



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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December 16, 2015

Department of Transportation
Northwest Region
ATTN: Angela Angove
600 108th Ave NE Suite 405 NB82-250
Bellevue, WA 98004

RE: Water Quality Certification Order No. **13078** for Corps Public Notice No. NWS-2014-29,
I-405 SR 167 Interchange Direct Connector in King County, Washington

Dear Ms. Angove:

On March 26, 2015, the Washington Department of Transportation (WSDOT) submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the I-405 SR 167 Interchange Direct Connector project in King County, Washington.

WSDOT is proposing to build a new direct connector ramp for a high occupancy vehicle (HOV)/express toll lane (ETL) operation in each direction between SR 167 south leg high occupancy toll lanes and I-405 north leg HOV lanes. The Rolling Hills Creek channel will be realigned and the current culvert carrying the creek under SR 167 will be replaced with a fish passable structure. The project proposes to impact 7.766 acres of Category II, III, and IV wetlands, which includes 6.686 acres of permanent impacts and 1.080 long-term temporary impacts. To mitigate for these impacts, WSDOT will debit 6.211 credits from the Springbrook Creek Wetland and Habitat Mitigation Bank, in accordance with the I-405/SR 167 Interchange – Direct Connector Project Final Wetland Mitigation Bank Use Memorandum, prepared by Rob Thomas, dated December 8, 2015, and approved by Ecology. Project impacts to the creek will be mitigated through the onsite channel realignment by creating a wider channel connected to the floodplain with a riparian corridor.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice 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 conditions contained in the enclosed Order.



If you have any questions, please contact Penny Kelley at 360-407-7298. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Brenden McFarland
Shorelands and Environmental Assistance Program

Enclosure

cc: Karen Walters, Muckleshoot Indian Tribe Fisheries Division

by certified mail 7009 0820 0001 9056 0526

e-cc: Rebecca McAndrew, Corps of Engineers
Caroline Corcoran, Ecology
Linda Cooley, WSDOT
Tara Stone, WSDOT
ECY RE FEDPERMITS
Loree Randall – HQ, SEA

IN THE MATTER OF GRANTING A)	ORDER # 13078
WATER QUALITY)	Corps Reference No. NWS-2014-29
CERTIFICATION TO)	Build a new direct connector ramp for a High
WA Department of Transportation)	Occupancy/Express Toll Lane in each direction
in accordance with 33 U.S.C. 1341)	between SR 167 and I-405. The project is
(FWPCA § 401), RCW 90.48.120, RCW)	located in the City of Renton in King County,
90.48.260 and Chapter 173-201A WAC)	Washington.

WA Department of Transportation
600 108th Ave NE Suite 405 NB82-250
Bellevue, WA 98004

On March 26, 2015, Ecology received a Joint Aquatic Resources Permit Application (JARPA) from the Washington State 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 June 24, 2015.

WSDOT is proposing to build a new direct connector ramp for a high occupancy vehicle (HOV)/express toll lane (ETL) operation in each direction between SR 167 south leg high occupancy toll lanes and I-405 north leg HOV lanes. Sections of SR 167 and I-405 will be reconstructed so the median can be opened up to build the new ramp. A new HOV/ETL structure that will be installed between SR 167 and I-405 for the ramp and the I-405 bridge crossing over SR 515 will be widened or replaced with a new bridge. New retaining walls will be installed and a noise barrier will be relocated.

Other project elements including building stormwater management facilities, realigning the Rolling Hills Creek channel (located on the east side of SR 167) and installing a fish passable culvert carrying the creek under SR 167 at the S 19th Street alignment. The project will impact the Rolling Hills Creek and existing wetlands. Project impacts to the creek will be mitigated through the onsite channel realignment by creating a wider channel connected to the floodplain with a riparian corridor. The wetland impacts will be mitigated at the Springbrook Bank.

The project is located on SR 167 and I-405, starting at milepost 24.80 on SR 167 and ending at milepost 3.96 on I-405 in the City of Renton in King County, WA.

WRIA 9 Green-Duwamish
Section 17 T23N R5E
Section 20 T23N R5E
Section 19 T23N R5E
Section 30 T23N R5E

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. 13078 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 March 26, 2015. 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 individual 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. Furthermore, 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. 13078 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 installation of the temporary access road for construction of the new stream channel.
 - d. At least seven (7) days within project completion.

C. Timing

1. This Order will expire five (5) years from the date of issuance of the Corps permit.
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. Rolling Hills Creek and the East Fork of Panther Creek are categorized as Salmonid Spawning, Rearing, and Migration and the criteria of the categorization apply as described in WAC 173-201A-200 (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-200 (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 for each activity 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 activities that occur below the ordinary high water mark, construction of retaining walls in wetlands, and in-water activities in the Rolling Hills Creek and Wetland 24.7R-C & 24.7R-B.
 - c. A water sampling plan for turbidity 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. Condition 2.a. shall apply to each stage.
 - c. All field staff shall be trained to recognize HVF, understand its purpose and properly install it in the appropriate locations.
 - d. 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 other than excavated wetland soils, and other solid waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
 6. Excavated wetland soils may be placed back into temporary wetland impact areas where feasible. Any excavated wetland soil not placed into temporary wetland impacts shall be properly managed and disposed in compliance with condition E.5.
 7. 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.
 8. 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.
 9. All equipment being used below the ordinary high water mark shall utilize bio-degradable hydraulic fluid.

Equipment & Maintenance

10. 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.

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. 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.
12. 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.
13. 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.
14. 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.
15. 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.

Concrete

16. All forms for concrete shall be completely sealed to prevent the possibility of fresh concrete entering waters of the state.
17. All concrete shall be completely cured prior to coming into contact with water.
18. 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.

Culvert Work & Stream Bypass

19. All culvert work shall be conducted in the dry or in isolation from stream flow.
20. Stream flow isolation work shall not scour the stream channel or banks of the water body in which the work is being done.
21. To minimize sediment releases into downstream water, water reintroduced to the channel shall be done gradually and at a rate not exceeding the normal stream flow.
22. Culverts shall be installed to avoid inlet scouring and prevent downstream bank erosion. (See the current WSDOT hydraulics manual for standards)
23. Fill associated with culvert installation shall be protected from erosion to the 100-year peak flow.

24. Prior to returning stream flow to the de-watered work area, all proposed bank protection measures shall be in place.

F. Wetland Compensatory Mitigation Conditions

1. The Applicant shall mitigate wetland impacts as described in the *I-405/SR 167 Interchange – Direct Connector Project Final Wetland Mitigation Bank Use Memorandum*, (hereafter called the “mitigation memo”) prepared by Rob Thomas, dated December 8, 2015, or as revised and approved by Ecology.
2. Prior to impacting wetlands, the Applicant shall submit to Ecology documentation from the bank sponsor verifying the purchase of 6.211 wetland mitigation bank credits (credits) from the Springbrook Creek Wetland and Habitat Mitigation Bank. This documentation must include the permit number, permit issuance date, impact acreage, the amount of credits required by the permit, and date of credit purchase.
3. The Applicant shall notify Ecology of any changes to the amount of wetland impacts, or revisions to the mitigation plan.
4. The Applicant shall complete the purchase of credits before the impacts to wetlands occur or Ecology may require additional compensation to account for temporal loss of wetland functions.

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 at 425-649-7000 immediately 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 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 16th day of December 2015 at the Department of Ecology, Lacey Washington



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

Attachment A
Statement of Understanding
Water Quality Certification Conditions

I-405 SR 167 Interchange Direct Connector
Washington State Department of Transportation
Water Quality Certification Order No. **13078**
and
Corps Reference No. **NWS-2014-29**

I, _____, state that I will be involved as an agent or contractor for the Washington State Department of Transportation in the site preparation and/or construction of the I-405 SR 167 Interchange Direct Connector project located on SR 167 and I-405 starting at milepost 24.80 on SR 167 and ending at milepost 3.96 on I-405, in King County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. 13078 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company

