



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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July 22, 2011

Denise Cieri  
Department of Transportation  
Urban Corridors Office  
600 108<sup>th</sup> Avenue NE, Suite 405  
Bellevue, WA 98004

RE: Fourth Amendment of Water Quality Certification Order #2547 (Corps #200401410)

Dear Ms. Cieri:

As required by condition B.2 of Order #2547, your office submitted a JARPA form, received on March 1, 2011, providing information on additional work proposed within the Kirkland Nickel Stage 2 project. We have completed our review of the information and amended Water Quality Certification Order #2547 authorizing the additional work and approving the proposed mitigation for additional wetland impacts. In order to reflect all of the amendments that have been made to Order #2547 we are providing a strikeout version of the 401 Certification for your information.

All other conditions of Water Quality Certification #2547 remain in effect. Any correspondence or questions can be directed to the attention of Kerry Carroll, Federal Permit Manager, at Department of Ecology, P.O. Box 47600, Olympia, WA 98504, or she can be reached at 360-407-7503.

Sincerely,

*Kerry Carroll*

*for* Brenden McFarland  
Section Manager  
Environmental Review & Transportation Section

by Certified Mail 7009 1410 0002 4001 1613

cc: MAP Team  
Adam Gale, WSDOT  
Bill Jordan, WSDOT  
Loree' Randall, Ecology



**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

<b>IN THE MATTER OF GRANTING</b>	)	<b>ORDER #2547</b>
<b>A WATER QUALITY</b>	)	<b>Fourth Amendment</b>
<b>CERTIFICATION TO</b>	)	<b>Corps Ref# 200401410</b>
<i>Washington Department of Transportation</i>	)	Widen I-405 from SR 520 to SR 522 by
<i>SR 167 Sumner Interchange in Pierce Co.</i>	)	adding lanes in both directions for 7.6 miles

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

Administrative Order No. 2547 is hereby amended:

The amendment is as follows:

1. The project description that reads:

“Wetland impacts will result in 1.60 acres of permanent fill impact, 0.19 acres of temporary impact, and 0.02 acres of indirect impact in primarily depressional and riverine wetlands. Wetland mitigation for permanent and indirect impacts includes wetland creation, enhancement, and preservation at three different offsite locations. There are two mitigation sites adjacent to Forbes Lake in Kirkland and a third site at Thrasher’s Corner in Bothell. The wetland mitigation work will result in 2.39 acres of creation, 2.15 acres of enhancement, and 3.97 acres of preservation. All sites are proposed to result in Category II wetlands. Upland buffer on these sites will also be enhanced. Wetland areas with temporary impacts will be restored by planting of native trees and shrubs.”

Is replaced as follows:

“Wetland impacts will result in 1.84 acres of permanent fill impact, 0.19 acres of temporary impact, and 0.02 acres of indirect impact in primarily depressional and riverine wetlands. Wetland mitigation for permanent and indirect impacts includes wetland creation, enhancement, restoration and preservation at four different offsite locations. There are two mitigation sites adjacent to Forbes Lake in Kirkland, a third site at Thrasher’s Corner in Bothell, and a fourth site at Kelsey Creek in Bellevue. The wetland mitigation work will result in 2.39 acres of creation, 2.15 acres of enhancement, 0.43 acres of re-establishment, and 3.97 acres of preservation. All sites are proposed to result in Category II wetlands. Upland buffer on these sites will also be enhanced. Wetland areas with temporary impacts will be restored by planting of native trees and shrubs. One wetland will have 0.004 acre of long term temporary impacts which will be mitigated for at the Kelsey Creek Mitigation Site.”

2. The following condition is added under Condition D.1.d that reads:

In-water Work Plan

- Name and phone number of person responsible for implementing the plan;
- Best management practices (BMP’s) anticipated to be implemented;

3. Condition E.2 that reads:

The project shall be clearly marked/staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas to be protected from disturbance shall be marked with high visibility construction fencing so as to be clearly visible to equipment operators. Equipment shall enter and operate only within the delineated clearing limits, corridors and stockpile areas.

Is replaced as follows:

Within the project limits<sup>1</sup>, all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, and mitigation areas shall be fenced with high visibility construction fence (HVF) prior to commencing construction activities. Construction activities include equipment staging, materials storage, and worker vehicle parking.  
*Note: This condition does not apply to activities such as preconstruction surveying and installing HVF and construction zone signage.*

- a) If the project will be constructed in stages<sup>2</sup>, 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 D.2 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.

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

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

4. Condition E.7 that reads:

“Periodic inspection and maintenance of all erosion control structures shall be conducted no less than every 7 days from the start of the project to site stabilization. Additional inspections shall be conducted prior to and after expected rainfall events to ensure erosion control measures are in working conditions. Any damaged structures shall be immediately repaired. If it is determined at the inspection that additional measures are needed to control stormwater and erosion, they shall be implemented immediately.”

Is Deleted.

5. Condition F.2 that reads:

“Impacts to aquatic resources shall be mitigated as described in the *Wetland Mitigation Plan* (hereafter referred to as “mitigation plan”), prepared by WSDOT, dated June 2005 and approved by Ecology on June 7, 2005.”

Is replaced as follows:

Impacts to aquatic resources shall be mitigation as described in the *Wetland Mitigation Plan* (hereafter referred to as “mitigation plan”), prepared by WSDOT, dated June 2005 and approved by Ecology on June 7, 2005, the *2nd Addendum to the June 2005 Kirkland Nickel Project Wetland Mitigation Plan*, prepared by WSDOT, dated June 2005 and approved by Ecology on June 28, 2006, and the *Kelsey Creek Wetland Mitigation Plan Addendum 5 for Bellevue to Lynnwood Improvement Project*, prepared by WSDOT, dated May 2011 and approved by Ecology on May 16<sup>th</sup>, 2011.

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 may result in the issuance of 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 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**

<b>Street Addresses</b>	<b>Mailing Addresses</b>
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Road SW STE 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> 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](mailto:pkel461@ecy.wa.gov)

## MORE INFORMATION

**Pollution Control Hearings Board Website**

[www.eho.wa.gov/Boards\\_PCHB.aspx](http://www.eho.wa.gov/Boards_PCHB.aspx)

**Chapter 43.21B RCW - Environmental Hearings Office – Pollution Control Hearings Board**

<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

**Chapter 90.48 RCW – Water Pollution Control**

<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

**Chapter 173.204 WAC – Sediment Management Standards**

[www.ecy.wa.gov/biblio/wac173204.html](http://www.ecy.wa.gov/biblio/wac173204.html)

**Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**

[www.ecy.wa.gov/biblio/wac173200.html](http://www.ecy.wa.gov/biblio/wac173200.html)

**Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**

[www.ecy.wa.gov/biblio/wac173201A.html](http://www.ecy.wa.gov/biblio/wac173201A.html)

Dated 7-22-11 at Olympia, Washington.

*for* Kerry Carroll  
Brenden McFarland, Section Manager  
Environmental Review & Transportation Section  
Shorelands and Environmental Assistance Program

**July 22, 2011 - This document has been produced for the purpose of showing the conditions that have been amended since the original Order was issued. Therefore it is not the official certification and should only be used as informational purposes.**

<b>IN THE MATTER OF GRANTING</b>	)	
<b>A WATER QUALITY</b>	)	<b>ORDER # 2547</b>
<b>CERTIFICATION TO</b>	)	Corps Reference # 200401410
Washington Department of Transportation	)	Widen I-405; add one southbound
in accordance with 33 U.S.C. 1341	)	lane from SR 520 to SR 522 & add
FWPCA § 401, RCW 90.48.260	)	one northbound lane from NE 70 <sup>th</sup> St.
and WAC 173-201A	)	to NE 124 <sup>th</sup> St: reconfigure drainage system
	)	in King County, Washington

TO: Department of Transportation  
 Kimberly Farley  
 600 108<sup>th</sup> Avenue NE Suite 405  
 Bellevue, WA 98004

On November 19, 2004 a request for water quality certification from the State of Washington was submitted for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA§ 401). The request for certification was made available for public review and comment through the Corps of Engineers' Public Notice No. 200401410 dated March 29, 2005.

The Washington Department of Transportation (WSDOT) is proposing to add lanes in the northbound and southbound directions on I-405 from the I-405/SR 520 interchange to the I-405/SR 522 interchange; a total distance of 7.6 miles. This project is design build. A general purpose lane will be added in the northbound direction from NE 70<sup>th</sup> Street to 124<sup>th</sup> Street and a general purpose southbound lane will be added from SR 522 interchange to SR 520 interchange. The interchange at NE 116<sup>th</sup> Street will be reconfigured. Numerous culverts will be replaced or extend to accommodate the new road width. In addition, WSDOT will also be constructing stormwater facilities.

The proposed project is located adjacent to the Forbes Creek, Juanita Creek, Yarrow Creek, North Creek, Forbes Lake, and multiple un-named streams that are tributaries to Lake Washington and the Sammamish River in Sections 4,5,8,9,16,17,20,21, Township 15N, Range 5E, and Sections 8,9,16,17,20,21,28,29,22, Township 26N, Range 5E in the Cities of Bothell and Kirkland, King County. The Forbes Creek Culvert crossing under I-405 will be retrofitted to eliminate a fish passage barrier. The work will impact 14 wetlands out of the total 33 wetlands that are present on the project site. Wetland impacts will result in ~~1.60~~ 1.84 acres of permanent fill impact, 0.19 acres of temporary impact, and 0.02 acres of indirect impact in primarily depressional and riverine wetlands. Wetland mitigation for permanent and indirect

impacts includes wetland creation, enhancement, restoration, and preservation at ~~three~~ four different offsite locations. There are two mitigation sites adjacent to Forbes Lake in Kirkland, ~~and~~ a third site at Thrasher's Corner in Bothell, ~~and~~ a fourth site at Kelsey Creek in Bellevue. The wetland mitigation work will result in 2.39 acres of creation, 2.15 acres of enhancement, 0.43 acres of re-establishment, and 3.97 acres of preservation. All sites are proposed to result in Category II wetlands. Upland buffer on these sites will also be enhanced. Wetland areas with temporary impacts will be restored by planting of native trees and shrubs. One wetland will have 0.004 acre of long-term temporary impacts, which will be mitigated for at the Kelsey Creek Mitigation Site.

For purposes of this Order, the term "Applicant" shall mean the Washington State Department of Transportation (WSDOT) and its agents, assigns, and contractors.

#### **AUTHORITIES:**

In exercising authority under 33 U.S.C. 1341 and RCW 90.48.260, Ecology has investigated 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. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 302, 303, 306, and 307);
2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; 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:**

In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW and Chapter 173-201A WAC, certification is granted to the Washington Department of Transportation (WSDOT) Northwest Region subject to the following conditions:

##### **A. Water Quality Standard Conditions:**

- ~~1. The reaches of Forbes Creek, Yarrow Creek, Juanita Creek, North Creek, Forbes Lake and multiple un-named streams are tributaries to Lake Washington and Sammamish River. Lake Washington is a Lake Class water of the state and the Sammamish River is a Class AA water of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (173-204 WAC). Water quality criteria contained in 173-201A-030(1) WAC and 173-201A-040 WAC shall apply to this project, unless otherwise authorized by Ecology.~~
1. The reaches of Forbes Creek, Yarrow Creek, Juanita Creek, Crystal Creek, Forbes Lake and

multiple un-named streams are tributaries to Lake Washington and Sammamish River. Lake Washington is a Lake Class water of the state and the Sammamish River is a Class AA water of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (173-204 WAC). Water quality criteria contained in 173-201A-030(1) WAC and 173-301A-040 WAC shall apply to this project, unless otherwise authorized by Ecology.

2. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
- ~~3. The reaches of Forbes Lake, Forbes creek, North Creek, and Juanita Creek have been identified on the current 303(d) list as exceeding state water quality standards for fecal coliform, dissolved oxygen, temperature, and pH. This proposed project shall not result in further exceedances of these standards.~~
3. The reaches of Forbes Creek and Juanita Creek have been identified on the current 303(d) list as exceeding state water quality standards for the following parameters:
  - Forbes Creek – fecal coliform
  - Juanita Creek – fecal coliform and temperatureThis proposed project shall not result in further exceedances of these standards.

**B. Timing:**

1. This Order is valid until all compliance requirements in this document have been met.
2. The Applicant shall reapply with an updated application if the information contained in the Corps of Engineers Public Notice received March 29, 2005 and the JARPA submitted on November 29, 2004 is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the public notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.

**C. Notification Conditions:**

- ~~1. Notification shall be made to Ecology's Federal Permit Manger (Penny Kelley at 360/ 407-7298, Fax 360/ 407-6904, Email [pkel461@ecy.wa.gov](mailto:pkel461@ecy.wa.gov) or mail P.O. Box 47600, Olympia, WA 98504-7600) for the following activities:~~
  - ~~• at least 10 days prior to the pre-construction meeting,~~
  - ~~• at least 10 days prior to the onset of any work on site,~~
  - ~~• at least 10 days prior to construction of the mitigation site,~~
  - ~~• at least 10 days prior to critical instream work, and~~

- ~~• immediately following a violation of the state water quality standards or condition of this order.~~

~~**NOTE:** These notifications shall include the applicant's name, project name, project location, the number of this Order, contact and contact's phone number.~~

1. Notification shall be made to Ecology's Federal Permit Manger (Penny Kelley at 360/ 407-7298, Fax 360/ 407-6904, Email [pkel461@ecy.wa.gov](mailto:pkel461@ecy.wa.gov) or mail P.O. Box 47600, Olympia, WA 98504-7600) for the following activities.

- at least 10 days prior to the pre-construction meeting,
- at least 10 days prior to the onset of any work on site,
- at least 10 days prior to construction of the mitigation site,
- at least 10 days prior to critical instream work, and
- prior to any off-site disposal of de-watering water and
- immediately following a violation of the state water quality standards or condition of this order.

**NOTE:** These notifications shall include the applicant's name, project name, project location, the number of this Order, contact and contact's phone number

2. The Applicant shall ensure that all appropriate Project Engineer and the Contractors at the project site and/or mitigation sites have read and understand all relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide to Ecology a signed statement (see Attachment #. A for an example) from each Project Engineer and Contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology no less than 10 days before construction begins at the project or mitigation sites.

**D. Monitoring & Reporting Conditions:**

1. The Applicant shall submit a copy of the Environmental Compliance Plan 30 days prior to beginning construction for review. These plans shall include the following information:

- ~~a. Water Quality Monitoring Plan~~
  - ~~• Name and phone number of person responsible for monitoring;~~
  - ~~• Map of sample locations (background, 200 feet and 300 feet downstream);~~
  - ~~• Parameter(s) to be monitored; dissolved oxygen, pH & turbidity;~~
  - ~~• Sample method; and~~
  - ~~• Sample frequency.~~

- a. Water Quality Monitoring Plan
  - Name and phone number of person responsible for monitoring;
  - Map of sample locations;

- Parameter(s) to be monitored; pH & turbidity;
- Sample method; and
- Sample frequency.

The Applicant shall determine sample locations for monitoring of turbidity for in-water work in accordance with the prescribed temporary mixing zone as specified in WAC 173-201A-110(3) a-d:

- a) For waters up to 10 cfs flow at time of construction, the point of compliance shall be 100 feet downstream of project activities.
- b) For waters above 10 cfs up to 100 cfs flow at time of construction, the point of compliance shall be 200 feet downstream of project activities.
- c) For waters above 100 cfs flow at the time of construction, the point of compliance shall be 300 feet downstream of project activities.
- d) For projects working within or along lakes, ponds, wetlands, estuaries, marine waters or other non-flowing waters, the point of compliance shall be at a radius of 150 feet from the activity causing the turbidity exceedance.

Sample locations will be located at a minimum at the point of compliance, halfway between the point of compliance and the activity being conducted, and background. Any additional sample locations shall be indicated in the water quality monitoring plan.

- b. Temporary Erosion and Sediment control Plan (TESC Plan)
  - Name and phone number of person responsible for implementing plan;
  - Best management practices (BMP's) anticipated to be implemented;
  - Frequency of BMP inspections;
  - Contingency plan in the event of adverse weather condition or other foreseeable undesirable conditions; and
  - De-watering plan
- c. Spill Prevention Control and Countermeasures Plan (SPCC Plan)
  - Name and phone number of person responsible for reporting spills;
  - Spill prevention & Containment methods for pollutants other than sedimentation including concrete and concrete process water;
  - De-watering plan for concrete process water;
  - Spill response procedures; and
  - Contingency plan.
- d. In-water Work Plan
  - Name and phone number of person responsible for implementing the plan;
  - Best management practices (BMP's) anticipated to be implemented.

2. The Applicant shall submit subsequent iterations of the Environmental Compliance Plan for each new construction activity not previously addressed in the plan and for which design is complete prior to starting the work.
3. The Applicant shall submit monthly reports to Ecology's Federal Permit Manager (Penny Kelley) summarizing pollution control activities at the site and presenting the results of the monitoring program.
4. If the monitoring results show that the water quality standards or project performance stands are not being met, additional monitoring and mitigation maybe required.

**E. Construction Conditions:**

1. The Construction and Equipment Staging & Maintenance conditions apply to all construction activities for the duration of the project.
2. The project shall be clearly marked/staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas to be protected from disturbance shall be marked with high visibility construction fencing so as to be clearly visible to equipment operators. Equipment shall enter and operate only within the delineated clearing limits, corridors and stockpile areas.
3. The Applicant shall comply with the current Construction National Pollutant Discharge Elimination System (NPDES) permit issued for this project
4. Work in or near the waterbody shall be done so as to minimize turbidity, erosion, and other water quality impacts.
5. No petroleum products, fresh cement, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
6. Erosion control devices (e.g., filter fences, plastic sheets, straw, fiber mats, etc.) and sedimentation devices suitable to prevent exceedance of state water quality standards shall be in place before starting project construction and shall be maintained throughout construction.
7. Periodic inspection and maintenance of all erosion control structures shall be conducted no less than every 7 days from the start of the project to site stabilization. Additional inspections shall be conducted prior to and after expected rainfall events to ensure erosion control measures are in working conditions. Any damaged structures shall be immediately repaired. If it is determined at the inspection that additional measures are needed to control stormwater and erosion, they shall be implemented immediately.
8. All areas disturbed or newly created by the project construction shall be stabilized as soon as

possible to prevent erosion and shall comply with the Temporary Erosion and Sediment Control Plan.

- ~~9. Turbid dewatering water, shall not be discharged directly to waters of the state. Turbid water shall be pumped to an upland area to allow the sediment to settle. The discharge from the upland areas shall meet the water quality criteria at the point of discharge into surface waters.~~
9. Turbid dewatering water shall not be discharged directly to waters of the state. Turbid dewatering water shall be routed to an upland area for on-site settling or off-site disposal. The discharge from the upland areas shall meet the water quality criteria at the point of discharge. The Applicant shall notify Ecology's Federal Permit Manager before the use of off-site disposal methods. Additionally, the Applicant may not use chemical treatment of turbid dewatering water without prior approval from Ecology.
10. Clean de-watering water that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.
11. When possible, all concrete shall be poured during dry weather and in a dry de-watered site. If this is not possible, the concrete process water shall not enter waters of the state. All concrete shall be completely cured prior to coming into contact with state waters. Any contact water discharged from a confined area with curing concrete shall be discharged to upland areas to be treated and infiltrated, or disposed of appropriately with no possible entry to state waters.
12. All construction debris, excess sediment and other waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
13. Temporary impacts to vegetation shall be limited to the amount necessary for construction. Bare soils in these areas shall be adequately protected from erosion for the duration of the project and seeded with suitable erosion control seed mix within 7 days after project completion.
14. If during the design build process, it is determined that the impact threshold area identified in the construction plan sheets submitted in the JARPA application dated November 19, 2004 will be exceeded, the applicant shall notify the Federal Permit Manager before proceeding with that activity. The Applicant shall submit the following information:
- a. A narrative description on what portion/construction activity of the project will exceed the impact threshold area;
  - b. Plan sheets;
  - c. The increase in impacts to wetlands if any;
  - d. Whether or not the any waterbodies will be impacted that were not previously

- impacted before; and  
e. Proposed mitigation for any additional impacts.

**Equipment Staging & Maintenance:**

15. Staging areas will be located a minimum of 50 feet, and where practicable 200 feet, from waters of the state including wetlands. If the staging area must be located closer than the 50 foot set back, the Applicant shall provide Ecology a written request and obtain approval from Ecology before placement of the staging area in the set back area.
- ~~16. Equipment used during construction shall be serviced, fueled, and maintained on uplands in order to prevent contamination to surface waters. All fueling areas shall be provided with adequate spill containment. Fueling equipment and vehicles within 50 feet of state waters and wetlands is not allowed.~~
16. Equipment used during construction shall be serviced, fueled, and maintained on uplands in order to prevent contamination to surface waters. All fueling areas shall be provided with adequate spill containment. Fueling of equipment and vehicles shall not occur within 50 feet of state waters and wetlands. If equipment must be stationed within 50 feet of state waters including wetlands, the Applicant shall install additional bmps such as absorbent pads, and booming around the equipment. These additional bmps shall be identified within the Environmental Compliance Plan.
17. Equipment used for this project shall be free of external petroleum-based products while working around waters of the state including wetlands. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to its working around waters of the state including wetlands.
18. 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.
19. 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 setup a designated area for washing down equipment.
20. No cleaning solvents or chemicals utilized for tool or equipment cleaning may be discharged to the ground or to waters of the state.
21. 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.

**Culvert Replacements & Extensions:**

22. All culvert work shall be conducted in the dry or in isolation from stream flow by installation of a bypass flume or culvert, or by pumping the stream flow around the work area. The stream diversion system shall be designed and operated so as to not cause erosion or scour in the stream channel or banks of the waterbody in which work is being conducted.
23. Prior to releasing the water flow to the project area, all bank protection and/or armoring shall be completed.
24. Temporary sediment traps shall be cleaned out and the settled sediments removed from the stream channel before removing the stream diversion system and returning the flow of the stream to its natural channel. Settled sediments shall not be allowed to enter waters of state including wetlands due to water or runoff flows that may occur during or after construction is completed.
25. Upon completion of the project, all material used in the temporary bypass or other method of work area isolation shall be removed from the site and placed in an area approved by the appropriate regulatory authority and the site returned to pre-project or improved conditions.
26. Culverts shall be installed and maintained to avoid inlet scouring and to prevent erosion of stream banks downstream of the project.
27. Fill associated with culvert installation shall be protected from erosion to the 100 year peak flow.
28. Disturbance of the streambed and banks shall be limited to that necessary to place the culvert and to construct any required channel modification associated with it. Affected streambed and bank areas outside the culvert and associated fill shall be restored to pre-project configuration following installation of the culvert. All disturbed streambank areas shall be protected from temporary erosion using BMPs until stabilized by vegetation. Within one year of project completion, the banks shall be planted with native woody species adapted to riparian areas. Vegetative cuttings shall be planted at a maximum interval of three feet (on center) and maintained as necessary for three years to ensure adequate plant cover to provide long-term bank stabilization.
29. For all culvert concrete work, the applicant shall comply with condition #11 under Construction Conditions of the certification.
30. For culvert removal with no replacement, the culvert and fill shall be removed and the channel shaping shall occur in the dry or in isolation from stream flow by the installation of a bypass to divert the stream flow around the area.

**Boring & Jacking Pit Provisions:**

31. When boring or jacking, pits shall be isolated from surface water flow. Wastewater, from the project activities and dewatering, shall be routed to an area outside the ordinary high

water line that has been approved by the appropriate regulatory authority to allow removal of fine sediment and other contaminants prior to being discharged to state waters.

32. Excavated spoils shall be placed in an area approved by the appropriate regulatory authority, stabilized, and protected from erosion.
33. When the boring or jacking is completed, the pit shall be filled, contoured with the existing terrain, stabilized, and protected from erosion.

**Channel Change Provisions**

34. Culvert removal shall comply with condition #30 above.
35. New channel construction shall occur in the dry or in isolation from stream flow by installation of a bypass to divert the stream flow around the work area.
36. Before water is diverted into the permanent new channel, all channel stabilization work and materials shall be in place.
37. Spoils from the new channel shall be placed in an approved upland site. This material, if appropriate, may be used to fill the old channel once the diversion has been completed.
38. Within seven calendar days of completing the channel work, all disturbed areas shall be protected from erosion using vegetation or other means.

**Forbes Creek – Bridge Option:**

39. If the applicant and/or design builder determine that elimination of the fish passage barrier at the Forbes Creek Culvert crossing under I-405, MP 19.14 will be achieved by installing a bridge instead of a culvert and fishway, then the Applicant shall comply with the following conditions for the bridge work:
  - a. The Applicant shall submit to Ecology's Federal Permit Manager (Penny Kelley) 30 days prior to starting work on the bridge and after design work is complete, plan sheets and information on how water quality standards will be met for construction of the bridge.
  - b. Excavation for and placement of the foundation and superstructure shall be outside of the ordinary high water line.
  - c. The bridge structure shall be placed in a manner to minimize damage to the streambed and banks.
  - d. Riprap materials used for structure protection shall be clean, angular rock, which shall be installed to withstand the 100 year peak flow.
  - e. ~~Removal of the existing structure shall be accomplished so the structure and associated material does not enter the stream. Material shall be disposed of so it will not re-enter the stream.~~

- e. Removal of the existing structure, if necessary, shall be accomplished so the structure and associated material does not enter the stream. Material shall be disposed of so it will no re-enter the stream.
- f. For all bridge concrete work, the applicant shall comply with Condition #11 under Construction Conditions.

**F. Mitigation and/or Restoration:**

1. If construction of the wetland mitigation sites is started prior to beginning work on the road, the Applicant shall submit to Ecology 30 days prior to starting work an interim Environmental Compliance Plan containing information as described in Condition 1 of Section D. Monitoring Conditions.
- ~~2. Impacts to aquatic resources shall be mitigated as described in the *Wetland Mitigation Plan* (hereafter referred to as "mitigation plan"), prepared by WSDOT, dated June 2005 and approved by Ecology on June 7, 2005.~~
2. Impacts to aquatic resources shall be mitigation as described in the *Wetland Mitigation Plan* (hereafter referred to as "mitigation plan"), prepared by WSDOT, dated June 2005 and approved by Ecology on June 7, 2005, the *2nd Addendum to the June 2005 Kirkland Nickel Project Wetland Mitigation Plan*, prepared by WSDOT, dated June 2005 and approved by Ecology on June 28, 2006, and the *Kelsey Creek Wetland Mitigation Plan Addendum 5 for Bellevue to Lynnwood Improvement Project*, prepared by WSDOT, dated May 2011 and approved by Ecology on May 16<sup>th</sup>, 2011.
3. Any changes to the mitigation plan must be approved in writing by Ecology.
4. Restoration Plans for temporary impacts to sensitive areas and their buffers shall be submitted to Ecology for approval prior to the occurrence of temporary impacts in these areas.
5. Compensatory mitigation construction and installation shall occur prior to, or concurrently with, project impacts to wetlands.
6. Appropriate and effective BMPs, shall be installed adjacent to any surface water body on the mitigation sites prior to commencing earthwork so as to minimize erosion, turbidity, and other water quality impacts. All earth areas adjacent to Forbes Lake that have been exposed or disturbed by this project are to be protected from erosion with mulch or equivalent and seeded with a suitable seed mix comprised of native grasses and forbs within seven (7) days of completing grading in those areas.
7. All excess excavated material from the mitigation sites shall be disposed of in an appropriate location outside sensitive areas and their buffers and shall be stabilized or contained so as to prevent its entry into waters of the state.
8. No materials shall be stockpiled within the wetlands or steams on the mitigation sites.
9. Appropriate BMPs shall be implemented to minimize track-out during construction at the mitigation sites.
10. All earth areas that have been exposed or disturbed on the mitigation sites shall be stabilized to prevent erosion by using mulch or equivalent such as seeding with a suitable erosion

control seed mix consisting of native grasses and forbs within seven (7) days of completion of grading.

11. Upon completion of grading on the mitigation sites, and prior to planting, the Applicant shall provide written confirmation to Ecology that finished grades are consistent with the mitigation plan or other subsequent Ecology-approved modifications to grading plans.
- ~~12. An As-Built report documenting the final design of the mitigation site shall be prepared when the mitigation site is completed. The report shall include the following:
  - a. final site topography;
  - b. photographs of the area taken from established permanent reference points;
  - c. a planting plan showing species, densities, sizes, and approximate locations of plants, as well as plant sources and the time of planting;
  - d. habitat features (snags, large woody debris, etc) and their locations if any;
  - e. drawings in the report shall clearly identify the boundaries of the project;
  - f. locations of sampling and monitoring sites; and
  - g. any changes to the plan that occurred during construction~~
12. An As-Built report documenting the final design of the mitigation site shall be prepared when the mitigation site is completed. If there are multiple mitigation sites, a separate As-Built reports may be prepared for each site or combined into one document. The report shall include the following:
  - a. final site topography;
  - b. photographs of the area taken from established permanent reference points;
  - c. a planting plan showing species, densities, sizes, and approximate locations of plants, as well as plant sources and the time of planting;
  - d. habitat features (snags, large woody debris, etc) and their locations if any;
  - e. drawings in the report shall clearly identify the boundaries of the project;
  - f. locations of sampling and monitoring sites; and
  - g. any changes to the plan that occurred during construction
- ~~13. The As-Built report shall be sent to Ecology's Federal Permit Manager (Penny Kelley) within 180 days of completing project construction and mitigation.~~
13. The As-Built report(s) shall be sent to Ecology's Federal Permit Manager (Penny Kelley) within 180 days of completing project construction and mitigation.
14. All plantings at the mitigation sites shall be watered and otherwise maintained as necessary to meet performance standards as stated in the mitigation plan.
15. When needed to meet the success standards stated in the mitigation plan, dead or dying plants shall be replaced during the first available planting season with the same species or a native plant alternative that is appropriate for the location. The species, numbers and approximate locations of all replanted material shall be noted in the subsequent monitoring report.
16. The Applicant's inability to meet a particular success standard during monitoring years 1 through 7 does not necessarily mean that the wetland site is unsuccessful. The Applicant shall present to Ecology the reasons for non-attainment. Ecology will determine whether

remedial actions should be taken, additional wetland mitigation is needed, or the performance standard should be adjusted.

17. The Applicant shall comply with the most current NPDES permits that apply to WSDOT for Aquatic Noxious Weed Control if herbicides are selected to control invasive species at the mitigation sites. Methods used in areas within 20 feet of creeks shall be limited to localized application such as backpack sprayer or hand wicking. Application of herbicides shall occur only in dry weather.
18. Monitoring of the wetland mitigation sites will occur for a minimum of 10 years, with monitoring performed in years 1, 2, 3, 5, 7 and 10. If, at monitoring year 10, all required success standards have not been met, then Ecology may require additional monitoring and/or additional wetland mitigation area. Monitoring reports shall be sent to Ecology's Federal Permit Manager.
19. Any changes to the wetland monitoring plan must be approved in writing by Ecology.

**G. Emergency/Contingency Measures:**

1. The Applicant shall develop a spill prevention and containment plan as part of the Environmental Compliance Plan (see condition #1, Section D: Monitoring & Reporting Conditions) for this project, and shall have spill cleanup materials available on site.
- ~~2. All work is prohibited if it is out of compliance with the provisions of this Order, or producing conditions that are causing distressed or dying fish, or causing any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters. If these occur, the Applicant shall comply with IL 4055.00 Environmental Compliance Assurance Procedure for Construction projects and Activities effective March 10, 2003 and immediately take the following actions:~~
  - ~~a) Cease operations;~~
  - ~~b) Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage;~~
  - ~~e) In the event of finding distressed or dying fish, the Applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the Applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume;~~
  - ~~d) 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. This work shall take precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials; and~~
  - ~~e) Immediately notify Ecology's Northwest Regional Spill Response Office at 425-649-7000 and Department of Fish and Wildlife of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further~~

**problems.**

2. Any work that is out of compliance with the provisions of this Order, or producing conditions that are causing distressed or dying fish, or causing any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters is prohibited. If these occur, the Applicant shall comply with IL 4055.00 Environmental Compliance Assurance Procedure for Construction projects and Activities and immediately take the following actions:
  - a) Cease operations at the location of the violation;
  - 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 finding distressed or dying fish, the Applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the Applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume;
  - d) 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. This work shall take precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials; and
  - e) Immediately notify Ecology's Northwest Regional Spill Response Office at 425-649-7000 and Department of Fish and Wildlife of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.
  
3. If at any time during work the Applicant finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the Applicant shall immediately notify the Ecology's Northwest Region Regional Spill Response Office at 425-649-7000.

**H. General Conditions:**

1. 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.
2. This Order does not exempt and is conditioned upon compliance with other statutes and codes administered by federal, state, and local agencies.
3. Ecology retains continuing jurisdiction to make modifications hereto through supplemental Order, if it appears necessary to further protect the public interest.

4. The Applicant shall construct and operate the project in a manner consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology.
5. A Applicant's representative shall be on-site, or on-call and readily accessible to the site, at all times and periods of construction while construction activities are occurring that may affect the quality of ground and surface waters of the state, including wetlands.
6. The Applicant's representative shall have adequate authority to ensure proper implementation of the Erosion and Sediment Control Plan, as well as immediate corrective actions necessary because of changing field conditions. If the WSDOT representative issues an directive necessary to implement a portion of the Environmental Compliance Plan or to prevent pollution to the river, all personnel on site, including the construction contractor and the contractor's employees, shall immediately comply with this directive.
7. 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, or to ensure that conditions of this Order are being met.
8. Copies of this Order and all related permits, approvals, and documents shall be kept on the project site and readily available for reference by the project managers, construction managers and foremen, other employees and contractors of the Applicant, and state agency personnel.
9. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

