (Information Required for As-built Reports).

*Monitoring and Maintenance*

15. The Applicant shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards. If an irrigation system is installed, it shall be removed by the end of year three unless Ecology authorizes in writing the system to remain for a longer period.
16. The Applicant shall monitor the mitigation site for a minimum of 10 years. The Applicant shall use the monitoring methods described on page(s) 30 -37 of the Habitat Management Plan.
17. The Applicant shall submit to Ecology (per Condition A.2. of this Order) monitoring reports documenting mitigation site conditions for years 1,2,3,5,7, and 10. The monitoring reports must:
  - a. Be submitted by December 31 of each monitoring year. Include one hard copy and one electronic file.
  - b. Include the information listed in Attachment C (Information Required for Monitoring Reports).
18. The Applicant shall implement the Habitat Management Plan's contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.
19. Prior to implementing contingency measures not specified in the Habitat Management Plan, the Applicant shall consult with and obtain written approval from Ecology for the contingency measures.
20. When necessary to meet the performance standards, the Applicant shall replace dead or dying plants with the same species, or an appropriate native plant alternative, during the current or upcoming planting season and note species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.
21. For monitoring years five (5) and ten (10), the Applicant shall use the currently approved federal wetland delineation manual and appropriate regional supplement to delineate all compensatory wetlands and include delineation information (e.g., data sheets, maps, wetland size, etc.) in the monitoring reports.
22. At the end of the monitoring period, the Applicant shall use the October 2014 version of the "Washington State Wetlands Rating System for Western Washington" to rate all wetlands and include the information in the monitoring report.
23. If the Applicant has not met all compensatory mitigation conditions by the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or

both. Conditions include specifications in the approved Habitat Management Plan, such as performance standards for the mitigation site.

24. The Applicant's obligation to compensate for wetland impacts under Condition F.1 is not met until the applicant has received written notice from Ecology that the obligation

**G. Emergency/Contingency Measures:**

1. The Applicant shall develop and implement a Spill Prevention and Control and Countermeasure Plan for all aspects of this project and shall have adequate and appropriate spill cleanup response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.
2. 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 waters of the state.
3. Work causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, including wetlands, 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 Federal Permit Manager per condition B.1. of this Order and immediately take the following actions:
  - a. Cease operations at the location of the non-compliance problem.
  - 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 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's Federal Permit Manager at (360) 407-6926 or (360) 407-6300.
  - e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
  - f. Submit a detailed written report to Ecology's Federal Permit Manager 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.



*Second Amendment March 22, 2024*

*First Amendment October 18, 2023*

*Order No. 16239*

*Corps Reference No. 2017-719*

*Clallam County*

*April 19, 2019*

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4. 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.

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