



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6343*

March 15, 2011

Alan Soicher
Department of Transportation
Northwest Region
P.O. Box 330310
Seattle, WA 98133-9710

RE: Water Quality Certification Order #8416 for Corps Public Notice No. NWS-2010-1153 for the SR 522 Widening, Snohomish River Bridge to US 2 Vic in Snohomish County, Washington

Dear Mr. Soicher:

On September 15, 2010, the Washington State 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 522 Widening, Snohomish River Bridge to US 2 Vic.

The proposed project entails widening and dividing SR 522 from two lanes to four lanes with a separated median; two lanes will carry eastbound traffic and two lanes will carry westbound traffic. The existing bridge over the Snohomish River will be preserved carrying eastbound traffic and a new, 40 foot wide, 1,780 foot long bridge will be constructed (downstream of the existing bridge) carrying westbound traffic. Other construction elements include a new roundabout at 164th Street Interchange, three new land bridges, and stormwater facilities. Two culverts will be removed and replaced with a larger, fish passable culvert that will also serve as a wildlife crossing.

The project will impact existing streams and wetlands. The project proposes to permanently impact 3.21 acres (3.01 acres of direct impacts and 0.20 acre of indirect impacts) of wetlands through excavation or fill. To mitigate for unavoidable wetland impacts, WSDOT will debit 1.13 wetland credits from the Skykomish Habitat Mitigation Bank and 1.89 wetland credits from the Snohomish Basin Mitigation Bank, both operated by Mitigation Banking Services. Stream impacts will be mitigated through stream relocation and replanting on site as well as constructing a Large Woody Debris (LWD) habitat structure on the west bank of the Snohomish River.



Alan Soicher
March 15, 2011
Page 2 of 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 360-407-7298. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



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

by Certified Mail 7009 1410 0002 4001 1408

Enclosure

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

IN THE MATTER OF GRANTING A) ORDER # 8416
WATER QUALITY) Corps Reference No. NWS-2010-1153
CERTIFICATION TO) Widen SR 522 from two lanes to four lanes &
Washington Department of) construct a new bridge over the Snohomish
Transportation) River. The project is located in Snohomish
in accordance with 33 U.S.C. 1341) County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)
)

TO: Alan Soicher
Department of Transportation
Northwest Region
P.O. Box 330310
Seattle, WA 98133-9710

On September 15, 2010, Ecology received a Joint Aquatic Resources Permit Application (JARPA) from the Washington State 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 December 15, 2010.

The proposed project entails widening and dividing SR 522 from two lanes to four lanes with a separated median; two lanes will carry eastbound traffic and two lanes will carry westbound traffic. The existing bridge over the Snohomish River will be preserved carrying eastbound traffic and a new 40 foot wide, 1,780 foot long bridge will be constructed (downstream of the existing bridge) carrying westbound traffic. Other construction elements include a new roundabout at 164th Street Interchange, three new land bridges, and stormwater facilities. Two culverts will be removed and replaced with a larger, fish passable culvert that will also serve as a wildlife crossing.

The project will impact existing streams and wetlands. Stream impacts will be mitigated through stream relocation and replanting on site as well as constructing a LWD habitat structure on the west bank of the Snohomish River. Compensatory mitigation will be provided for unavoidable wetland impacts at two approved Snohomish County wetland mitigation banks; the Snohomish Basin Mitigation Bank and the Skykomish Habitat Mitigation Bank, both operated by Mitigation Banking Services.

The project is located on SR522, starting at mile post 20.23 and ending at mile post 24. 61, in Snohomish County, Washington.

WRIA 7 Snohomish River

<u>Section</u>	<u>Township</u>	<u>Range</u>
1	27N	6E
2	27N	6E
10	27N	6E
15	27N	6E
16	27N	6E
17	27N	6E

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. Box 47600, Olympia, WA 98504-7600 or via e-mail (preferred), if possible, to the Coordinator assigned to this project. Notifications shall be made via phone or e-mail (preferred). All submittals and notifications shall be identified with Order No. 8416 and include the Applicant's name, project name, project location, the project contact and the contact's phone number.
3. Notification shall be made via phone or e-mail (e-mail preferred) to Ecology's Federal Project Coordinator in accordance with condition A.2., for the following activities:
 - a. Immediately for any work that is out of compliance with the provisions of this Order.
 - i. In addition to the phone or e-mail notification required for 3.a. 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 the preconstruction;
 - c. At least ten (10) days prior to the onset of any work onsite;
 - d. At least ten (10) days prior to starting ground improvement activities;
 - e. At least seven (7) days within project completion
4. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on September 15, 2010. 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.
5. 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.
6. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue a Section 404 permit.
7. 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.

8. 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.
9. 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.
10. 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.
11. 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.
12. 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. 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.

C. Water Quality Monitoring & Criteria

1. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards for turbidity as described in WAC 173-201A-200(1)(e).
2. At least 20 days prior to commencing in-water work, the Applicant shall submit a Water Quality Monitoring and Protection Plan (WQMPP) to the Federal Project Coordinator for

review and approval. **In-water work shall not begin until Ecology approves the WQMPP.** 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 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 background sample shall be collected at the beginning of each sampling event.
 - e. A map with numbered or named sampling locations associated with the in-water work activities
 - f. A monitoring plan for ground improvement activities.
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. The Applicant shall notify the Federal Project Coordinator, per condition A.2., immediately following a violation of state water quality.
 - a. In addition to the phone or e-mail notification required in Condition C6. 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.
 6. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

D. 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 projects limits¹ all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, and mitigation areas shall be fenced with high visibility construction fence (HVF) prior to commencing construction activities. Construction activities include equipment staging, materials storage, and worker vehicle parking.

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

Note: This condition does not apply to activities such as pre-construction surveying and installing HVF and construction zone signage.

3. All field staff shall be trained to recognize HVF, understand its purpose and properly install it in the appropriate locations. HVF shall be maintained until all work is completed for each project or each stage of a staged project.
4. 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.
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 construction 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.
7. 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 for on-site or off-site settling.
8. 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 stream channel, banks, or vegetation.

Equipment & Maintenance

1. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands. If a 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.
2. Equipment used for this project shall be free of external petroleum-based products while used around the 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.
3. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order.

4. 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.
5. 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.
6. 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 work

7. The Applicant shall minimize disturbance of vegetation when constructing the temporary work platforms for bridge construction.
8. No structural material may enter waters of the state during over-water bridge construction work.
9. Incidental debris from bridge construction activities shall be removed from waters of the state.
10. All forms for concrete shall be completely sealed to prevent the possibility of fresh concrete entering waters of the state.
11. All concrete shall be completely cured prior to coming in contact with water.
12. Concrete process water shall not enter waters of the state. Any concrete process/contact water discharged from a confined area with curing concrete shall be routed to upland areas to be treated and infiltrated or disposed of appropriately with no possible entry to state waters.
13. No flocculants shall be used as a BMP for treatment of turbid water associated with in-water work, without prior authorization from Ecology.

Culvert work & Stream Bypass

14. Culvert work shall be conducted in the dry or in isolation from waters of the state. Any temporary bypass or stream diversion system shall be in place prior to initiation of in-water work.

15. 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.
16. Prior to returning stream flow to the work area, all bank protection measures shall be in place.
17. 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.
18. Upon completion of the in-water work for culvert replacement, all materials used in the temporary bypass or stream diversion shall be removed from the site and placed in an approved upland site.
19. 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.

E. Wetlands

1. The Applicant shall mitigate wetland impacts as described in *Final Wetland and Stream Mitigation Report, SR 522: Snohomish River Bridge to US 2, Phase 2: Snohomish River Bridge to US 2 Vicinity* (hereafter called the "mitigation plan") prepared by WSDOT, dated February 2011 or as revised and approved by Ecology.
2. The Applicant shall obtain and submit registered documentation from the bank sponsor identifying the first permit requiring a minimum of 3.02 credits for the project to Ecology (see A.2). This documentation must be submitted to Ecology (see A.2) before impacting wetlands. This documentation must be registered at the Snohomish County Auditor's office and must include the permit number, permit issuance date, and the amount of credits required by the permit.
3. The Applicant shall notify Ecology (see A.2) of any changes to the amount of wetland impacts, revision of the mitigation plan, and submittal of new information being registered at the Snohomish County Auditor's office.
4. The Applicant shall complete the purchase of mitigation bank credits before the impacts to wetlands occur or Ecology may require additional compensation to account for additional temporal loss.

F. 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. Any work that produces conditions causing distressed or dying fish, or causing any discharge of oil, fuel, or chemicals into state waters, or onto land with potential for entry into state waters is prohibited. If such work occurs, the Applicant shall immediately take the following actions:
 - a) Cease operations at the location of the violation;
 - b) Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage;
 - c) In the event of finding distressed or dying fish, collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the Applicant 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 state waters, begin containment and cleanup 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 cleanup materials.
 - e) Immediately notify Ecology's Northwest Regional Spill Response Office at 425-649-7000, **and** within 24 hours of spills or other events to Ecology's Federal Project coordinator at 360-407-7503
 - f) Contact the Ecology's Northwest Region Cleanup Program **and** Regional Spill Office at 425-649-7000 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.
 - g) Immediately notify the National Response Center at 1-800-424-8802.
 - h) 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.

G. Appeal Process

YOUR RIGHT TO APPEAL

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

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

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

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

ADDRESS AND LOCATION INFORMATION

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

CONTACT INFORMATION

Please direct all questions about this Order to:

Penny Kelley
Department of Ecology
P.O. Box 47600
Olympia, WA 98503-7600
360-407-7298
Pkel461@ecy.wa.gov

MORE INFORMATION

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

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

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

Chapter 173.204 WAC – Sediment Management Standards

www.ecy.wa.gov/biblio/wac173204.html

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

www.ecy.wa.gov/biblio/wac173200.html

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

www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE



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

3-15-11

Date

Water Quality Certification Order #8416 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 522 Widening, Snohomish River Bridge to US 2 in Snohomish County, WA. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order #8416** 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

