



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

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May 27, 2010

Daniel Babuca
Washington Department of Transportation
520 Project Office
600 Stewart Street, Suite 520
Seattle, WA 98101

RE: Water Quality Certification Order 7718 for Corps Public Notice No. NWS-2009-562 for SR 520 Medina to SR 202: Eastside Transit and HOV project, in King County, Washington

Dear Mr. Babuca:

On June 2, 2009, 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 SR 520 Medina to SR 202: Eastside Transit and HOV project.

The proposed project entails building a complete HOV system on SR 520 between Lake Washington and 108th Ave NE that includes constructing new HOV lanes and inside transit stops at Evergreen Point Road, 84th Ave NE, and 92nd Ave NE. Between 108th Ave NE and SR 202, the existing HOV lanes will be moved from the outside lanes to the inside lanes by restriping. The interchanges at 84th Ave NE, 92nd Ave NE, and Bellevue Way will be modified to accommodate the improvements. A new bike and pedestrian path will be constructed from Lake Washington to approximately 108th Ave NE to support non-motorized use of the SR 520 corridor. Other project components include building retaining walls and sound walls, stormwater facilities and modifying or replacing stream crossing culverts. The project will permanently fill approximately 6.77 acres of wetlands. Additionally, the project will have long-term temporary impacts to 0.11 acre of wetland. The permanent and long-term temporary impacts will be mitigated on-site at the Yarrow Creek Mitigation Site and off-site at the Keller Mitigation Site.



SR 520 Medina to SR 202: Eastside Transit & HOV
401 Certification Order #7718
May 27, 2010
Page 2

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,



Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology

BM:pk
Enclosure

By certified mail 7009 1410 0002 4001 1279

cc: Karen Walters, Muckleshoot Tribe

e-cc: MAP Team
Cynthia Walcker, Ecology NWRO
Loree' Randall, Ecology HQ
ecyrefedpermits@ecy.wa.gov
Scott White, WSDOT

IN THE MATTER OF GRANTING A) ORDER # 7718
WATER QUALITY) Corps Reference No. NWS-2009-562
CERTIFICATION TO) Build a complete HOV system on SR 520
Washington Department of) between Lake Washington and 108th Ave and
Transportation) move existing HOV lanes from outside lanes to
in accordance with 33 U.S.C. 1341) inside lanes from 108th Ave to SR 202. The
(FWPCA § 401), RCW 90.48.120, RCW) project is located in King County, Washington.
90.48.260 and Chapter 173-201A WAC)
)

TO: Daniel Babuca
Washington Department of Transportation
520 Project Office
600 Stewart Street, Suite 520
Seattle, WA 98101

On June 3, 2009, Ecology received a Joint Aquatic Resources Permit Application (JARPA) from the Washington Department of Transportation (WSDOT) requesting a 401 Water Quality Certification (WQC). The U.S. Army Corps of Engineers (Corps) issued a public notice for the project on July 23, 2009.

The proposed project entails building a complete HOV system on SR 520 between Lake Washington and 108th Ave NE that includes constructing new HOV lanes and inside transit stops at Evergreen Point Road, 84th Ave NE, and 92nd Ave NE. Between 108th Ave NE and SR 202, the existing HOV lanes will be moved from the outside lanes to the inside lanes by restriping. The interchanges at 84th Ave NE, 92nd Ave NE, and Bellevue Way will be modified to accommodate the improvements. A new bike and pedestrian path will be constructed from Lake Washington to approximately 108th Ave NE to support non-motorized use of the SR 520 corridor. Other project components include building retaining walls and sound walls, stormwater facilities and modifying or replacing stream crossing culverts. There are wetlands located within the project corridor that will be permanently impacted. These impacts will be mitigated at the Yarrow Creek Mitigation Site and the Keller Farm Mitigation Site.

The project is located in King County, Washington
WRIA 8, Lake Washington Watershed

<u>Section</u>	<u>Township</u>	<u>Range</u>
24	25N	4E
19	25N	5E
20	25N	5E

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, 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. 47600, Olympia, WA 98504 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. 7718 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 June 03, 2009. 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. This Order shall be rescinded if the U.S. Corps of Engineers does not issue an individual 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 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.
8. 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.
9. 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.
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 in conditions of this Order.
11. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

B. Notification

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 seven (7) days prior to the pre-construction meeting.
 - b. At least seven (7) days prior to the onset of initiating work on the project site.
 - c. At least seven (7) days within project completion.
 - d. Immediately following a violation of state water quality standards or when the project is out of compliance with any conditions.
 - e. Immediately notify Ecology's Northwest Regional Spill Response office at 425-649-7000 if chemical containers (e.g. drums), or any unusual conditions indicating disposal of chemicals are discovered on-site.
 - f. Immediately notify Ecology's NWRO Regional Office at 425-649-7000 and within 24 hours of spills to Ecology's Federal Project Coordinator for any spills to water or ground.
 - g. Notify the National Response Center at 1-800-424-8802 for spills to water.

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. Equipment and vehicle-fueling shall not occur within 50 feet of waters of the state, including wetlands, unless authorized by Ecology.

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

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

4. Fuel hoses, oil drums, oil fuel transfer valves and fittings, etc. shall be maintained on upland areas in order to prevent contamination of surface waters, unless authorized by Ecology.
5. 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.
6. 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.
7. 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.
8. Cleaning solvents or chemicals used for tool or equipment cleaning shall not be discharged to the ground or waters of the state, including wetlands.

D. Construction

1. The Applicant shall obtain and comply with the current National Pollutant Discharge Elimination System Construction Stormwater Permit (NPDES Permit) issued for this project.
2. Within the project limits³, all environmental 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 and approval at least 30 days prior to placing HVF.
 - i. Condition D.2 shall apply to each stage.
 - b. All field staff shall be trained to: recognize HVF; understand its purpose; and properly install it in the appropriate locations.
 - c. HVF shall be maintained until all work is completed for the project or each stage of a staged project.

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.

3. All areas not subject to conditions 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. No petroleum products, fresh concrete, lime or concrete, chemicals or other toxic or deleterious materials shall be allowed to enter waters of the state.
6. All forms used for concrete shall be completely sealed to prevent possibility of fresh concrete entering into waters of the state, including wetlands.
7. Concrete contact water shall not enter waters of the state, including wetlands and groundwater. Any contact water discharged from a confined area with curing concrete shall be discharged to upland areas to be treated and disposed of appropriately with no possible entry to state waters.
8. All demolition debris, excess sediment, and other water material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.

E. In-Water Work

1. 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.
2. 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 out fall method shall be designed and operated to prevent erosion or scour in the stream channel and banks and to riparian vegetation.
3. No flocculants shall be used as a BMP for treatment of turbid water associated with in-water work without prior authorization from Ecology.

Culverts

4. All culvert work shall be conducted in the dry or in isolation from stream flow by installing a bypass flume or culvert, or by pumping the stream flow around the work area.

5. Culverts shall be installed or modified and maintained to avoid inlet scouring and to prevent erosion of stream banks downstream of the project.
6. Fill associated with culvert work shall be protected from erosion to the 100 year peak flow.
7. Disturbance of the streambed and banks shall be limited to that necessary to replace or modify the culvert and to construct any required channel modification associated with it. Affected streambed and bank areas outside the culvert shall be restored to pre-project or improved conditions following installation of the culvert. All disturbed stream bank areas shall be protected from temporary erosion using BMPs until stabilized by vegetation. At the end of each in-water work window for the construction season, all disturbed areas from culvert replacement or modification work shall be planted with native species within the next appropriate planting season.

Channel Relocation

8. New channel construction shall occur in isolation from stream flow.
9. Before water is diverted into the permanent new channel, all channel stabilization work and materials shall be in place.
10. Spoils from the new channel shall be placed in an approved upland site. This material, if appropriate, may be used to fill the old channel once the diversion has been completed.
11. At the end of each in-water work window for the construction season, all disturbed areas from the channel relocation work shall be planted with native species within the next appropriate planting season.

Stream Bypass

12. Any stream diversion or bypass shall be designed and operated so that it does not cause erosion or scour in the stream channel or on the banks of the waterbody where in-water work is being done.
13. Prior to returning stream flow to the work area, all bank protection measures shall be in place.
14. Reintroduction of water to the channel shall be done gradually, and at a rate not higher than the normal stream flow, in order to minimize the mobilization of sediments and fines into downstream waters.

15. Upon completion of the in-water work in a given area within the project site, all materials used in the temporary bypass or stream diversion shall be removed from the site and placed in an approved upland site.

F. Water Quality Criteria and Monitoring

1. Certification of this proposal does not authorize temporary exceedences of water quality standards beyond what is described in WAC 173-201A-200 (1)(e).
2. The Applicant shall submit a Water Quality Monitoring and Protection Plan (WQMPP) to Ecology's Federal Project Coordinator for review and approval at least 20 days prior to beginning each in-water work activity for each Phase of the project. **In-water work is not authorized to begin until approval is received.** At a minimum, the WQMPP shall include:
 - a. The name(s) and phone number(s) of the Pollution Control Inspector and the person responsible for on-site monitoring and reporting.
 - b. The BMPs and procedures to be used to protect water quality during all in-water work.
 - c. A water sampling plan for turbidity, pH and visible sheen, as appropriate.
 - d. A map with numbered or named sampling locations associated with the in-water activities that require monitoring.
 - e. In-water work Contingency plan.
3. Ecology must approve, in writing, any changes or additions to the WQMPP.
4. Monitoring results shall be submitted monthly to the Ecology Federal Project Coordinator, per condition A.2.
5. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

G. Wetlands

1. The Applicant shall mitigate wetland impacts as described in the *Final Wetland Mitigation Report, Medina to SR 202: Eastside Transit and HOV Project* (hereafter called the "Mitigation Plan") prepared by WSDOT and dated April 26, 2010.
2. The Applicant shall submit final mitigation plan sheets for the Yarrow Creek Mitigation Site and the Keller Mitigation Site for review and approval before works begins.

3. The Applicant shall submit any changes to the Mitigation Plan in writing to Ecology (See A.2) for review and approval before work begins.
4. The Applicant shall get review and written approval from Ecology of any plan changes required if problems arise during construction and planting of the wetland mitigation sites.
5. The Applicant shall have a wetland professional at the wetland mitigation sites to supervise during construction and planting.
6. Unless otherwise approved by Ecology in writing, the Applicant shall begin the compensatory mitigation project before, or concurrent with, impacting wetlands or Ecology may require additional compensation to account for additional temporal loss of wetland functions.
7. If the mitigation sites cannot be completed within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of
 - a. SR 520, Medina to SR 202: Eastside Transit and HOV Project,
 - b. The Keller Mitigation Site & Yarrow Creek Mitigation Site

With the:

- c. Reason for the delay
- d. Expected date of completion.

The Applicant shall submit an updated written notification every 12 months thereafter until the SR 520, Medina to SR 202: Eastside Transit and HOV Project and the Keller and Yarrow Creek Mitigation Sites are complete.

8. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers at the wetland mitigation site and above the 100 year floodplain.
9. The Applicant shall ensure that no material is stockpiled within existing wetlands and their buffers at the wetland mitigation sites at any time, unless provided for in the Ecology-approved Mitigation Plan.
10. The Applicant shall ensure that no construction debris is deposited within existing wetland and their buffers at the wetland mitigation sites at any time, unless provided for in the Ecology approved Mitigation Plan.

11. The Applicant shall not use Polyacrylamide on exposed or disturbed soil at the mitigation sites.
12. The Applicant shall not use hay or straw on exposed disturbed soil at the mitigation sites.
13. If seeding is used at the wetland mitigation site, the seed mix must contain native, annual, non-invasive plant species, unless approved by Ecology.
14. The Applicant shall place signs at the mitigation sites' boundaries, including buffers every 200 feet to mark the area as wetland mitigation sites.
15. 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.
16. Within 90 days of completing construction and planting the mitigation site, the Applicant shall submit to Ecology (see A.2) one hard copy and one electronic file of the final as-built report including maps. 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 days of completing planting. If planting is sequenced over time, the Applicant shall submit the as-built reports within 90 days of completing construction and stage one planting and a second within 90 days of completing stage two planting. The as-built reports 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 mechanism required in Condition G. 17.
17. Within 90 days of completing construction and planting of the Keller Mitigation Site and Yarrow 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.

Monitoring and Maintenance

18. The Applicant shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards. Line 29, page 117 of the Mitigation Plan states that, "During the first year, supplemental watering of buffers and seasonally saturated wetland areas will occur during July, August, and September to assure, at a minimum, the equivalent of normal rainfall levels and no periods of drought (no rainfall or watering) longer than three weeks."
19. The Applicant shall monitor the mitigation site for a minimum of 10 years. The Applicant shall use the monitoring methods described on page 114 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 1,3,5,7, 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 24 months after completing the mitigation site construction and planting.
21. The Applicant shall implement the Mitigation Plan's contingency measures if the Mitigation Plan's 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 the 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 the 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 met.

H. Timing Requirements

1. This Order is valid until all requirements in this document have been met.
2. In-water work is subject to a fishery closure window determined by the Washington Department of Fish & 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.

I. Emergency/Contingency Measures

1. The Applicant shall develop and implement a spill prevention and containment plan for this project and shall have spill cleanup material available on-site at all times during construction. The spill clean-up material shall be adequate and appropriate to respond to an emergency release of petroleum products or any other material into waters of the state.
2. Work that is out of compliance with the provisions of this Order, conditions causing distressed or dying fish, discharges of oil, fuel or chemicals into state waters or onto land with a potential for entry into states, is prohibited. If such work, conditions, or discharges occur, the Applicant shall comply with WSDOT's Environmental Compliance Assurance Procedure for Construction Project and Activities (March 10, 2003) 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 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, begin containment and cleanup efforts, which take precedence over normal work, and complete them as soon as possible. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - d. Submit a detailed written report to Ecology in accordance with condition A.2 within five days that describes the nature of the event, the corrective action taken and other pertinent information.

J. 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 Hearings 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 & Application for Relief
Coordinator
PO Box 47608
Olympia WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals & Application for Relief Coordinator
300 Desmond Dr SE
Lacey WA 98503

3. And send a copy of your appeal to:

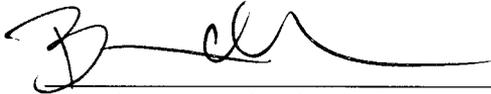
Kerry Carroll
Department of Ecology
Headquarters
P.O. Box 47600
Olympia, WA 98504

Order # 7718, Corps No. NWS-2009-562,
May 27, 2010
Page 14 of 14

*For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>
To find laws and agency rules visit the Washington State Legislature Website:
<http://www.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 May 27, 2010 Olympia, Washington.



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

Water Quality Certification Order # 7718 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 SR 520 Medina to SR 202: Eastside Transit and HOV in King Coutny, WA. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order #7718** 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

Attachment B
Information Required for As-built Reports
(See Condition G.16)

SR 520 Medina to SR 202: Eastside Transit and HOV
Water Quality Certification Order # 7718
And
Corps Reference # NWS-2009-562

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
(See Condition G.17)

SR 520 Medina to SR 202: Eastside Transit and HOV
Water Quality Certification Order # 7718
And
Corps Reference # NWS-2009-562

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
(See Condition G.20)

SR 520 Medina to SR 202: Eastside Transit and HOV
Water Quality Certification Order # 7718
And
Corps Reference # NWS-2009-562

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.

- 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 vegetation.
 - e) Location of habitat features.
 - f) Location of permanent photo stations and location of any other photos.
 - g) 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.