



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

1250 West Alder Street • Union Gap, Washington 98903-0009 • (509) 575-2490

December 3, 2020

Dalton Thomas
PO Box 549
Wenatchee, WA 98802

SENT VIA ELECTRONIC MAIL

RE: Water Quality Certification Order No. 19503 for Corps Permit No. NWS-2020-255
Thomas, Chelan County, Washington

Dear Dalton Thomas:

On July 21, 2020, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification (WQC). 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 June 25, 2020.

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 Chelsea Benner 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

ec: Jenae Churchill, U.S. Army Corps of Engineers
Graham Simon, WDFW
Ryan Walker, Grette Associates LLC
Chelsea Benner, Ecology Central Regional Federal Permit Coordinator
ecyrefedpermits@ecy.wa.gov – Ecology HQ

IN THE MATTER OF GRANTING A)	ORDER #19503
WATER QUALITY)	Corps Reference No. NWS-2020-255
CERTIFICATION TO)	Dock extension and relocation of existing boat
Dalton Thomas)	lift in Lake Chelan, Chelan County, Washington.
in accordance with 33 U.S.C. 1341)	
(FWPCA § 401), RCW 90.48.120, RCW)	
90.48.260 and Chapter 173-201A WAC)	
)	

TO: Dalton Thomas
Post Office Box 549
Wenatchee, Washington 98802

On July 21, 2020, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification (WQC) to construct a 438 sq. ft. dock extension and relocate the existing boatlift on their property at Lake Chelan. A public notice regarding the request was distributed by U.S. Army Corps of Engineers for the above-referenced project on June 25, 2020.

The proposed project is to construct a 438 square foot dock addition extending the existing dock to approximately 124 ft. waterward of the OHWM, to a water depth of approximately 11 ft., and it would encompass approximately 828 sq. ft. of over-water coverage (438 sq. ft. of which is new over-water coverage). The existing boat lift will be reinstalled on the downlake side of the new addition. The project is located on Lake Chelan, in Chelan County, Washington, situated in Section 17 NE, Township 27, Range 22, tax parcel number 272217-120-150. The project is located in Water Resource Inventory Area (WRIA) Chelan #47.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed the 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 (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.
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

WATER QUALITY CERTIFICATION CONDITIONS:

With this Water Quality Certification (WQC) and through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will comply with applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, this WQC is granted to Dalton Thomas (Applicant) subject to the conditions within this Order.

Issuance of this WQC for this proposal does not authorize Dalton Thomas 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 WQC absolves 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 Dalton Thomas, and its agents, assignees and contractors.
2. All submittals required by this Order shall be sent to Ecology’s Central Regional Office, Attn: Federal Permit Manager, via e-mail to fednotification@ecy.wa.gov and cc to chelsea.benner@ecy.wa.gov. The submittals shall be identified with Order Number 19503 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 Joint Aquatic Resource Permit Application (JARPA) received by Ecology on July 21, 2020.
4. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
5. The Applicant shall 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.
6. This Order is not effective until the Corps Seattle District issues a permit for this project.

7. 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.
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, and/or necessary data collection, 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 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.
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 conditions of this Order.
14. 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.
15. 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.
16. Conditions in this Order apply to all planned phases of the construction and the mitigation for this project.

B. Notification Requirements:

1. The following notification shall be made e-mail to Ecology's Federal Permit Manager via e-mail to fednotification@ecy.wa.gov and cc to Chelsea.benner@ecy.wa.gov. Notifications shall be identified with Order No. 19503 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 Order.
 - b. At least ten (10) days prior to conducting initial in-water work activities for in-water work window.
 - c. At least seven (7) days within project completion.
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 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 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 when Lake Chelan 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 before

the change is implemented. Proposed changes shall be implemented only with written approval from Ecology.

D. Water Quality Criteria:

1. Lake Chelan is categorized under the Water Quality Standards For Surface Waters of the State of Washington as core summer salmonid habitat aquatic life use designation per the standards and the criteria of the categorization apply as described in WAC 173-201A-200 (1), except as specifically modified by this Order.
2. This Order does not authorize exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i).

E. Water Quality Monitoring:

1. A visual monitoring plan and a list of Best Management Practices 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.
2. A Dewatering Plan for footing holes is required if water is found in the footing holes during excavation. If water is found, work shall stop immediately. The dewatering plan shall be submitted to Ecology to the Federal permit coordinator at the address shown in Condition A2 for review and approval. Work shall not proceed until plan has been approved by ecology.

Applicant may provide Ecology with a dewatering plan four (4) weeks prior to construction for Ecology approval to avoid possible delay if they choose. The dewatering plan shall be submitted to Ecology to the Federal permit coordinator at the address shown in Condition A2 for review and approval. Work shall start until plan has been approved by Ecology.

F. Construction Conditions:

1. 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.

2. 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.
3. 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.
4. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
5. 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.

Equipment & Maintenance

6. 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.
7. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.
8. 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.
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 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 Applicant shall set up a designated area for washing down equipment.

G. Emergency/Contingency Measures:

1. The Applicant shall develop and implement a spill prevention and containment plan for this project.
2. The Applicant shall have adequate and appropriate spill cleanup material available on site at all times during construction.
3. The Applicant shall have adequate and appropriate spill response materials available on site to respond to any release of petroleum products or any other material into waters of the state.
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.
5. 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 Applicant shall notify Ecology's Federal Permit Manager per condition B.1. 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.

6. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do 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

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

CONTACT INFORMATION

Please direct all questions about this Order to:

Chelsea Benner
Department of Ecology
Central Region Office
1250 W Alder Street

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Union Gap, WA 98903
(509) 454-4260
chelsea.benner@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 3rd day of December, 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

Dalton Thomas
47.8434 N lat. / -120.0999 W long
664 South Lakeshore Road, Chelan, WA 98816
Water Quality Certification Order No. 19503
and
Corps Reference No. **NWS-2020-255**

I, _____, state that I will be involved as an owner, agent or contractor for Dalton Thomas in the site preparation and/or construction of the Thomas Dock Project located at 47.8434 N lat. / -120.0999 W long., 664 South Lakeshore Road, Chelan, WA 98816. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. 19503 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