



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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April 17, 2014

Alan Soicher
Washington State Department of Transportation
Northwest Region
P.O. Box 330310
Seattle, WA, 98133-9710

RE: Water Quality Certification, First Amendment, for Order #10352

Dear Mr. Soicher:

On April 10, 2014, Ecology received a request from Washington Department of Transportation to revise Water Quality Certification Order #10352, issued on November 12, 2014 for the SR 532 Davis Slough Bridge Replacement project. We have reviewed the request and enclosed the amendment to Order #10352. In order to reflect the amendments that have been made to Order #10352, we are providing a strikeout version of the 401 Certification for your information.

All other conditions of Water Quality Certification #10352 remain in effect. Any correspondence or questions can be directed to the attention of Penny Kelley, Federal Permit Coordinator, at Department of Ecology, P.O. Box 47600, Olympia, WA 98504, or she can be reached at 360-407-7298. The enclosed amended Order may be appealed by following the procedures described in the amendment.

Sincerely,

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

by Certified Mail 7010 2780 0000 2503 3938

Enclosure



e-cc: Rebecca McAndrew, Corps of Engineers
Caroline Corcoran, Ecology
Bobb Nolan, Ecology
Dave Pater, Ecology
Chad Yunge, Ecology
Tracie Walters, Ecology
Frank Scherf, Snohomish County
Jason Johnson, Island County
Maria Mayrhofer, WSDOT
Cori Flowers, WSDOT
ecyrefedpermits@ecy.wa.gov

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

IN THE MATTER OF GRANTING	)	ORDER # 10352
A WATER QUALITY	)	First Amendment
CERTIFICATION TO	)	Corps Ref# NWS-2010-968
	)	Widen SR 532 from MP 2.50 to
Washington State Department	)	MP 3.39 & replace the bridge spanning
of Transportation	)	Davis Slough.

This amendment is issued under the provisions of Chapter 90.48 RCW and Chapter 173-201A WAC.

Administrative Order #10352 is hereby amended:

The amendment is as follows

Condition E.27 that reads:

Stream excavation and removal of soil plugs shall be conducted at low tide.

Is replaced as follows:

Removal of soil plugs shall be conducted at low tide.

No other conditions or requirements of the above-mentioned order are affected by this amendment.

The Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

FAILURE TO COMPLY WITH THIS ORDER

Failure to comply with this Order may result in civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

YOUR RIGHT TO APPEAL

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

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

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on 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.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Penny Kelley
Department of Ecology
P.O. Box 47600
Olympia, WA 98503-7600
360-407-7298
pkel461@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
www.eho.wa.gov/Boards_PCHB.aspx
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>

- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 Washington Administrative Code (WAC) Sediment Management Standards**
<http://www.ecy.wa.gov/biblio/wac173204.html>
- **Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173200.html>
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173201A.html>

SIGNATURE

Dated this 17th day of April, 2014 at the Department of Ecology, Lacey Washington



Brenden McFarland, Section Manager
Environmental Review and Transportation
Shorelands and Environmental Assistance Program
Headquarters

April 17, 2014 – This document shows the conditions that have been amended since the original Order was issued. Therefore it is not the official certification and should only be used for informational purposes.

Conditions modified in the 1st Amendment are highlighted in blue

IN THE MATTER OF GRANTING A	)	ORDER # 10352
WATER QUALITY	)	Corps Reference No. NWS-2010-968
CERTIFICATION TO	)	Widen SR 532 from MP 2.50 to MP 3.39 and
WA Department of Transportation	)	replace the existing bridge spanning Davis
in accordance with 33 U.S.C. 1341	)	Slough. The project is located in Snohomish &
(FWPCA § 401), RCW 90.48.120, RCW	)	Island County, Washington.
90.48.260 and Chapter 173-201A WAC)	

TO: Alan Soicher
Washington Department of Transportation
P.O. Box 330310
Seattle, WA 98133-9710

On November 26, 2012, Ecology received a Joint Aquatic Resources Permit Application (JARPA) from the Washington Department of Transportation (WSDOT) requesting a 401 Water Quality Certification (WQC). The U.S. Army Corps of Engineers (Corps) issued a public notice for the project on February 25, 2013.

WSDOT is proposing to widen and raise the elevation of SR 532 for 0.89 miles across Leque Island and Camano Island. The existing bridge over Davis Slough will be replaced with a new, wider and higher structure and the roadway embankment will be fortified. The west bound auxiliary truck climbing lane will be lengthened by approximately 575 feet. The raised roadway and new bridge will protect this stretch of SR 532 from potential flood & storm damage.

When complete, this project will provide a 4-foot striped median with one lane in each direction and 14 foot shoulders to accommodate bicyclists and pedestrians as well as provide emergency vehicle access and space for vehicle breakdowns. The roadway and bridge have been designed to accommodate four lanes of traffic in the future in response to estimated mobility needs for this area.

The proposed project will permanently impact existing freshwater and estuarine wetlands and mudflats. All unavoidable, permanent wetland and mudflat impacts will be mitigated for at the Dugualla Bay Mitigation Site located on Whidbey Island.

The project is located on SR 532, Milepost 2.50 to Milepost 3.39, in Snohomish County and Island County in Washington State.

WRIA 5 Stillaguamish & WRIA 6 Island County

Section 22 T32N R3E

Section 23 T32N R3E

Section 26 T32N R3E

Section 27 T32N R3E

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §§1311, 1312, 1313, 1316, and 1317 (FWPCA §§ 301, 302, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will comply with applicable water quality standards and other appropriate requirements of state law. 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, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize WSDOT 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 certification absolves WSDOT from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments resulting from project construction or operations.

A. General Conditions

1. In this Order, the term "Applicant" shall mean the Washington State Department of Transportation and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to Ecology's Headquarters Office, Attn: Federal Project Coordinator, P.O. Box 47600, Olympia, WA 98504 or via e-mail

(preferred), if possible, to the Coordinator assigned to this project. The submittals shall be identified with Order No.10352 and include the Applicant's name, project name, project location, the project contact and the contact's phone number.

3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on November 26, 2012. The Applicant will be out of compliance with this Order and must submit an updated JARPA if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
4. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
5. This Order shall be rescinded if the Corps of Engineers does not issue an individual Section 404 permit.
6. The Applicant shall send (per A.2.) a copy of the final Section 404 permit to Ecology's Federal Project Coordinator within two weeks of receiving it.
7. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
8. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
10. The Applicant shall ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each signatory that s/he has read and understands the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins.

11. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
12. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

B. Notification Requirements

1. Notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Project Coordinator. Notifications shall be identified with Order No. 10352 and include the Applicants name, project name, project location, project contact and the contact's phone number.
 - a. Immediately following a violation of state water quality standards, spill to waters of the state or when the project is out of compliance with any of this Orders conditions.
 - i. In addition to the phone or e-mail notification, the Applicant shall submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
 - b. At least ten (10) days prior to all pre-construction meetings
 - c. At least ten (10) days prior to starting stream channel excavation work.
 - d. At least seven (7) days prior to the start of over water bridge construction and bridge demolition activities.
 - e. At least seven (7) days within the start of impacts to wetlands.
 - f. At least seven (7) days prior to completing the wetland mitigation site.
 - g. At least seven (7) days within project completion.

C. Timing

1. This Order is valid until the Applicant meets all its requirements and conditions.
2. In-water work is subject to a fishery closure window determined by Washington Department of Fish & Wildlife's Hydraulic Project Approval (HPA). All in-water work shall be completed within the work window identified in the most current HPA issued for this project.

D. Water Quality Monitoring & Criteria

1. Davis Slough is categorized as excellent quality and the criteria of the categorization apply as described in WAC 173-201A-210 (1), except as specifically modified by this Order.

2. This Order does not authorize the Applicant to exceed applicable state water quality standards for turbidity as described in WAC 173-201A-210 (1)(e).
3. The Applicant shall submit a Water Quality Monitoring and Protection Plan (WQMPP) to the Federal Project Coordinator for review and approval at least 20 days prior to beginning work activities below the ordinary high water line (OHWL), in-water and over-water. **Work is not authorized to begin until approval is received.** At a minimum, the WQMPP shall include:
 - a. The names(s) and phone numbers (s) of the Pollution control inspector and the person responsible for on-site monitoring and report;
 - b. The BMPs and procedures to be used to protect water quality during specific proposed below the ordinary high water mark, in-water and over-water activities;
 - c. A water sampling plan for turbidity and pH, which include sample locations and frequency;
 - d. Sampling locations for turbidity shall include, but are not limited to; background, half the distance to the point of compliance and at the point of compliance, unless otherwise approved by Ecology.
 - e. A map with numbered or named sampling locations associated with the in-water work activities.
 - f. Contingencies during in-water work activities
4. Ecology must approve, in writing, any changes or additions to the WQMPP.
5. Monitoring results shall be submitted monthly to the Ecology Federal Project Coordinator, per condition A.2.
6. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

E. Construction

General Conditions

1. The Applicant shall comply with the conditions of the current Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) issued for this project.
2. Within the project limits¹ all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, and mitigation areas shall be fenced with high visibility construction (HVF) prior to commencing construction activities. Construction activities include equipment staging, materials storage, and work vehicle parking. *Note: This condition does not apply to activities such as pre-construction surveying and installing HVF and construction zone signage.*

¹ Project limits include mitigation sites, staging areas, borrow sources, and other sites developed or used to support project construction.

- a. If the project will be constructed in stages² a detailed description and drawings of the stages shall be sent to Ecology for review at least 20 days prior to placing HVF.
 - b. All field staff shall be trained to recognize HVF, understand its purpose and properly install it in the appropriate locations.
 - c. HVF shall be maintained until all work is completed for each project or each stage of a staged project.
3. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
 4. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
 5. All construction debris, excess sediment, and other solid waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
 6. Turbid de-watering water associated with in-water work shall not be discharged directly to waters of the state, including wetlands. Turbid de-watering water shall be routed to an upland area for on-site or off-site settling.
 7. Clean de-watering water associated with in-water work that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state including wetlands. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.
 8. All equipment being used below the ordinary high water mark shall utilize bio-degradable hydraulic fluid.

Equipment & Maintenance

9. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands. If a staging area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation and obtain approval from Ecology's Federal Permit Coordinator before placing the staging area in the setback area.
10. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the state, including wetlands. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state, including wetlands.

² A stage is part of a project that has been separated into at least two distinct areas to be built during separate timeframes.

11. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order or allowed in the HPA.
12. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
13. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.
14. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash-out of concrete delivery trucks, pumping equipment, and tools.

Bridge Construction & Demolition

15. The Applicant shall minimize disturbance of vegetation during bridge construction and demolition activities.
16. Installation and removal of isolation BMPs shall be done during low tide and in a manner that minimizes the disturbance of in place sediments.
17. Incidental debris from bridge construction activities shall be removed from waters of the state, including wetlands and mudflats.
18. Ground improvement activities for the new bridge shall not cause exceedence of water quality standards for turbidity.
19. Drilled shaft slurry shall not be discharged to waters of the state, including wetlands or mudflats or infiltrated in upland areas. The slurry shall be contained and disposed of at an approved site.
20. All forms for concrete shall be completely sealed to prevent the possibility of fresh concrete entering waters of the state.
21. All concrete shall be completely cured prior to coming into contact with water.
22. Concrete process water shall not enter waters of the state. Any concrete process/contact water discharged from a confined area with curing concrete shall be routed to upland areas to be treated and disposed of appropriately with no possible entry to state waters.
23. During demolition, structures shall be removed from the banks, existing roads, or from adjacent bridges whenever possible. When necessary, equipment may operate below the OHWL, provided the work is consistent with the project's most recent HPA.

24. All saw cut water and debris generated from saw cutting activities that occur above water, mudflat and wetlands shall be contained and disposed of appropriately with no possible entry to waters of the state.
25. Piles and columns removed from the substrate shall be moved immediately from the water onto a work platform or upland area. The pile or column shall not be shaken, hosed off, left hanging to drip or any other action intended to clean or remove adhering material while over water or wetlands. All excavated piles and columns shall be disposed of an approved upland disposal site.
26. Incidental debris from bridge demolition activities shall be removed from waters of the state including wetlands and mudflats.

Stream Channel Construction

~~27. Stream excavation and removal of soil plugs shall be conducted at low tide.~~

~~27. Removal of soil plugs shall be conducted at low tide.~~

28. Excavated material shall not be side cast into waters of the state including wetlands.
29. Any excavated material temporarily stockpiled on site shall be placed in a location that is not inundated by tidal water.
30. Prior to removing the soil plugs the banks of the new channel shall be stabilized with BMPs to minimize scour and erosion in the channel.
31. Excavation of the new channel shall be conducted in a manner that minimizes compaction from heavy equipment in Wetland 8.

F. Wetlands

1. The Applicant shall mitigate wetland impacts as described in the *SR 532 Davis Slough Bridge Replacement – Widening for Flood Prevention (MP 2.50 to MP 3.39) Final Wetland and Stream Mitigation Report* (hereafter called the “Mitigation Plan”) prepared by WSDOT NWR Environmental Services and dated July 2013, and the *SR 532 Davis Slough Bridge Replacement Widening for Flood Protection, MP 2.50 to 3.39 Wetland and Stream Mitigation Report Addendum* prepared by WSDOT NWR Environmental Services dated September 2013, or as modified by this Order or revised and approved by Ecology.
2. The Applicant shall submit final grading and planting plans for the Dugualla Bay Mitigation site for review and approval before mitigation site construction begins.

3. The Applicant shall submit any changes to the Mitigation Plan in writing to Ecology (see A.2) for review and approval before work begins.
4. The Applicant shall get review and written approval from Ecology of any plan changes required if problems arise during construction and planting of the wetland mitigation site.
5. The Applicant shall have a wetland professional at the wetland mitigation site to supervise during construction and planting.

Implementation

6. Unless otherwise approved by Ecology in writing, the Applicant shall begin the compensatory mitigation project before, or concurrent with, impacting wetlands or Ecology may require additional compensation to account for additional temporal loss of wetland functions.
7. If the mitigation site cannot be completed within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of
 - a) SR 532 Davis Slough Bridge Replacement Project.
 - b) Dugualla Bay Mitigation Site.With the:
 - c) Reason for the delay.
 - d) Expected date of completion.

The Applicant shall submit an updated written notification every 12 months thereafter until the SR 532 Davis Slough Bridge Replacement Project and the Dugualla Bay Mitigation Site are complete.

8. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers at the wetland mitigation site and above the 100-year floodplain.
9. The Applicant shall ensure that no material is stockpiled within existing wetlands and their buffers at the wetland mitigation site at any time, unless provided for in the Ecology-approved Mitigation Plan.
10. The Applicant shall ensure that no construction debris is deposited within existing wetland and their buffers at the wetland mitigation site at any time, unless provided for in the Ecology approved Mitigation Plan.
11. The Applicant shall not use polyacrylamide on exposed or disturbed soil at the mitigation site.
12. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site, unless approved by Ecology.

13. If weed-barrier fabric is used on the site, the Applicant shall use only permeable, fully biodegradable, non-toxic weed-barrier fabric for entire-site and/or individual plant weed control. Non-biodegradable plastic weed-barrier fabric shall be used only at the base of individual plants and shall be removed before it starts to break down, before it interferes with plant growth, or before the end of the monitoring period, whichever comes first.
14. If seeding is used at the wetland mitigation site, the seed mix must contain only native, annual, non-invasive plant species, unless approved by Ecology.
15. The Applicant shall place signs at the mitigation area's boundaries, including buffers, every 100 feet to mark the area as a wetland mitigation site.
16. Upon completion of site-grading and prior to planting, the Applicant shall submit to Ecology written confirmation, from a surveyor or project engineer, that the finished grades are consistent with the approved Mitigation Plan or subsequent Ecology-approved plan changes. The confirmation should indicate how final elevations were confirmed. The written confirmation can be in the form of an email or signed letter.
17. After completing construction and planting of the mitigation sites, the Applicant shall submit to Ecology (see A.2) an as-built report, including plan sheets, documenting site conditions at Year Zero. The as-built report must:
 - a) Be submitted within 90 days of completing construction and planting. Include one hard copy and one electronic file.
 - b) Include the information listed in Attachment B (Information Required for As-built Reports).
 - c) Include documentation of the recorded legal mechanism required in Condition F.18.
18. Within 90 days of completing construction and planting of Dugualla Bay Mitigation Site the Applicant shall record a Wetlands Notice (see Attachment C: Wetland Notice for Deed Notification). The Notice must be recorded with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.

Monitoring and Maintenance

19. The Applicant shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards.
20. The Applicant shall monitor the mitigation site for a minimum of 7 years. The Applicant shall use the monitoring methods described on page(s) 54 & 55 of the Mitigation Plan.
21. The Applicant shall submit to Ecology (see A.2) monitoring reports documenting mitigation site conditions for years 1, 3, 5, and 7. The monitoring reports must:

- a) Be submitted by May 1 following each monitoring year. Include one hard copy and one electronic file.
 - b) Include the information listed in Attachment D (Information Required for Monitoring Reports).
22. The Applicant shall implement the Mitigation Plan's contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.
 23. Prior to implementing contingency measures not specified in the Mitigation Plan, the Applicant shall consult with and obtain written approval from Ecology for the changes.
 24. When necessary to meet the performance standards, the Applicant shall replace dead or dying plants with the same species, or an appropriate native plant alternative, during the first available planting season and note species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.
 25. For monitoring year seven (7) the Applicant shall use the currently approved federal wetland delineation manual and appropriate regional supplement to delineate all compensatory wetlands and include delineation information (e.g. data sheets, maps, etc.) in the monitoring reports.
 26. If the Applicant has not met all conditions and performance standards for the mitigation site at the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both.
 27. Until the Applicant has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Applicant's obligation under Condition F.1 to mitigate for wetland impacts is not met.

G. Emergency/Contingency Measures

1. The Applicant shall develop and implement a spill prevention and containment plan for this project and shall have spill cleanup material available on site at all times during construction.
2. Work that is out of compliance with the provisions of this Order, conditions causing distressed or dying fish, discharges of oil, fuel, or chemicals into state waters or onto land with a potential for entry into state waters, is prohibited. If such work, conditions, or discharges occur, the Applicant shall comply with WSDOT's most current Environmental Compliance Assurance Procedure for Construction Project and Activities, notify the Ecology Project Coordinator per condition B.1.a. and immediately take the following actions:

- a. Cease operations at the location of the non-compliance.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - d. Immediately notify Ecology's Regional Spill Response Office at 425-649-7000 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.
 - e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
3. Notify Ecology's Regional Spill Response Office immediately at 425-649-7000 if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.

YOUR RIGHT TO APPEAL

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

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

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on 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.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board 40903 WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Penny Kelley
Department of Ecology
P.O. Box 47600
Olympia, WA 98503-7600
360-407-7298
Pkel461@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
www.eho.wa.gov/Boards_PCHB.aspx
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

- **Chapter 173.204 Washington Administrative Code (WAC) Sediment Management Standards**
<http://www.ecy.wa.gov/biblio/wac173204.html>
- **Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173200.html>
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173201A.html>

SIGNATURE

Dated this 17th day of April 2014, at the Department of Ecology, Lacey Washington



Brenden McFarland, Section Manager
Environmental Review and Transportation
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