



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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TTY 711 or 800-833-6388 (for the speech or hearing impaired)

December 23, 2008

REGISTERED MAIL
RB 252 946 925 US

Jason Smith
Washington State Department of Transportation
I-90 Project Office
1710 South 24th Ave. Ste. 100
Yakima, WA 98902

RE: Water Quality Certification Order No. **6299** for Corps Public Notice No. **NWS-2007-2080-SOD** to widen I-90 between Hyak and Keechelus Dam in Kittitas County, Washington

Dear ^{Jason} ~~Mr.~~ Smith:

On July 15, 2008 the Department of Ecology (Ecology) received a Joint Aquatic Resource Permit Application (JARPA) from the Washington State Department of Transportation (WSDOT) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the proposed I-90 between Hyak and Keechelus Dam improvement project. The project improvements include widening the highway from four to six lanes, including chain up/off areas, add two wildlife bridges and add a new longer and wider snowshed. The project proposes to permanently impact 12.10 acres of wetlands, and 11.68 acres of temporary impacts to wetlands. The project will mitigate for wetland impacts in accordance with their Final Wetland Mitigation plan approved by Ecology. U.S. Army Corps of Engineers issued a public notice on September 24, 2008 for the proposed project.

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, 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.

This letter also serves as the State response to the Corps of Engineers' September 24, 2008 Public Notice.



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,



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

{kc}: {bm}
Enclosures

cc: Lynda Jamison, Ecology
Rick Pratt, Corps
Mark Reynolds, WSDOT
Larry Mattson, WSDOT

e-cc: Loree' Randall – HQ
Cathy Reed, Ecology
Bobb Nolan, Ecology
Brent Renfrow, WDFW
Patty Garvey-Darda, Forest Service

IN THE MATTER OF GRANTING A) ORDER #6299
WATER QUALITY) Corps Reference No. NWS-2008-331-SOD
CERTIFICATION TO) I-90 Snoquálmie Pass East Project from Hyak to
Washington State Department of) Keechelus Dam in Kittitas County.
Transportation)
 in accordance with 33 U.S.C. 1341)
 (FWPCA § 401), RCW 90.48.120, RCW)
 90.48.260 and Chapter 173-201A WAC)
)

TO: Jason Smith
 Washington State Department of Transportation
 I-90 Project Office
 1710 South 24th Ave. Ste. 100
 Yakima, WA 98902

On July 15, 2008 the Department of Ecology (Ecology) received a Joint Aquatic Resource Permit Application (JARPA) from the Washington State Department of Transportation(WSDOT) requesting a Section 401 Water Quality Certification (401 Certification). The U.S. Army Corps of Engineers (Corps) distributed a joint public notice for the project pursuant to Chapter 173-225 WAC on September 24, 2008.

WSDOT will improve approximately five miles of I-90 between Hyak and Keechelus Dam. Improvements include one lane in each direction between milepost 55.1 and 60.9, extending the snow chain on and off areas, expanding the snow shed, constructing new bridges over Rocky Run, Gold Creek, and Resort Creek (tributaries to the Yakima River), and installing oversized culverts at Wolfe, Resort, and Townsend Creeks. WSDOT will also improve safety along I-90 by reducing sharp curves, repairing deteriorated pavement, stabilizing unstable slopes, installing avalanche fences, and connecting wildlife habitats over and under the highway. The proposed work will occur in three phases: 1A, 1B, and 1C. Phase 1A - I-90/Hyak to Crystal Springs - will include lake storage mitigation and detour work. Phase 1B -I-90/Hyak to Snowshed Vicinity - will primarily add lanes and replace bridges. Phase 1C - I-90/Snowshed Vicinity to Keechelus Dam - will continue to add lanes and construct a new longer and wider snowshed.

In addition to the water bodies listed above, work will be conducted within Keechelus Lake, a Bureau of Reclamation (BOR) owned and operated reservoir. Permanent wetland impacts are associated with this project and will be mitigated for according to the "I-90 Snoqualmie Pass East Draft Mitigation Plan" (mitigation plan) dated October 2008. The mitigation plan includes preservation and restoration to meet Ecology's mitigation ratios. Also, onsite mitigation will include replanting in all temporary wetland and buffer impact areas, as well as riparian restoration.

The project is located in Water Resource Inventory Area (WRIA) 39, Upper Yakima Watershed.

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined 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, 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 not violate water quality standards and other state laws. 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, Ecology grants water quality certification to WSDOT subject to this Order's conditions.

Certification of this proposal does not authorize WSDOT to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water 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

1. The term "Applicant" shall mean the Washington State Department of Transportation and its hired contractors.
2. All required submittals shall be sent to Department of Ecology Attn: Federal Project Coordinator – P.O. Box 47600, Olympia WA 98504-7600 or via e-mail. Notifications shall be made via phone or e-mail (preferred). All submittals and notifications shall be identified with Order No. 6299 and

include the Applicant's name, project name, project location, the project contact and the contact's phone number.

3. Authorized work is limited to that described in the July 15, 2008 JARPA and supplemental information. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA or supplemental information becomes void through unauthorized changes to the project.
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 an amendment to this Order is required.
5. This Order shall be rescinded if the U.S Army Corps of Engineers does not issue a Section 404 permit.
6. 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.
7. The Applicant shall provide access to the project site and all associated mitigation sites upon Ecology's request for site inspections, monitoring, and data collection to ensure compliance.
8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to protect water quality. Further, Ecology retains jurisdiction to modify this Order if additional impacts due to project construction or operations are identified.
9. The Applicant shall ensure that all project engineers, workers, and contractors at the project site, with responsibility for directing work, have read and understand the relevant conditions of this Order and all referenced permits, approvals, and documents. Prior to commencing construction, the Applicant shall provide Ecology a signed statement from each project engineer, worker, and contractor that he or she has read and understands this Order's conditions and the referenced permits, plans, documents and approvals. (See Attachment A for an example)
10. 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 herein.

11. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

B. Notification Requirements

1. Notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Project Coordinator in accordance with condition A.2. for the following activities:
 - a. At least ten (10) days prior to any pre-construction meetings.
 - b. At least seven (7) days prior to the onset of initiating work on each Phase of the project site.
 - c. At least ten (10) days prior to initial in-water activities for each Phase of the project.
 - d. At least seven (7) days prior to any bridge construction or bridge demolition activities.
 - e. At least seven (7) days of completing each of the mitigation sites.
 - f. At least seven (7) days from completion of each project Phase.
 - g. Immediately following a violation of state water quality standards or when the project is out of compliance with any of this Orders conditions.
 - h. Immediately if chemical containers (e.g. drums) are discovered on-site or any conditions are present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.
 - i. Immediately notify Ecology's Central Regional Spill Response Office at the number below and within 24 hours of spills to Ecology's Federal Project Coordinator for any spills to water or ground.
 - j. WSDOT also must contact the appropriate Regional Spills Office for condition **h** above using the following numbers:

Ecology's Regional Offices:

Central	(509) 575-2490
Eastern	(509) 329-3400
Northwest	(425) 649-7000
Southwest	(360) 407-6300

C. Equipment and Staging

1. All construction debris and materials temporarily stored on-site shall be placed in a manner that does not adversely affect waters of the state, including wetlands.

2. Staging areas¹, storage areas, and stockpile sites² will be located a minimum of 50 feet and, where practicable, 200 feet from waters of the state, including wetlands, unless otherwise conditioned in this Order. If any of these areas or sites must be located within 50 feet of a water of the state, then WSDOT shall notify Ecology's project coordinator, per condition B.1. for written approval prior to using those areas or sites.
3. Mobile sand and gravel facilities will be located a minimum of 100 feet and, where practicable, 200 feet from waters of the state, including wetlands, unless authorized by Ecology.
4. Equipment and vehicle-fueling shall not occur within 50 feet of waters of the state, including wetlands, unless authorized by Ecology.
5. Fuel hoses, oil drums, oil fuel transfer valves and fittings, etc., shall be maintained in accordance with the current WSDOT "Standard Specifications for Road, Bridge, and Municipal Construction" manual, in the *Spill Prevention, Control and Countermeasure Plan* section to prevent spills to land or waters of the state.
6. Equipment used during construction shall be serviced, fueled, and maintained on upland areas in order to prevent contamination of surface waters, unless authorized by Ecology.
7. Unless Ecology so authorizes, no equipment shall enter, operate, be stored, or parked within waters of the state, including wetlands and their buffers.
8. Equipment authorized to work in waters of the state shall be free of any external petroleum products and all drive mechanisms (wheels, tracks, tires, etc.) shall be pressure-washed to remove accumulations of soil or other materials.
9. Wash water containing oils, grease, or other pollutants shall not be discharged into state waters. WSDOT shall set up a designated area for washing equipment.
10. Cleaning solvents or chemicals used for tool or equipment cleaning shall not be discharged to the ground or waters of the state, including wetlands.

¹ Staging area is a location on the project site where materials are brought from off-site or from a stockpile or storage site to an interim location to be cued up for near term or immediate use.

² Stockpile site or storage area is a location where large amounts of material are stored for future use on a project.

D. Construction

1. The Applicant shall obtain and comply with the conditions of the National Pollutant Discharge Elimination System Waste Discharge Permit (NPDES Permit) issued for this project.
2. Within the project limits³, 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 pre-construction surveying and installing HVF and construction zone signage.*
 - a. If the project will be constructed in stages⁴ 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.
3. All areas, not subject to condition D.2., to be preserved shall be clearly marked (by site preservation line or flagging) prior to commencing construction activities. These areas shall be protected throughout construction of the project.
4. Work in or near waters of the state shall be done in a manner that minimizes turbidity, erosion, and other water quality impacts.
5. Fresh concrete or concrete debris shall not be allowed to enter waters of the state.
6. All demolition 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.

³ Project limits include mitigation sites, staging areas, borrow sources, and other sites developed or used to support project construction.

⁴ A stage is part of a project that has been separated into at least two distinct areas to be built during separate timeframes.

E. In-Water/Over-Water Work

General

1. Riprap and other structural material shall be free of fines or other extraneous material.
2. Placement of rip-rap shall be conducted in compliance with water quality standards for turbidity (Section D.1.) and WSDOT's *Standard Specifications for Road, Bridge, and Municipal Construction*.
3. Prior to entering I-90, decant water from the Keechelus Lake dredge material shall be allowed to drain from trucks. Decant water shall drain in an area that will not cause erosion.
4. Turbid de-watering water associated with in-water work shall not be discharged directly to state waters. Such 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.
5. De-watering water associated with in-water work that has been tested and confirmed to meet water quality standards for turbidity and pH may be discharged directly to state waters. The discharge outfall method shall be designed and operated to prevent erosion or scour in the stream channel and banks and to riparian vegetation.
6. No flocculants shall be used as a BMP for treatment of turbid water associated with in-water work, without prior authorization from Ecology.
7. If a diversion system is used, temporary sediment traps (e.g. sand bag check dams) shall be cleaned out and material removed from the stream channel before the stream is returned to its natural channel. Material that is removed shall not be allowed to enter state waters, including wetlands.
8. Stream flow isolation work shall not scour the stream channel or banks of the waterbody in which the work is done.
9. Prior to returning stream flow to the de-watered work area, adequate bank protection measures shall be in place.
10. All materials used for the diversion systems (e.g. sand bags) shall be removed when that activity is complete, unless authorized by Ecology.

11. To minimize sediment releases into downstream waters, reintroducing water to the channel shall be done gradually and at a rate not exceeding the normal stream flow.

Bridge Removal or Replacement

12. No structural materials may enter waters of the state during bridge demolition work.
13. During demolition, all necessary equipment shall work above the ordinary high water mark and from banks, existing roads, or adjacent bridges, unless otherwise authorized by Ecology.

Culvert Replacement

14. All culvert work shall be conducted in the dry or in isolation from the stream flow, unless authorized by Ecology.
15. Culverts shall be installed in a manner to avoid inlet scouring and prevent downstream bank erosion. (See the current WSDOT Hydraulics manual for standards)
16. Fill associated with culvert installation shall provide protection from erosion to the 100-year peak flow.

F. Water Quality Criteria and Monitoring

1. Ecology concurs with the Applicant that this project is essential for public safety (which includes providing wildlife corridors to avoid vehicle-animal collisions). Ecology is granting the following mixing zones and finds that WSDOT's supporting information clearly indicates that the mixing zones would not have a reasonable potential to: 1) cause a loss of sensitive or important habitat; 2) substantially interfere with the existing or characteristic uses of the affected water bodies; 3) result in damage to the ecosystem; or 4) adversely affect public health.

a. Turbidity mixing zones are as follows:

Water Body	Action	Mixing Zone Distance	Maximum Duration
i. Rocky Run	Clear Span Bridge	1000 ft	*30 hours
ii. Wolfe Creek	Bottomless Culvert	600 ft	*30 hours
iii. Un-named Creek at MP 57.3	Larger Culvert	300 ft	*30 hours
iv. Resort Creek	Clear Span Bridge	1000 ft	*30 hours
v. Townsend Creek, North	Bottomless Culvert	400 ft	*30 hours
vi. Townsend Creek	Bottomless Culvert	800 ft	*30 hours
vii. Keechelus Lake	Material Excavation Removal	400 ft radius from point of discharge into lake	30 days

* Not to exceed a total of 30 hours for all activities combined that are listed in F.1.C, within each waterbody.

- b. If any of the above creeks enter the lake before the end of the allowed mixing zone distance, the compliance point will be a 400 foot radius from the point at which the creek enters the lake.
 - c. The mixing zones apply only during the following activities or events:
 - i. Placing the by-pass structure/isolation structure in the active channel.
 - ii. Re-routing flow through by-pass.
 - iii. Restoring flow through the new channel.
 - iv. The first significant precipitation event or high flow channel event.
 - v. The first lake reservoir inundation.
2. The Applicant shall submit a Water Quality Monitoring and Protection Plan (WQMPP) to Ecology's Federal Project Coordinator and Brent Renfro at WDFW for review and approval at least 20 days prior to beginning in-water activities for each Phase of the project. **In-water work is not authorized to begin until approval is received.**

- a. The WQMPP shall include, at a minimum:
 - i. The name(s) and phone number(s) of the Pollution Control inspector and the person responsible for on-site monitoring and reporting.
 - ii. The specific BMP's and procedures to be used to protect water quality during in-water activities.
 - iii. A water sampling plan for turbidity and pH, as appropriate.
 - iv. A map with numbered or named sampling locations associated with the in-water activities that require monitoring.
 - b. A background sample shall be collected at the beginning of each sample event.
 - c. Ecology must approve, in writing, any changes or additions to the WQMMP.
3. All WQMMP monitoring results shall be submitted monthly to the Federal Project Coordinator per condition A.2.
 4. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

G. Stormwater

1. WSDOT shall submit the final stormwater treatment system design to Ecology for review and approval at least ninety (90) days prior to the start of construction on Phase 1A.
2. Sixty (60) days prior to the project's completion, WSDOT shall submit a Stormwater Operation and Maintenance Manual to Ecology for review and approval.

H. Wetland Mitigation and Mitigation Monitoring

1. The Applicant shall mitigate wetland impacts as described in the *I-90 Snoqualmie Pass East Phase 1 Draft Wetlands and Aquatic Resources Mitigation Plan* (Mitigation Plan) prepared by the WSDOT Mitigation Design Team, dated, October 2008, except as amended in this Order or revised and approved by Ecology.
2. The Applicant shall submit and changes/updates to the mitigation plan in writing to Ecology (see A.2) for review and approval at least 60 days prior

to starting work for each Phase of project or immediately when problems occur during construction requiring plan changes. Work for each phase is not authorized to start unless approval is received.

3. To ensure proper installation, the Applicant's wetland professional must supervise and inspect all mitigation sites to assure that construction and planting plans have been carried out per the mitigation plan specifications.
4. The Applicant shall provide Ecology with proof of purchase of the Upper Gold Creek West Preservation Site (Preservation Site) prior to starting construction on phase 1A.

Implementation

5. The Applicant shall ensure that all excess excavated material at the mitigation site is disposed of in an appropriate location outside of wetlands and their buffers and above the 100-year floodplain, unless authorized by Ecology.
6. The mitigation plans should contain requirements for the use of plant materials with genotypes appropriate to the impact areas.
7. The Applicant shall not use Polyacrylamide as a temporary erosion control BMP on exposed or disturbed soil at the mitigation site.
8. The Applicant shall ensure that no material is stockpiled within existing wetlands, streams or their buffers at the mitigation site at any time, unless included in the Ecology-approved mitigation plan.
9. If seeding within wetlands and mitigation sites is used as a temporary erosion control BMP, it must be a wetland mix consisting of native, annual, and non-invasive plant species.
10. The Applicant shall include a wetland mitigation area protection plan (specifying signage strategy, fencing, etc. as appropriate) for each wetland mitigation site, restoration and preservation area as part of the mitigation plan (s) referenced in condition H1 above. The plan shall be designed to ensure that the wetlands and their buffers will be given the protection necessary to allow the wetlands to develop and function properly, especially in those areas accessible to the public.
11. Upon completion of site-grading and prior to planting each wetland module, the Applicant shall submit to Ecology written confirmation that the finished grades are consistent with the approved mitigation plan or

subsequent Ecology-approved plan changes. Written confirmation can be a signed letter from the surveyor or project engineer indicating how final elevations were confirmed and whether they are consistent with the plan.

12. Within 90 days of completing the construction and planting of the mitigation areas in each Phase, the Applicant shall submit a final as-built report with maps to Ecology. The as-built report must:
 - a. Document site conditions at Year Zero;
 - b. Be submitted to Ecology per Condition A.2. and as an electronic file and one hard copy;
 - c. Include the information listed in Attachment B;
 - d. Include documentation of Recorded Wetlands Notice, unless Ecology provides written waiver of this requirement for a specific wetland.
13. If the mitigation projects required for each Phase are not completed within 13 months of the completion of each construction phase, the Applicant shall submit a written mitigation construction status report and submit status reports every 12 months until mitigation construction and planting are complete and the final as-built report is submitted.
14. Within 90 days of completing construction and planting in phase 2A and 3A of the mitigation, the Applicant shall record a Wetlands Notice (see Attachment C), a copy of Ecology's Order, and the as-built report. These documents must be recorded with the County Recording Office, appropriate state or federal agency, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.

Monitoring and Maintenance

15. The Applicant shall water and maintain all plantings at the mitigation site to meet the mitigation plan's performance standards.
16. The Applicant shall monitor the mitigation sites for a minimum of 10 years after planting.
17. The Applicant shall use the monitoring methods as described in Chapter 5 of the mitigation plan, and as described in each wetland module (Modules 1 through 10 in chapter 4 of the wetland mitigation plan).
18. The Applicant shall submit monitoring reports (one as an electronic file and one hard copy [see A.2.]) to Ecology documenting site conditions at

the mitigation sites for the years listed in the mitigation plan, and the reports must contain, at a minimum, the information in Attachment D.

19. The Applicant shall implement the mitigation plan's contingency measures if goals, objectives, and performance standards are not being met.
20. Prior to implementing unidentified contingency measures at the mitigation sites, the Applicant shall consult with Ecology.
21. When necessary to meet the performance standards, the Applicant shall replace dead or dying plants with the same species, or a native plant alternative appropriate for the location, during the first available planting season and note species, numbers, and approximate locations of all replanted materials in the subsequent monitoring report.
22. For monitoring years five and ten, the Applicant shall use the 1997 "*Washington State Wetlands Identification and Delineation Manual*" (or as updated) to delineate all compensatory wetlands and include delineation information (e.g. data sheets, maps, etc.) in the monitoring reports.
23. At the end of the monitoring period, the Applicant shall use the August 2004 "*Washington State Wetland Rating System for Eastern Washington*" (or as updated) to rate all wetlands (except those that have been preserved), and include the information in the monitoring report.
24. If the Applicant has not met all the conditions and performance standards at the end of the monitoring period, Ecology may require additional monitoring and/or additional wetland compensatory mitigation.
25. The Applicant's responsibility to complete the required compensatory mitigation as set forth in Condition D.1. of this Order will not be considered fulfilled until they have received written verification from Ecology.

I. Timing

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

J. Spills and Emergency/Contingency Measures

1. The Applicant shall develop and implement a spill prevention and containment plan for all aspects of this project.
2. The Applicant shall have adequate and appropriate spill response materials on hand to respond to an emergency release of petroleum products or any other material into waters of the state.
3. Work that is out of compliance with 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 "*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 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. 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.

K. Appeal Process

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are **not** accepted.

1. To file your appeal with the Pollution Control Hearing Board.		
Mail appeal to: The Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903	OR	Deliver your appeal in person to: The Pollution Control Hearings Board 4224 – 6th Ave SE Rowe Six, Bldg 2 Lacey, WA 98503
2. To serve your appeal on the Department of Ecology.		
Mail appeal to: The Department of Ecology Appeals Coordinator P.O. Box 47608 Olympia, WA 98504-7608	OR	Deliver your appeal in person to: The Department of Ecology Appeals Coordinator 300 Desmond Dr SE Lacey, WA 98503
3. And send a copy of your appeal packet to:		
Kerry Carroll Department of Ecology P.O. Box 47600 Olympia, WA 98504-7600		

For additional information: Environmental Hearings Office Website: <http://www.eho.wa.gov>

To find laws and agency rules: Washington State Legislator Website: <http://www1.leg.wa.gov/CodeReviser>

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

Dated Dec 23, 2008 at Lacey, Washington.



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

Water Quality Certification Statement of Understanding

I, _____, state that, I will be involved as a Washington State Department of Transportation (WSDOT) employee or an agent, contractor for WSDOT on the I-90, Hyak to Keechelus Dam Project in Kittitas County, Washington. I further state that I have read and understand the conditions of Washington Department of Ecology **Water Quality Certification Order No.6299** issued for the project 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

*** This statement shall be signed by everyone involved in the project that has the authority to direct work and/or supervise project workers, per condition A.9. in the Water Quality Certification Order.**

Attachment D

Required Information for Monitoring Reports

I-90, Hyak to Keechelus Dam Project

Water Quality Certification Order # 6299
And
Corps Reference # NWS-2007-2080-SOD

Ecology requires the following information, for monitoring reports submitted under this Order. Ecology will accept additional information that may be required by other regulators.

Background Information

- 1) Project name
- 2) Ecology docket number and Corps reference number
- 3) Name and contact information of the parties responsible for the mitigation site including:
 - a) The applicant
 - b) The landowner
- 4) Name and contact information for the party responsible for the monitoring activities and report
- 5) Who the report was prepared for (name, address, and phone number) *{if different from number 3 above.}*
- 6) Month and year the monitoring data were collected
- 7) Month and year the report was produced

Mitigation Project Information

- 8) Brief description of the mitigation project including:
 - a) Directions to the site
 - b) Acreage and type(s) (re-establishment, rehabilitation, creation, enhancement, and preservation) of mitigation authorized to compensate for wetland impacts
- 9) Brief description of monitoring approach and methods.
- 10) A list of the goals and objectives for the mitigation project
- 11) Summary table of monitoring data compared with performance standards. Using the monitoring data, describe how the site is developing toward goals and objectives and whether the project is in compliance with performance standards
- 12) Summary (including dates) of management actions (maintenance, contingencies, and corrective actions) implemented at the site(s)
- 13) Summary of any difficulties or significant events that occurred on the site that may affect the ultimate success of the project
- 14) Specific recommendations for any additional corrective actions or adaptive management with a time table
- 15) Summary of any lessons learned
- 16) Site maps (8 1/2" x 11" or larger) of the compensatory mitigation site(s) including the following (at a minimum):

- a) The month and year when the maps were produced and, if applicable, when information was collected
 - b) The geographic location of the site with landmarks.
 - c) Clear delineation of the project perimeter(s).
 - d) Species, numbers, and approximate locations of all replanted material vegetation.
 - e) Location of habitat features.
 - f) Location of permanent photo stations and location of any other photos.
 - g) Location of sampling points or transects.
- 17) Photographs taken at permanent photo stations (and other photographs as needed) from the most recent monitoring visit, which are dated and clearly indicate the direction from which the photo was taken. We recommend photo pans.

Attachment C
Wetland Notice for Deed Notification

I-90, Hyak to Keechelus Dam Project

Water Quality Certification Order # 6299
And
Corps Reference # NWS-2007-2080-SOD

Tax Parcel Number: _____

Legal Description: _____

Legal Owner: _____

NOTICE: This property contains wetlands as defined by Chapter 36.70A030(20) RCW, Chapter 90.58.030 (2)(h) RCW and WAC 173-201A-020. The property was the subject of an Ecology action under Chapter 90.48.260 RCW or Chapter 90.48.120(1) RCW.

_____, issued on _____, 20____
(Corps federal reference #) Ecology Docket #

to _____ for _____
(Applicant Name) (Project Name)

Restrictions on use or alteration of the wetlands may exist due to natural conditions of the property and resulting regulations. A copy of Ecology's Order and the site map from the final wetland mitigation plan indicating the location of wetlands and their buffers is attached hereto.

EXECUTED this _____ day of _____, 20____.

State of Washington)
County of _____)

I certify that I know or have satisfactory evidence that _____
Signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

GIVEN under my hand an official seal this _____ day of _____, 20____.

NOTARY PUBLIC in and for the state of Washington,
residing at

_____. (Amended by Ord. 11200 § 50 (part), 1996)

Attachment B
Information for As-built Reports

I-90, Hyak to Keechelus Dam Project

Water Quality Certification Order # 6299
And
Corps Reference # NWS-2007-2080-SOD

Background Information

- 1) Project name.
- 2) Ecology docket number and the Corps reference number.
- 3) Name and contact information for the parties responsible for the mitigation site including:
 - a) The applicant.
 - b) The landowner.
 - c) Wetland professional on site during construction of the compensatory mitigation site.
- 4) Name and contact information for the party responsible for preparing the report.
- 5) Who the report was prepared for (name, address, and phone number) *{if different from number 3 above.}*
- 6) Month and year the report was produced.

The Development Site

- 7) Brief description of the development project. Include:
 - a) Directions to the site.
 - b) Month and year construction of the development project started and ended.
 - c) Area (acres) and type(s) (rating category, HGM classification, and Cowardin classification) of wetlands that were **actually** impacted by the development project, including temporary impacts.

The Compensatory Mitigation Project

- 8) Brief description of the **final** compensatory mitigation project with any changes from the approved plan made during construction. Include:
 - a) Directions to the site.
 - b) Who completed the compensatory mitigation project (name, address, and phone number).
 - c) Acreage and type(s) (re-establishment, rehabilitation, creation, enhancement, and preservation) of mitigation authorized to compensate for wetland impacts.
 - d) Important dates including:
 - i. Month and year the wetland impacts occurred.
 - ii. When work on the compensatory mitigation site began and ended.
 - iii. When different activities began and ended such as grading, removal of invasive plants, installing plants, and installing habitat features.
- 9) Description of any problems encountered and solutions implemented (with reasons for changes) during construction of the compensatory mitigation site.

- 10) Any changes to the goals, objectives, and performance standards of the compensatory mitigation project.
- 11) List of any follow-up actions needed, with a schedule.
- 12) Final site maps (8 1/2" x 11" or larger) of the compensatory mitigation site(s) including the following (at a minimum).
 - a) Geographic location of the site with landmarks;
 - b) Clear delineation of the project perimeter(s);
 - c) Topography (with a description of how elevations were determined),;
 - d) Installed planting scheme (quantities, densities, sizes, and approximate locations of plants, as well as the source(s) of plant material);
 - e) Location of habitat features;
 - f) Location of permanent photo stations.

The final site maps should reflect on-the-ground conditions after the site work is completed. Include the month and year when the maps were produced and, if applicable, when information was collected.

- 13) Photographs of the site at as-built conditions taken from permanent photo stations. We recommend photo pans.
- 14) Copies of any records of deed notification or conservation easements.