



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

1250 W Alder St • Union Gap, WA 98903-0009 • (509) 575-2490

February 4, 2020

Ty and Emily Johnson  
157 Tuscana Lane  
Wenatchee, WA 98801

RE: Water Quality Certification Order No. 18002 for Corps Permit No. NWS-2019-679  
Johnson, Chelan County, Washington

Dear Ty and Emily Johnson:

On December 12, 2019, your agent, Grette Associates LLC submitted a request for a Section 401 Water Quality Certification to construct private recreational water access and water craft moorage, in Lake Chelan. A joint public notice regarding the request was distributed by the U.S. Army Corps of Engineers for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on December 12, 2019.

On behalf of the State of Washington, Ecology certifies that the work described in the Joint Aquatic Resource Permit Application (JARPA) and the 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. This certification is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Andrea Jedel at (509) 454-4260. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Gary Graff, PWS  
Regional Section Manager  
Shorelands and Environmental Assistance Program

By Certified Mail: 7010 0290 0000 7126 8337

cc: Jenae Churchill, U.S. Army Corps of Engineers  
Graham Simon, WDFW  
Anne Hessburg, Grette Associates LLC  
Andrea Jedel, Ecology Central Regional Federal Permit Coordinator  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov) – Ecology HQ





<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER #18002</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2019-679</b>
<b>CERTIFICATION TO</b>	)	Pier, ramp and float, boatlift and buoy
<b>Ty and Emily Johnson</b>	)	in Lake Chelan, located near Manson,
in accordance with 33 U.S.C. 1341	)	Chelan County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	
	)	
	)	

TO: Ty and Emily Johnson  
157 Tuscana Lane  
Wenatchee, WA 98801

On December 12, 2019, the Department of Ecology (Ecology received a request for a Section 401 Water Quality Certification (WQC) for a pier, ramp and float, boatlift and buoy in Lake Chelan. A public notice regarding the request was distributed by U.S. Army Corps of Engineers for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on December 12, 2019.

The proposed project is to construct a new 780 square foot single-use, year-round overwater structure to serve a property only accessible by boat. The project includes excavating up to one cubic yard of substrate and discharge up to one cubic yard of previously excavated material as backfill for concrete footings, installation of a 125 square foot boat lift, and a mooring buoy. The project is located on Lake Chelan, near Manson in Chelan County, Washington. Situated in Section 12, Township 29N, Range 20 East of the Willamette Meridian. The project is located in Water Resource Inventory Area (WRIA) Chelan #47.

#### **AUTHORITIES:**

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 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 not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

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

1. For purposes of this Order, the term "Applicant" shall mean Ty and Emily Johnson, and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Central Regional Office, Attn: Andrea Jedel, Federal Permit Manager, SEA Program, 1250 W Alder Street, Union Gap, Washington 98903 or via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) and cc to [andrea.jedel@ecy.wa.gov](mailto:andrea.jedel@ecy.wa.gov). Any submittals shall reference Order No. 18002, and Corps No. NWS-2019-679, applicant name and project name.
3. All notifications listed below shall be made via phone to Andrea Jedel, phone (509) 454-4260 or e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) and cc to [andrea.jedel@ecy.wa.gov](mailto:andrea.jedel@ecy.wa.gov). These notifications shall be identified with Order No. 18002 and include the Applicant's name, the project contact, and the contact's phone number.
  - a. At least fourteen (14) days prior to the start of construction.
  - b. Within at least seven (7) days after completion of construction.
4. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on December 12, 2019, unless otherwise authorized by Ecology. The Applicant will be out of compliance with this Order and must reapply with an updated application if

the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.

5. 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.
6. 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.
7. This Order is not effective until the Corps Seattle District issues a permit for this project.
8. 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.
9. 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.
10. 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.
11. 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.
12. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.

13. 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.
14. 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 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. If Ecology does not notify the new Applicant that this Order must be modified to complete the transfer.

**B. Water Quality Conditions:**

1. This Order does not authorize exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i).

**C. Water Quality Monitoring**

1. A Water Quality Monitoring Plan is required and shall be submitted to Ecology to the Federal permit coordinator at the address shown in Condition A2 for review and approval four (4) weeks prior to construction. This plan shall be approved by Ecology prior to any in-water work. The plan shall include at a minimum the following information:
  - a. Name and contact information of the person or firm responsible for monitoring;
  - b. Map of sample locations including background and point of compliance at or near the surface, midway, and bottom depths. For this project the point of compliance is a radius of 150 feet from the activity causing the turbidity exceedance.
  - c. Parameter(s) to be monitored: turbidity
  - d. Sample method;
  - e. Frequency, and
  - f. Steps to be taken if monitoring results indicate an exceedance has occurred. The amount of the exceedance and the reason for the exceedance shall also be reported.
2. Turbidity monitoring reports shall be sent weekly by email to the Federal permit manager. The permit coordinator shall be contacted within 24 hours if an exceedance occurs.

**NOTE:** Conditions C1 and C2 may be modified by Ecology upon confirmation that construction will take place in the dry when lake levels are receded.

**D. Construction Conditions**

1. The project shall minimize extensive exposed areas and be phased to complete operations in one section of the site before clearing and grading the next.
2. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control, and Best Management Practices (BMP's) suitable to prevent exceedances of state water quality standards shall be in place before starting clearing, filling and grading work at the impact sites and shall be maintained throughout construction.
3. The project shall be clearly marked and staked prior to construction. Clearing limits, travel corridors, stockpile sites, staging areas, and refueling areas shall be clearly marked. Critical areas and buffers that are to be protected from disturbance shall be marked so as to be clearly visible to equipment operators. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.
4. Routine inspections should be conducted to verify that structural controls are maintained and operating effectively throughout construction, and that soil structure and vegetation are maintained within protection areas. If controls are not adequately protecting designated areas, adjust existing or implement additional protection measures.
5. All equipment must be clean and free of oils, hydraulic fluid, and other contaminants prior to entering all areas below the OHWM of Lake Chelan.
6. Equipment used for in-water work during this project operating with hydraulic fluid shall use only those fluids certified as non-toxic to aquatic organisms.
7. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
8. Clean Fill Criteria: The Applicant shall ensure that fill placed for the proposed project does not contain toxic materials in toxic amounts.

**E. Timing Requirements**

1. This Order will expire five (5) years from the date of issuance of the U.S. Army Corps of Engineers permit.
2. In-water work shall be conducted in the dry or when the lake is at a low water period.

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.

**F. 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. Any work causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
  - a. Cease operations that are causing the 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 finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
  - d. 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.
  - e. Immediately notify Ecology's 24-Hour Spill Response Team at 1-800-258-5990, the National Response Center at 1-800-424-8802 **and** within 24 hours of spills or other events Ecology's 401 Federal Permit Coordinator at (509) 454-4260.
  - f. 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. Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.
4. 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, including wetlands. No refueling of equipment shall occur over, or within 100 feet of creeks, rivers, lakes, or wetlands.



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5. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.

### **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**

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

### **CONTACT INFORMATION**

Please direct all questions about this Order to:

Andrea Jedel, PWS  
Department of Ecology  
Central Region Office  
1250 W Alder Street

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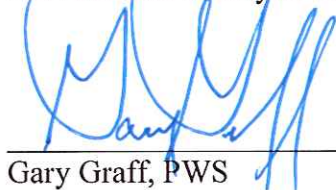
Union Gap, WA 98903  
(509) 454-4260  
[andrea.jedel@ecy.wa.gov](mailto:andrea.jedel@ecy.wa.gov)

#### 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 4th day of February, 2020, at Union Gap, Washington.



Gary Graff, PWS  
Regional Section Manager  
Shorelands and Environmental Assistance Program  
Central Regional Office – Ecology  
State of Washington

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

Ty and Emily Johnson  
48.0187 N lat., -120.2798 W long  
N Boat Appraisal, Manson, Chelan County  
Water Quality Certification Order No. **18002**  
and  
Corps Reference No. **NWS-2019-679**

I, \_\_\_\_\_, state that I will be involved as an owner, agent or contractor for Ty and Emily Johnson in the site preparation and/or construction of the Johnson Property Project located at 48.0187 N lat., -120.2798 W long, N Boat Appraisal, Manson, Chelan County. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. **18002** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Company