

To: Randel Perry
U.S. Army Corps of Engineers
P.O. Box 3755
Seattle, WA 98124

To: Rebekah Padget
Federal Permit Coordinator
WA State Dept of Ecology
P.O. Box 47600
Olympia, WA 98504

Transmitted Via Email to: randel.j.perry@usace.army.mil and ecyrefedpermits@ecy.wa.gov

18 December 2018

RE: NWS-2015-265, BC Limited Application for Permits

Dear Randel Perry and Rebekah Padgett,

Thank you for taking the time to consider our comments on the permit application submitted by BC Limited to fill 2.512 acres of wetlands in the Nooksack Watershed.

RE Sources for Sustainable Communities is a local organization in northwest Washington, founded in 1982. RE Sources works to build sustainable communities and protect the health of northwest Washington's people and ecosystems through the application of science, education, advocacy, and action. Our North Sound Baykeeper program is dedicated to protecting and enhancing the marine and nearshore habitats of northern Puget Sound and the Georgia Strait. Our chief focus is on preventing pollution from entering the North Sound and Strait, while helping our local citizenry better understand the complex connections between prosperity, society, environmental health, and individual wellbeing. Our North Sound Baykeeper is the 43rd member of the Waterkeeper Alliance, with over 300 organizations in 34 countries around the world that promote fishable, swimmable, drinkable water. RE Sources has over 20,000 members in Whatcom, Skagit, and San Juan counties, and we submit these comments on their behalf.

It is our scientific opinion that this permit is in potential violation of the Endangered Species Act (ESA), Essential Fish Habitat (EFH), and the Clean Water Act (CWA) because filling native wetlands in this area has adverse effects on both water supply and water quality. We feel that BC Limited should not be allowed to further fill wetlands on this property.



Effects to water supply:

The wetlands at this site support Bear and Silver Creeks which are tributaries to the Nooksack River mainstem and it is crucial not to ignore this connection¹. The Nooksack is designated as a water supply use for domestic, industrial, agriculture, and stock². Wetlands support these streams and their uses by helping to moderate flow. In the dry summer months they will help recharge the streams and during intense rain events they will help to mitigate flooding. Global climate change models show that the Pacific Northwest will have more drought and flood events in the future, therefore, native wetlands will be playing an even more critical role³.

Effects to water quality:

Wetlands also help to filter and cool water which is particularly significant because the water bodies that will be affected are already impaired. Bear and Silver Creeks are impaired for bacteria and dissolved oxygen and the Nooksack is impaired for temperature, dissolved oxygen, and pH⁴. In addition, stormwater is the number one pollutant of the Salish Sea and proving lethal to orcas, salmon, and other organisms. The continued filling of these wetlands will cause further deterioration of these water bodies.

Violations to ESA and EFH:

The Nooksack River mainstem is considered Core Summer Habitat for all five native species of salmonids; Silver Creek supports coho, pink, and chum. All salmonids, especially the threatened Chinook, are the main prey for the endangered southern resident orca whale. The filling of these wetlands will contribute to further water quality and quantity degradation of these streams and will therefore adversely affect two species on the Endangered Species list.

Violations to CWA:

The Clean Water Act states that permittees must show that steps have been taken to avoid impacts to wetlands, streams, and other aquatic resources. BC Limited filled nearly 1 acre of wetland without filing for a permit which means they are in direct violation of the Clean Water Act. As listed above the filling of wetlands will also impact designated Aquatic Life Use (Core Summer Habitat) and Water Supply Uses.

Habitat refuge:

An aerial photograph of the BC Limited property shows a small patch of green in an otherwise developed area. While this patch of green may seem insignificant it is likely a refuge for many organisms including waterfowl, amphibians, and mammals. As Whatcom County continues to grow in population these refuges will become more and more crucial to species survival.

No-net-loss policy is not enough:

Despite the enactment of the no-net-loss wetland policy in 1989 there is still a net LOSS of wetlands occurring nationwide⁵. One of the issues is that the no-net-loss policy assumes that we can build and

restore wetlands elsewhere when in reality this does not often occur. For example, category II wetlands, like some of the ones impacted on this property are very difficult to replace⁶. While 2.5 acres may seem like a trivial matter, lost acreage over time and across a landscape can cumulatively have devastating effects.

BC Limited has shown their blatant disregard for the environment by illegally filling wetlands, therefore, we are asking you, the Army Corps of Engineers and the Department of Ecology, to assert your legal right and obligation to protect the waters of the state by denying this company any further impacts to wetlands. In addition, we are requesting that you require them to mitigate for the wetlands they already destroyed. The mitigation should add wetland acreage to the watershed and be monitored long-term for functionality.

We appreciate your time and consideration.

Sincerely,

Kirsten McDade
Pollution Prevention Specialist
Clean Water Team

Resources

¹Department of Fish and Wildlife Nooksack Basin. Retrieved from:
<http://docs.streamnetlibrary.org/Washington/DFW/StreamCatalog/01-WRIA.pdf>

²WA State Water Quality Standards. Retrieved from:
<https://ecology.wa.gov/Water-Shorelines/Water-quality/Freshwater/Surface-water-quality-standardshttps://fortress.wa.gov/ecy/approvedwqa/ApprovedSearch.aspx>

³Climate Change Impacts on the Pacific Northwest. Retrieved from:
https://19january2017snapshot.epa.gov/climate-impacts/climate-impacts-northwest_.html

⁴Washington State list of Impaired Bodies of Water - 303(d) list. Retrieved from:
<https://ecology.wa.gov/Water-Shorelines/Water-quality/Water-improvement/Assessment-of-state-waters-303d>

⁵National Wetlands Inventory. Retrieved from: <https://www.fws.gov/wetlands/index.html>

⁶Washington State Wetland Rating System. 2014. Retrieved from:
<https://fortress.wa.gov/ecy/publications/documents/1406029.pdf>