



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

June 23, 2023

U.S. Army Corps of Engineers, Seattle District
Regulatory Branch, CENWS-ODR
ATTN: Todd Tillinger
4735 E. Marginal Way S, Bldg 1202
Seattle, Washington 98134-2388

Re: Water Quality Certification Order No. **21917** (Corps No. **CENWS-ODR-RGP-8**), Regional General Permit 8 - U.S. Forest Service Aquatic Restoration Program within Washington State

Dear Todd Tillinger:

On April 19, 2023, the U.S. Army Corps of Engineers Seattle District submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Regional General Permit 8 - U.S. Forest Service Aquatic Restoration Program within National Forest Lands in Washington.

On behalf of the state of Washington, the Department of Ecology certifies 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 conditions including those in Regional General Permit 8.

If you have any questions about this decision, please contact Erin Hanlon Brown at (360) 280-1037. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Loree' Randall, Section Manager
Federal Permitting Section
Shorelands and Environmental Assistance Program

By certified mail: 9489 0090 0027 6383 9285 62

WQC Order No. 21917, Corps No. CENWS-ODR-RGP-8

Aquatics ID No. 14835

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Sent via e-mail: Todd.N.Tillinger@usace.army.mil

E-cc: Jess Jordan, U.S. Army Corps of Engineers
William Brignon, U.S. Forest Service
Erin Hanlon Brown, Ecology
ECYREFEDPERMITS@ecy.wa.gov



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

U.S. Army Corps of Engineers, Seattle District
Regulatory Branch, CENWS-ODR
ATTN: Todd Tillinger
4735 E Marginal Way S, Bldg 1202
Seattle, Washington 98134-2388

WQC Order No.	21917
Corps Reference No.	CENWS-ODR-RGP-8
Site Location	Regional General Permit 8 – U.S. Forest Service Aquatic Restoration Program located within National Forest System Lands within the State of Washington including the Colville, Gifford Pinchot, Mt. Baker Snoqualmie, Okanogan-Wenatchee, Olympic, Umatilla National Forest, and the Columbia River Gorge National Scenic Area.

The U.S. Army Corps of Engineers (Corps) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Regional General Permit 8 - U.S. Forest Service Aquatic Restoration Program within National Forest Lands in Washington.

The following required processing dates are listed below:

- On March 8, 2023 the Corps submitted a pre-filing meeting request.
- On April 19, 2023, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On May 9, 2023, Ecology issued a public notice for the project.

Regional General Permit 8 (RGP 8) authorizes eleven restoration activities designed to maintain, enhance, and restore watershed functions that affect aquatic species. Activities eligible for coverage under RGP 8 include:

1. Fish passage restoration
2. Large wood, boulder, and gravel placement
3. Dam, tidegate, and legacy structure removal
4. Channel reconstruction and relocation
5. Off- and side-channel habitat restoration
6. Streambank restoration
7. Set-back or removal of existing berms, dikes, and levees

8. Reduction/relocation of recreation
9. Livestock fencing, stream Crossings and off-channel livestock watering facilities
10. Road and trail erosion control and decommissioning
11. Juniper tree removal, which includes felling juniper trees occurring in riparian areas and placing stem into the stream channel and floodplain to provide aquatic benefits.

The project sites are located within National Forest System lands in Washington including the Colville, Gifford Pinchot, Mt. Baker Snoqualmie, Okanogan-Wenatchee, Olympic, Umatilla National Forest and the Columbia River Gorge National Scenic Area. Projects on non-federal lands are included for coverage under RGP 8 when a culvert removal or replacement leads to improved passage of fish onto Forest Service Administered lands.

With this WQC Order, Ecology is granting with conditions the Corps request for a Section 401 Water Quality Certification for RGP 8, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request, draft RGP 8, and attachments Ecology received on April 19, 2023 and the following supporting documentation:

1. E-mail letter to Ecology dated June 21, 2023, regarding adding a reporting requirement for wetland impacts associated with the work authorized by RGP 8.

Based on the information submitted, Ecology has determined that the discharge from the projects will comply with state water quality requirements. Prior to undertaking any changes or modifications to the RGP, the Corps 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 project proponents authorized by RGP 8 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 the project proponents from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Special Condition:

1. An individual Water Quality Certification is required for any activity that results in a half acre or more of permanent or temporary impacts to wetlands.
 - Justification - Ecology has the authority to prevent and control pollution of state waters, and to protect designated uses. By authorizing a discharge into a water of the state, through a water quality certification, Ecology is certifying the project as proposed will not negatively impact state water quality and will comply with the state's water quality

requirements. Therefore, it is imperative the project is conducted as it was presented during the review process, and as conditioned herein.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300(2)(e)(i), WAC 173-201A-310, WAC 173-204-120, and WAC 173-225-010.

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 Corps for the RGP 8.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues RGP 8. WQC Order No. **21917** will remain valid for 5 years from the date of issuance of the associated DA permit. The Corps should send a copy of the final RGP to fednotification@ecy.wa.gov within two weeks of issuing it.

Your right to appeal

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

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

- File your notice of appeal and a copy of this Order with the PCHB (see filing options below). "Filing" means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. "Notice of appeal" is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this Order on the Department of Ecology, in paper form, by mail or in person (see addresses below). E-mail is not accepted.

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

Filing an appeal with the PCHB:

For the most current information regarding filing with the PCHB, visit:

<https://elaho.wa.gov/content/11>

Address and Location Information

Street Addresses:

Department of Ecology

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

Pollution Control Hearings Board

1111 Israel RD SW
STE 301
Tumwater, WA 98501

Mailing Addresses:

Department of Ecology

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

Pollution Control Hearings Board

PO Box 40903
Olympia, WA 98504-0903

E-Mail Address:

Department of Ecology

Not currently available (see Chapter 371-08 WAC)

Pollution Control Hearings Board

Pchb-shbappeals@elaho.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 360-407-7668 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:

Erin Hanlon Brown

Department of Ecology

(360) 280-1037

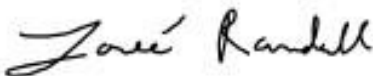
Erin.HanlonBrown@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
<http://eluh.wa.gov/content/11>
- **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 23rd day of June, 2023, at the Department of Ecology, Lacey, Washington.



Loree' Randall, Section Manager

Federal Permitting Section

Shorelands and Environmental Assistance Program