



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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February 10, 2011

Mr. Dave Ziegler  
Washington State Department of Transportation  
SR-520 Project  
600 Stewart St. Suite 520  
Seattle, WA 98101

Re: SR-520 Pontoon Construction Project - 401 Water Quality Certification; Order No. 8368  
(Corps No. NWS-2008-151)

Dear Mr. Ziegler:

The Washington State Department of Ecology (Ecology) has reviewed your request for a 401 Water Quality Certification for the SR-520 Pontoon Construction project in the City of Aberdeen and Grays Harbor County. As the representative for the State of Washington, Ecology's authority to review and issue the Certification derives from the Federal Water Pollution Control Act (33 U.S.C. Section 1341), commonly referred to as the "Clean Water Act."

Ecology hereby certifies that it has reasonable assurance that the Pontoon Construction project will comply with federal and state water quality laws, regulations, and standards, subject to and conditioned by the attached Order.

This Order may be appealed according to the appeal conditions appearing at the end of the document. Should you have any questions about this Order, please do not hesitate to contact me at (360) 407-6976 or [bmcf461@ecy.wa.gov](mailto:bmcf461@ecy.wa.gov) or contact Therese Swanson, Ecology Transportation Project Manager, at (360) 407-6789 or [tswa461@ecy.wa.gov](mailto:tswa461@ecy.wa.gov).

Sincerely,

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

By Certified Mail 7009 1410 0002 4001 1477

Enclosures



Mr. Dave Ziegler  
February 10, 2011  
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cc: Scott White, WSDOT  
Dave Davies, WSDOT  
Jack Kennedy, Corps  
William Rehe, WDFW  
Ryan McReynolds, USFWS

ecc: [ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)  
Loree' Randall, Ecology HQ  
Rick Mraz, Ecology SWRO

**IN THE MATTER OF GRANTING A ) ORDER # 8368**  
**WATER QUALITY ) Corps Reference No. NWS-2008-151**  
**CERTIFICATION TO ) SR-520 Pontoon Construction Project in Grays**  
The Washington State Department of ) Harbor and Mitigation Site at Grass Creek both  
Transportation ) located in Grays Harbor County, Washington.  
in accordance with 33 U.S.C. 1341 )  
(FWPCA §401), RCW 90.48.120, RCW )  
90.48.260 and Chapter 173-201A WAC )

TO: Dave Ziegler  
Washington State Department of Transportation  
600 Stewart Street, Suite 520  
Seattle, Washington 98101

On September 15, 2010 the Department of Ecology (Ecology) received the Washington State Department of Transportation's (WSDOT) request for a Section 401 Water Quality Certification (Certification) for the SR-520 Pontoon Construction Project. The U.S. Army Corps of Engineers (the Corps) and Ecology issued a joint public notice for the project on December 23, 2010.

The project's purpose is to build a casting basin facility at the Aberdeen Log Yard that can accommodate simultaneous construction of multiple 360-foot long floating pontoons and store the pontoons until needed for replacing the SR-520 Bridge. The project includes these components: 1) constructing and operating the casting basin in an upland area; 2) excavating and maintaining a launch channel across uplands and through intertidal and subtidal portions of Grays Harbor; 3) launching the pontoons from the basin through the channel; 4) constructing a moorage area for pontoon storage; and 5) constructing and maintaining the Grass Creek mitigation site.

The 1,009-foot long and 365-foot wide casting basin's southern end will sit 175 feet landward of the line of Mean Higher High Water (MHHW). The 369,000 cubic yards of material excavated to form the basin will be stabilized and stored on-site on the southwest corner of the site or trucked to upland areas. The basin work includes pouring basin slabs and walls, building pre-cast casting pads, casting pre-cast panels and placing rip rap at the basin slopes.

Launch channel construction requires excavating and dredging approximately 135,000 cubic yards of material, which will be disposed of at existing permitted in-water sites. Up to six maintenance dredges will occur throughout the project's duration – one event prior to launching each pontoon or set. Each maintenance dredge involves excavating approximately 13,000 to 25,000 cubic yards of substrate. The channel's 3:1-sloped sides require approximately 18,000 cubic yards of rip rap below the MHHW.

Roughly 32 wooden piles will be removed from the launch channel during the initial dredging operation followed by the installation of ~68 piles (50 24-inch steel pipe piles on the sides; 6 piles for the turning dolphins; 10 untreated timber piles and two steel pipe piles for navigation markers). Whenever possible, a vibratory hammer will install the piles; and if impact-driving is used, bubble curtains will be installed for those piles larger than 10 inches in diameter.

After each pontoon or set is ready for transport, the casting basin will be flooded through an intake structure. Once the pontoon is floating in the basin, an upland crane will hoist up the gate, and a tug will pull the pontoon out to the navigational channel to an industrial dock for inspection. Following any needed repairs, the pontoon will be moved to the moorage site in Grays Harbor.

The Moorage work includes an anchoring system of embedded plates placed 30 to 60 feet below the sediment surface. The plate anchors will be connected to anchor chains. Pontoon rafts will be added as the pontoons are ready to be moored. Four anchors will be needed for each raft, which can hold nine pontoons.

The Pontoon Construction project will cause unavoidable impacts to 0.9 acres of wetlands, tidal mudflats, intertidal habitat, and the shoreline. These impacts will be mitigated by re-establishing and restoring estuarine wetland habitat and creating mudflat habitat and rehabilitating tidal channel habitat at the Grass Creek Mitigation Site, a 66-acre parcel bordering Grass Creek.

The project is located at the Aberdeen Log Yard site in Aberdeen, Grays Harbor County, Washington, Section 17, Township 17N, Range 9W, and WRIA 22.

## **AUTHORITIES**

In exercising authority under 33 U.S.C. §1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this request 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, Chapter 173-204 WAC and Chapter 173-201A WAC, certification is granted to WSDOT subject to the conditions in this Order.

Certification of this proposal does not authorize WSDOT to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC) or

sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification absolves WSDOT from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

#### **A. General Conditions**

1. In this Order, the term "Applicant" shall mean the Washington State Department of Transportation and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to Ecology's Headquarters Office, Attn: Federal Project Manager, P.O. Box 47600, Olympia, WA 98504 or via e-mail to [tswa461@ecy.wa.gov](mailto:tswa461@ecy.wa.gov). The submittals shall be identified with Order #8368 and include the Applicant's name, project name, project location, the project contact, and the contact's phone number.
3. All notifications listed below shall be made via phone to Therese Swanson at (360) 407-6789 or e-mail. These notifications shall be identified with Order #8368 and include the Applicant's name, the project contact, and the contact's phone number.
  - a. At least seven (7) days prior to the onset of initiating work on the project site.
  - b. At least seven (7) days within project completion.
  - c. At least seven (7) days prior to maintenance dredging.
4. Work authorized by this Order is limited to the work described in the JARPA that Ecology received on September 15, 2010 and the updated JARPA Ecology received on December 13, 2010, unless otherwise authorized by Ecology.
5. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
6. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new public notice and Certification or if a modification to this Order is required.
7. This Order shall be rescinded if the Corps does not issue a Section 404 Corps permit.
8. The Applicant shall send (per A.2.) a copy of the final Section 404 Corps permit to Ecology's Federal Project Manager within two weeks of receiving it from the Corps.
9. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers, lead workers, and state and local government inspectors.

10. Upon Ecology personnel's request, the Applicant shall provide access to the project site, all staging areas, and mitigation sites for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
11. 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 jurisdiction to modify this Order, through supplemental orders, if any project changes resulting in adverse impacts to water quality are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
12. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48), or the federal Clean Water Act, Ecology will issue an administrative order to incorporate any such changes or amendments applicable to this project.
13. 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 the conditions of this Order, including 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, documents, and approvals. The Applicant shall submit these statements to Ecology before construction begins at each project component.
14. This Order does not authorize direct, indirect, permanent, or temporary impacts to state waters or related aquatic resources, unless this Order specifically allows such impacts.
15. Failure of any person or entity to comply with this Order's conditions may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.
16. This Order will automatically transfer to a new owner or operator if:
  - a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
  - b. A copy of this Order is provided to the new owner or operator; and
  - c. If Ecology does not notify the new Applicant that this Order must be modified.

## **B. Timing Conditions**

1. This Order shall remain in effect until all compliance requirements, including those for mitigation site monitoring, are met.

2. All in-water work shall be completed within the work window identified in the most current Hydraulics Project Approval (HPA) that the Washington Department of Fish and Wildlife (WDFW) issues for this project. Any project changes that require a new or revised HPA shall be submitted to Ecology for review.

**C. Water Quality and Water Quality Monitoring Conditions**

1. This Order authorizes temporary turbidity mixing zones per Table 1:

**Table 1**

Action	Point of Compliance
Dredging (Including Soil Berm Removal)	500 feet down current
Channel Armoring	500 feet down current
Pile Removal	300 feet down current
Pile Driving	300 feet down current
West Ditch Outfall Construction	100 feet down current
Grass Creek Mitigation Site	300 feet down current

2. Ecology has reviewed the Water Quality Monitoring and Protection Plan (WQMPP) prepared by Kiewit-General, dated December 17, 2010, and the Applicant shall submit a revised WQMPP that includes all changes and additions to that Plan as modified by this Order. The revised Plan shall be submitted per A.2. on or before February 25, 2011. No work below the OHWM may begin until Ecology approves the revised Plan.
3. The Applicant shall include the additional monitoring points below in the revised WQMPP to be submitted to Ecology.
  - a. 250 feet for dredging, including soil berm removal,
  - b. 250 feet for channel armoring.
  - c. 150 feet for pile driving
  - d. 150 feet Grass Creek mitigation work.
4. If WQMPP changes are proposed throughout the duration of this Order, the Applicant shall submit them to Ecology for review and approval. Following Ecology's approval, the Applicant shall comply with the approved, updated Plan.
5. If monitoring results demonstrate that the applicable water quality standards or project performance standards are not being met, Ecology may require additional monitoring and/or mitigation.

6. If exceedances<sup>1</sup> at the point of compliance are detected, the Applicant shall immediately take action to stop, contain, and take other steps to prevent further violations and otherwise stop the violation and correct the problem. After the event, the Applicant shall assess the adequacy of the BMPs and update, or improve those used, to reduce and prevent recurrence of the turbidity exceedance.
7. The Applicant shall notify Ecology's Federal Project Manager of any turbidity exceedances detected through water quality monitoring (including visual) within 24 hours of the occurrence. Notification shall be made per condition A.2. The Applicant shall, at a minimum, provide Ecology with the following information:
  - a. A description of the nature and cause of exceedance.
  - b. The period of non-compliance, including precise dates, and when the Applicant returned, or expects to return to compliance.
  - c. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
  - d. In addition to the 24 hour notification, the Applicant shall submit a written report to Ecology that describes the nature of the exceedance, sampling results and location, photographs, and any other pertinent information within five (5) days after the exceedance. The report shall also identify what additional BMPs were, or will be, implemented to prevent further exceedances.

#### **D. Facility Operations**

1. The Applicant shall ensure that the Temporary State Waste Discharge Permit (#ST-6223) is complied with when the concrete batch plant and/or pontoon fabrication process wastewater is discharged into the Aberdeen sanitary sewer system.
2. During project construction and operation, the Applicant shall comply with all requirements of the National Pollutant Discharge Effluent System (NPDES) Sand and Gravel General Permit (#WAG-50-1544) issued for this project.
3. Wastewater shall be contained for proper disposal and shall not be discharged into state waters or storm drains.
4. Any stormwater commingled with wastewater shall be handled as wastewater.

#### **E. Upland Construction Conditions**

1. The Applicant shall comply with the NPDES Construction Stormwater General Permit (#WAR-124726) issued for this project.

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<sup>1</sup> Turbidity levels above 5 NTUs over background when the background is 50 NTUs or less; or a 10 percent increase in turbidity when the background turbidity is more than 50 NTUs are considered exceedances of the water quality standards.

2. All clearing limits, stockpile<sup>2</sup> sites, staging areas, and trees to be preserved shall be clearly marked prior to commencing construction activities and maintained until all work is completed for each project.
3. Within the project limits<sup>3</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<sup>4</sup>, 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.

4. Construction stormwater, sediment, and erosion control BMPs (e.g., filter fences, coir mats, etc.) to prevent exceedances of state water quality standards shall be in place before starting construction at the site.
5. To prevent surface water contamination, machinery and equipment used during construction shall be serviced, fueled, and maintained upland, unless otherwise approved by Ecology.

#### **F. In-Water Construction**

1. In-water construction is defined as all work below the ordinary high water mark (OHWM) of Grass Creek and Grays Harbor.
2. During construction in Grays Harbor, the Applicant shall have a boat available at all times for debris retrieval.
3. All man-made debris deposited below the OHWM within the construction work area shall be removed and disposed of upland such that it does not enter state waters. Concrete rubble, metal debris, and other debris in the construction work corridor that has washed into marine areas shall be removed from the project area.
4. Project activities shall be conducted to minimize siltation of the beach area.
5. The Applicant shall operate the barges and tugs in deep water so as to minimize nearshore propeller-wash impacts such as suspension of nearshore sediments.
6. Barges shall not be allowed to ground-out during in-water construction.

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<sup>2</sup> A stockpile site or storage area is a location where large amounts of material are stored for future use on a project.

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

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

7. All temporary in-water construction structures shall be removed as soon as possible and prior to project completion.
8. Creosote-treated piling or lumber that may come into contact with state waters shall not be used.

#### *Outfall Installation*

9. Outfalls shall be installed in the dry or in isolation from the ditch flow by installing a sandbag revetment or bypass flume, or by pumping the stream flow around the work area.
10. A sandbag revetment or similar device shall be installed at the downstream end of the bypass to prevent backwater from entering the work area.
11. Upon completion of the outfall work, all material used in the sandbag revetment or bypass shall be removed from the site and the site returned to pre-project or improved conditions.
12. Quarry spalls used to create splash pads shall be composed of clean, angular material of a sufficient durability and size to prevent its being broken up or washed away by high flow, high water, or wave action.

#### *Pile-Removal*

13. Prior to dredging, the project will remove approximately 32 wood piles from the launch channel area. A vibratory hammer shall be used to remove the piles. In the event that a pile cannot be completely removed, the remainder shall be removed with a clamshell bucket, chain, or similar means, or cut off 2 feet below the mud line and the holes filled in with clean, suitable material.
14. During removal of creosote-treated piles, containment booms and absorbent sausage booms (or other oil-absorbent fabric) shall be placed around the perimeter of the work area to capture wood debris, oil, and other materials released into marine waters as a result of removal activities. All accumulated debris shall be collected and disposed of upland at an approved disposal site.
15. All piles shall immediately be removed from the water onto a barge or the uplands. The piles shall not be shaken, hosed-off, allowed to drip-dry or otherwise subjected to any action intended to remove any remaining material.
16. Work surface on the barge deck or on uplands shall include a containment basin for piles and adhered sediments. The basin may be constructed of durable plastic sheeting with sidewalls supported by hay bales or other adequate structure to contain all sediment.

17. Creosote-treated piles and any sediment associated with pile-removal shall be disposed of at an approved upland disposal site.

#### *Pile Installation*

18. All new temporary or permanent pilings shall be either steel except for the 10 untreated wood piles used for navigational markers.
19. All pilings shall be installed using a vibratory hammer when possible. If an impact hammer is necessary to proof or drive the pile, a block of wood at least six (6) inches thick shall be placed between the pile driver and the pile to minimize in-water noise.
20. When using an impact hammer, the Applicant shall install a bubble curtain if driving piles larger than 10 inches in diameter. The bubble curtain shall be deployed in a manner to ensure that bubbles completely engulf the piles during impact-driving.

#### *Temporary Sheet Pile Installation and Removal*

21. Approximately 750 linear feet of temporary steel sheet pile shall be installed "in the dry" using a vibratory hammer. If an impact hammer is necessary to proof or drive the pile, a block of wood at least six (6) inches thick shall be placed between the pile driver and the pile to minimize in-water noise.
22. All material used for the sheet pile structure shall be removed from the site and properly disposed of upon project completion.

#### *Rip Rap*

23. Rip Rap shall be placed on the sides of the launch channel, and no rip rap shall be placed on the bottom of the launch channel.
24. Rip rap used for the launch channel shall be composed of clean, angular material of a sufficient durability and size to prevent its being broken up or washed away by high water or wave action.

#### *Dredging*

25. At least 30 days prior to starting the dredging activity, the Applicant shall submit a *Dredging and Disposal Workplan* to Ecology for review and approval, per A.2.
26. The *Dredging and Disposal Workplan* shall include the following:
  - a. General information including schedule, primary contact, and hours of operation
  - b. Dredged quantities and disposal location
  - c. Dredging procedures and sequence
  - d. Equipment list
  - e. A description of the BMPs to be used to filter dewatering material on the barges

27. The Applicant shall use an environmental bucket to dredge the launch channel (approximately 87,000 cubic yards). A clamshell bucket may be used when necessary. Ecology must approve any other dredging method prior to its use.
28. Dredging operations shall be conducted in a manner that minimizes the disturbance and siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into state waters.
29. Dredged material shall not be temporarily or permanently stockpiled below the OHWM.
30. Dredged material shall be disposed of at one of the two open water disposal sites in Grays Harbor.
31. All debris larger than two (2) feet in any dimension shall be removed from the dredged sediment prior to disposal at the open water site. Similar-sized debris floating in the dredging or disposal area shall be removed.
32. Dredged material shall be placed onto a barge and transported by tugboat to the open water disposal site. The barges shall have sidewalls to contain the material, and the barges shall not be overfilled to prevent barge overflow. Additional BMPs shall be implemented to allow filtering so as to prevent exceedances of water quality standards.

#### *Maintenance Dredging*

33. If the maintenance dredging will not be conducted per the approved *Dredging and Disposal Workplan*, the Applicant shall submit a revised Plan 30 days prior to the maintenance dredging event.
34. Dredging of 13,000 to 25,000 cubic yards is allowed prior to each pontoon launch.
35. Dredging shall be confined to the existing footprint, except as modified by this Order.

#### *Moorage*

36. The mooring buoy system shall be located to avoid shading impacts from vessels and/or damage from vessel props to eelgrass, kelp, other significant macroalgae species, or Pacific herring spawning.
37. The mooring buoy system shall be installed and used in a manner that will not damage the seabed or aquatic vegetation as a result of anchor or chain movement for the life of the buoy system. The anchor chains and under runner lines for each mooring berth shall be pre-tensioned at the time of installation, such that all chains and lines in the system remain above the seabed at low tide.

38. Floatation for the buoy shall be fully enclosed and contained to prevent breakup or loss of floatation material into the water.

#### **G. Wetland Compensatory Mitigation Conditions**

1. The Applicant shall mitigate wetland impacts as described in the *Draft Wetland and Aquatic Resources Mitigation Report for the Grass Creek Mitigation Site*, dated December, 2010 and (the Mitigation Plan) prepared by Jeff Meyer, PWS and Pete Lawson (Parametrix), Maki Dalzell, Pat Togher, PWS, and Chad Wiseman (HDR Engineering, Inc.) and Shane Cherry (Confluence Environmental), or as modified by this Order or revised and approved by Ecology.
2. Before work begins, the Applicant shall submit any changes to the Mitigation Plan in writing to Ecology per A.2, for review and approval.
3. The Applicant shall obtain Ecology's review and written approval for any plan changes needed to address issues arising during mitigation site construction and planting.
4. The Applicant shall have a wetland professional present at the mitigation site to supervise construction and planting.

#### *Implementation*

5. Unless otherwise allowed by Ecology in writing, the Applicant shall begin the compensatory mitigation project concurrent with impacting wetlands or Ecology may require additional compensation to account for additional temporal loss of wetland functions.
6. If the mitigation site cannot be completed within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of:
  - a. The Pontoon Construction Project at the Aberdeen Log Yard
  - b. The Grass Creek Mitigation site
  - c. The reason for the delay
  - d. The expected date of completionThe Applicant shall submit an updated written notification every 12 months thereafter until the Pontoon Construction Project at the Aberdeen Log Yard and Grass Creek Mitigation site are complete.
7. The Applicant shall ensure that all excess excavated material is disposed of in an appropriate location outside of wetlands at the mitigation site and its buffers and above the 100-year floodplain.
8. The Applicant shall ensure that no material is stockpiled within existing wetlands at the mitigation site and its buffers at any time, unless provided for in the Mitigation Plan.

9. The Applicant shall ensure that no construction debris is deposited within existing wetlands at the mitigation site and its buffers at any time, unless provided for in the Mitigation Plan.
10. The Applicant shall not use polyacrylamide on exposed or disturbed soil at the site.
11. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site unless the material can be stabilized to prevent its floating at tidal inundation.
12. If seeding is used at the wetland mitigation site, the seed mix must contain native, annual or perennial, non-invasive plant species.
13. The Applicant shall place signs at the mitigation area's boundaries, including buffers, every 150 feet along the roadway frontage and northern boundary to mark the area as a wetland mitigation site.
14. Upon completion of site-grading and prior to planting, 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 in the form of a signed letter from the surveyor or project engineer indicating how final elevations were confirmed and whether those elevations are consistent with the Mitigation Plan.
15. If planting occurs more than 180 days after construction of the wetland mitigation sites, the Applicant shall submit to Ecology (see A.2.) one hard copy and one electronic file of the first "as-built report", including maps, within 90 days of completing construction and a second as-built report within 90 of completing planting. The as-built report must:
  - a. Document site conditions at Year Zero
  - b. Include the information listed in Attachment B (Information Required for As-Built Reports)
  - c. Include documentation of the recorded legal mechanisms required in Conditions G.16. and 17.
16. Within 90 days of completing construction and planting of the Grass Creek Mitigation site, the Applicant shall record a Wetlands Notice (see Attachment C - *Wetland Notice for Deed Notification*). The Notice must be recorded with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.
17. Within 90 days of completing construction and planting of the Grass Creek Mitigation site, the Applicant shall record a restrictive covenant, a copy of this Order, and the site map from the final wetland Mitigation Plan or as-built indicating the location of wetlands and their buffers. These documents must be recorded with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.

*Monitoring and Maintenance*

18. The Applicant shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards, specifically Chapter 7.
19. The Applicant shall monitor the mitigation site for a minimum of 10 years and use the monitoring methods described on pages 7-8 and 7-9 of the Mitigation Plan.
20. The Applicant shall submit to Ecology (see A.2) one hard and one electronic copy of monitoring reports documenting mitigation site conditions for years 1, 2, 3, 5, 7, and 10. At a minimum, the reports must contain the information in Attachment D (Information Required for Monitoring Reports.) The Applicant shall submit the first monitoring report no later than 24 months after completing the mitigation site construction and planting.
21. The Applicant shall implement the Mitigation Plan's contingency measures if its goals, objectives, or performance standards are not being met.
22. Prior to implementing contingency measures not specified in the Mitigation Plan, the Applicant shall consult with and obtain written approval from Ecology for any changes.
23. When necessary to meet the performance standards, the Applicant shall replace dead or dying plants with the same species, or an appropriate native plant alternative, during the first available planting season and note species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.
24. For monitoring years five (5) and ten (10) the Applicant shall use the 1997 or updated versions of the "*Washington State Wetlands Identification and Delineation Manual*" to delineate all compensatory wetlands and include delineation information (e.g. data sheets, maps, etc.) in the monitoring reports.
25. At the end of the monitoring period, the Applicant shall use the August 2004 or updated version of "*Washington State Wetlands Rating System for Western Washington*" to rate all wetlands and include the information in the monitoring report.
26. If the Applicant has not met all conditions and performance standards for the mitigation site at the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both.
27. Until the Applicant has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Applicant's obligation under Condition G.1. to mitigate for wetland impacts is not considered met.

## H. 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 emergency release of petroleum products or any other material into waters of the state.
3. 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.
4. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or 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 immediately take the following actions:
  - a. Cease operations at the location of the violation or spill.
  - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
  - c. Notify Ecology of the failure to comply. All oil spills shall be reported immediately to Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's Federal Project Manager at (360) 407-6789.
  - 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. Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

## **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 comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

### ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
<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 Rd 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:

Therese Swanson, Department of Ecology  
P.O. Box 47600-7600  
Olympia, WA 98504  
(360) 407-6789; [tswa461@ecy.wa.gov](mailto:tswa461@ecy.wa.gov)

### MORE INFORMATION

#### **Pollution Control Hearings Board (PCHB) Website**

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

#### **Chapter 43.21B RCW - Environmental Hearings Office – PCHB**

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

#### **Chapter 371-08 WAC – Practice and Procedure**

<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>

#### **Chapter 90.48 RCW – Water Pollution Control**

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

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

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

#### **Chapter 173-200 WAC – Water Quality Standards for Groundwater**

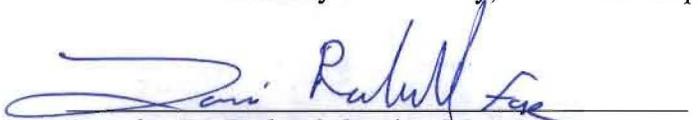
[www.ecy.wa.gov/biblio/wac173200.html](http://www.ecy.wa.gov/biblio/wac173200.html)

#### **Chapter 173-204 WAC – Standards for Sediment Quality**

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

### SIGNATURE

DATED this 10th day of February, 2011 at the Department of Ecology, Lacey, Washington



Brenden McFarland, Section Manager  
Shorelands & Environmental Assistance Program  
Headquarters Office, State of Washington

# ATTACHMENT A

## Washington State Department of Transportation SR-520 Pontoon Construction Project Water Quality Certification Order #8368

### Statement of Understanding of Water Quality Certification Conditions

I have read and understand the conditions of Order #8368 Section 401 Water Quality Certification for the State of Washington Pontoon Construction project. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this Order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

**Attachment B**  
**Information Required for As-built Reports**

SR-520 Pontoon Construction Project  
Water Quality Certification Order # 8368  
And  
Corps Reference # NWS-2008-151

**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 (Impact) Site**

- 7) Brief description of the development project (impact site). 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) **Actual** 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.

**Attachment C**  
**Wetland Notice for Deed Notification**

SR-520 Pontoon Construction Project  
Water Quality Certification Order # 8368  
And  
Corps Reference # NWS-2008-151

Tax Parcel Number: \_\_\_\_\_

Legal Description: \_\_\_\_\_

Legal Owner: \_\_\_\_\_

NOTICE: This property contains wetlands as defined by Chapter 36.70A030 (21) 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 D**

### **Information Required for Monitoring Reports**

SR-520 Pontoon Construction Project  
Water Quality Certification Order #8368  
And  
Corps Reference # NWS-2008-151

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) Whom 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). Include the month and year when the maps were produced and when information was collected.

- a) The geographic location of the site with landmarks.
- b) Clear delineation of the project perimeter(s).
- c) Species, numbers, and approximate locations of all replanted vegetation.
- d) Location of habitat features.
- e) Location of permanent photo stations and location of any other photos.
- f) Location of sampling locations such as points, lines, 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.