



**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

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July 9, 2026

Paul A. Ocker
Chief, Operations Division
U.S. Army Corps of Engineers
Walla Walla District
Sent via email: Paul.A.Ocker@usace.army.mil

Re: Response to the submitted Temperature Water Quality Attainment Plan for the
Lower Snake River Dams

Dear Paul A. Ocker:

Thank you for submitting the U.S. Army Corps of Engineers (USACE) water quality attainment plan (WQAP) for temperature at the Lower Snake River Dams: Lower Granite, Little Goose, Lower Monumental and Ice Harbor (hereafter "LSR dams"). While we acknowledge USACE's efforts to adhere to the Washington State Department of Ecology's (Ecology) guidance for dams developing WQAPs and compliance schedules¹ despite staffing and funding issues, Ecology is not approving the WQAP submitted on January 30, 2026, and considers that WQAP still in draft.

This is the second time the USACE has submitted a WQAP for the LSR dams that fails to satisfy all requirements of WAC 173-201A-510(5).² Additionally, the latest WQAP USACE submitted to Ecology is not consistent with commitments USACE made following the disapproval of the first WQAP for the LSR dams,³ and the WQAPs recently submitted to Ecology by USACE's Seattle and Portland Districts. Our staff have provided detailed comments within the attached documents to provide guidance on Ecology's recommended edits and discussion of changes that are necessary for Ecology to approve the WQAP. Specific parts of the WQAP that are the subject of Ecology's disapproval have been identified in the attached comments. A summary of the issues that must be resolved prior to Ecology's approval of the WQAP are below.

¹ Ecology Guidance for Preparing a Dam Compliance Schedule Request and Water Quality Attainment Plan, March 2023.

² Letter from Vincent McGowan, Ecology, to Frances Coffey, USACE, sent June 27, 2024, documenting Ecology's disapproval of the WQAP for the Lower Snake River dams submitted March 29, 2024.

³ Letter from Frances Coffey, USACE, to Vincent McGowan, Ecology, sent August 26, 2024, committing to facilitate WQAP workshops following an agreed-to scope, structure and schedule with Ecology and invited participants.

A WQAP must include a complete evaluation of all reasonable and feasible measures or describe a schedule and process for how such evaluation will be performed.⁴ For example, all structural and operational measures identified in the submitted WQAP have been prematurely screened and prioritized using only qualitative means. Virtually every mitigation action USACE discusses in the WQAP, including those identified by the WQAP workgroup, have been improperly evaluated and ranked through a phase 1 screening process⁵ that misinterprets and misapplies Ecology-approved evaluation criteria.⁶

In draft WQAP documents dating back to February 18, 2025,⁷ USACE Walla Walla District committed to collaborate with USACE Portland District, Ecology and WQAP workgroup members on draft evaluation criteria that USACE would use to satisfy the requirements of WAC 173-201A-510(5). USACE stated that that this collaboration would result in a phase 1 screening level analysis consisting of “a quantitative temperature analysis that predicts potential actions’ temperature impacts using existing water quality models, USACE design expertise, and Workgroup input”.⁷ Based on USACE’s schedule for WQAP development,³ Ecology understood that USACE’s modeling results and quantitative evaluations would be presented to the WQAP workgroup, including Ecology, for further review and input before being included in USACE’s final WQAP submission. Considering no such modeling results, quantitative evaluations, or workgroup-solicited input have been included in the latest WQAP, Ecology cannot approve the WQAP in its current state. Moreover, proposed strategies by Ecology were not included in the submitted WQAP. For example, it is not clear how USACE plans to increase coordination with Ecology prior to implementing system changes, such as through System Operating Requests and Doble Tests at dams, that directly impact USACE’s ability to meet temperature targets.

USACE continues to argue in the submitted WQAP that it already fully mitigates the temperature impacts of the LSR dams⁸, which conflicts with the evaluation of any new temperature improvement actions. Rather than acknowledge that temperature exceedances observed at the LSR dam tailraces and reservoirs are the direct result of cumulative heating impacts including the LSR dams, USACE continues to suggest its operation of Dworshak Dam in Idaho fully offsets the dams’ temperature. With this latest WQAP submittal the USACE Walla Walla District continues to dispute and redefine the conditions and requirements set by the U.S. Environmental Protection Agency’s (EPA) NPDES permits and Ecology’s 401 certifications. Additionally, in the submitted WQAP, USACE Walla Walla District appears to attempt to relitigate past claims that the scope of Ecology’s 401 certifications should be limited.⁹ Moreover, in later sections of the WQAP¹⁰ USACE Walla Walla District suggests proposed changes to the CWA

⁴ See [WAC 173-201A-510\(5\)\(b\)\(ii\)](#) & [WAC 173-201A-510\(5\)\(b\)\(iv\)](#)

⁵ See Section 4.3 Phase 1 Screening Outcomes in the WQAP.

⁶ Identified in Section 3.3 Evaluation Criteria in the WQAP.

⁷ Lower Columbia and Lower Snake River WQAP: Draft Evaluation Criteria, submitted to Ecology February 18, 2025.

⁸ For example, see Section 2.2.2 Current Temperature Control Strategies Employed by USACE in the WQAP.

⁹ See Executive Summary, Regulatory and Legal Context, page iii-v, in the submitted WQAP for temperature.

¹⁰ See Section 2.3.3 Relevant Case Law, page 12, in the submitted WQAP for temperature.

Section 401 rules may limit or exclude Ecology's certification of nonpoint temperature pollution in reservoirs. That suggestion is not supported by the language and spirit of the CWA, federal and state case law, or rulings ¹¹ (PCHB). This argument regarding proposed rules is misplaced and should not be included in document designed to comply with existing laws and regulations.

Ecology acknowledges the water condition improvements that Dworshak seasonal cold-water releases to the Clearwater River and other measures implemented by USACE, have on temperature at the LSR dams. However, a WQAP is not an appropriate forum to dispute the requirements of the Columbia and Lower Snake River Temperature Total Maximum Daily Load (TMDL)¹² or Washington State's authority to condition NPDES permitted facilities to reduce temperature impacts caused by like the LSR dams. Ecology cannot and will not approve any WQAP that disputes the requirements set by the pertinent TMDL, argues against Ecology's 401-authority, and/or fails to investigate reasonable and feasible measures dam owners and operators can take to improve temperature conditions. Accordingly, Ecology cannot approve USACE's WQAP because it does not ensure compliance with the cumulative load allocation for all dams in the TMDL¹³. The submitted WQAP and schedule offers Ecology no clear path towards estimating how measures proposed by USACE, structural or operational, may impact downstream dams through a system-wide analysis of temperature.¹⁴ This omission leaves a significant gap in Ecology's ability to understand how the TMDL's cumulative load allocation will be attained at downstream dams.

Federal dam operators, including USACE, assert that a system-wide analysis of temperature is a time intensive project beyond the scope of the WQAPs. Neither Ecology nor EPA has accepted this assertion. The EPA anticipated that Ecology's 401 certifications would be an appropriate regulatory tool for Washington to implement the TMDL's cumulative load allocation for dams and highlighted that the conditions in Ecology's 401 certifications provide reasonable assurance that the temperature impacts of the federal hydropower systems will be addressed.¹⁵ While EPA's individual NPDES permits regulate the point-source temperature impacts of discharges at the federal dam, Ecology's 401 certification condition the effects of the whole project, including all temperature impacts for which the dam contributes. These impacts include heating in dam impoundments and the downstream conditions influenced by the dam.

Regarding the responsibility to conduct a system-wide analysis of temperature, Ecology has committed staff time and resources to the development of an Ecology managed system-wide analysis of temperature in partnership with EPA and Oregon Department of Environmental

¹¹ See, e.g., USACE v. Ecology, PCHB No. 20-043c, Summary Judgment Order (November 3, 2021), at ____ (upholding the state's authority to impose on Lower Columbia and Snake River dams broad water quality conditions, including meeting TMDL allocations and developing WQAPs for temperature).

¹² [EPA 2021 Total maximum Daily Load \(TMDL\) for Temperature on the Columbia and Lower Snake Rivers.](#)

¹³ See WAC 173-201A-510(5)(c)

¹⁴ Table 5 in the submitted WQAP for temperature

¹⁵ See Section 7.0 Reasonable Assurance in the TMDL for Temperature.

Quality (ODEQ). Appropriately, this project will utilize the same model used to develop the TMDL, the River Basin Model-10. Ecology's approach in conducting a system-wide analysis of temperature is further described in the attached Technical Memorandum (hereafter "Tech Memo"). The approach described in the Tech Memo removes responsibility from any individual dam operator to conduct a system-wide analysis and provides an alternate option for dam operators and regulatory agencies to work collaboratively with Ecology, ODEQ, and EPA to understand the cumulative load allocation, mitigation responsibility, and estimated downstream temperature impacts. This process collaboration will occur through a System-Wide Temperature TMDL Compliance Workgroup facilitated by Ecology staff (hereafter "system-wide workgroup").

Ecology has been flexible with project deliverables and deadlines detailed in the NPDES permits and Ecology's 401 certifications.¹⁶ We will continue to allow for the completion of water quality evaluations within an approved compliance schedule. Ecology requires the completion of detailed water quality evaluations to occur in the early portion of the compliance schedule.

Ecology has previously stressed the importance of submitting a schedule within the WQAP that includes the evaluation of actions on water quality at the LSR dams and across the system of dams for Ecology's review and approval. However, USACE has yet to include a recognition of downstream and system-wide impacts as is intended in EPA's TMDL. Before Ecology can approve the Temperature WQAP, the USACE must commit to, and develop a proposed schedule for, participating in the system-wide workgroup, utilizing Ecology-approved evaluation criteria consistent with the TMDL. This must include evaluating all operational and structural alternatives. The execution of such a plan will ensure the LSR dams remain in compliance with water quality standards and provide assurance that all actions have been identified for the purpose of meeting temperature goals at the LSR dams. The evaluation result provided to Ecology throughout the compliance schedule will allow Ecology ongoing analysis of cumulative temperature targets set in the TMDL for which Ecology is responsible for implementing.

USACE must include in its proposed schedule a plan to collaborate with state agencies through the system-wide workgroup and provide the necessary data and flexibility as described in the Tech Memo. The implementation of actions toward meeting TMDL is the responsibility of all dams in the system. Through this system-wide workgroup Ecology and dam owners need to understand how structural and operational changes made at identified dams in the TMDL will impact water quality across the system. This analysis assists the cooperative implementation of WQAPs in the Columbia and Snake River mainstems which is inherent to the TMDL.

Moving forward, Ecology is committed to further consulting with USACE on necessary revisions to finalize an approvable WQAP at the LSR dams. Ecology is providing dam agencies, including USACE, an opportunity to review the Tech Memo and provide comments to Ecology regarding

¹⁶ See Letter from Jon Kenning, Ecology, sent to Joyce McDonald, USACE, extending the WQAP deadline for the Lower Snake and Lower Columbia dams, July 3, 2025.

suggested edits and clarifications. Ecology requests comments back by August 7, 2026. Ecology will respond to all comments and make edits where necessary to finalize the Tech Memo. Additionally, Ecology understands that the USACE will need additional time to revise the submitted WQAPs. Following the collaborative effort described in the Tech Memo, Ecology is allowing until September 7, 2026, for the USACE to develop a plan for revising the WQAP's and compliance schedules in cooperation with Ecology and the System-Wide Temperature Work Group.

Please direct any questions to Thomas Starkey-Owens, at thomas.starkey-owens@ecy.wa.gov or 564-233-1980.

Sincerely,



Ben Rau
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