



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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July 22, 2011

Denise Cieri
Department of Transportation
Urban Corridors
6--108th Avenue NE, Suite 405
Bellevue, WA 98004-5101

RE: Water Quality Certification Order #8664 for Corps Ref # No. NWS-2007-1711 for the I-405 Bellevue to Lynnwood Improvement Project in King and Snohomish Counties, Washington

Dear Ms. Cieri:

On March 1, 2011, 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 proposed I-405 Bellevue to Lynnwood Improvement Project.

The proposed project entails building multiple road improvements to improve safety and reduce traffic congestion. The improvements consist of the following:

- Adding one additional northbound lane between NE 124th Street and State Route 522;
- Building braided ramps between the I-405 northbound on-ramp from NE 160th Street and the northbound I-405 off-ramp to SR 522;
- Adding southbound transit shoulders between SR 522 and NE 160th Street and between SR 527 and NE 195th Street;
- Building new northbound and southbound structures over NE 132nd Street;
- Building a new northbound off ramp structure over the railroad for the I-405 off ramp to NE 124th Street;
- Widening the existing roadway between four and eight feet at several locations for buffers, wider shoulders, tolling equipment, Washington State Patrol enforcement areas, and WSDOT maintenance pull-outs; and
- Minor upgrades to pedestrian facilities in some interchange areas



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This project will result in 0.14 acre of permanent impacts to Category III and IV wetlands. Unavoidable permanent wetland impacts will be mitigated offsite at the Kelsey Creek Wetland Mitigation Site, an advance mitigation site that was constructed in 2008. This project will use 0.23 acre of restoration area to compensate for project wetland impacts.

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 Kerry Carroll at 360-407-7503. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



for

Brenden McFarland
Headquarters
Shorelands and Environmental Assistance Program

Enclosure

by Certified Mail 7009 1410 0002 4001 1590

e-cc: MAP Team
Bill Jordan – WSDOT
Adam Gale – WSDOT
Cynthia Walcker – Ecology
Loree' Randall – HQ
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A)	ORDER # 8664
WATER QUALITY)	Corps Reference No. NWS-2007-1711
CERTIFICATION TO)	Construct multiple roadway improvements to
Washington Department of)	improve safety and reduce congestion starting at
Transportation)	MP. 13.5 and ending at MP 30.3 in King and
in accordance with 33 U.S.C. 1341)	Snohomish Counties, Washington.
(FWPCA § 401), RCW 90.48.120, RCW)	
90.48.260 and Chapter 173-201A WAC)	

TO: Denise Cieri
 Department of Transportation
 Urban Corridors
 600-108th Avenue NE, Suite 405
 Bellevue, WA 98004-5101

On March 1, 2011, the Department of Ecology (Ecology) received a Joint Aquatic Resources Permit Application (JARPA) from the Washington Department of Transportation (WSDOT) requesting a 401 Water Quality Certification (WQC). Ecology issued a public notice for the project on March 22, 2011.

The proposed project entails building multiple road improvements to improve safety and reduce traffic congestion. The improvements consist of the following:

- Adding one additional northbound lane between NE 124th Street and State Route 522;
- Building braided ramps between the I-405 northbound on-ramp from NE 160th Street and the northbound I-405 off-ramp to SR 522;
- Adding southbound transit shoulders between SR 522 and NE 160th Street and between SR 527 and NE 195th Street;
- Building new northbound and southbound structures over NE 132nd Street;
- Building a new northbound off ramp structure over the railroad for the I-405 off ramp to NE 124th Street;
- Widening the existing roadway between four and eight feet at several locations for buffers, wider shoulders, tolling equipment, Washington State Patrol enforcement areas, and WSDOT maintenance pull-outs; and
- Minor upgrades to pedestrian facilities in some interchange areas

This project will result in unavoidable impacts to wetlands. Those impacts are being mitigated offsite at a compensatory wetland mitigation site, Kelsey Creek. Stream impacts will be mitigated on-site through replanting and in-stream restoration.

The proposed project is located on Interstate 405, starting at NE 6th Street (Milepost 13.5) and extending approximately 17 miles to Interstate 5 (Milepost 30.0). The project crosses the City of Bellevue (King county) , City of Kirkland (Snohomish County), City of Bothell (Snohomish County) and City of Lynnwood (Snohomish County).

Section 32 Township 25N Range 5E
Section 14 Township 27N Range 4E
WRIA 8 – Cedar/Sammamish

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 the Applicant 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 shall absolve WSDOT from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. For purposes of this Order, the term "Applicant" shall mean WSDOT and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required as conditions shall be sent to Ecology's HQ, Attn: Federal Project Coordinator, P.O. Box 47600, Olympia, WA 98504-7600 or via e-mail (preferred), if possible, to the Coordinator assigned to this project. Notifications shall be made via phone or e-mail (preferred). All submittals and notifications shall be identified with Order No. 8664 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 1, 2011. The Applicant will be out of compliance with this Order and must reapply with an updated application 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 an updated JARPA, 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. Copies of this Order shall be kept 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.
6. 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.
7. 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.
8. 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.

9. 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.
10. 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. Water Quality:

1. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards for turbidity as described in WAC 173-201A-200(1)(e).

C. Timing:

1. This Order is valid until all compliance requirements in this document have been met.

D. Notification Conditions:

1. Notification shall be made to Ecology's Federal Permit Manager (Kerry Carroll at 360-407-7503, Email kstr461@ecy.wa.gov or mail P.O. Box 47600, Olympia, WA 98504-7600) for the following activities.
 - a. At least 10 days prior to the pre-construction meeting,
 - b. At least 10 days prior to the onset of any work on site,
 - c. At least 10 days prior to the construction of the mitigation site,
 - d. At least 10 days prior to critical in stream work, and
 - e. prior to any off-site disposal of de-watering water and
 - f. Immediately following a violation of the state water quality standards or conditions 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.

E. 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 the person responsible for monitoring;
 - Map of sample locations (background, a minimum of one sampling point within the area of mixing and one point at the edge of the area of mixing)
 - Parameter(s) to be monitored; pH & turbidity

- Sample method; and
 - Sample frequency.
- b. Temporary Erosion and Sediment control Plan (TESC Plan)
- Name and phone number of person responsible for implementing the 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 aother 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 (Kerry Carroll) 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 standards are not being met, additional monitoring and mitigation may be required.

F. Construction Conditions:

1. The Construction and Equipment Staging & Maintenance conditions apply to all construction activities for the duration of the 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 fence (HVF) prior to commencing construction activities.

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

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 construction 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 F.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.
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 inspection 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 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

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

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 steam 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 discharge 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 March 1, 2011 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 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 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 booms 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.

Sammamish River Bridge & Installation of LWD/Riprap

22. Any pressure washing of the Sammamish River Bridge shall comply with NPDES Permit No. WA-0039039 issued to WSDOT on December 12, 2009.
23. All in-water work associated with the installation of LWD and riprap at the Sammamish river outfalls shall occur in the dry or in isolation from river flow through the implementation of best management practices.

Culvert Replacements & Extensions:

24. 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.

25. Prior to releasing the water flow to the project area, all bank protection and/or armoring shall be completed.
26. 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 the state including wetlands due to water or runoff flows that may occur during or after construction is completed.
27. 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.
28. Culverts shall be installed and maintained to avoid inlet scouring and to prevent erosion of stream banks downstream of project.
29. Fill associated with culvert installation shall be protected from erosion to the 100 year peak flow.
30. Disturbance of the stream bed 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 of the culvert and associated fill shall be restored to pre-project configuration or improved condition following installation of the culvert. All disturbed stream bank 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.
31. For all culvert concrete work, that applicant shall comply with condition F.11 under Construction Conditions of the certification.

G. Wetland Compensatory Mitigation Conditions:

1. The Applicant shall mitigate wetland impacts as described in the *Kelsey Creek Wetland Mitigation Plan Addendum 5 for Bellevue to Lynnwood Improvement Project* (hereafter called the "Mitigation Plan") prepared by Washington State Department of Transportation, and dated May 2011, or as modified by this Order or revised and approved by Ecology.
2. The Applicant shall submit any changes to the Mitigation Plan in writing to Ecology (see A.2) for review and approval before work begins.

3. If the Applicant has not met all the conditions and performance standards for wetland compensatory mitigation at the end of the monitoring period, Ecology may require additional monitoring, additional wetland compensatory mitigation, or both.

H. 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 E: Monitoring & Reporting Conditions) for this project, and shall have spill cleanup materials available on site.
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 proposed changes in operations to prevent further problems.

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

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 Road 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 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

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

SIGNATURE

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

7-22-11
Date

Water Quality Certification Order #8664
Statement of Understanding

I, _____, state that, I will be involved as a WSDOT employee or an agent or contractor for Washington State Department of Transportation in the I-405 Bellevue to Lynnwood Improvement Project in King and Snohomish County, WA. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order #8664** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Company

Phone number

Address

City, State, and Zip Code