STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
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February 15, 2012

Kerry Philstrom
Washington Department of Transportation
600 Stewart Street, Suite 520
Seattle, WA 98101

RE: Water Quality Certification Order 9011 for Corps Public Notice No. NWS-2010-146 and Coast Guard No. 01-12 for SR 520, I-5 to Medina Bridge Replacement and HOV project in King County, Washington.

Dear Ms. Philstrom:

On April 11, 2011, the Washington Department of Transportation (WSDOT), submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the proposed SR 520, I-5 to Medina Bridge Replacement and HOV project.

The project entails widening the 520 corridor to six lanes starting at I-5 in Seattle and ending at 92nd Avenue NE in Yarrow Point. The total length of the project is approximately 5.2 miles. New bridges will be built over Portage Bay, Union Bay, and the existing bridges will be dismantled and removed. A new floating bridge will be built over Lake Washington and the existing bridge will be dismantled and removed. An additional bascule bridge will be built over the Montlake Cut next to the existing bridge which will remain in place. The traffic lanes between Evergreen Point Road and 92nd avenue NE in Yarrow point will be restriped and reconfigured in order to complete the regional HOV system across 520. To support the new floating bridge over Lake Washington, a maintenance facility with a dock will be built on the Medina shoreline of the lake. Other ancillary project features include a bicycle/pedestrian path and overlook, and stormwater treatment facilities.

The project will permanently fill approximately 0.29 acre of Category II, III, and IV wetlands in the Westside project area. Shading from the project will result in 4.87 acres of permanent impacts to Category II, III, and IV wetlands in the project area. The permanent shading impacts include areas where there is a conversion of vegetation from forested wetland to lower scrub-shrub vegetation, for a total of 0.72 acre. Temporary wetland impacts include 0.2 acre of temporary fill, 2.82 acres of temporary clearing,

which includes scrub-shrub and forested wetlands, and 5.25 acres of temporary shading to Category II, III, and IV wetlands.

Permanent wetland fill, permanent wetland shading, temporary wetland fill, temporary clearing, and temporary shading will be mitigated on-site and off-site at the 1) WSDOT-Owned Peninsula Mitigation Site, 2) Union Bay Natural Area Mitigation Site, 3) Magnuson Park Mitigation Site, and 4) Elliot Bridge Reach Mitigation Site. In addition, temporary impact areas will also be revegetated after construction.

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 Penny Kelley at 360-407-7298. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Brenden McFarland
Headquarters
Shorelands and Environmental Assistance Program

by Certified Mail 7009 0820 0001 9056 0656

Enclosure

cc: Pete Delaunay
Rebecca McAndrew, U.S. Corps of Engineers
Randall Overton, U.S. Coast Guard

e-cc: Karen Walters, Muckleshoot Tribe
Stewart Reinbold, WDFW
Caroline Corcoran, Ecology
Bobb Nolan, Ecology
Joe Burcar, Ecology
Anthony Boscolo, Ecology
Greg Stegman, Ecology
Loree' Randall, Ecology
Scott White, WSDOT
Monica Shoemaker, DNR
Mike Lisitza, NOAA-NMFS
Ben Perkowski, Seattle DPD
David Graves, Seattle Parks
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Washington Department of Transportation in accordance with 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	)))))))	**ORDER # 9011** **Corps Reference No. NWS-2010-146** **Coast Guard No. 01-12** Widen SR 520 to six lanes between I-5 and Evergreen Point road in Medina; construct an additional bridge over the Montlake Cut and replace the Portage Bay Bridge, the Union Bay Bridge and the Evergreen Point Bridge. The project is located in King County, Washington.

TO: Kerry Philstrom
Washington Department of Transportation
600 Stewart Street, Suite 520
Seattle, WA 98101

On April 11, 2011, Ecology received a Joint Aquatic Resources Permit Application (JARPA) from the Washington Department of Transportation (WSDOT) requesting a 401 Water Quality Certification (WQC). Ecology issued a public notice for the project on June 28, 2011.

The purpose of the SR 520, I-5 to Medina project is to improve safety and mobility in the SR 520 corridor by replacing aging bridges and adding HOV lanes to move people more efficiently in transit and carpools. The proposed project will widen the SR 520 corridor to six lanes between I-5 and Evergreen Point Road in Medina and will restripe and reconfigure the lanes in the corridor from Evergreen Point to 92nd Avenue NE in Yarrow Point. The total length of the project is 5.2 miles and consists of the following project elements:

I-5 Interchange Area: The SR 520 and I-5 interchange ramps will be reconstructed in generally the same configuration as the existing interchange but will include a new reversible HOV ramp connecting to the existing I-5 reversible express lanes south of SR 520.

Portage Bay Bridge: The existing bridge will be replaced with a wider structure to accommodate the road widening. The new bridge will be a fixed- span bridge with larger but fewer concrete columns and begin just east of Delmar Drive ending west of Montlake Boulevard.

Montlake Bridge & Interchange: In this location the alignment of Montlake Boulevard over SR 520 will be similar to the existing alignment but the new bridge will be longer and wider to accommodate the widening of SR 520. A new lid that is configured for transit and bicycle/pedestrian connectivity will also be built and integrated with the new bridge. The SR 520 interchange with Montlake Boulevard will maintain its current location and it will be similar to the existing interchange. At the Montlake Cut, a new two-leaf bascule bridge (drawbridge) will be constructed parallel to and just east of the existing Montlake Bridge.

West Approach*: The existing bridge over Union Bay (Montlake to Foster Island) will be replaced with a new structure and the alignment will shift north as it approaches the new floating span. Other improvements include removing the Lake Washington Boulevard eastbound on-

ramp, westbound off-ramp, and the R.H. Thomson Expressway ramps. The new structure has been designed to accommodate vessel traffic traveling under the West approach span.

Floating Bridge (Evergreen Point Bridge)*: The floating bridge will be replaced with a new six lane bridge located between 160 and 190 feet north of the existing bridge. The new bridge will be composed of support columns and steel trusses supporting the roadway deck and constructed on a foundation of hollow concrete pontoons. The pontoons will be connected in a series across the deeper section of the lake consisting of a single row of 21 longitudinal pontoons, 2 cross pontoons, one at each end of the floating bridge, and 54 supplemental stability pontoons. The floating pontoons will be anchored to the lake bottom to hold the bridge in place.

East Approach* & Maintenance Facility: The east approach span will be replaced and the alignment will be shifted to the north and will meet the existing highway at grade as it approaches Evergreen Point Road, east of the Lake Washington Shoreline. The new structure has been designed to accommodate vessel traffic. A new bridge maintenance facility with working dock will also be constructed in this location on the shoreline of Lake Washington. The maintenance facility will be a 12,000 square foot two-story building built into the end abutment slope under the new east approach bridge and the t-shaped dock will extend approximately 120 feet offshore.

Eastside Transition area: After the east approach and floating portions of the bridge have been replaced, grading and paving operations will occur east to Evergreen Point Road.

*The west approach, floating bridge, and east approach, when completed, will be a single new structure spanning Montlake to Medina.

This project will result in unavoidable impacts to aquatic and wetland resources. The aquatic resources will be mitigated through a package of mitigation sites located in various locations in the Lake Washington Basin. The wetland impacts will be mitigated through compensatory mitigation at four locations. Three of the locations are on-site or in close proximity to the project and one is located off-site.

This project is located in King County, WA
WRIA 8 – Cedar/Sammamish
Section 16, 20, 21, 22 T25N R4E
Section 24 T25N R5E

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §§1311, 1312, 1313, 1316, and 1317 (FWPCA §§ 301, 302, 303, 306 and 307);

2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will comply with applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve WSDOT from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions

1. In this Order, the term "Applicant" shall mean WSDOT, and its agents, assignees and contractors.

2. All submittals required by this Order shall be sent to Ecology's HQ, Attn: Federal Project Coordinator, P.O. Box 47600, Olympia, WA 98506 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. 9011 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 April 11, 2011. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.

4. Within 30 days of receipt of an updated application 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 Corps of Engineers does not issue an individual Section 404 permit and/or if the Coast Guard does not issue a Section 9 General Bridge 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. 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. Notifications shall be identified with Order No.9011 and include the Applicants name, project name, project location, project contact and the contact's phone number.

    a. Immediately following a violation of state water quality standards, spill to waters of the state or when the project is out of compliance with any of this Orders conditions.
        i. In addition to the phone or e-mail notification, the Applicant shall 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.

b. At least ten (10) days prior to all pre-construction meetings
c. At least ten (10) days prior to conducting initial in-water work activities for each in-water work window established in the most current HPA.
d. At least seven (7) days prior to the start of over water bridge construction and bridge demolition activities.
e. At least seven (7) days prior to the starting construction at each aquatic mitigation site except for Little Bear Creek and South Lake Washington.
f. At least seven (7) days prior to beginning construction at each wetland mitigation site.
g. At least seven (7) days prior to completing construction at each wetland mitigation site.
h. At least seven (7) days within project completion.

C. Timing

1. This Order is valid until the Applicant meets all its requirements and conditions.

2. In-water work is subject to a fishery closure window determined by 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.

D. Water Quality Monitoring & Criteria

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

2. The Applicant shall submit a final Water Quality Monitoring Protection Plan (WQMPP) to the Federal Project Coordinator for review and approval at least 20 days prior to beginning in-water and/or overwater work and work activities below the ordinary high water mark (OHWM) in-water, and/or over-water work for each active construction year of the project. Work below the OHWM **In-water and/or over-water work shall not begin until Ecology approves the WQMPP.** At a minimum, the WQMPP shall include:
   a. The names(s) and phone numbers (s) of the Pollution control inspector and the person responsible for on-site monitoring and report;
   b. The BMPs and procedures to be used to protect water quality during specific proposed in-water activities;
   c. A water sampling plan for turbidity, which include sample locations and frequency;
   d. A map with numbered or named sampling locations associated with the in-water work activities.

3. The Applicant shall implement the approved WQMPP. 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.

E. Construction

General Conditions

1. The Applicant shall comply with the conditions of the current Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) issued for this project.

2. Within the project limits[1] all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, and mitigation areas shall be fenced with high visibility construction (HVF) prior to commencing construction activities. For mitigation sites, the Applicant can submit a request to use high visibility staking instead of fencing for Ecology review and approval. Construction activities include equipment staging, materials storage, and work 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 stages[2] 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 2.a. 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 clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.

4. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.

5. All construction debris, demolition debris, excess sediment, and other solid waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority. This condition does not apply to the disposal of the pontoons that are auctioned off.

6. Turbid de-watering water associated with in-water work shall not be discharged directly to waters of the state, including wetlands. Turbid de-watering water shall be routed to an upland area or over water secure containment locations, staging areas or barges for on-site or off-site settling.

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

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

7. Clean de-watering water associated with in-water work that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state including wetlands. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the lake, stream channel, banks, or vegetation.

8. If any pressure treated wood is used in the construction of work platforms/bridges or to build structures, such as dolphins, it shall comply with all current best management practices contained in the "Western Wood Preservers Institute's" latest edition of Best Management Practices for use of Treated Wood in Aquatic Environments."

Equipment & Maintenance

9. Staging areas in uplands will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands. If an upland staging area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation and obtain approval from Ecology's Federal permit Coordinator before placing the staging area in the setback area.

10. Equipment used for this project shall be inspected daily and shall be free of external petroleum-based products while used in, around, and over waters of the state, including wetlands. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state, including wetlands.

11. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order.

12. Secondary containment and/or absorbent material shall be placed under any equipment staged over water, such as cranes, when equipment is not in use to prevent spills into state waters.

13. 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.

14. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.

15. No cleaning solvents or chemicals used for tool or equipment cleaning may be discharged to the ground or to waters of the state.

16. 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.

Bridge Construction & Pontoon Outfitting:

17. The Applicant shall minimize disturbance of vegetation when constructing and dismantling the temporary work platforms for bridge construction and demolition activities.

18. When necessary, equipment may operate below the OHWM, provided the work is consistent with the conditions of this Order.

Concrete

19. All concrete shall be completely cured (7 days) prior to coming into contact with waters of the state unless otherwise approved by Ecology.

20. All forms for concrete shall be completely sealed to prevent the possibility of fresh concrete entering waters of the state.

21. Concrete process water shall not enter waters of the state. Any concrete process/contact water discharged from a confined area shall be routed to a contained area to be treated and infiltrated or disposed of appropriately with no possible entry to state waters.

22. Concrete delivery systems situated over water shall be inspected daily to prevent any discharges of concrete and/or slurry water into waters of the state.

Drilled Shafts & Mudline Footings

23. All excavated sediment shall be disposed upland in an approved disposal site.

24. .If synthetic or mineral slurries are used in the drilled shafts, the slurry water (process water) shall not be discharged to waters of the state, including wetlands, or infiltrated in upland areas. The slurry shall be contained and disposed of at an approved site and the Applicant shall notify Ecology on the location of the disposal site.

25. Installation and removal of coffer dams shall be done in a manner that minimizes the disturbance of in place sediments.

Over Water Work

26. No structural material may enter waters of the state during over-water bridge construction work.

27. The Applicant shall use tarps or another containment method when cutting or drilling over water to prevent material from entering waters of the state.

28. Incidental debris from bridge construction activities shall be removed from waters of the state.

29. The Applicant shall have a boat available on site to retrieve debris from the water.

30. Portable restrooms shall be anchored down to prevent losing these structures into state waters during high wind events.

Bridge Demolition and Work Bridge Removal

31. All saw cut water and debris generated from saw cutting activities that occur above water shall be contained and disposed of appropriately with no possible entry to waters of the state.

32. During demolition, structures shall be removed from existing roads, work platforms or from adjacent bridges or barges whenever possible. When necessary, equipment may operate below the OHWM, provided the work is consistent with the conditions of this Order.

33. Incidental debris from bridge demolition activities shall be removed from waters of the state.

34. The Applicant shall have a boat available on-site to retrieve debris from the water.

35. Piles and columns removed from the substrate shall be moved immediately from the water onto a barge, work platform or upland. The pile or column shall not be shaken, hosed off, left hanging to drip or any other action intended to clean or remove adhering material while over water. All excavated piles and columns shall be disposed of at an approved upland disposal site.

36. During pile and column removal, containment booms and absorbent sausage booms shall be placed around the perimeter of the work area to capture wood debris, oil, and other materials from being released into waters of the state. All debris that is collected shall be disposed upland in approved disposal site.

Barges

37. If barges are used to transport construction materials and/or demolition debris, temporarily store and stockpile materials, temporarily store and/or transport liquid or sediment removed during construction of drilled shafts or mud line footings, the work surface of the barge deck shall include containment to prevent any discharges to waters of the state.

38. Barges shall not be allowed to ground-out during in-water construction.

39. Barges shall be swept, as necessary, and kept free of material that could be blown into water.

Gravity or Shaft Anchor Installation

40. Any fill material used to provide a foundation for gravity anchors shall be placed in such a manner as to minimize disturbance of in place sediments.

Pontoon Assembly

41. During assembly activities on Lake Washington, the floating bridge pontoons shall contain adequate containment to prevent any discharges from the concrete work into state waters.

F. Stormwater

1. On June 30, 2010, Ecology provided a conditional approval of the Applicant's approach to stormwater treatment on the floating bridge portion of the project. The Applicant shall submit a monitoring plan for the high-efficiency sweeping program for Ecology review and approval through the established AKART process and review team. The plan shall include specific flexible frequencies and alternatives to insure compliance with the high-efficiency sweeping program and shall be submitted within 13 months from the date of this Order.

2. If the monitoring plan cannot be submitted to Ecology within 13 months of date of this Order, the Applicant shall inform Ecology in writing:
   a. Status of the monitoring plan
   b. Reason for delay
   c. The expected completion date.

   The Applicant shall submit an updated written notification every 12 months thereafter until a monitoring plan has been submitted

G. Wetland Compensatory Mitigation

1. The Applicant shall mitigate wetland impacts as described in the *SR 520, I-5 to Medina: Bridge Replacement and HOV Project Final Wetland Mitigation Report* (hereafter called the "Mitigation Plan") prepared by Patrick Togher, Beth Peterson, and Maki Dalzell, of HDR Engineering, Inc. for WSDOT and Federal Highway Administration, and dated December 2011and revised in February 2012, or as modified by this Order or revised and approved by Ecology.

2. The Applicant shall submit final grading and planting plans, with appropriate hydrologic information, for the WSDOT-Owned Peninsula Mitigation Site, Union Bay Natural Area Mitigation Site (UBNA), Magnuson Park Mitigation Site, and Elliot Bridge Reach Mitigation Site (hereafter called the "Wetland Mitigation Sites") for review and approval before mitigation site construction 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.

Implementation

6. Unless otherwise approved by Ecology in writing, the Applicant shall begin construction of the UBNA, Magnuson Park Mitigation Site, and Elliot Bridge Reach Mitigation Site compensatory mitigation projects before, or concurrent with impacting wetlands or Ecology may require additional compensation to account for additional temporal loss of wetland functions. Construction of the WSDOT-Owned Peninsula Mitigation Site may begin after impacting wetlands.

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, I-5 to Medina: Bridge Replacement and HOV Project.
   b. Wetland Mitigation Sites
   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, I-5 to Medina: Bridge Replacement and HOV Project and WSDOT-Owned Peninsula Mitigation Site, UBNA, Magnuson Park Mitigation Site, and Elliot Bridge Reach Mitigation Site are complete.

8. When necessary, equipment may operate below the OHWM at the Wetland Mitigation Sites, provided the work is consistent with the conditions of this Order.

9. 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 sites and above the 100-year floodplain.

10 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[3].

11. 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[3].

12. The Applicant shall not use polyacrylamide on exposed or disturbed soil at the mitigation sites.

13. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation sites, unless it is weed free.

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[3] Upland areas adjacent to the mitigation area at the WSDOT-Owned Peninsula Mitigation Site may be used for construction staging and construction access for the SR 520, I-5 to Medina Bridge Replacement and HOV Project which will occur before mitigation site construction.

14. If weed-barrier fabric is used on the site, the Applicant shall use only permeable, fully biodegradable, non-toxic weed-barrier fabric for entire-site and/or individual plant weed control. Non-biodegradable plastic weed-barrier fabric shall be used only at the base of individual plants and shall be removed before it starts to break down, before it interferes with plant growth, or before the end of the monitoring period, whichever comes first.

15. If seeding is used at the wetland mitigation sites, the seed mix must contain only native, annual, non-invasive plant species, or be a sterile seed mix.

16. The Applicant shall place signs at the mitigation areas' boundaries, including buffers, every 200 feet to mark the area as wetland mitigation sites.

17. Within 90 days of completing construction and planting of the mitigation sites, the Applicant shall submit to Ecology (see A.2) one hard copy and one electronic file of the final as-built report including maps. 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 mechanism required in Condition G.18.

18. Within 90 days of completing construction and planting of the Wetland Mitigation Sites, the Applicant shall record either a:
    a. Wetlands Notice (see Attachment C: Wetland Notice for Deed Notification), and/or
    b. Restrictive covenant, with 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, and/or
    c. Conservation easement, a copy of this Order, and a site map indicating the location of the mitigation sites and their buffers.

    The Notice, restrictive covenant, and/or conservation easement must be recorded with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.

<u>Monitoring and Maintenance</u>

19. The Applicant shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards specified in Chapter 6 of the Mitigation Plan.

20. The Applicant shall monitor the mitigation sites for a minimum of 10 years. The Applicant shall use the monitoring methods described on pages 191 – 192 of the Mitigation Plan.

21. 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 no later than 24 months after completing each mitigation site's construction and planting.

22. The Applicant shall implement the Mitigation Plan's contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.

23. 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.

24. 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.

25. For monitoring years five (5) and ten (10) the Applicant shall use the currently approved federal wetland delineation manual and appropriate regional supplement to delineate all compensatory wetlands on the Wetland Mitigation Sites and include delineation information (e.g. data sheets, maps, etc.) in the monitoring reports.

26. 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 (except those that have been preserved) on the Wetland Mitigation Sites and include the information in the monitoring report.

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

28. Until the Applicant has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Applicant's obligation under Condition F.1 to mitigate for wetland impacts is not met.

H. Aquatic Mitigation

1. The Applicant shall mitigate aquatic impacts as described in the JARPA Attachment I Final Aquatic Mitigation Report SR 520, I-5 to Medina: Bridge Replacement and HOV Project (hereafter called the "Aquatic Mitigation Plan") prepared by Pete Lawson, Parametrix Inc, Chad Wiseman, HDR Engineering, Inc., and Chris Berger, Confluence Environmental Company, dated December 2011 and revised in February 2012, or as modified by this Order or revised and approved by Ecology.

2. The Applicant shall submit any changes and/or addendums to the aquatic mitigation plan in writing to Ecology for review (see condition A.2).

3. . The Applicant shall submit to Ecology (see A.2) one hard and one electronic copy of monitoring reports documenting mitigation site conditions as stated in the Aquatic Mitigation Plan. The Applicant shall submit the first monitoring report no later than 24 months after completing the mitigation site construction and planting.

Water Quality Monitoring Protection Plan

4. A Water Quality Monitoring Protection Plan (WQMPP) shall be developed for each of the aquatic mitigation sites as required in condition D. 3.

5. Ecology must approve, in writing, any changes or additions to the WQMPP.

6. Monitoring results shall be submitted monthly to the Ecology Federal Project Coordinator, per condition A.2.

7. Additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

Construction

8. In addition to the conditions below, the conditions in Section E. Construction, General Conditions and Section E. Construction, Equipment and Maintenance conditions, apply to the aquatic mitigation sites.

9. Work in or near waters of the state shall be done in a manner that minimizes turbidity and other water quality impacts.

10. When necessary, equipment may operate below the OHWM, provided the work is consistent with the conditions of this Order.

11. Gravel shall not be end dumped directly into state waters but placed in a controlled manner so as to minimize turbidity.

12. Any excavation or grading activities below the OHWM shall use BMPs to control and contain turbidity.

13. All excavated sediment not re-used on a mitigation site shall be disposed upland in an approved disposal site.

14. If excavated sediment is re-used on a mitigation site, the Applicant shall ensure that sediment does not contain toxic materials in toxic amounts.

15. If excavated material is placed upland to de-water, the dewatering water shall be contained with no discharges to waters of the state until it can be tested and confirmed to meet water quality standards.

16. All disturbed river, stream, or lake shoreline areas shall be protected from temporary erosion using best management practices (BMPs) until stabilized by vegetation.

17. The Applicant shall not use polyacrylamide on exposed or disturbed soil at the mitigation sites.

18. The Applicant shall not use hay or straw on exposed or disturbed soil at mitigation sites unless it is weed free.

Stream Bypass & Channel Work

19. New channel construction shall occur in isolation from surface water flow.

20. 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 water where in-water work is being done.

21. Temporary sediment traps shall be cleaned out and settled sediments removed from the stream channel before removing the stream diversion system and returning the flow of the surface waterbody to its natural channel. Settled sediments shall not be allowed to enter state surface waters due to water or runoff flows that may occur after construction is completed.

22. Before water is introduced into the permanent new channel, all channel stabilization work and materials shall be in place.

23. The Applicant shall make every effort to pump turbid water from a new channel to an upland location for settling/filtering before the flow is introduced or BMPs shall be used to control turbidity when introducing flow.

24. 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.

25. Upon completion of in-water work, all materials used in the temporary bypass or stream diversion shall be removed from the site and place in an approved upland site.

26. Within seven (&) calendar days of completing the channel work, all disturbed areas shall be protected from erosion using vegetation or other means.

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.

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 potential for entry into state waters is prohibited. If such work, conditions, or discharges occur, the Applicant shall comply with WSDOT's most current Environmental Compliance Assurance Procedure for Construction Project Activities, notify the Ecology Project Coordinator per conditions B.1.a and immediately take the following actions:

a) Cease operations at the location of the non-compliance;
b) Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage;
c) In the event of finding distressed or dying fish, collect fish specimens and water samples in the affect area with the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant receives further instruction from Ecology. Ecology may require analyses of these samples before allowing the work to resume.
d) In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with potential for entry into states waters, begin containment and clean up efforts immediately and complete them as soon as possible. This work shall take precedence over normal work. Cleanup shall include proper disposal of any spilled material and used clean up materials.
e) Immediately notify Ecology's Northwest Region Spill Response Office at 425-649-7000, **and** within 24 hours of spills or events to Ecology's Federal Project Coordinator at 360-407-7298.
f) Immediately notify the National Response Center at 1-800-424-8802 for spills to water.

3. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001 (2).

To appeal you must do the following within 30 days of the date of receipt of this Order:

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 **Pollution Control Hearings Board** 1111 Israel Road SW STE 301 Tumwater, WA 98501	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 **Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Penny Kelley
Department of Ecology
P.O. Box 47600
Olympia, WA 98503-7600

360-407-7298
pkel461@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website
www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental Hearings Office – Pollution Control Hearings Board
http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B

Chapter 90.48 RCW – Water Pollution Control
http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48

Chapter 173.204 WAC – Sediment Management Standards
www.ecy.wa.gov/biblio/wac173204.html

Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington
www.ecy.wa.gov/biblio/wac173200.html

Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington
www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE

Feb 15, 2012

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

Date

Attachment A

Water Quality Certification Order #9011
Statement of Understanding

I, _____, state that, I will be involved as a WSDOT employee or an agent or contractor for Washington State Department of Transportation in the SR 520 I-5 to Medina Bridge Replacement and HOV project in King County, WA. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order Order #9011** 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.17)

SR 520, I-5 to Medina: Bridge Replacement and HOV Project
Water Quality Certification Order # {9011}
And
Corps Reference # {NWS-2010-146}
Coast Guard Reference # 01-12

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.18)

SR 520, I-5 to Medina: Bridge Replacement and HOV Project
Water Quality Certification Order # {9011}
And
Corps Reference # {NWS-2010-146}
Coast Guard Reference #01-12

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.21)

SR 520, I-5 to Medina: Bridge Replacement and HOV Project
Water Quality Certification Order # {9011}
And
Corps Reference # {NWS-2010-146}
Coast Guard Reference #01-12

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).

a) 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.