



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Southwest Region Office

PO Box 47775, Olympia, WA 98504-7775 • 360-407-6300

February 14, 2024

Eric Kinne
Hatchery Division Manager
WA Department of Fish & Wildlife
PO Box 43200
Olympia, WA 98504-3200

Re: Companion Order #22327 issued in combination with the Upland Finfish Hatching and Rearing General Permit (WAG131049)

Order Docket #	22327
Site Location	Forks Creek Hatchery, 1986 State Route 6, Raymond, WA 98577

Dear Eric Kinne:

The Department of Ecology (Ecology) is issuing the enclosed Companion Order requiring the Washington Department of Fish and Wildlife to comply with:

This Companion Order (#22327) cancels two previous Orders, docket numbers 9136 and 12793. This Companion Order (#22327) additionally sets new requirements for Forks Creek Hatchery to monitor and report temperature of its effluent and the river in accordance with the Total Maximum Daily Load (TMDL) implementation plan to restore the Willapa River to water quality standards. When the Upland Finfish General Permit is next renewed, the requirements of this order will be included in an appendix of the permit. Once the general permit becomes effective, containing these requirements, Companion Order (#22327) will no longer be needed and will expire. If you have questions, please contact Laurie Niewolny at lnie461@ecy.wa.gov or (360) 584-8852.

Eric Kinne
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Sincerely,



Andrew Kolosseus
Southwest Region Section Manager
Southwest Region Office
Water Quality Program

Enclosure: Companion Order #22327

cc: John Lovrak, WDFW
John Larson, WDFW
Logan Flitton, WDFW
Scott Williams, WDFW
Angela Stefani, WDFW
Ann Leroux, WDFW
Adonia Mckinzi, Ecology
Jonathon Drygas, Ecology

State of Washington
Department of Ecology

In the Matter of an Administrative Order Against
Washington State Fish & Wildlife Forks Creek Hatchery
Eric Kinne
Administrative Order Docket #22327

To: Eric Kinne
WA Department of Fish & Wildlife
PO Box 43200
Olympia, WA 98504-3200

Order Docket #	#22327
Site Location	Forks Creek Hatchery, 1986 State Route 6, Raymond, WA 98577

1. Legal Basis

The Department of Ecology (Ecology) has issued this Order requiring the WA Department of Fish and Wildlife (WDFW) to comply with:

- Chapter 90.48 Revised Code of Washington (RCW) – State of Washington Water Pollution Control Act
- Chapter 173-201A Washington Administrative Code (WAC) – Water Quality Standards for Surface Waters of the State of Washington
- Chapter 173-226 Washington Administrative Code (WAC) – Waste Discharge General Permit Program
- National Pollution Discharge Elimination System (NPDES) – Upland Finfish Hatching and Rearing General Permit (WAG131049)
- Willapa River Watershed Temperature Total Maximum Daily Load (TMDL) Study.

This Companion Order (#22327) cancels two previous Orders, docket numbers 9136 and 12793 and will expire once this order's requirements are added to the Upland Finfish Hatching and Rearing General Permit (Hatchery General Permit). This is a Companion Order issued in accordance with Special Condition S1.C.1.d of the Hatchery General Permit. RCW 90.48.120(2) authorizes Ecology to issue Companion Orders to accomplish the purposes of Chapter 90.48 RCW.

2. Background

The Forks Creek Hatchery (Hatchery) discharges effluent from one outfall into Forks Creek just 1000 feet upstream from its confluence with the Willapa River. The Hatchery operates 12 months a year and uses multiple sources of water to rear fish. The Hatchery uses a diversion of a portion of Forks Creek water one mile upstream along with well and spring water to meet its bioprogram obligations throughout the year.

In 2005, a TMDL Implementation Plan (Ecology Publication No. 05-10-073) was approved to address the temperature impairment of the Willapa River. The plan provided the hatchery with a wasteload allocation for temperature of 0.3°C when the creek is not meeting criteria during the summer critical period. Since the approval, two new and different temperature criteria apply to Forks Creek of which were not evaluated in the original TMDL. One is supplemental criteria to protect salmon spawning during February through June at 13°C, and the other is to protect core salmon habitat from summer through fall at 16°C. In 2012 and again in 2015, two separate orders were issued to allow the hatchery to assess year-round influent and effluent temperature for several years to determine how the hatchery impacted temperature. The goal was to determine permit limits relative to new temperature criteria not evaluated in the original TMDL.

Compliance to date: The Hatchery has monitored temperature and submitted annual temperature summary reports since 2012, compliant with orders #9136 and #12793. The data has indicated effluent and influent both exceed temperature criteria starting at the beginning of May and continues through mid-September. The data also indicated that effluent was cooler than the influent and at times the reverse was true. This order will set the monitoring points for effluent and Forks Creek with reporting criteria to meet the intent of the TMDL and the WLA specified (i.e., 0.3°C above background when creek is not meeting criteria). Monitoring will be set for April through October to include shoulder months before the spring when the supplemental criterion is not being met in the creek as well as into the fall at the end of the summer critical period.

Site improvements: In accordance with the TMDL, the Hatchery has made improvements since 2005 to reduce passive warming of the water flowing through the hatchery, its rearing vessels, and staging areas. The dual celled pollution abatement pond and the adult holding area were both reconstructed with covers or roofs to provide shading of the water in these areas. Additionally, in 2023, hatchery intake pumps and pipes were replaced and upgraded adding efficiency and preventing leaks, which will lead to improved flows reducing residence time in the hatchery that in turn could lead to less heating. Ecology recognizes all the upgrades as source controls in the effort to meet water quality based effluent limits derived from the TMDL. Monitoring and reporting.

3. Order Requirements

Based on the above background, Ecology has determined that the following corrective actions are required. In accordance with RCW 90.48.120(2), it is ordered that Washington Department of Fish and Wildlife take the following actions. As it pertains to the Forks Creek Hatchery located on State Route 6, Raymond Washington 98577, the Washington Department of Fish and Wildlife must adhere to the requirements of the Upland Finfish Hatching and Rearing General Permit (WAG131049) and the additional requirements of this Companion Order. Immediately upon receipt of this Order, and continuously thereafter, the Washington Department of Fish and Wildlife must:

1. Monitor temperature of effluent and creek in accordance to approved SAP.
By March 1, 2024, submit for Ecology's approval a Sampling and Analysis Plan (SAP) for the monitoring and reporting of temperature in hatchery effluent and in Forks Creek adjacent to the Hatchery but above the influence of the effluent. SAP may follow current template used for other WDFW general permit covered locations, but all requirements listed here in must be included.
 - The following are requirements of the SAP and temperature monitoring:
 - **By April 1, 2024** begin monitoring in accordance with approved SAP.
 - Monitoring shall occur **April 1 through October 31**.
 - In developing the SAP, WDFW must follow Ecology's publication on "Continuous Temperature Sampling Protocols for the Environmental Monitoring and Trends Section" (Publication No. 03-03-052) for equipment set up, deployment, and reporting temperature data.
 - The SAP must include calibration procedures. Follow Ecology Publication No. 03-03-052 unless using recording devices certified by the manufacturer. Ecology does not require manufacture-specific equipment as given in this document; however, if permittee wishes to use measuring devices from another company, it must demonstrate the accuracy is equivalent.
 - Recording temperature data shall be set to every 30 minute or one-half (1/2)-hour intervals.
 - The monitoring points must be indicated on a map with respective latitude/longitude coordinates.
 - Include and describe procedure to check on probes to ensure temperature data is being continuously recorded and integrity of device or its location is not compromised. Use Data form from Appendix F of Publication No. 03-03-052 to record deployment and periodic checks of device or station.
 - Include and describe procedure to censor data for data report because of unrepresentativeness. Include events such as deployment issue, water level issues, or others that make data recorded unusable because of unrepresentativeness.

2. Temperature Annual Report. **By January 30, 2025** and every year thereafter, on or by **January 30th**, submit Annual Report. The Annual Report must be submitted through the WQWebPortal.
 - Report must include a cover letter describing any data concerns and interpretation.
 - Report must include an Excel file with raw and censored data. The Excel file of temperature data must include all monitoring points and data recorded. Include

in the data file location or station identifying information. File must include raw data and censored data. Raw data shall be on separate tab from censored data. Indicate in each cell the censored data and note why it was censored.

4. Expiration Date

This Companion Order (#22327) cancels two previous Orders, docket numbers 9136 and 12793 and will expire once temperature monitoring and reporting requirements for Forks Creek Hatchery are added to the Upland Finfish Hatching and Rearing General Permit (Hatchery General Permit).

5. Failure to Comply With This Order

Failure 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.

6. Your Right to Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within thirty (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 43.21B0.001(2).

To appeal, you must do all of the following within thirty (30) days of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see address below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology by mail, in person or by mail (see addresses below).
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

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

7. Contact Information

Please direct all questions about this Order to:

Laurie Niewolny
Department of Ecology
Southwest Region Office
Water Quality Program
PO Box 47775
Olympia, Washington 98504-7775

Phone: (360) 584-8852
Email: lnie461@ecy.wa.gov

8. More Information

- **Pollution Control Hearings Board Website:**
<https://www.eluho.wa.gov>
- **Chapter 43.21B RCW – Environmental and Land Use Hearings Office – Pollution Control Hearings Board:**
<https://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice and Procedure**
<https://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<https://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Ecology’s Laws, Rules, & Rulemaking Website**
<https://ecology.wa.gov/Footer/rulemaking>

9. Signature



Andrew Kolosseus
Southwest Region Section Manager
Southwest Region Office
Water Quality Program

February 14, 2024

Date