DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT
4735 EAST MARGINAL WAY SOUTH, BLDG 1202
SEATTLE, WA 98134-2388

Regulatory Branch September 02, 2025

Ms. Wendy Christensen
Bureau of Reclamation, Columbia-Cascades Office
1917 March Road
Yakima, Washington 98901

Reference: NWS-2025-271
Bureau of Reclamation
(Speelyi Beach Shoreline Protection)

Dear Ms. Christensen:

We have received your application for a Department of the Army (DA) permit to discharge up to 11,054 cubic yards (cy) of fill materials along 1,720 linear feet of shoreline, or within up to 38,434 square feet, for the purpose of bank stabilization in the Cle Elum Reservoir at/near Ronald, Kittitas County, Washington. Based on the information you provided to us, Nationwide Permit (NWP) 13, *Bank Stabilization* (Federal Register December 27, 2021 Vol. 86, No. 245), authorizes your proposal as depicted on the enclosed drawings dated November 1, 2024.

In order for this authorization to be valid, you must ensure the work is performed in accordance with the enclosed *NWP 13, Terms and Conditions* and the following special conditions:

a. In order to protect the listed threatened and endangered species in the project area, you may conduct the authorized activities in the work window as agreed to and documented in writing through consultation by the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service (Services) in any year this permit is valid. If changes to the originally authorized work window are proposed, you must re-coordinate these changes with the Services and receive written concurrence on the changes. Copies of the concurrence(s) must be sent to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch, within 10 days of the date of the revised concurrence.

b. You must implement and abide by the Endangered Species Act (ESA) requirements and/or agreements set forth in the Cle Elum Dam Pool Raise Project Biological Assessment, dated May 2015, and received August 22, 2024, in its entirety. The U.S. Fish and Wildlife Service (USFWS) provided the enclosed Letter of Concurrence (LOC) with a finding of “may affect, not likely to adversely affect” based on this document on

June 5, 2015 (USFWS Reference Number 01EWFW00-2015-I-0650). The National Marine Fisheries Service (NMFS) provided the enclosed LOC with a finding of “may affect, not likely to adversely affect” based on this document on June 9, 2015 (NMFS Reference Number WCRO-2015-2698). Both agencies will be informed of this permit issuance. Failure to comply with the commitments made in this consultation constitutes non-compliance with the ESA and your U.S. Army Corps of Engineers permit. The USFWS/NMFS is the appropriate authority to determine compliance with ESA.

The Bureau of Reclamation completed National Historic Preservation Act, Section 7 Endangered Species Act (ESA) consultation and Magnuson Stevens Act, Essential Fish Habitat (EFH) consultation for the proposed activity [National Marine Fisheries Service reference WCRO-2015-2698, U.S. Fish and Wildlife Service reference 01EWFW00-2015-I-0650 (collectively called the Services)]. For the purpose of this Department of the Army authorization, we have determined this project will comply with the requirements of these laws provided you comply with all of the permit conditions. We have determined the permit action is sufficiently addressed in their ESA and EFH consultation documents. By this letter we are advising you and the Services, in accordance with 50 CFR 402.07 and 50 CFR 600.920(b), that this agency has served as the lead Federal agency for the ESA and EFH consultation responsibilities for the activity described above.

Please note that National General Condition 21, *Discovery of Previously Unknown Remains and Artifacts*, found in the *Nationwide Permit Terms and Conditions* enclosure, details procedures that must be followed should an inadvertent discovery occur. You must ensure that you comply with this condition during the construction of your project.

The authorized work complies with the Washington State Department of Ecology’s (Ecology) Water Quality Certification (WQC) requirements for this NWP. No further coordination with Ecology for WQC is required.

A conditioned Water Quality Certification (WQC) (Order Number: 24079, dated August 25, 2025) has been issued by the Washington State Department of Ecology for your project and is enclosed. You must comply with the conditions specified in the WQC for this NWP authorization to be valid.

You have not requested a jurisdictional determination for this proposed project. If you believe the U.S. Army Corps of Engineers does not have jurisdiction over all or portions of your project you may request a preliminary or approved jurisdictional determination (JD). If one is requested, please be aware that we may require the submittal of additional information to complete the JD and work authorized in this letter may not occur until the JD has been completed.

Our verification of this NWP authorization is valid until March 14, 2026, unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work for the NWP authorization has not been completed by that date and you have commenced or are under contract to commence this activity before March 14, 2026, you will have until March 14, 2027, to complete the activity under the enclosed terms and conditions of this NWP. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. You must also obtain all local, State, and other Federal permits that apply to this project.

Upon completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit*. All compliance reports should be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch electronically at nws.compliance@usace.army.mil. Thank you for your cooperation during the permitting process. We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey. Referenced documents and information about our program are available on our website at www.nws.usace.army.mil, select “Regulatory Permit Information”. A copy of this letter with enclosures will be furnished to Ms. Amy Cook at ACook@usbr.gov. If you have any questions, please contact me at Shannon.C.Flannigan@usace.army.mil or (509) 559-9932.

Sincerely,

Shannon Flannigan, Project Manager
Regulatory Branch

Enclosures

cc:
Ecology (ecyrefedpermits@ecy.wa.gov)

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Central Region Office
1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490

August 25, 2025

United States Bureau of Reclamation
Attn: Amy Cook
1917 Marsh Road
Yakima WA 98901

Re: Water Quality Certification Order No. 24079 (Corps No. NWS-2025-271), Cle Elum Pool Raise: Speelyi Beach Shoreline Protection, Kittitas County, Washington

Dear Amy Cook:

On 3/26/2025, United States Bureau of Reclamation submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Cle Elum Pool Raise: Speelyi Beach Shoreline Protection, Kittitas County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies with conditions 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 Ryan Anderson at (509) 379-1917. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Lori White, Section Manager
Central Region Office
Shorelands and Environmental Assistance Program

Enclosure (1)

By certified mail: [9214 8901 9403 8328 7569 26]

Sent via e-mail: acook@usbr.gov

E-cc: Shannon Flannigan, U.S. Army Corps of Engineers
Wade Warner, United States Bureau of Reclamation
Erin Hanlon Brown, Ecology
Ryan Anderson, Ecology
ecyrefedpermits@ecy.wa.gov

In The Matter of Granting a Water Quality Certification with Conditions to the United States Bureau of Reclamation pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC

United States Bureau of Reclamation
Attn: Amy Cook
1917 Marsh Road
Yakima, WA 98901

WQC Order No.	24079
Corps Reference No.	NWS-2025-271
Site Location	Cle Elum Pool Raise: Speelyi Beach Shoreline Protection located within Lake Cle Elum, near Ronald, Kittitas County, Washington.

United States Bureau of Reclamation submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Cle Elum Pool Raise: Speelyi Beach Shoreline Protection, Kittitas County, Washington. The required processing dates are listed below:

- On 8/1/2024, the United States Bureau of Reclamation submitted a pre-filing meeting request.
- On 3/26/2025, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 6/24/2025, United States Bureau of Reclamation submitted additional information, and the Department of Ecology (Ecology) considered the Request valid on this date.
- On 6/24/2025, the U.S. Army Corps of Engineers (Corps) sent an email notification to Ecology that they are reviewing the project for authorization under the Nationwide Permit (NWP) Program.
- On 7/8/2025, Ecology issued a public notice for the project.
- Ecology's "Reasonable Period of Time" for this project has been established as 10/22/2025.

This project proposes to stabilize the shoreline within the Cle Elum reservoir that may otherwise be inundated with water during high water years as a result of the increase in pool level. The project proposes to place riprap on the outer slope of the reservoir to the existing ground surface, place 20 wood structures to increase habitat function, and extend a culvert at

the site and re-grade to ensure stormwater is able to flow past the structures on the property into the reservoir. Additionally, a "perched beach" will be constructed to protect the parcel from wave action in the reservoir.

The project site is located at 831 S Lake Cabins Road, Lake Cle Elum, Kittitas County, Washington, Section 2, Township 20 N., Range 14 E., within Water Resource Inventory Area (WRIA) 39, the Upper Yakima River Watershed.

With this WQC Order, Ecology is granting with conditions United States Bureau of Reclamation's request for a Section 401 Water Quality Certification for the Cle Elum Pool Raise: Speelyi Beach Shoreline Protection project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 3/26/2025, and the following supporting documentation:

1. Draft Water Quality Management Plan Framework Cle Elum Dam Pool Raise Project: Speelyi Shoreline Protection Project submitted on 7/10/2025.

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, United States Bureau of Reclamation 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 United States Bureau of Reclamation 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 United States Bureau of Reclamation from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

1. 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. 24079 will remain valid until January 1, 2031.

    - Justification – Certifications are required for any license or permit that authorizes an activity that may result in a discharge or fill material into waters. This WQC Order is not valid until the Federal agency issues a permit. Additionally, Ecology needs to be able to specify how long the WQC Order will be in effect.

    - Citation – Chapter 90.48 RCW, Chapter 173-201A WAC, and WAC 173-225-010.

2. United States Bureau of Reclamation shall send a copy of the final Federal permit via e-mail to fednotification@ecy.wa.gov and cc to ryan.anderson@ecy.wa.gov prior to the starting of any work authorized by this WQC Order. If the Federal Agency determines the proposed project does not require a Federal permit, the United States Bureau of Reclamation shall immediately inform Ecology.

    - Justification - This condition is needed to ensure that the federal permit has been issued and all the conditions of the WQC Order have been included into the federal permit.

    - Citation - 40 CFR 121.10, 40 CFR 121.11, and Chapter 90.48 RCW.

3. To transfer this WQC Order to a new owner or operator United States Bureau of Reclamation shall:

    a. Complete a Request for Transfer of Order with a specific transfer date of the WQC Order's obligations, coverage, and liability and submit it to Ecology at fednotification@ecy.wa.gov and cc to ryan.anderson@ecy.wa.gov. Link to form: https://apps.ecology.wa.gov/publications/SummaryPages/ECY070695.html.

    b. Provide a copy of this WQC Order to the new owner or operator; and

    c. The transfer is not considered valid until the United States Bureau of Reclamation receives written notification from Ecology that the transfer has been approved.

        - Justification – Ecology has independent state authority to ensure protection of state water quality. Ecology needs to ensure that anyone conducting work at the project, including any new owners or operators, are aware of and understand the required conditions of this WQC Order to ensure compliance with the water quality standards and other applicable state laws.

        - Citation – 40 CFR 121.5, Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.

4. 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 prohibited. If such work, conditions, or discharges occur, immediately notify 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 Division 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 and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm.

- Justification - This condition is necessary to prevent oil and hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.

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 United States Bureau of Reclamation for the Cle Elum Pool Raise: Speelyi Beach Shoreline Protection.

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 by 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.

Address and Location Information

Filing with the PCHB

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

Service on Ecology

Street Address:

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

Mailing Address:

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 360-407-6831 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:

Ryan Anderson
Department of Ecology
(509)379-1917
Ryan.anderson@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
  https://eluho.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 25th day of August 2025 at the Department of Ecology, Union Gap, Washington.

Lori White, Section Manager
Central Region Office
Shorelands and Environmental Assistance Program

US Army Corps of Engineers
Seattle District

NATIONWIDE PERMIT 13
Terms and Conditions

2021 NWPs - Final 41; Effective Date: February 25, 2022
amended with RGCs 10-14 June 28, 2024

A. Description of Authorized Activities
B. U.S. Army Corps of Engineers (Corps) National General Conditions for All Final 41 NWPs
C. Seattle District Regional General Conditions
D. Seattle District Regional Specific Conditions for this Nationwide Permit (NWP)
E. 401 Water Quality Certification (401 WQC) for this NWP
F. Coastal Zone Management Consistency Response for this NWP

In addition to any special condition that may be required on a case-by-case basis by the District Engineer, the following terms and conditions must be met, as applicable, for a Nationwide Permit (NWP) authorization to be valid in Washington State.

A. DESCRIPTION OF AUTHORIZED ACTIVITIES

13. Bank Stabilization. Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, stream barbs, and bulkheads, or combinations of bank stabilization techniques, provided the activity meets all of the following criteria:

(a) No material is placed in excess of the minimum needed for erosion protection;

(b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects (an exception is for bulkheads – the district engineer cannot issue a waiver for a bulkhead that is greater than 1,000 feet in length along the bank);

(c) The activity will not exceed an average of one cubic yard per running foot, as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;

(d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;

(e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;

(f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored native trees and treetops may be used in low energy areas);

(g) Native plants appropriate for current site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization;

(h) The activity is not a stream channelization activity; and

(i) The activity must be properly maintained, which may require repairing it after severe storms or erosion events. This NWP authorizes those maintenance and repair activities if they require authorization.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the bank stabilization activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the bank stabilization activity: (1) involves discharges of dredged or fill material into special aquatic sites; or (2) is in excess of 500 feet in length; or (3) will involve the discharge of dredged or fill material of greater than an average of one cubic yard per running foot as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line. (See general condition 32.) (Authorities: Sections 10 and 404)

Note: In coastal waters and the Great Lakes, living shorelines may be an appropriate option for bank stabilization, and may be authorized by NWP 54.

B. CORPS NATIONAL GENERAL CONDITIONS FOR ALL 2021 NWPs - FINAL 41

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency

with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until

ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be

eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national

resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands

compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be

environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:
(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under

NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1⁄3-acre.
(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

_____
(Transferee)

_____
(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See

paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) *Timing*. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification*: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be

used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination*: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

C. SEATTLE DISTRICT REGIONAL GENERAL CONDITIONS: The following conditions apply to the 2021 NWPs - Final 41 NWPs for the Seattle District in Washington State, as applicable.

RGC 1, Project Drawings
Drawings must be submitted with a pre-construction notification (PCN). Drawings must provide a clear understanding of the proposed project, and how waters of the United States will be affected. Drawings must be originals and not reduced copies of large-scale plans. Engineering drawings are not required. Existing and proposed site conditions (manmade and landscape features) must be drawn to scale.

RGC 2, Aquatic Resources Requiring Special Protection
A PCN is required for activities resulting in a loss of waters of the United States in wetlands in dunal systems along the Washington coast, mature forested wetlands, bogs and peatlands, aspen-dominated wetlands, alkali wetlands, vernal pools, camas prairie wetlands, estuarine wetlands, and wetlands in coastal lagoons.

RGC 3, New Bank Stabilization in Tidal Waters of Puget Sound
Activities involving new bank stabilization in tidal waters in Water Resource Inventory Areas (WRIAs) 8, 9, 10, 11, and 12 (within the areas identified on Figures 1a through 1e) cannot be authorized by NWP.

RGC 4, Commencement Bay
No permanent losses of wetlands or mudflats within the Commencement Bay Study Area may be authorized by any NWP (see Figure 2).

RGC 5, Bank Stabilization
All projects including new or maintenance bank stabilization activities in waters of the United States where salmonid species are present or could be present, requires PCN to the U.S. Army Corps of Engineers (Corps) (see NWP general condition 32).

For new bank stabilization projects only, the following must be submitted to the Corps:

a. The cause of the erosion and the distance of any existing structures from the area(s) being stabilized.

b. The type and length of existing bank stabilization within 300 feet of the proposed project.

c. A description of current conditions and expected post-project conditions in the waterbody.

d. A statement describing how the project incorporates elements avoiding and minimizing adverse environmental effects to the aquatic environment and nearshore riparian area, including vegetation impacts in the waterbody.

In addition to a. through d., the results from any relevant geotechnical investigations can be submitted with the PCN if it describes current or expected conditions in the waterbody.

RGC 6, Crossings of Waters of the United States
Any project including installing, replacing, or modifying crossings of waters of the United States, such as culverts or bridges, requires submittal of a PCN to the U.S. Army Corps of Engineers (see NWP general condition 32).

If a culvert is proposed to cross waters of the U.S. where salmonid species are present or could be present, the project must apply the stream simulation design method from the Washington Department of Fish and Wildlife located in the Water Crossing Design Guidelines (2013), or a design method which provides passage at all life stages at all flows where the salmonid species would naturally seek passage. If the stream simulation design method is not applied for a culvert where salmonid species are present or could be present, the applicant must provide a rationale in the PCN sufficient to establish one of the following:

a. The existence of extraordinary site conditions.

b. How the proposed design will provide equivalent or better fish passage and fisheries habitat benefits than the stream simulation design method.

Culverts installed under emergency authorization that do not meet the above design criteria will be required to meet the above design criteria to receive an after-the-fact nationwide permit verification.

RGC 7, Stream Loss
A PCN is required for all activities that result in the loss of any linear feet of streams.

RGC 8, Construction Boundaries
Permittees must clearly mark all construction area boundaries within waters of the United States before beginning work on projects that involve grading or placement of fill. Boundary markers and/or construction fencing must be maintained and clearly visible for the duration of construction. Permittees should avoid and minimize removal of native vegetation (including submerged aquatic vegetation) to the maximum extent possible.

RGC 9, ESA Reporting to NMFS
For any nationwide permit that may affect threatened or endangered species:

Incidents where any individuals of fish species, marine mammals and/or sea turtles listed by National Oceanic and Atmospheric Administration Fisheries, National Marine Fisheries Service (NMFS) under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the U.S. or structures or work in navigable waters of the U.S. authorized by this Nationwide Permit verification shall be reported to NMFS, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the Seattle District of the U.S. Army Corps of Engineers at (206) 764-3495. The finder should leave the animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure or some unnatural cause. The finder may be asked to carry out instructions provided by the NMFS to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

RGC 10, Limitations on New Bank Stabilization Within the Salish Sea
The length of new bank stabilization within waters of the U.S., including new bank stabilization associated with maintenance activities that would expand previously authorized armoring length, cannot exceed 50 linear feet within the Salish Sea under any NWP.

RGC 11, Effects to Forage Fish Spawning Beaches, Drift Cells, and Feeder Bluffs)
No NWP activity can:

a. cause more than minimal adverse effects to forage fish spawning beaches or drift cells; or

b. prevent the functioning of feeder bluffs, including more than minimal adverse effects to sediment recruitment, transport, or deposition.

This regional general condition applies to all NWP activities within the Salish Sea. Information regarding the location of forage fish spawning beaches is available on the Washington Department of Fish and Wildlife's (WDFW) Forage Fish Spawning Map at https://wdfw.maps.arcgis.com/home/webmap/viewer.html?webmap=19b8f74e2d41470cbd80b1af8dedd6b3. Information regarding the location and movement of drift cells, shoreline stability, and coastal landforms, to include feeder bluffs, is available at the Washington State Department of Ecology's Coastal Atlas Map website: https://apps.ecology.wa.gov/coastalatlasmap. These maps are resources that can be used to help identify the location of forage fish spawning beaches, drift cells, and feeder bluffs; they are not a substitute for site-specific data. Information about forage fish, their spawning habitats, and spawning behavior are available through the WDFW. Additional information about the importance of these species as prey species for Endangered Species Act listed salmonids can be found on the National Marine Fisheries Service website.

RGC 12, Bank Stabilization Design Considerations
Bank stabilization activities, including maintenance activities, shall utilize living shorelines, vegetative stabilization, bioengineering, including but not limited to large woody material with intact root wads, and other soft bank stabilization approaches to the maximum practicable extent before considering hard bank stabilization methods such as bulkheads and rock revetments.

RGC 13, PCNs for Activities in Areas Where There May Be Treaty-Reserved Tribal Rights

To ensure compliance with General Condition 17, Tribal Rights, a pre-construction notification (PCN) is required for all NWPs associated with structures or fills in areas where Tribes have retained via treaty the right to fish in their usual and accustomed grounds and stations.

RGC 14, Maintenance of Existing Bank Stabilization Structures and Fills
(Applicable to NWP 3, Maintenance Activities) Maintenance of existing bank stabilization structures that expand the existing structure's footprint or dimensions either waterward, vertically, or linearly along the shoreline within the geographic jurisdiction of the U.S. Army Corps of Engineers are not eligible for NWP 3.

D. SEATTLE DISTRICT REGIONAL SPECIFIC CONDITIONS FOR THIS NWP: None

E. 401 WATER QUALITY CERTIFICATION: Depending on the geographic region of the work authorized by this verification, the appropriate 401 certifying authority has made the following determinations:

Washington Department of Ecology (Ecology) (Projects in all areas except as described for the other certifying agencies listed below): General and Specific WQC Conditions

A. State General Conditions for all Nationwide Permits

In addition to all of the U.S. Army Corps of Engineers' (Corps) national and Seattle District'sregional permit conditions, the following state general Water Quality Certification (WQC) conditions **apply to all NWPs whether granted or granted with conditions** in Washington where Ecology is the certifying authority.

Due to the lack of site specific information on the discharge types, quantities, and specific locations, as well as the condition of receiving waters and the quantity of waters (including wetlands) that may be lost, Ecology may need to review the project if one of the following stategeneral conditions is triggered.

This case-by-case review may be required, and additional information regarding the project and associated discharges may be needed, to verify that the proposed project would comply with state water quality requirements and if an individual WQC is required or if the project meets this programmatic WQC.

1. **In-water construction activities**. Ecology WQC review is required for projects or activities authorized under NWPs where the project proponent has indicated on the Joint Aquatic Resource Permit Application (JARPA) question 9e that the project or activity will not meet State water quality standards, or has provided information indicating that the project or activity will cause, or may be likely to cause or contributeto an exceedance of a State water quality standard (Chapter 173-201A WAC) or sediment management standard (Chapter 173-204 WAC).

Note: In-water activities include any activity within a jurisdictional wetland and/orwaters.

2. **Projects or Activities Discharging to Impaired Waters**. Ecology WQC review is required for projects or activities that will occur in a 303(d) listed segment of a waterbody or upstream of a listed segment and may result in further exceedances of the specific listedparameter to determine if the project meets this programmatic WQC or will require individual WQC.

To determine if your project or activity is in a 303(d) listed segment of a waterbody, visitEcology's Water Quality Assessment webpage for maps and search tools.

3. **Aquatic resources requiring special protection**. Certain aquatic resources are unique and difficult-to-replace components of the aquatic environment in Washington. Activities that would affect these resources must be avoided to the greatest extent practicable. Compensating for adverse impacts to high value aquatic resources is typically difficult, prohibitively expensive, and may not be possible in some landscapesettings.

Ecology WQC review is required for projects or activities in areas identified below to determine if the project meets this programmatic WQC or will require individual WQC.

a. Activities in or affecting the following aquatic resources:
    i. Wetlands with special characteristics (as defined in the Washington State Wetland Rating Systems for western and eastern Washington, Ecology Publications #14-06-029 and #14-06-030):
        - Estuarine wetlands.
        - Wetlands of High Conservation Value.
        - Bogs.
        - Old-growth forested wetlands and mature forested wetlands.
        - Wetlands in coastal lagoons.
        - Wetlands in dunal systems along the Washington coast.
        - Vernal pools.
        - Alkali wetlands.

    ii. Fens, aspen-dominated wetlands, camas prairie wetlands.

    iii. Category I wetlands.

    iv. Category II wetlands with a habitat score ≥ 8 points.

b. Activities in or resulting in a loss of eelgrass (Zostera marina) beds.

This state general condition does not apply to the following NWPs:
NWP 20 – Response Operations for Oil and Hazardous Substances
NWP 32 – Completed Enforcement Actions
NWP 48 – Commercial Shellfish Mariculture Activities

4. **Loss of More than 300 Linear Feet of Streambed.** For any project that results in the lossof more than 300 linear feet of streambed Ecology WQC review is required to determineif the project meets this programmatic WQC or will require individual WQC.

5. **Temporary Fills.** For any project or activity with temporary fill in wetlands or other waters for more than six months Ecology WQC review is required to determine if theproject meets this programmatic WQC or will require individual WQC.

6. **Mitigation.** Project proponents are required to show that they have followed the mitigation sequence and have first avoided and minimized impacts to aquatic resourceswherever practicable. For projects requiring Ecology WQC review or an individual WQC with unavoidable impacts to aquatics resources, a mitigation plan must be provided.

    a. Wetland mitigation plans submitted for Ecology review and approval shall be based on the most current guidance provided in Wetland Mitigation in Washington State, Parts 1 and 2 (available on Ecology's website) and shall, at aminimum, include the following:

        i. A description of the measures taken to avoid and minimize impacts to wetlands and other waters of the U.S.

        ii. The nature of the proposed impacts (i.e., acreage of wetlands and functions lost or degraded).

iii. The rationale for the mitigation site that was selected.

iv. The goals and objectives of the compensatory mitigation project.

v. How the mitigation project will be accomplished, including construction sequencing, best management practices to protect water quality, proposed performance standards for measuring success and the proposed buffer widths.

vi. How it will be maintained and monitored to assess progress toward goals and objectives. Monitoring will generally be required for a minimum of five years. For forested and scrub-shrub wetlands, 10 years of monitoring will often be necessary.

vii. How the compensatory mitigation site will be legally protected for the long term.

Refer to Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Ecology Publication #06-06-011b) and Selecting Wetland Mitigation Sites Using a Watershed Approach (Ecology Publications #09-06-032 (Western Washington) and #10-06-007 (Eastern Washington)) for guidance on selecting suitable mitigation sites and developing mitigation plans.

Ecology encourages the use of alternative mitigation approaches, includingcredit/debit methodology, advance mitigation, and other programmatic approaches such as mitigation banks and in-lieu fee programs. If you are interested in proposing use of an alternative mitigation approach, consult with the appropriate Ecology regional staff person. Information on alternative mitigation approaches is available on Ecology's website.

b. Mitigation for other aquatic resource impacts will be determined on a case-by-case basis.

7. **Stormwater Pollution Prevention**. All projects involving land disturbance or impervious surfaces must implement stormwater pollution prevention or control measures to avoiddischarge of pollutants in stormwater runoff to waters.

a. For land disturbances during construction, the applicant must obtain and implement permits (e.g., Construction Stormwater General Permit) where required and follow Ecology's current stormwater manual.

b. Following construction, prevention or treatment of on-going stormwater runofffrom impervious surfaces shall be provided.

Ecology's Stormwater Management and Design Manuals and stormwater permitinformation are available on Ecology's website.

8. **Application**. For projects or activities that will require Ecology WQC review, or anindividual WQC, project proponents must provide Ecology with a JARPA or the equivalent information, along with the documentation provided to the Corps, as described in national general condition 32, Pre-Construction Notification (PCN), including, where applicable:

a. A description of the project, including site plans, project purpose, direct and indirect adverse environmental effects the project discharge(s) would cause, best management practices (BMPs), and proposed means to monitor the discharge(s).

b. List of all federal, state or local agency authorizations required to be used for anypart

of the proposed project or any related activity.

c. Drawings indicating the OHWM, delineation of special aquatic sites, and other waters of the state. Wetland delineations must be prepared in accordance with thecurrent method required by the Corps and shall include Ecology's Wetland Rating form. Wetland Rating forms are subject to review and verification by Ecology staff.

Guidance for determining the OHWM is available on Ecology's website.

d. A statement describing how the mitigation requirement will be satisfied. A conceptual or detailed mitigation or restoration plan may be submitted. See stategeneral condition 5.

e. Other applicable requirements of Corps NWP general condition 32, Corps regional conditions, or notification conditions of the applicable NWP.

Ecology **grants with conditions Water Quality Certification** (WQC) for this NWP provided that Ecology individual WQC review is not required per the state general conditions (see above) and the following conditions:

Ecology Section 401 Water Quality Certification – Granted with conditions. Ecology individual WQC is required for all projects and activities authorized under this NWP if:

1. The project or activity includes new, complete replacement, or expansion of existing,bank stabilization measures in marine and estuarine waters of the Salish Sea; or

2. The project or activity has a length greater than 500 feet (individually or cumulatively) along the bank; or

3. The project or activity has not been designed and stamped by a Professional Engineer or Engineering Geologist; or

4. The project or activity exceeds an average of one cubic yard per running foot belowthe OHWM or High Tide Line.

Environmental Protection Agency (EPA) (on Tribal Lands where Tribes Do Not Have Treatment in a Similar Manner as a State and Lands with Exclusive Federal Jurisdiction in Washington):

On behalf of the 28 tribes that do not have treatment in a similar manner as a state and for exclusive federal jurisdiction lands located within the state of Washington, EPA Region 10 has determined that CWA Section 401 WQC for the following proposed NWPs is granted with conditions. EPA Region 10 has determined that any discharge authorized under the following proposed NWPs will comply with water quality requirements, as defined at 40 C.F.R. § 121.1(n), subject to the following conditions pursuant to CWA Section 401(d).

General Conditions:

EPA General Condition 1 – Aquatic Resources of Special Concern

Activities resulting in a point source discharge in the following types of aquatic resources of special concern shall request an individual project-specific CWA Section 401 WQC: mature forested wetlands; bogs, fens and other peatlands; vernal pools; aspen-dominated wetlands; alkali wetlands; camas prairie wetlands; wetlands in dunal systems along the Oregon or Washington Coast; riffle-pool complexes of streams; marine or estuarine mud-flats; salt marshes; marine waters with native eelgrass or kelp beds; or marine nearshore forage fish habitat. To identify whether a project would occur in any

of these aquatic resources of special concern, project proponents shall use existing and available information to identify the location and type of resources, including using the U.S. Fish and Wildlife Service's online digital National Wetland Inventory maps, identifying project location on topographical maps, and/or providing on-site determinations as required by the Corps. When a project requires a Pre-Construction Notification (PCN) to the Corps, project proponents shall work with the Corps to identify whether the project is in any of these specific aquatic resources of special concern.

EPA General Condition 2 – Soil Erosion and Sediment Controls

Turbidity shall not exceed background turbidity by more than 50 Nephelometric Turbidity Units (NTU) above background instantaneously or more than 25 NTU above background for more than ten consecutive days.[8] Projects or activities that are expected to exceed these levels require an individual project-specific CWA Section 401 WQC.

The turbidity standard shall be met at the following distances from the discharge:

Wetted Stream Width at Discharge Point	**Approximate Downstream Point to Sample to Determine Compliance**
Up to 30 feet	50 feet
>30 to 100 feet	100 feet
>100 feet to 200 feet	200 feet
>200 feet	300 feet
Lake, Pond, Reservoir	Lesser of 100 feet or maximum surface distance

For Marine Water	**Point of Compliance for Temporary Area of Mixing**
Estuaries or Marine Waters	Radius of 150 feet from the activity causing the turbidity exceedance

Measures to prevent and/or reduce turbidity shall be implemented and monitored prior to, during, and after construction. Turbidity monitoring shall be done at the point of compliance within 24 hours of a precipitation event of 0.25 inches or greater. During monitoring and maintenance, if turbidity limits are exceeded or if measures are identified as ineffective, then additional measures shall be taken to come into compliance and EPA shall be notified within 48 hours of the exceedance or measure failure.

EPA General Condition 3 - Compliance with Stormwater Pollution Prevention and the National Pollutant Discharge Elimination System Permit Provisions

For land disturbances during construction that 1) disturb one or more acres of land, or 2) will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land, the permittee shall obtain and implement Construction Stormwater General Permit requirements,[9] including:

1. The permittee shall develop a Stormwater Pollution Prevention Plan (SWPPP)[10] and submit it to EPA Region 10 and appropriate Corps District; and
2. Following construction, prevention or treatment of ongoing stormwater runoff from impervious surfaces that includes soil infiltration shall be implemented.

EPA General Condition 4 – Projects or Activities Discharging to Impaired Waters

Projects or activities are not authorized under the NWPs if the project will involve point source discharges into an active channel (e.g., flowing or open waters) of a water of the U.S. listed as impaired under CWA Section 303(d) and/or if the waterbody has an approved Total Maximum Daily

Load (TMDL) and the discharge may result in further exceedance of a specific parameter (e.g., total suspended solids, dissolved oxygen, temperature) for which the waterbody is listed or has an approved TMDL. The current lists of impaired waters of the U.S. under CWA Section 303(d) and waters of the U.S. for which a TMDL has been approved are available on EPA Region 10's web site at: https://www.epa.gov/tmdl/impaired-waters-and-tmdls-region-10.

EPA General Condition 5 – Notice to EPA

All project proponents shall provide notice to EPA Region 10 prior to commencing construction activities authorized by a NWP. This will provide EPA Region 10 with the opportunity to inspect the activity for the purposes of determining whether any discharge from the proposed project will violate this CWA Section 401 WQC. Where the Corps requires a PCN for an applicable NWP, the project proponent shall also provide the PCN to EPA Region 10. EPA Region 10 will provide written notification to the project proponent if the proposed project will violate the water quality certification of the NWP.

EPA General Condition 6 – Unsuitable Materials

The project proponent shall not use wood products treated with leachable chemical components (e.g., copper, arsenic, zinc, creosote, chromium, chloride, fluoride, pentachlorophenol), which result in a discharge to waters of the U.S., unless the wood products meet the following criteria:

1. Wood preservatives and their application shall be in compliance with EPA label requirements and criteria of approved EPA Registration Documents under the Federal Insecticide, Fungicide, and Rodenticide Act;
2. Use of chemically treated wood products shall follow the Western Wood Preservatives Institute (WWPI) guidelines and BMPs to minimize the preservative migrating from treated wood into the aquatic environment;
3. For new or replacement wood structures, the wood shall be sealed with non-toxic products such as water-based silica or soy-based water repellants or sealers to prevent or limit leaching. Acceptable alternatives to chemically treated wood include untreated wood, steel (painted, unpainted or coated with epoxy petroleum compound or plastic), concrete and plastic lumber; and
4. All removal of chemically treated wood products (including pilings) shall follow the most recent "EPA Region 10 Best Management Practices for Piling Removal and Placement in Washington State."

EPA NWP Specific Conditions:

NWP 13 is conditionally certified, subject to the general conditions listed above, except that an individual project-specific WQC is required when:

1. The entire scope of the project is greater than 300 linear feet; or
2. The project includes hard armoring approaches; or
3. The project is in marine waters and has not completed the assessments set forth in the Marine Shoreline Design Guidelines (for projects proposed on tribal lands or lands of exclusive federal jurisdiction in Washington State); or
4. The project involves permanent fill in wetlands that are waters of the U.S.

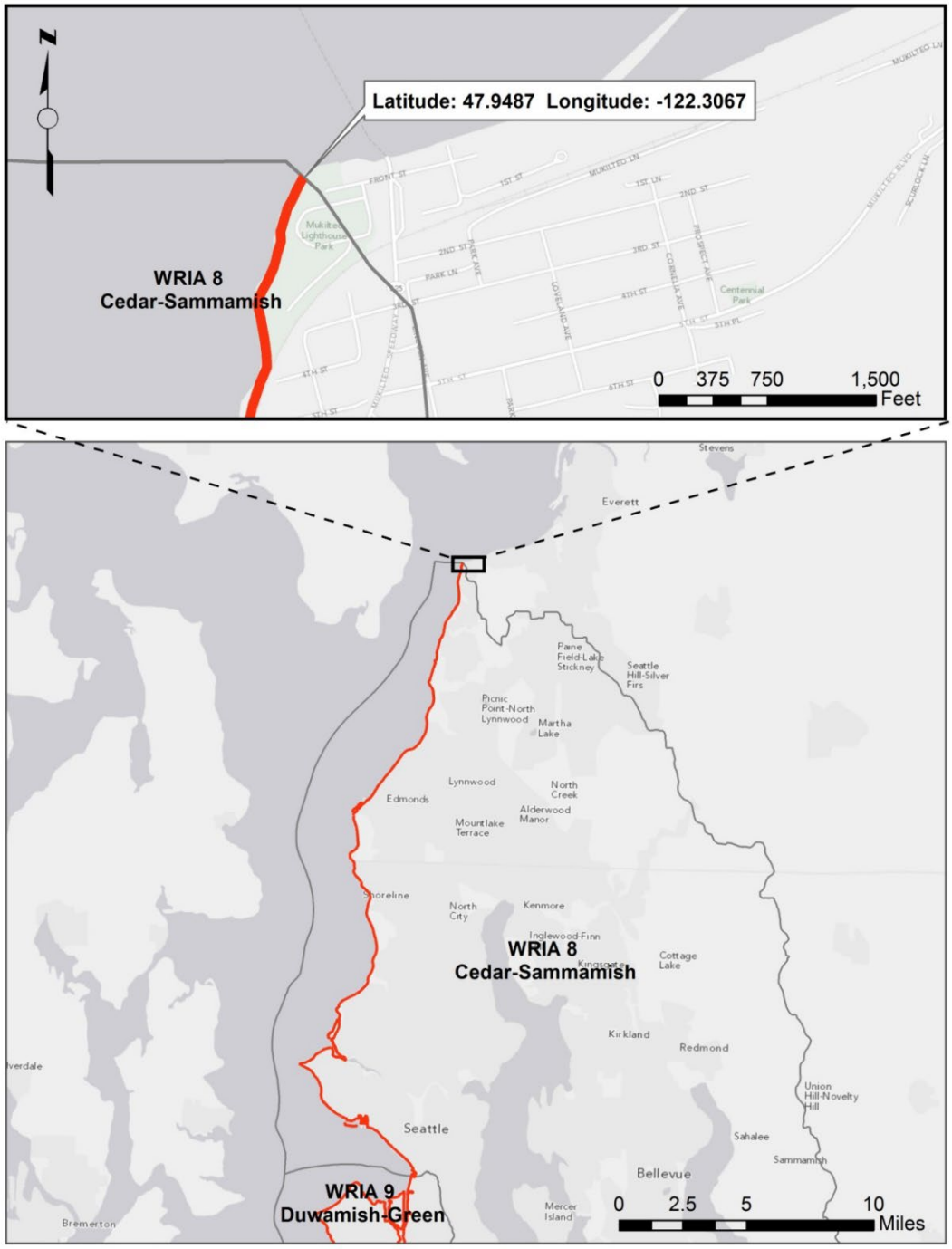
Specific Tribes with Certifying Authority (Projects in Specific Tribal Areas):
WQC was issued by the Swinomish Indian Tribal Community. WQC was waived by the Confederated Tribes of the Chehalis Reservation and Colville Indian Reservation, Kalispel Tribe of Indians, Port Gamble S'Klallam Tribe, Quinault Indian Nation, and the Spokane Tribe of Indians. WQC was denied by the Lummi Nation, Makah Tribe, Puyallup Tribe of Indians, and the Tulalip Tribes; therefore, individual WQC is required from these tribes.

F. COASTAL ZONE MANAGEMENT ACT (CZMA) CONSISTENCY RESPONSE FOR THIS NWP:

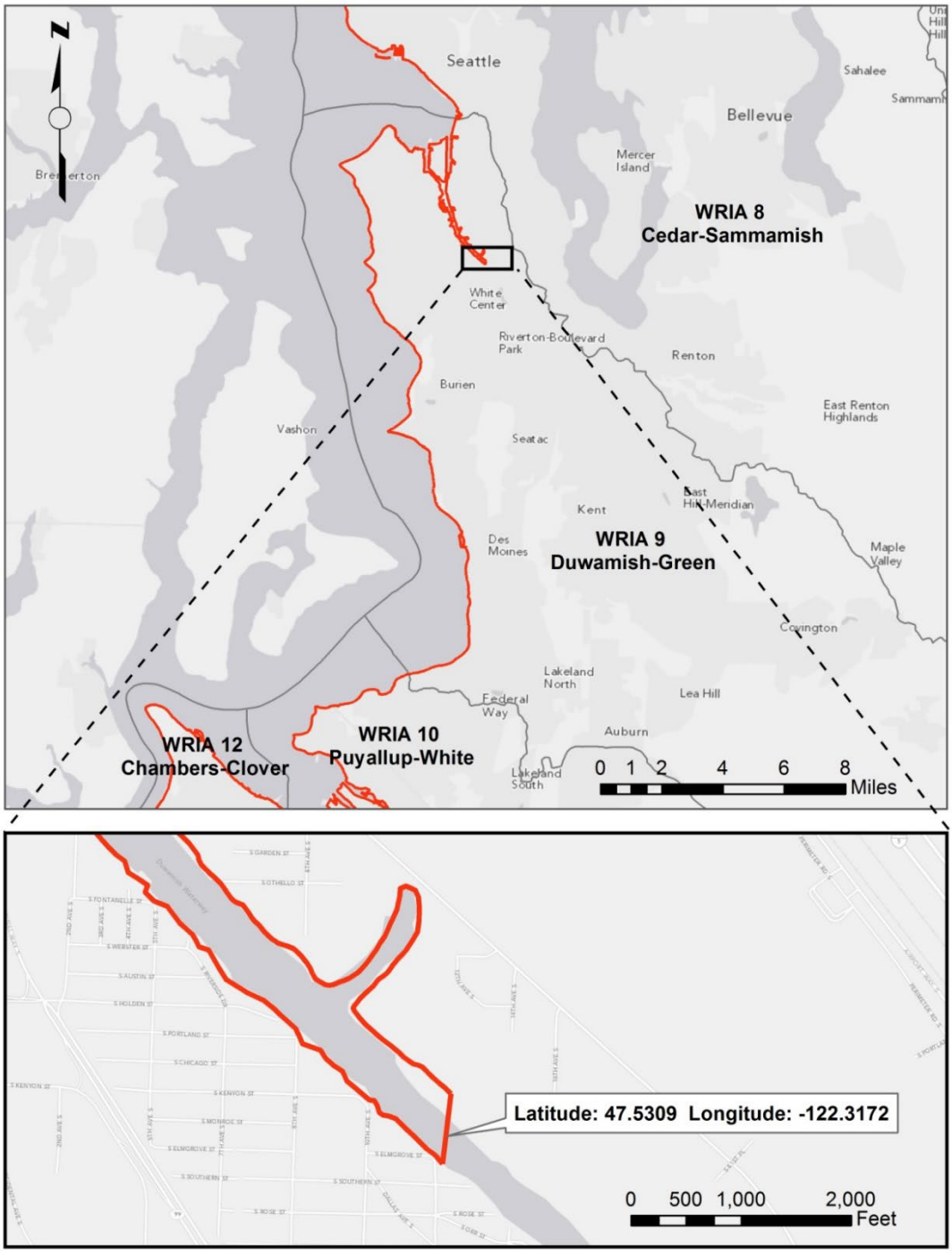
Ecology's determination is that they concur with conditions that this NWP is consistent with CZMA.

1. A CZM Federal Consistency Decision is required for projects or activities under this NWP if a State 401 Water Quality Certification is required.

Seattle District Regional General Conditions - Figures
Figure 1: RGC 3 - WRIAs 8, 9, 10, 11, and 12
a. WRIA 8



b. WRIA 9


N
Seattle
Bellevue
Sahalee
Mercer Island
Bremerton
WRIA 8
Cedar-Sammamish
White Center
Riverton-Boulevard Park
Renton
Burien
East Renton Highlands
Vashon
Seatac
Kent
East Hill-Meridian
Des Moines
WRIA 9
Duwamish-Green
Maple Valley
Covington
Lakeland North
Lea Hill
Federal Way
Auburn
WRIA 12
Chambers-Clover
WRIA 10
Puyallup-White
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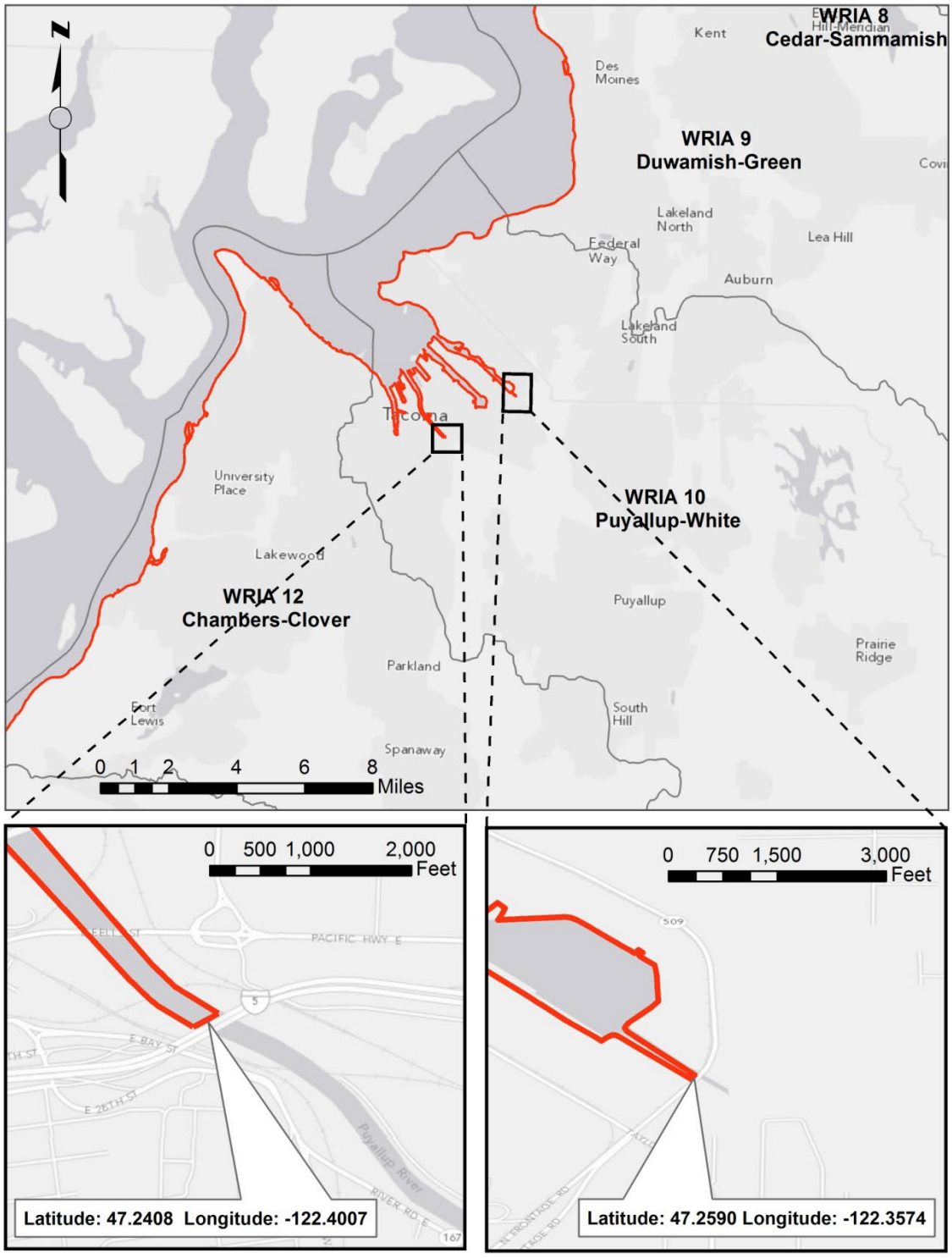
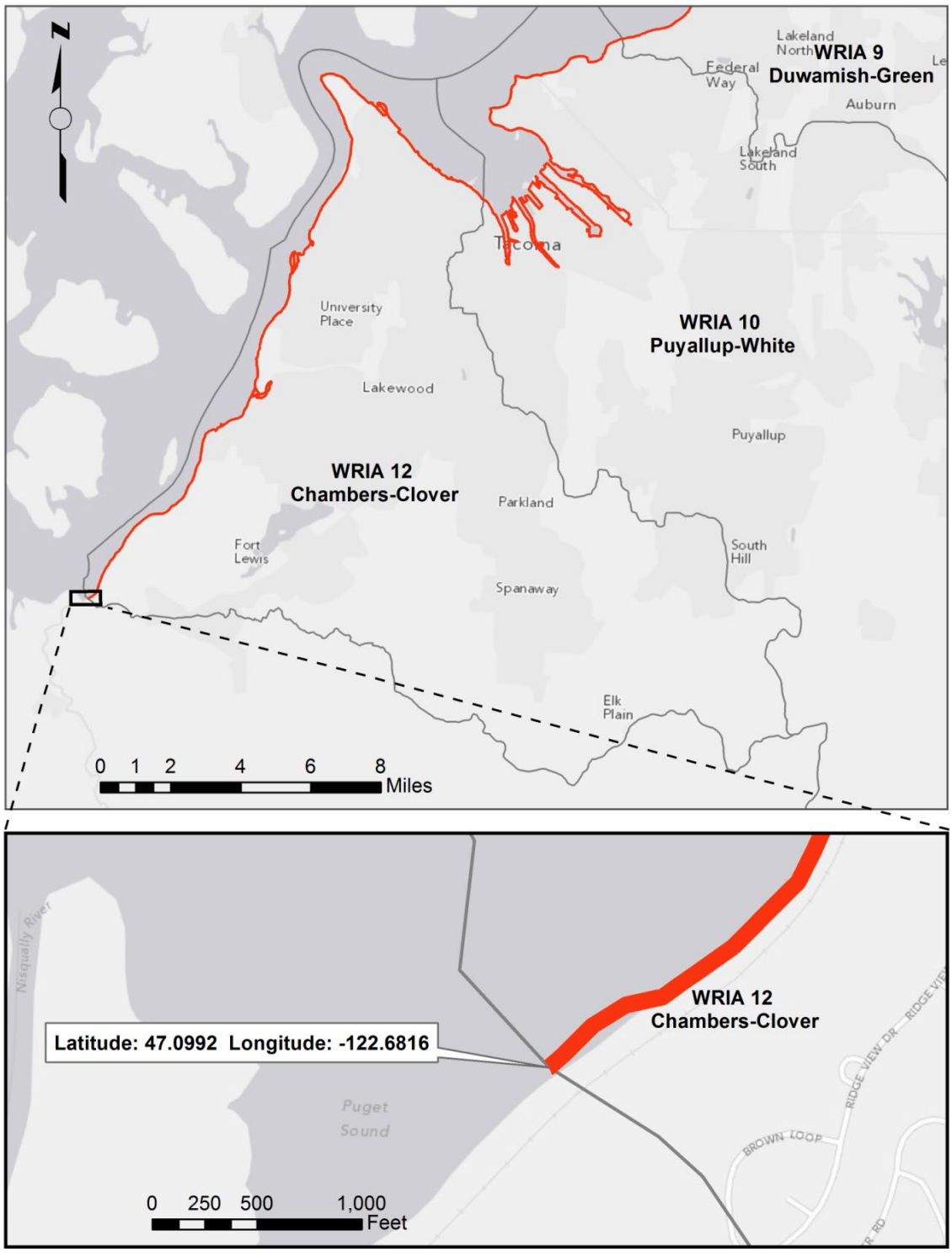
Feet

c. WRIA 10


N
WRIA 8
Cedar-Sammamish
Kent
Des Moines
WRIA 9
Duwamish-Green
Lakeland North
Federal Way
Lea Hill
Auburn
Lakeland South
Tacoma
University Place
WRIA 10
Puyallup-White
Lakewood
WRIA 12
Chambers-Clover
Puyallup
Prairie Ridge
Parkland
Fort Lewis
South Hill
Spanaway
0 1 2 4 6 8 Miles
0 500 1,000 2,000 Feet
PACIFIC HWY E
E BAY ST
E 26TH ST
Puyallup River
RIVER RD E
Latitude: 47.2408 Longitude: -122.4007
0 750 1,500 3,000 Feet
509
Latitude: 47.2590 Longitude: -122.3574

d. WRIA 12


N
Lakeland North
WRIA 9
Duwamish-Green
Federal Way
Auburn
Lakeland South
Tacoma
University Place
WRIA 10
Puyallup-White
Lakewood
Puyallup
WRIA 12
Chambers-Clover
Parkland
Fort Lewis
South Hill
Spanaway
Elk Plain
0 1 2 4 6 8
Miles
Nisqually River
WRIA 12
Chambers-Clover
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Puget Sound
BROWN LOOP
RIDGE VIEW DR
0 250 500 1,000
Feet

e. WRIA 11

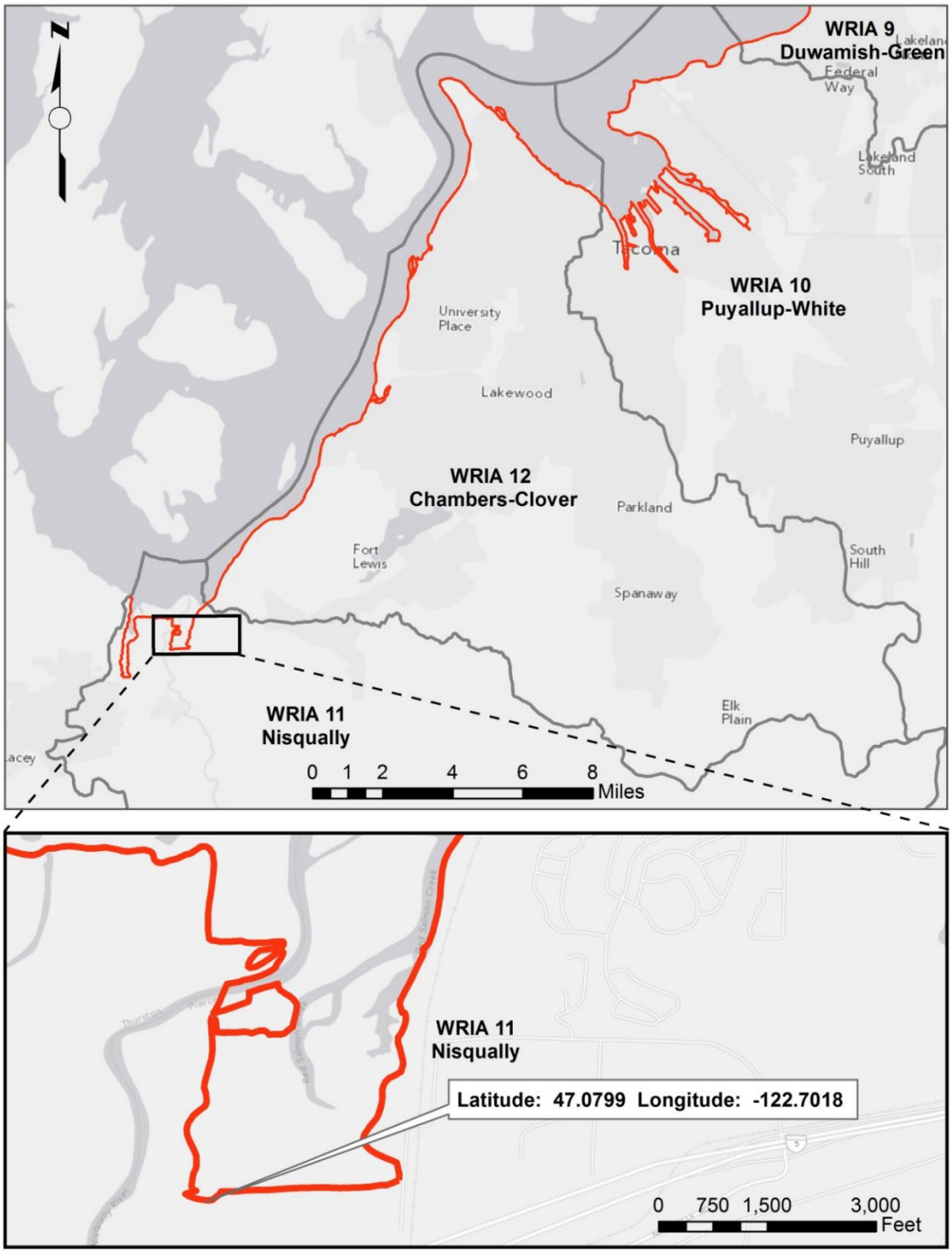
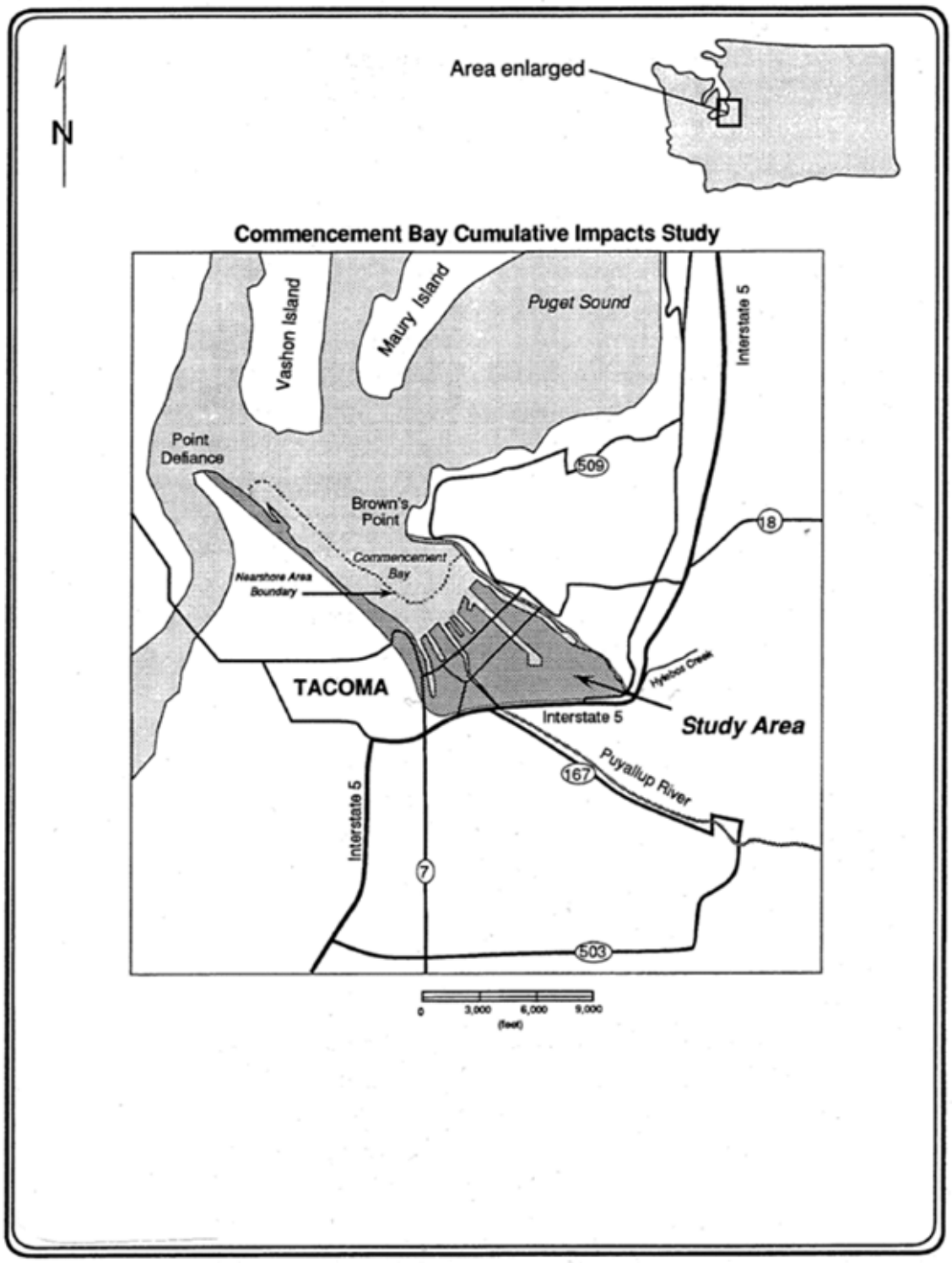

WRIA 9
Duwamish-Green
Federal Way
Lakeland South
Tacoma
WRIA 10
Puyallup-White
University Place
Lakewood
Puyallup
WRIA 12
Chambers-Clover
Parkland
Fort Lewis
South Hill
Spanaway
Elk Plain
Lacey
WRIA 11
Nisqually
0 1 2 4 6 8
Miles
WRIA 11
Nisqually
Latitude: 47.0799 Longitude: -122.7018
0 750 1,500 3,000
Feet

Figure 2. RGC 4 - Commencement Bay Study Area



HYDRAULIC PROJECT APPROVAL

Washington Department of
Fish and Wildlife
PO Box 43234
Olympia, WA 98504-3234
(360) 902-2200

Issue Date: 5/22/2025

Permit Number: 2025-3-23+01

Project End Date: 5/21/2030

Application ID: 0043539

PERMITTEE	AUTHORIZED AGENT
Chad Stuart 1917 Marsh Road Yakima, Washington 98902	Amy Cook 1917 Marsh Road Yakima, Washington 98901

Project Name: Speelyi Beach Shoreline Protection

Project Description: The Speelyi Beach Shoreline Protection Project is mitigation for the 3-foot Cle Elum Pool Raise (CEPR) and will stabilize 2,654 linear feet of shoreline within the Cle Elum reservoir that may otherwise be inundated with water during high water years as a result of the increase in pool level. With higher water levels (new ordinary high-water mark of 2243), the shoreline would have a higher risk of further erosion once the CEPR Project is implemented.

See JARPA for additional details.

PROVISIONS

TIMING LIMITATIONS:

1. This Hydraulic Project Approval (HPA) is effective immediately and is valid through May 21, 2030. Shoreline work must only occur when water elevations of the reservoir allow work to be performed in the dry.

PLANS:

2. Work must be accomplished per information, plans, and specifications for construction submitted by USDI Bureau of Reclamation (Reclamation) to the Washington Department of Fish and Wildlife (WDFW) with the Hydraulic Project application in APPS on April 8, 2025. A copy of the plans, specifications and this HPA must be available on-site during construction. Modifications of plans or specifications that may affect fish life, hydraulics, fish passage conditions, the environment of Lake Cle Elum, its shoreline or tributaries must be specifically reviewed and approved by WDFW prior to construction.

INVASIVE SPECIES CONTROL:

3. Follow Method 1 for low-risk locations (i.e. clean/drain/dry). Thoroughly remove visible dirt and debris from all equipment and gear (including drive mechanisms, wheels, tires, tracks, buckets, and undercarriage) before arriving and leaving the job site to prevent the transport and introduction of invasive species. For contaminated or high-risk sites please refer to the Method 2 Decontamination protocol. Properly dispose of any water and chemicals used to clean gear and

equipment. You can find this and additional information in the Washington Department of Fish and Wildlife's "Invasive Species Management Protocols", available online at https://wdfw.wa.gov/species-habitats/invasive/prevention.

NOTIFICATION REQUIREMENTS:

4. PRE-CONSTRUCTION CONTRACTOR MEETING: Prior to commencement of work, the permittee must arrange a pre-construction meeting with WDFW and key project personnel to discuss the work plan, schedule and key project elements including access, sequencing, grading, tree removal and planting plan.
5. PRE- AND POST-CONSTRUCTION NOTIFICATION: You, your agent, or contractor must contact the Washington Department of Fish and Wildlife by e-mail at Cassandra.Weekes@dfw.wa.gov or by phone (509) 406-3206 at least three business days before starting work and again within seven days after completing the project. The notification must include the permittee's name, project location, starting date for work or date the work was completed, and the permit number. The Washington Department of Fish and Wildlife may conduct inspections during and after construction; however, the Washington Department of Fish and Wildlife will notify you or your agent before conducting the inspection.
6. PHOTOGRAPHS: You, your agent, or contractor must take photographs of the job site before the work begins and after the work is completed. You must upload the photographs to the post-permit requirement page in the Aquatic Protection Permitting System (APPS) or mail them to Washington Department of Fish and Wildlife at Post Office Box 43234, Olympia, Washington 98504-3234 within 30-days after the work is completed.
7. FISH KILL/ WATER QUALITY PROBLEM NOTIFICATION: If a fish kill occurs or fish are observed in distress at the job site, immediately stop all activities causing harm. Immediately notify the Washington Department of Fish and Wildlife of the problem. If the likely cause of the fish kill or fish distress is related to water quality, also notify the Washington Military Department Emergency Management Division at 1-800-258-5990. Activities related to the fish kill or fish distress must not resume until the Washington Department of Fish and Wildlife gives approval. The Washington Department of Fish and Wildlife may require additional measures to mitigate impacts.

GENERAL:

8. Clearly mark boundaries prior to beginning work to establish the limit of work associated with site access, staging, and construction. Confine the use of equipment to the specific access and work corridors as shown in the approved plans.
9. Prevent project contaminants, such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials, from entering or leaching into waters of the state.
10. Temporary erosion and sediment control measures (such as wattles, silt fence, sandbags, hog fuel, tree branches, etc.) must be used as needed to ensure that earth, sediment and runoff from the work area are not discharged to the waters of the state. (Note guidance in the 2019 Stormwater Management Manual Eastern Washington.)
11. Disturbance of shoreline vegetation must be limited to the minimum necessary to construct the project and only in the areas shown on the approved plans.

12. No permanent roads in the reservoir bed shall remain post-construction. Any access roads to the reservoir bed shall be gated or bermed.
13. New construction access roads shall be removed, decompacted and rehabilitated back to original conditions upon completion of the project.

EQUIPMENT LIMITATIONS:

14. All work must be done in isolation from the waters of Cle Elum Reservoir, including tributaries. Equipment must work in the dry so that construction must only happen in the work area when the water level of the reservoir is sufficiently below the work area such that there is no discharge of material or sediment into waters of the state.
15. Prior to arrival on site, all equipment and gear must be pressure washed or steam cleaned to be free of accumulations of earth and petroleum products and free of invasive aquatic organisms and noxious weeds. Care must be taken to ensure that all areas of equipment that may harbor invasive aquatic organisms (such as zebra mussels, quagga mussels, etc.) are thoroughly cleaned prior to arriving onsite.
16. All equipment working within the ordinary high-water mark must use a biodegradable, non-toxic hydraulic fluid meeting the toxicity requirements of the U. S. Environmental Protection Agency and the U.S. Fish and Wildlife Service in the hydraulic systems.
17. Washing of equipment, vehicles, tools, etc. must be done at locations where wash water will not be discharged to the lakebed, streams or wetlands.
18. Equipment must be maintained in good working condition and inspected daily to ensure that fuel, lubricants, hydraulic fluid and other materials harmful to fish or other aquatic life are not leaked or spilled to the beds, banks or shorelines.
19. Equipment must be stored, serviced and parked at end of the workday at locations at least 50 feet from surface water or wetlands. Secondary containment measures must be used whenever slope or site conditions could direct spills of fuel, lubricants, hydraulic fluid or other harmful materials to waters of the state.
20. Equipment operators must have immediate access to spill containment materials and must operate according to appropriate spill prevention and control plan.
21. If a pump is used, the inlet must have a compliant fish screen to prevent the entrainment of fish and the outlet must be equipped with a diffusing device that ensures discharged water does not scour the stream bed or bank or cause downstream turbidity. For WDFW/NMFS screening criteria, refer to the publication entitled Anadromous Salmonid Passage Facility Design by the National Marine Fisheries Service, Northwest Region, Portland, Oregon, 2022. A copy is available at: https://www.fisheries.noaa.gov/west-coast/habitat-conservation/west-coast-fish-passage-guidelines.

MILL CREEK AND UNNAMED STREAM CROSSINGS:

22. Crossing structures must effectively isolate the temporary road from the stream and prevent discharge of earth, sediment and harmful materials to the flowing stream.
23. Prior to July 16 in any calendar year, temporary road crossing must consist of steel plate, log corduroy or similar structure placed to fully span the wetted perimeter of the stream channel.

24. After July 16 in any calendar year, temporary road crossing culverts may be installed and must be of sufficient size to pass flow and debris occurring during the project and allow crossing to be isolated from the flowing stream.
25. Prior to installing the culvert, active streamflow must be bypassed around the work area. A diversion dam of sandbags, bulk bags, ecology blocks, and plastic sheeting or equivalent clean material must be installed at the upstream extent of the work area to divert the entire flow through the bypass. A similar structure must be installed at the downstream end of the bypass as necessary to prevent water from entering the work area.
26. The diversion of flow into the temporary bypass must be done incrementally to allow for the capture and safe removal of the fish from the work area. Fish trapped inside of the work area must be captured and released unharmed upstream or downstream from the project. (Permittee may request assistance from WDFW for this task. Assistance will be provided if personnel are available. Please provide as much advance notice as possible.)
27. When the culvert installation is completed, flow of water must be returned to the stream channel.
28. Culverts at temporary road crossing must be removed during extended periods when work stops to allow fish passage when the reservoir is 2230’ or higher.
29. Upon removal of temporary crossing structures, the disturbed streambed and streambanks must be restored to a natural-like condition.
30. Upon completion of the project, temporary crossings, including construction materials (other than washed gravel) must be removed from the site.

REVETMENTS AND PERCHED BEACH:

31. Up to 2,654 linear feet of shoreline may be armored with the riprap revetments and perched beach treatment as described in the application materials and approved plans.
32. Riprap shall be uneven/irregular with some rocks jutting out more or less than others to help dissipate energy and provide some coverage for fish.
33. The perched beach must have a gentle slope beginning at 8H:1V gradually transitioning to 2H:1V, as shown in the approved plans.
34. The permittee must preserve as much vegetation as possible during all phases of construction.
35. Any large woody debris on the reservoir bed that is moved for construction shall be replaced to original condition where possible.
36. Large trees (>6” diameter) that must be removed for construction of the project must be salvaged and used for an aquatic habitat restoration project as described on page seven of the JARPA submitted with the application materials.
37. Upon project completion, restore any borrow pits after use. All ruts and depressions within the borrow pit must be filled and slopes within the borrow area must be no steeper than 5:1 and must slope toward the reservoir.

FINAL SITE RESTORATION:

38. Man-made structures (stairways, pole barn, etc.) removed as part of the project should be disposed of outside of the ordinary high-water mark of Cle Elum Reservoir.
39. All disturbed lakebed and shoreline areas within the ordinary high-water mark of Cle Elum Reservoir must be re-contoured to original grade, unless an alternate restoration/grading plan is

specifically approved by WDFW. Grading must ensure that there are no berms, ruts, depressions or pockets that will become traps for fish as lake levels fluctuate during the annual reservoir cycle.

40. Complete replanting of riparian and upland vegetation during the first dormant season (late fall through late winter) after project completion per the planting plan developed by USFS and included with the application materials. Maintain plantings for at least three years to ensure at least eighty percent survival. Failure to achieve the eighty percent survival in year three will require you to submit a plan with follow-up measures to achieve requirements or reasons to modify requirements.
41. Upon completion of the project, remove all materials or equipment from the site and dispose of all excess spoils and waste materials in an upland area.

PROJECT LOCATION(S)

#1

Location		
Speelyi Beach , WA		
Latitude	**Longitude**	**County**
47.256667000000000	-121.061254000000000	Kittitas
WRIA	**Waterbody**	**Tributary to**
39	Lake Cle Elum	Lake Cle Elum

APPLIES TO ALL HYDRAULIC PROJECT APPROVALS

This Hydraulic Project Approval (HPA) pertains only to those requirements of the Washington State Hydraulic Code, specifically Chapter 77.55 RCW. Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this HPA is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state, and/or federal) that may be necessary for this project.

This Hydraulic Project Approval (HPA) shall be available on the job site at all times and all its provisions followed by the person(s) to whom this HPA is issued and operator(s) performing the work.

This Hydraulic Project Approval does not authorize trespass.

Issue Date: 5/22/2025

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The person(s) to whom this Hydraulic Project Approval (HPA) is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this HPA.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil action against you, including, but not limited to, a stop work order or notice to comply, and/or a gross misdemeanor criminal charge, possibly punishable by a fine and/or imprisonment.

All Hydraulic Project Approvals (HPA) issued under RCW 77.55.021 are subject to additional restrictions, conditions, or revocation if the Washington Department of Fish and Wildlife determines that changed conditions require such action. The person(s) to whom this HPA is issued has the right to appeal those decisions. Procedures for filing appeals are listed below.

MINOR MODIFICATIONS TO THIS HYDRAULIC PROJECT APPROVAL (HPA): You may request approval of minor modifications to the required work timing or the plans and specifications approved in this HPA unless this is a General HPA. If this is a General HPA you must use the Major Modification process described below. Any approved minor modification will require the issuance of a letter documenting the approval. A minor modification to the required work timing means any change to the work start or end dates of the current work season to enable project or work phase completion. Minor modifications will be approved only if spawning or incubating fish are not present within the vicinity of the project. You may request subsequent minor modifications to the required work timing. A minor modification of the plans and specifications means any changes in the materials, characteristics, or construction of your project that do not alter the project's impact to fish life or habitat and do not require a change in the provisions of the HPA to mitigate the impacts of the modification. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a minor modification through APPS. A link to APPS is at https://hpa.wdfw.wa.gov/s. If you did not use APPS you must submit a written request for a minor modification to an existing HPA. Written requests must include the name of the permittee, the name of the authorized agent if applicable, the APP ID or HPA number, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send your written request by email to HPAapplications@dfw.wa.gov, or by mail to Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. You should allow up to 45 days for the Department to process your request.

MAJOR MODIFICATIONS TO THIS HYDRUALIC PROJECT APPROVAL (HPA): You may request approval of major modifications to any aspect of your HPA. Any approved change other than a minor modification to your HPA will require the issuance of a new HPA. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a major modification through APPS. A link to APPS is at https://hpa.wdfw.wa.gov/s. If you did not use APPS you must submit a written request for a major modification to an existing HPA. Written requests must include the name of the permittee, the name of the authorized agent if applicable, the APP ID or HPA number, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send your written request by email to

HPAapplications@dfw.wa.gov or by mail to Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. You should allow up to 45 days for the Department to process your request.

APPEALS INFORMATION

If you wish to appeal the issuance, denial, conditioning, or modification of a Hydraulic Project Approval (HPA), the Washington Department of Fish and Wildlife (WDFW) recommends that you first contact the WDFW employee who issued, denied, or conditioned the HPA to discuss your concerns. Such a discussion may resolve your concerns without the need for further appeal action. If you proceed with an appeal, you may request an informal or formal appeal. WDFW encourages you to take advantage of the informal appeal process before initiating a formal appeal. The informal appeal process includes a review by WDFW management of the HPA or denial and often resolves issues faster and with less legal complexity than the formal appeal process. If the informal appeal process does not resolve your concerns, you may advance your appeal to the formal process.

A. INFORMAL APPEALS: WAC 220-660-460 is the rule describing how to request an informal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete informal appeal procedures. The following information summarizes that rule:

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request an informal appeal of that action. You must send your request to WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, PO Box 43234, Olympia, Washington 98504-3234; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the WDFW Habitat Program, Natural Resources Building, 1111 Washington St SE, Olympia, Washington 98501. WDFW must receive your request within 30 days from the date you receive notice of the decision. If you agree, and you applied for the HPA, resolution of the appeal may be facilitated through an informal conference with the WDFW employee responsible for the decision and a supervisor. If a resolution is not reached through the informal conference, or you are not the person who applied for the HPA, the HPA Appeals Coordinator or designee may conduct an informal hearing or review and recommend a decision to the Habitat Program Director or designee. If you are not satisfied with the results of the informal appeal, you may file a request for a formal appeal.

B. FORMAL APPEALS: WAC 220-660-470 is the rule describing how to request a formal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete formal appeal procedures. The following information summarizes that rule:

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request a formal appeal of that action. You must send your request for a formal appeal to the clerk of the Pollution Control Hearings Boards and serve a copy on WDFW within 30 days from the date you receive notice of the decision. You may serve WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, PO Box 43234, Olympia, Washington 98504-3234; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Habitat Program, Natural

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Resources Building, 1111 Washington St SE, Olympia, Washington 98501. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, you may request a formal appeal within 30 days from the date you receive the Habitat Program Director's or designee's written decision in response to the informal appeal.

C. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS: If there is no timely request for an appeal, the WDFW action shall be final and unappealable.

Cassandra Weekes
Regional Habitat Biologist
(509) 406-3206
cassandra.weekes@dfw.wa.gov

For Director
DFW

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Central Region Office • Office of Columbia River
1250 West Alder St, Union Gap, WA 98903-0009 • 509-575-2490

SENT VIA EMAIL

July 9, 2025

Michael Horner
United States Bureau of Reclamation
Columbia-Cascades Area Office
1917 Marsh Road
Yakima, WA 98901-2058
Email: miho461@ecy.wa.gov
mhorner@usbr.gov
wwarner@usbr.gov

Re: Mitigated Temporary Water Use Permit No. S4-33348 for Dust Abatement

Dear Michael Horner:

Background and Investigation

On September 6, 2024, the United States Bureau of Reclamation (USBR) applied to the Washington State Department of Ecology (Ecology) for a Temporary water use permit to appropriate water for dust abatement related to construction located at the Cle Elum Reservoir. The project spans a place of use that encompasses several parcels, the landowners of these parcels have been made aware of the project by the USBR. Ecology accepted the application and assigned it Water Right File No. S4-33348.

The applicant will use the temporary permit during the construction phase of the Shoreline Erosion Mitigation portion of the Cle Elum Pool Raise project. The USBR proposes to use the water over a two-year period. Construction, and therefore dust abatement, will begin in September 2025, conclude in December 2025, resume in August 2026, and finish on December 31, 2026. A temporary permit for dust abatement is required during the construction phase of this project.

The place of use under this temporary permit application No. S4-33348 is identified as several public and privately owned parcels located within the NE¼SW¼, SE¼NW¼, and the NE¼NW¼ of Section 2 of Township 20 N., Range 14 E.W.M., within Kittitas County.

The USBR requests authorization to divert the requested water from the following source:

- A pump site on the Cle Elum Lake within NW¼SW¼ of Section 2, T. 20 N., R. 14 E.W.M., 47.2533005, -121.0641079.
  (See Attachment 1)

The USBR requests authorization to divert and use water in the following amount:

- Up to .084 Cubic Feet Per Second (CFS) (37.7 GPM) 3.81 acre-feet per year (ac-ft/yr), for dust abatement for two years from September 1, 2025, through December 31, 2025, and again on August 1, 2026, through December 31, of 2026.

The USBR proposes to fully mitigate this temporary water use permit using water from its Adjudicated Certificate No. S4-83626-J, which authorizes 4.0 cfs and 285.9 ac-ft/yr. On June 21, 2017, this certificate was converted to instream flow and mitigation use in the affected reach of the Yakima River. It is now part of Ecology's Trust Water Rights Program (Trust) under Control No. CS4-01444CTCsb7, with a priority date of October 30, 1884.

In August 2019, Ecology issued Short-term Permit No. S4-36056 to USBR for dust abatement and revegetation irrigation tied to the Schaake Restoration Project along the Yakima River near Ellensburg. This permit was mitigated with USBR's Trust Water Right No. CS4-01444CTCLsb7 for a five-year period and expired in October 2023. CS4-01444CTCLsb7 is the same water right now proposed to mitigate this current application (S4-33348).

As of August 15, 2024, USBR manages the consumptive use portion (84.83 ac-ft/yr) of this trust water right as an instream flow contribution, measured at the Parker and Prosser streamflow gages in the lower Yakima River, continuing downstream through the Yakima and Columbia Rivers to the Pacific Ocean. However, during the effective period of the proposed Temporary Permit No. S4-33348 (September 2025 through December 2026), USBR will suspend its use of this Trust water for instream flow purposes, in the quantities authorized under this temporary permit, and instead use it to fully mitigate the temporary permit.

For the purpose of dust abatement, the USBR will pump a maximum of .084 CFS of water and directly apply it to the work site as needed not exceeding 3.81 ac-ft/yr for the project. The pump intakes will be equipped with fish screens and sized to ensure the maximum diversion rate (.084 CFS) is not exceeded.

Impairment

The water use requested under Application No. S4-33348 will be fully mitigated by water from USBR's instream flow Trust Water Right with Control No. CS4-01444CTCLsb7 during the effective period of use requested. Ecology does not foresee or anticipate any impairment, or detriment or injury, to third-party water rights or the Yakima Basin's Total Water Supply Available (TWSA) as a result of this temporary authorization.

Public Notice

The USBR published notice of application No. S4-33348 in the Ellensburg Daily Record on January 16, 2025, January 18, 2025, January 21, 2025, and January 23, 2025. Ecology received no letters of protest to this application during the 30-day protest period, which ended February 23, 2025.

Notice to Washington Department of Fish and Wildlife and The Confederated Tribes and Bands of the Yakama Nation

This project is part of the Yakima Basin Integrated Plan (YBIP), of which the Department of Fish and Wildlife (WDFW) and the Yakama Nation are significant members of that group. Both WDFW and the Yakama Nation have been involved with numerous discussions pertaining to the project that is subject to this application as well as having direct impute to the application process and implementation of the projects. To that end this project was ultimately presented

at the Water Transfer Work Group, which reviews all new and change applications in the Yakima Basin to ensure they are neutral to the basins Total Water Supply Available.

On February 3, 2025, Ecology's Stephen Radke presented at the Water Transfer Working Group where a representative of the Yakama Nation was present. Attributes of Application No. S4-33348 were presented, and the Yakama Nation expressed support for the project at that time. WDFW representative Jon Kohr was also present and expressed support for the project.

State Environmental Policy Act (SEPA)

Under chapter 197-11 WAC, a water right application is subject to a SEPA threshold determination (i.e., an evaluation of whether there will be significant met:

- It is a surface water right application for adverse environmental impacts) if any of the following conditions are more than 1 cfs (cubic foot per second), unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cfs, so long as that irrigation project will not receive public subsidies;
- It is a groundwater right application for more than 2,250 gpm (gallons per minute);
- It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Reclamation and Ecology conducted a joint SEPA and Nation Environmental Policy Act (NEPA) review for the project including preparation of a combined Final Environmental Impact Statement (FEIS) issued on May 15, 2015.

Conclusions and Decision

1) Water is available from the requested water sources for this Temporary Water Use Permit No. S4-33348;
2) The water use requested under Application No. S4-33348 is fully mitigated with Water Right CS4-01444CTCLsb7 with its October 30, 1884 priority date, owned by the USBR and currently held in Trust as instream flow and mitigation;
3) Dust abatement is a beneficial use of water;
4) The proposed temporary water use appropriation will not impair existing water rights, nor cause detriment or injury to, or diminishment of the Yakima Basin TWSA;
5) The proposed temporary water use appropriation will not be detrimental to the public interest.

I recommend approval of the requested temporary water use permit under Application No. S4-33348, between the periods of September 1, 2025, through December 31, 2025, and August 1, 2026, through December 31, of 2026.

This letter serves as a temporary water use permit to divert and use water from the requested diversion point from the Cle Elum Reservoir as described above (within the NW¼ SW¼ of Section 02, T. 20 N., R. 14 E.W.M).

This temporary water use permit No. S4-33348 is approved and issued with the following conditions:

1) This authorization is effective immediately and expires on December 31, 2026. Ecology may revoke this temporary water use permit authorization sooner if the permittee fails to comply with the terms or limitations of this authorization.
2) Water diverted and used for dust abatement is limited to .084 CFS, and **3.81 ac-ft/yr**.
3) USBR will utilize its Trust Water Right CS4-01444CTCLsb7 with its October 30, 1884 priority date to fully mitigate this temporary water use authorization during the 2025 to 2026 period of use.
4) Authorized water is to be used as dust abatement activity in association with construction at Cle Elum Reservoir. Water is to be used within the NW¼SW¼, NE¼SW¼, SE¼NW¼, and NE¼NW¼ and several parcels all within Section 2, T. 20 N., R. 14 E.W.M.
5) USBR staff and contractors on the authorized fish passage facilities:
    - Have a copy of this temporary water use permit authorization, and
    - Be aware of the permit's parameters, provisions and limits, and operate accordingly.
6) An approved measuring device must be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

    Recorded water use data shall be submitted via the Internet. To set up an Internet reporting account, contact the Regional Office. If you do not have Internet access, you can still submit hard copies by contacting the Regional Office for forms to submit your water use data.

    Water use data shall be recorded bi-weekly and submitted to Ecology by January 31 each year.
7) Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.
8) This authorization shall in no way excuse the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations, including those administered by other programs of the Department of Ecology.

9) The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right authorization by this Department does not convey a right of access to, or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land.

This Temporary Permit expires on December 31, 2026.

Contact information

Please direct all questions about this letter to:

Stephen Radke, Meter Coordinator
Office of Columbia River
Department of Ecology

Phone: (509) 208-5020
Email: srad461@ecy.wa.gov

Your right to appeal

You have a right to appeal this decision to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt. The appeal process is governed by RCW 43.21B and WAC 371-08. "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 decision:

- File your notice of appeal and a copy of this decision 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 decision on the Department of Ecology by mail, in person, or by email (see addresses below).

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

Filing an appeal

Filing with the PCHB

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

Service on Ecology

Street Address:

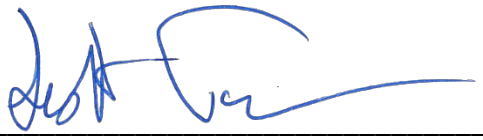
Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Mailing Address:

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

E-Mail Address: ecologyappeals@ecy.wa.gov

Signature



Scott Turner, Operations Section Manager
Office of Columbia River
Department of Ecology

ST:SR:SS/250703
WR Doc ID No. 6806406

Enclosures: Water Measurement Requirements
Form 1 – Measuring Device Information
Form 2 – Water Use Data Collection Reporting
Telemetered Metering Options

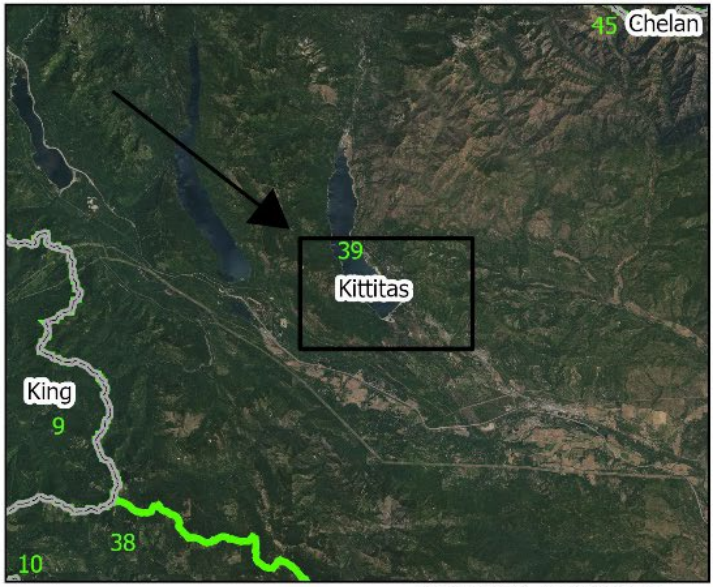
By certified mail: 9589 0710 5270 2375 2071 73

Sent electronically with read receipt, delivery confirmation/notification

ecc: Wade Warner, USBR
Phil Rigdon, Superintendent, Natural Resources Department, Yakama Nation

Attachment 1 – Location of Diversion Points and Place of Use from USBR Application

United States Bureau of Reclamation
Surface Water Right S4-33348
NW¼SW¼ of Section 2, T20N, R14E
WRIA 39 - Kittitas County



NAIP 2021 Aerial Photo

- Place of Use
- Point of Withdrawal
- U.S. Interstate
- U.S. Highway
- State Route
- Waterbodies
- Streams
- Township
- Sections
- City/UGA
- WRIA Boundaries
- Parcels 2023
- County Boundaries

Comment:
Place of use and source locations are as defined within the Report of Examination for the document identified in the header above.

DEPARTMENT OF ECOLOGY
State of Washington

DEPARTMENT OF ECOLOGY
State of Washington

Water Resources Program

FORM 1 – Measuring Device Information

(Please fill out one form for each measuring device)

NAME(S) ON WATER RIGHT DOCUMENT: *(PERMIT, CERTIFICATE OR CLAIM)*	DOCUMENT NUMBER(S): *(PERMIT, CERTIFICATE OR CLAIM)*
User's name for diversion/withdrawal point: (example: Well #1, Blue Well House)	**Ecology Unique Well Id Tag Number:** (example: ABC123)

ABOUT THE MEASURING DEVICE:				
(Please include an up-close photo of the face of the meter)				
Flow Type: ☐ Open Channel Flow ☐ Pressurized Pipe Flow				
Measures more than one source? ☐ Yes ☐ No If yes, please provide a list of all the sources that share a common measuring device (ex. two wells or two pumped diversions):				
Is the meter within 100 feet of the point(s) of diversion or withdrawal? ☐ Yes ☐ No				
Meter Type (ex. magnetic, propeller, flume, etc.):				
Brand:			Installed ☐ Calibrated ☐ Date:	
Serial No.:			Model No.:	
Units of Measure (gallons, cubic-feet, or acre-feet):			Device Multiplier (ex. X100, X0.01):	
Device Roll-Over No.:			Fish screen (surface water diversion)? ☐ Yes ☐ No	

LOCATION OF THE MEASURING DEVICE:				
Section:	Township:	Range:	(¼):	(¼¼):
Latitude (optional):			Longitude (optional):	
(NAD 83 Datum in Decimal Degrees preferred)			Parcel No.:	

COMMENTS:

I herby certify that all information reported on this form is correct to the best of my knowledge.		
Print Name:		Title:
Mailing Address:		
City:	State:	Zip:
E-mail:		Phone No.:
Signature:		Date:

Instructions for Form 1 – Meter Information

- This form can be used for both OPEN CHANNEL and PRESSURIZED FLOW SYSTEMS.
- Please fill out one form for each measuring device.
- This form should only be filled out once, **unless** the measuring device is replaced or the water right serving this meter changes. In those instances, a new Form 1 is required.

Water Right Information:

- **Name(s) on the water right document and document number(s):** List all the document number(s) and water right name(s) associated with this metered point(s) of diversion or withdrawal.
- **User's name for diversion/withdrawal point:** Fill in the name that you or your organization uses to describe the diversion or withdrawal measured by this measuring device.
- **Well Tag Number:** Provide well tag number if available.

Measuring Device:

- **Flow Type:** Indicate whether the measuring device is for an open channel or pressurized pipe flow.
- **Measures more than one source:** Indicate whether or not more than one source is measured by the measuring device. If yes, please provide a list of all the sources that share a common measuring device (i.e. two wells or two pumped diversions).
- **Is the Meter within 100 feet of the point of diversion or withdrawal:** Check yes or no.
- **Meter Type:** Provide the type of measuring device for open channel (i.e. ramp flume, weir, staff gage, etc.) or for pressurized flow (i.e. magnetic, propeller, insertion, etc).
- **Brand, Model No. and Serial No.**: Provide the appropriate information about the measuring device itself.
- **Units of Measure:** Provide the units of measure particular to the meter. Definitions of the terms on the form are: Gallons ,cubic feet or acre feet .
- **Date Installed or Calibrated:** Provide the date the device was installed or calibrated. Check appropriate box.
- **Fish screen for surface water diversion:** By law, Ecology is required to ask if a fish screen has been installed on surface water diversions. Check yes or no.
- **Device Roll Over No:** Provide the number on which the measuring device will roll over and restart at "0."

Location of the Measuring Device:

- **Section, Township, Range, ¼, ¼¼:** Please indicate the Township, Range, Section, quarter, and quarter quarter information for identifying the location of the measuring device.
- **Latitude/Longitude (optional):** If possible, provide the latitude and longitude coordinates in North American Datum 83 (NAD 83) in decimal degrees for the location of the measuring device.
- **Parcel No.**: Reference the County Assessor's parcel number identifying the land on which the device is located.

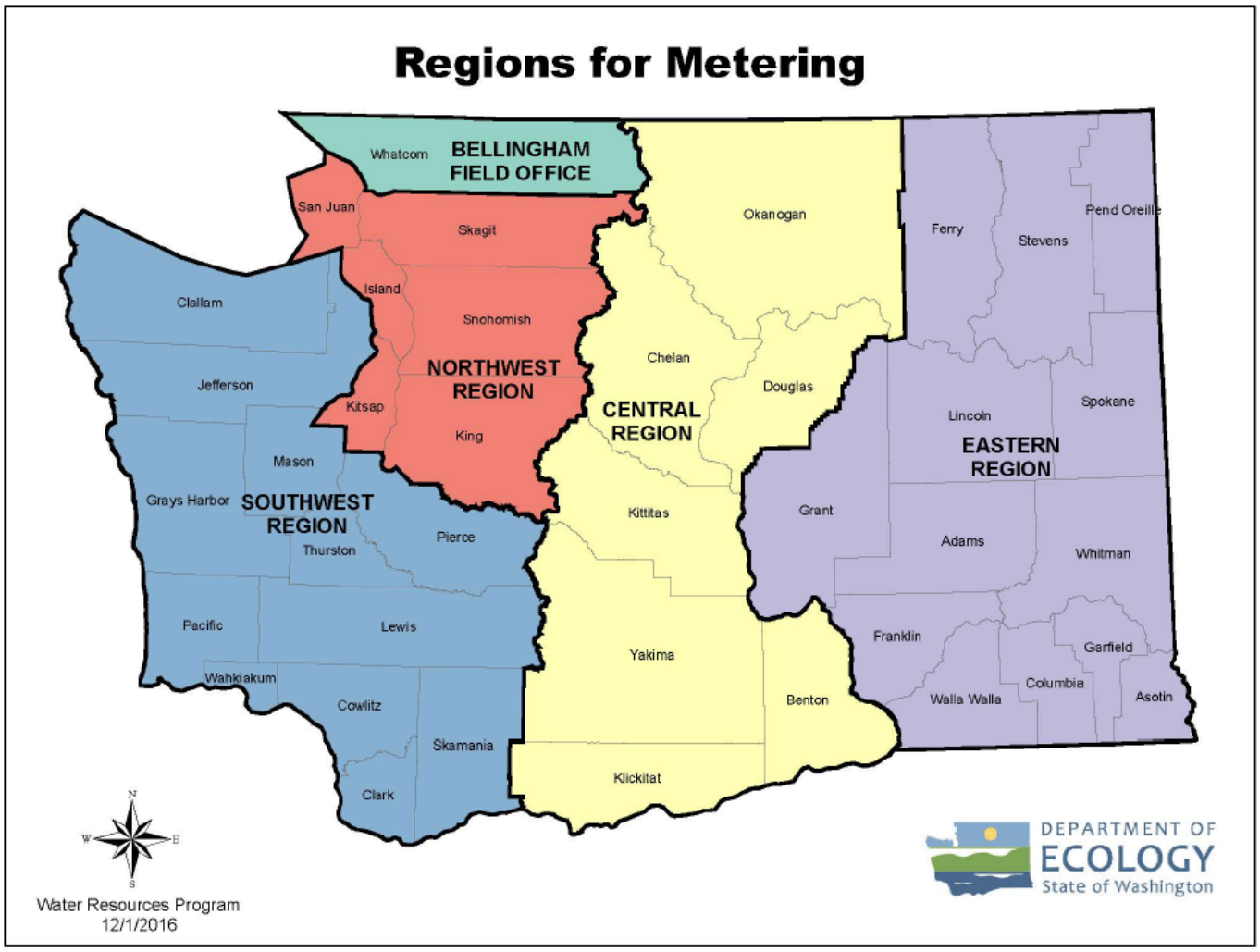
Comments:

- Provide any additional information or comments you feel are helpful.
- Sign and date form for submittal.

*E**CY 070-170 (Rev 2/2023)** To request ADA accommodation including materials in a format for the visually impaired, call Ecology Water Resources Program at 360-407-6872. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.*

Regional Contacts:

Northwest Regional Office PO Box 330316 Shoreline, WA 98133-9716 (206) 594-0000	**Central Regional Office** 1250 W Alder Street Union Gap WA 98903-0009 (509) 575-2490
Southwest Regional Office PO Box 47775 Olympia WA 98504-7775 (360) 407-6300	**Office of Columbia River** 1250 W Alder Street Union Gap WA 98903-0009 (509) 662-0500
Bellingham Field Office 913 Squalicum Way #101 Bellingham WA 98225 (360) 255-4400	**Eastern Regional Office** 4601 N Monroe Street Spokane WA 99205-1295 (509) 329-3400



ECY 070-170 (Rev 2/2023) To request ADA accommodation including materials in a format for the visually impaired, call Ecology Water Resources Program at 360-407-6872. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

DEPARTMENT OF ECOLOGY
State of Washington

Water Resources Program
Water Use Data Collection Reporting Form
Pressurized Flow & Open Channel Flow

Fill out a form for each measuring device and submit to Ecology by January 31st each year.

Organization:			Contact Name:
Address:			City:
State:	Zip:	Phone: ( ) -	E-mail:

All Water Right Certificates, Permits, Change Authorizations, or Claims that this device measures MUST BE LISTED:

Meter Type:	Brand:	Model No.:
Serial No.:	Source Name:	Device Rollover No.:

Select Your Measuring Method and Check the Appropriate Units Below

☐ Pressurized Flow ground or surface water

or

☐ Open Channel Flow

Date	☐ Meter Reading ☐ Total Volume	Staff Gage Reading (for open channel only)	Peak Flow
Month/Day/Year mm/dd/yyyy	☐ gallons ☐ acre-feet ☐ other:	☐ feet ☐ other:	☐ gallons per minute ☐ cubic ft per second ☐ other:
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Continued on next page…

Continued from page one

Month/Day/Year mm/dd/yyyy	☐ **Meter Reading** ☐ **Total Volume**	Staff Gage Reading	Peak Flow
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Total Annual Volume =			

Attach an additional sheet if you need more space.

COMMENTS:

I hereby certify that all information reported on this form is correct to the best of my knowledge.

Printed Name: _____

_____

Signature or Electronic Signature Date: / /

INSTRUCTIONS for
Water Use Data Collection Reporting Form
Pressurized Flow & Open Channel Flow

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1) This form can be used for both PRESSURIZED FLOW and OPEN CHANNEL SYSTEMS
2) Fill out one form for each measuring device.
3) Please sign and date before submitting.

CONTACT INFORMATION:
- Fill out contact information to the best of your knowledge.

METER INFORMATION:
- Fill out the basic meter information. It is important to list the meter's serial no. and the name of source for the diversion/withdrawal being reported. This will ensure that your information is correctly reported to Ecology.
- If applicable, indicate the number on which the meter rolls over to "0."

WATER RIGHT, CHANGE AUTHORIZATIONS, OR CLAIMS INFORMATION:
- List which water right certificate(s), permit(s), change authorization(s), or claim(s) that the meter measures. This is needed to accurately report your water use.

PRESSURIZED OR OPEN CHANNEL SYSTEMS:
- Do not forget to indicate the kind of system you have, pressurized (a well, pumped surface water diversion) or open channel (flume, weir).

DATE:
- Indicate the month, day, and year of the reading. If you are supplying a monthly total volume, list the last day of the month for that volume.

METER READING, TOTAL VOLUME, OR STAFF GAGE READINGS:
- Indicate if you are supplying a meter reading (totalizer reading) or total volume.
- Check the appropriate units of measure (i.e. gallons, acre-ft, or other). If you use another unit of measure, fill in the unit type.
- Or, if you are providing staff gage readings, please indicate the reading and unit of measure.

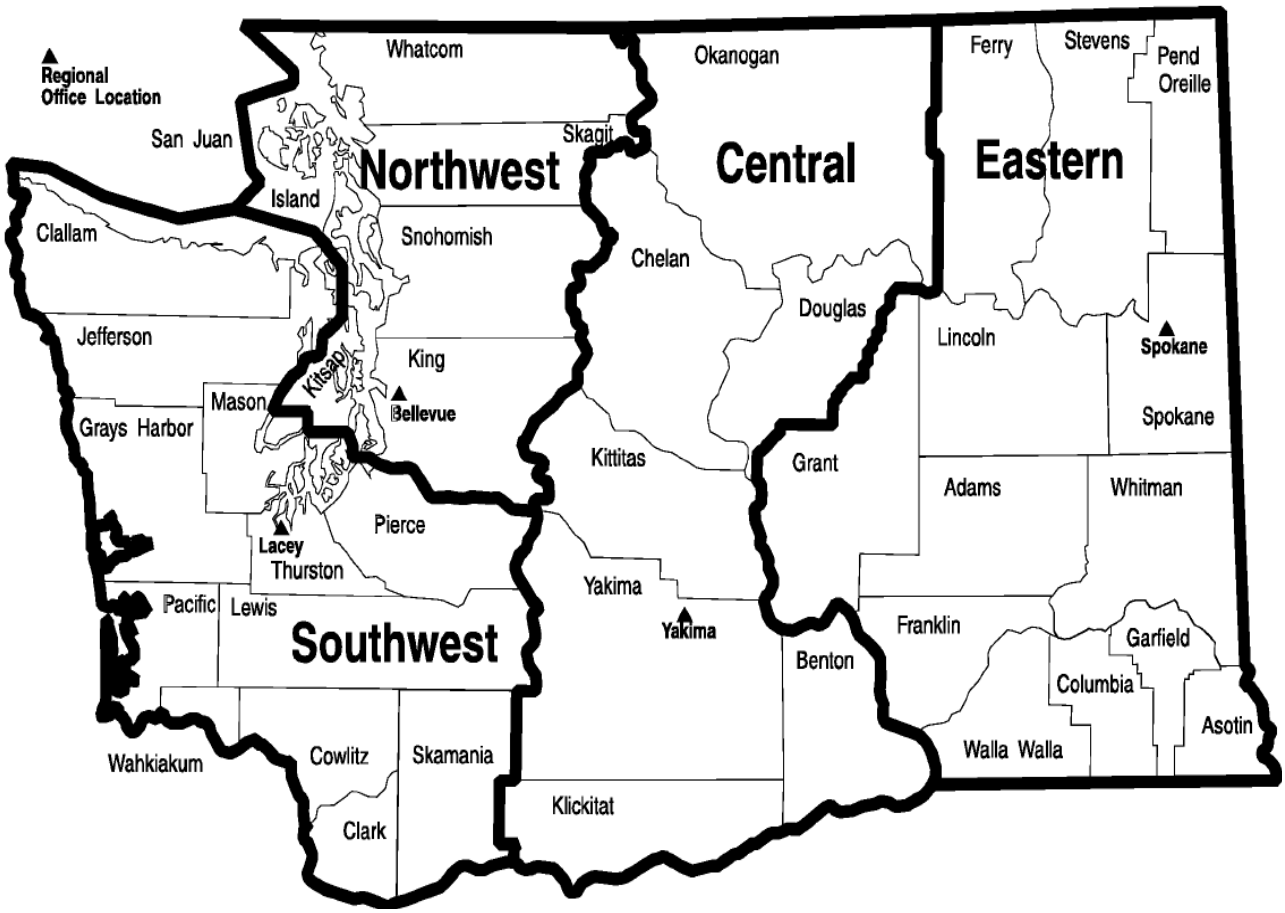
PEAK FLOW:
- Check the appropriate units of measure i.e. gallons per minute (gpm), cubic feet per second (cfs), or other. If you use another unit of measure, fill in the unit type.

  - You should make reasonable efforts to take the peak flow measurement when demand is close to maximum.
  - For meters read manually, enter the flow registered by the flow indicator.
  - For meters that do not have an indicator (only a totalizer), measure the use over a period of several minutes to estimate the flow and use that value. For example, if 700 gallons is used over 3.3 minutes, report 212 gpm (700/3.3).
  - For meters with electronic data collection, fill in the highest flow rate during the shortest interval data is collected. For example, if your meter takes a reading once every 15 minutes, then report the highest flow for a 15-minute period during each month.
  - For open channel systems, look up the staff gage reading on the rating table for your weir to determine the rate of flow and record that reading as Peak Flow on the form.

ECY 070-171 (Rev 03-2011) To request ADA accommodation including materials in a format for the visually impaired, call Ecology Water Resources Program at 360-407-6872. Persons with impaired hearing may call Washington Relay Service at 711. Persons with speech disability may call TTY at 877-833-6341.

Please check the region in which the project is located:

☐ **Southwest Regional Office** PO Box 47775 Olympia, WA 98504-7775 (360) 407-6300	☐ **Northwest Regional Office** 3190 – 160th Avenue SE Bellevue, WA 98008-5452 (425) 649-7000
☐ **Central Regional Office** 1250 W Alder Street Union Gap, WA 98903-0009 (509) 575-2490	☐ **Eastern Regional Office** 4601 N Monroe Street Spokane, WA 99205-1265 (509) 329-3400
☐ **Office of Columbia River** 303 S Mission Street, Suite 200 Wenatchee, WA 98801 -6142 (509) 662-0500	☐ **Bellingham Field Office** 913 Squalicum Way #101 Bellingham, WA 98225 (360) 255-4400



Telemetered Metering Options

Benefits of cellular-based telemetered meters

Cellular-based telemetery is a technology that allows measurements to be taken at the installed water meter and be transmitted via cellular technology, like a text message, to a secure data storage facility. Telemetry has multiple benefits and can be both time and cost efficient for the meter owner. Telemetry allows for:

- Water use monitoring in near real time using a personal computer or smart phone.
- Real-time leak detection and notification, if desired, and system performance monitoring.
- Reduced time spent manually entering and recording data. Data is automatically stored and the owner can easily retrieve data. Additionally, depending on your choice of a meter supplier, Ecology staff can also access data.
- May satisfy Ecology's recording and reporting requirements, depending on your choice of a meter supplier.

If you choose to have a cellular-based telemetered meter installed, please notify your regional Ecology Metering Coordinator for technical assistance.

Selecting a meter that works for you

There are multiple companies that offer cellular-based telemetered meters. The choice of who you purchase a meter from is up to you.

Through a competitive process, Ecology has an agreement with Metron-Farnier, that allows us access to the water quantity data collected by their telemetered meter. Specific information on Metron-Farnier meters as well as other metering providers is provided. If you decide to order a Metron-Farnier meter please make sure you tell Metron-Farnier that you are installing the meter as required by the state.

When selecting your supplier and meter type, note that it is the sole responsibility of the water right holder to ensure that their meter is installed correctly and is in working order throughout the life of the meter.

If you have additional questions regarding the benefits of telemetered meters, or about your metering requirements in general, please contact your Ecology Metering Coordinator.

More information

Visit the Ecology website for information about metering your water use.

https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-rights/Metering-water-use

Metron-Farnier Meter Capacities, Costs, and Contact Information

	Residential 5/8 to 1 inch 0.0625 to 70 gpm	Small Commercial 1.5 to 2 inch 0.25 to 165 gpm	Large Commercial 3 to 6 inch 0.5 to 1,100 gpm	Turbine Meters 2 – 8 inch 2.5 to 2,800 gpm
Telemetered	$345 to $495	$750 to $950	$1,375 to $3,075	$1,200 to $5,000
Manual-read	$195 to $345	$600 to $800	$1,225 to $2,925	$1,050 to $4,850

Note: All prices are approximate at the time of this publication; should you choose to order a Metron-Farnier meter, contact Metron-Farnier for a price quote. Pricing for Metron-Farnier telemetered meters includes 10 years of Verizon Wireless cellular coverage that is used to transmit meter information. Contact other vendors for their pricing information.

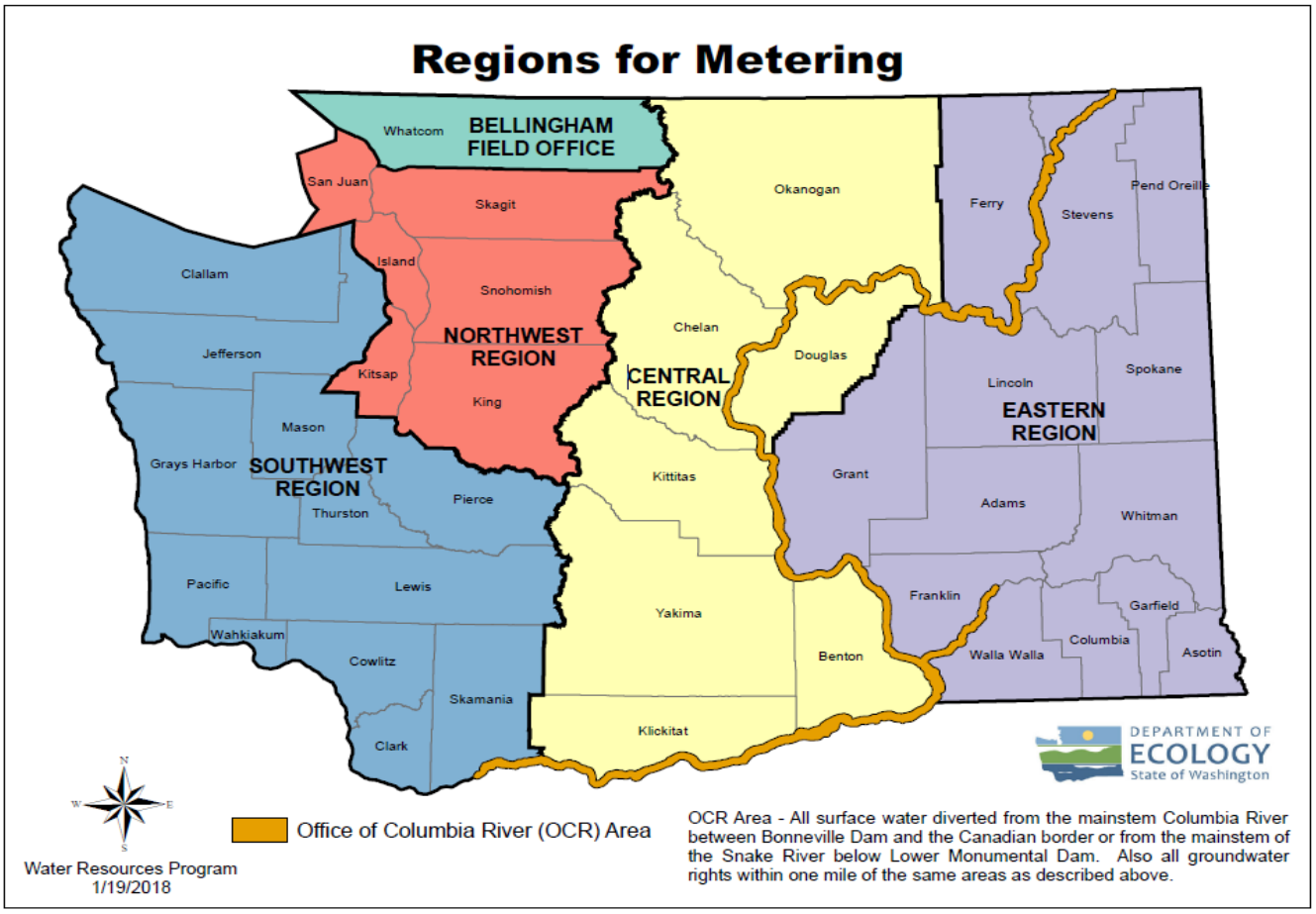
Company	Contact Information
Metron-Farnier www.metronfarnier.com	Charlie Prosch 303-449-8833 Charliep@metronfarnier.com

Other Telemetered Meter Suppliers

Company	Contact Information
McCrometer www.mccrometer.com	Brad Lung 509-590-5042 BradL@mccrometer.com
General Pacific, Inc (Badger) www.generalpacific.com	Jason Vancleave 503-907-2900 jvancleave@genpac.com

For more information on the specifications of these suppliers' meters, contact the supplier directly. Warranty information can be obtained from the meter supplier.

Ecology Metering Coordinator Contact Information



Regions for metering map

Region	Name	Phone	E-mail
Bellingham Field Office	Kelly Hamilton	360-255-4385	kelly.hamilton@ecy.wa.gov
Central Region	Nigel Kingsbury	509-454-7887	nigel.kingsbury@ecy.wa.gov
Eastern Region	Tracy Band	509-329-3538	tracy.band@ecy.wa.gov
Northwest Region	Andrea Lauden	425-649-7081	andrea.lauden@ecy.wa.gov
Office of Columbia River	Philip Lefler	509-454-4255	philip.lefler@ecy.wa.gov
Southwest Region	Eva Richards	360-407-6643	eva.richards@ecy.wa.gov

ADA Accommodations

To request ADA accommodation, including this document in a different format, call Ecology at 360-407-6831 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.

State of Washington

Water Measurement Device Installation and Operation Requirements

Open channel flow measuring devices

Below is a summary of the major requirements for open channel flumes, weirs and orifices. This sheet is intended to assist users in understanding the most important portions of the rule, but does not include all the requirements from the rule. For additional detail and information on requirements, see "Requirements for Measuring and Reporting Water Use"; WAC 173-173.

- At any flow rate measured by the measuring system (the measuring device plus any secondary equipment such as data recorders), the system shall register between 90% and 110% of the water actually passing through the system. Measuring facilities shall be operated and maintained to ensure that discharge can be measured accurately.

- The measuring facility shall be installed or constructed in accordance with the manufacturer's and/or designer's specifications.

- Measuring devices and facilities must register and be calibrated for the full range of discharge for which they are to be used. In determining a stage-discharge relation, the distribution of open channel flow measurements shall be sufficient to establish a full range of values for the entire stage-discharge relation.

- Rating curves shall be recalculated when there is a change in channel conditions that significantly alters flow across the control or once a year, whichever is more frequent.

- There shall be no turnouts or diversions between the source of water and the measuring devices and facilities, except for faucets or other small outlets that have a *de minimis* effect on the diversion or withdrawal. All flow diverted shall be measured as close to the point of diversion as possible.

- No withdrawal or diversion of water shall be made unless the measuring devices and facilities are in proper operating condition, except when a measuring device or facility is being repaired and a substitute measuring device or other method to measure the diversion or withdrawal is used.

- If the measuring system has no continuous stage recorder, an observer shall read the staff gage and record the reading as close in time as is practical before and after changes in regulation of flow occur.

State of Washington

Water Measurement Device Installation and Operation Requirements

Pipe flow measuring devices

Below is a summary of the major requirements for pipe flow meters. This sheet is intended to assist water users in understanding the most important portions of the rule, but does not include all the requirements from the rule. For additional detail and information on requirements, see "Requirements for Measuring and Reporting Water Use"; WAC 173-173.

- At any flow rate measured by the meter, the meter itself shall be rated by the manufacturer to register between 95% and 105% of the water actually passing through the meter.

- At any flow rate measured by the measuring system; i.e., meter plus any secondary equipment such as data recorders; the system shall register between 90% and 110% of the water actually passing through the system.

- Measuring devices and facilities must register and be calibrated for the full range of discharge for which they are to be used.

- The meter shall have a visual totalizer. The totalizer shall contain sufficient recording digits to ensure that "roll over" to zero does not occur before the next recording period.

- The meter shall be installed, inspected, maintained and calibrated in accordance with manufacturer specifications.

- The meter shall not be installed in a manner that creates an uneven velocity profile. Straight sections of pipe before and after the meter, straightening vanes or other flow conditioning devices shall be used to provide even flow through the meter as necessary.

- No withdrawal or diversion of water shall be made unless the measuring devices and facilities are in proper operating condition, except when a measuring device or facility is being repaired and a substitute measuring device or other method to measure the diversion or withdrawal is used.

- There shall be no turnouts or diversions between the source of water and the measuring devices and facilities, except for faucets or other small outlets that have a *de minimis* effect on the diversion or withdrawal.