



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

June 22, 2011

**CERTIFIED MAIL (7010 0290 0003 5678 7966)**

Cheney School District  
ATTN: Mr. Jeff McClure  
2620 North 6th Street  
Cheney, Washington 99004

Re: **Administrative Order No 8605: Authorizing impacts to 0.278 acres of wetlands** as part of the Windsor Site Middle School project at 5502 West Hallett Road in Spokane County Washington.

Dear Mr. McClure:

Your request for an administrative order authorizing proposed work in wetlands for the Windsor Site Middle School has been reviewed. The State of Washington has determined that the proposed work, as condition by the enclosed Order, will comply with applicable provisions of Chapter 90.48 RCW and other appropriate requirements of state law.

This approval is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Jeremy Sikes at (509) 329-3426. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

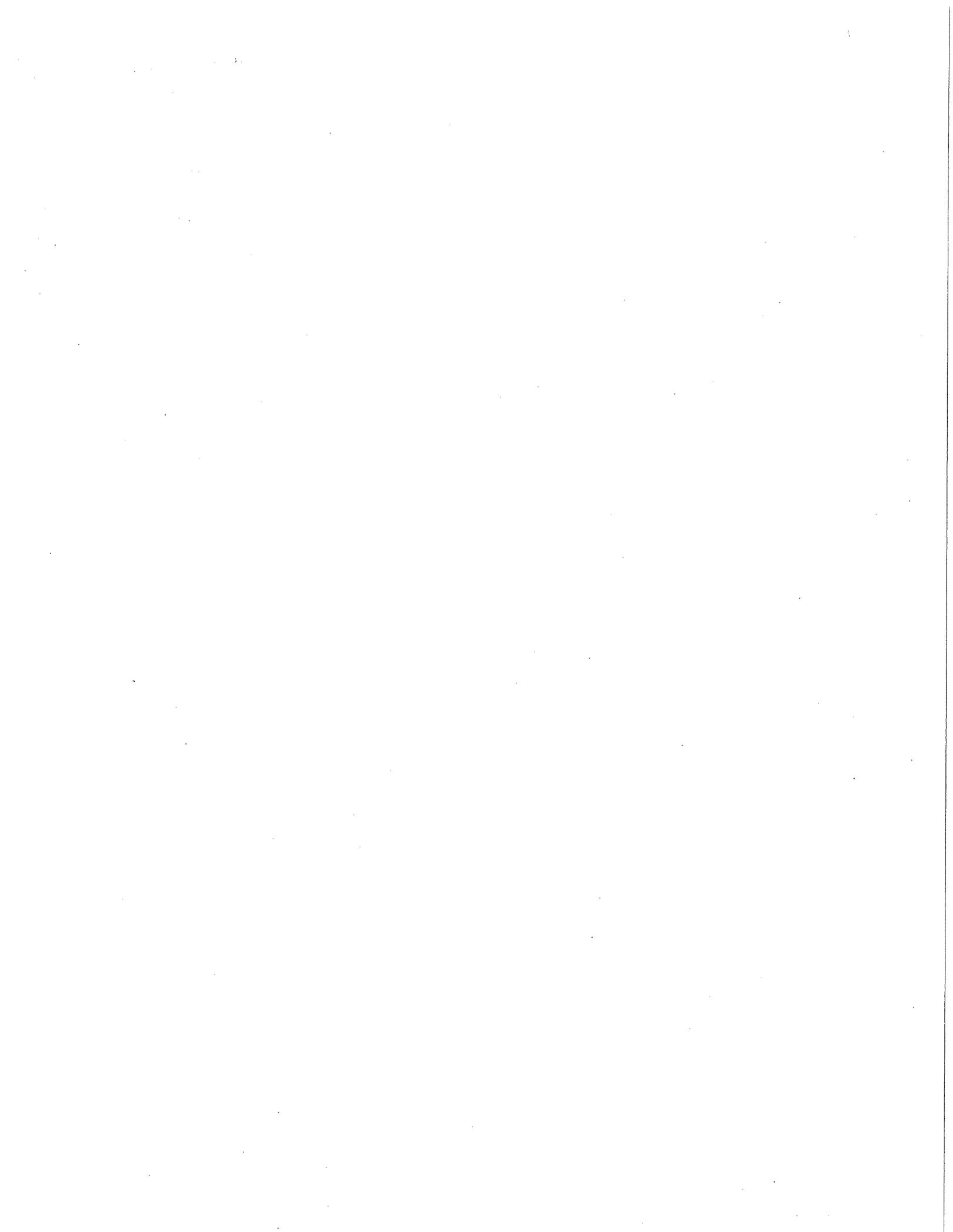
Sara Hunt  
Section Manager  
Shorelands and Environmental Assistance Program  
Eastern Regional Office

SH:JS:ljs

Enclosure

cc: Jeremy Sikes, ERO  
Penny Keys, Ecology HQ  
Loree Randall, Ecology HQ





DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY ) ORDER NO. 8605  
Cheney School District )  
ATTN: Mr. Jeff McClure )  
FOR AN ADMINISTRATIVE ORDER TO )  
CONDUCT WORK IN AN ISOLATED WETLAND )

To: Cheney School District  
ATTN: Mr. Jeff McClure  
2620 North 6th Street  
Cheney, Washington 99004

This is an Administrative Order requiring the Cheney School District (District) to comply with Chapter 90.48 RCW and the rules and regulations of the Department of Ecology (Ecology) by taking certain actions which are described below. RCW 90.48.120(1) authorizes Ecology to issue Administrative Orders requiring compliance whenever it determines that a person has violated or creates a substantial potential to violate any provision of Chapter 90.48 RCW.

Ecology received the District's final Joint Aquatic Resources Permit Application (JARPA) on June 15th, 2011, requesting an Administrative Order to impact 0.278 acres of isolated wetlands to construct the Windsor Site Middle School, required play fields, and a street connection to 61<sup>st</sup> Avenue. The site is at 5502 West Hallett Road in Spokane County, Washington; SESW Section 03, Township 24 North, Range 42 East, WRIA 56, Hangman Creek Watershed. Compensatory Mitigation will take place offsite approximately 0.3 miles southwest of South Cheney –Spangle Road in Spokane County, Washington; SWNW Section 19, township 23N Range 42E.

This Administrative Order authorizes 0.278 acres of isolated wetland impacts at the project location. Mitigation for project impacts will consist of:

**Offsite (Emtman property)**

- Wetland C Mitigation Site (.831 acres) Wetland Creation

For purposes of this Order, the term "Applicant" shall mean Cheney School District and its agents, assigns, and contractors.

In view of the foregoing and in accordance with RCW 90.48.120(1):

IT IS ORDERED that the Applicant shall comply with the following:

**A. General Conditions:**

1. The Applicant shall construct and operate the project in a manner consistent with the project description contained in the JARPA received by Ecology on June 21, 2011 or as otherwise approved by Ecology.

2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Eastern Regional Office, Attn: Wetland Specialist, SEA Program, 4601 N Monroe, Spokane, Washington 99205. Any submittals shall reference Order No. **8605** and Corps No. **NWS-2011-227**.
3. The Applicant shall provide access to the project site and mitigation site upon request by Ecology.
4. 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 foremen, and state and local government inspectors.
5. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines 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 the public interest.
6. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order.

**B. Notification Requirements:**

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Eastern Regional Office Wetland Specialist in accordance with condition A. 2. above for the following activities:
  - a. At least ten (10) days prior to a pre-construction meeting
  - b. At least ten (10) days prior to the onset of any work on site
  - c. At least ten (10) days prior to the onset of in-water work, including wetlands
  - d. At least ten (10) days prior to the onset of work at the wetland mitigation site
  - e. Immediately following a violation of the state water quality standards or any condition of this Order
  - f. Within fourteen (14) days after completion of construction

**C. Wetland Compensatory Mitigation Conditions:**

1. The Applicant shall mitigate wetland impacts as described in the plan entitled *Revised Cheney Middle School Mitigation Plan* dated March 17, 2011, except as modified in this Order or revised and approved by Ecology.
2. The Applicant shall submit any changes to the mitigation plan in writing to Ecology (per condition A.2. above) for review and approval before work begins or when problems occur during construction requiring plan changes.

3. To ensure proper installation, the Applicant's wetland professional must supervise and inspect all mitigation site construction and planting.

**Implementation**

4. Unless otherwise approved by Ecology in writing, the Applicant shall begin the compensatory mitigation project before, or concurrent with, impacting wetlands, unless otherwise approved, or Ecology may require additional compensation to account for additional temporal loss of wetland functions.
5. If the mitigation site(s) can not be completed within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of
  - a) Middle School site
  - b) Wetland C 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 Windsor Site Middle School Project and wetland mitigation sites are complete.

6. 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.
7. The Applicant shall ensure that no material is stockpiled within existing wetlands and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology-approved Mitigation Plan.
8. The Applicant shall ensure that no construction debris is deposited within existing wetland and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology approved Mitigation Plan.
9. The Applicant shall not use polyacrylamide on exposed or disturbed soil at the mitigation site(s).
10. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site(s).
11. If seeding is used at the wetland mitigation site, the seed mix must contain native, annual, non-invasive plant species.
12. The Applicant shall place signs at the mitigation area's boundaries, including buffers, every 100 feet to mark the area as a wetland mitigation site.
13. 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.

14. Within 90 days of completing construction and planting of the mitigation site(s), the Applicant shall submit to Ecology (see 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 15 and 16.
15. Within 90 days of completing construction and planting of the Wetland C 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.
16. Within 90 days of the date the Order was issued, the Applicant shall record a conservation easement for the Wetland C Mitigation Site, a copy of this Order, and a site map indicating the location of mitigation site(s) and their buffers. These documents must be recorded with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.

**Monitoring and Maintenance:**

17. The Applicant shall water and maintain all plantings at the mitigation site to meet the mitigation plan's performance standards (Mitigation Plan, Page 20).
18. The Applicant shall monitor the mitigation site for a minimum of ten (10) years, with monitoring occurring on alternating years after Year 3. Additional monitoring of the mitigation area may be required by Ecology if wetland monitoring reveals that performance measures are not being met.
19. The Applicant shall submit to Ecology (see A. 2.) one hard and one electronic copy of monitoring reports documenting mitigation site conditions for years 1, 2, 3, 5, 7, and 10. At a minimum, the reports must contain the information in Attachment D (Information Required for Monitoring Reports). The Applicant shall submit the first monitoring report 12 months after completing the mitigation site construction and planting.
20. The Applicant shall implement the mitigation plan's contingency measures if goals, objectives, and performance standards are not being met.
21. Prior to implementing any unidentified contingency measures, the Applicant shall consult with Ecology.
22. When necessary to meet the performance standards, the Applicant shall replace dead

or dying plants with the same species, or a native plant alternative appropriate for the location, during the first available planting season and note the species, numbers, and approximate locations of all replanted materials in the subsequent monitoring report.

23. The property owner shall grant Ecology access to the mitigation area for inspection during the 10 year monitoring period or until mitigation success has been achieved.
24. For monitoring years five (5) and ten (10) the Applicant shall use the most current Corps of Engineers Wetland Delineation Manual and supplements if applicable to delineate all compensatory wetlands and include delineation information (e.g. data sheets, maps, etc.) in the monitoring reports.
25. If the Applicant has not met all conditions and performance standards for the mitigation site at the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both.
26. Until the Applicant has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Applicant's obligation under Condition D.1 to mitigate for wetland impacts is not met.

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

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 Coordinator  
PO Box 47608  
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology  
Appeals Coordinator  
300 Desmond Dr SE  
Lacey, WA 98503

**3. And send a copy of your appeal to:**

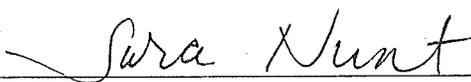
Jeremy Sikes  
Department of Ecology  
Eastern Regional Office  
4601 N Monroe  
Spokane, WA 99205

*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://www1.leg.wa.gov/CodeReviser>*

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

DATED this 22<sup>nd</sup> day of June, 2011, at Spokane, Washington.

  
\_\_\_\_\_  
Sara Hunt  
Section Manager  
Shorelands and Environmental Assistance Program  
Eastern Regional Office

**Attachment C**  
**Wetland Notice for Deed Notification**  
**(See Condition 15.)**

Windsor Site Middle School

Administrative Order # 8605

And

Corps Reference # NWS-2011-227

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

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

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

NOTICE: This property contains wetlands as defined by Chapter 36.70A.030(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 \_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

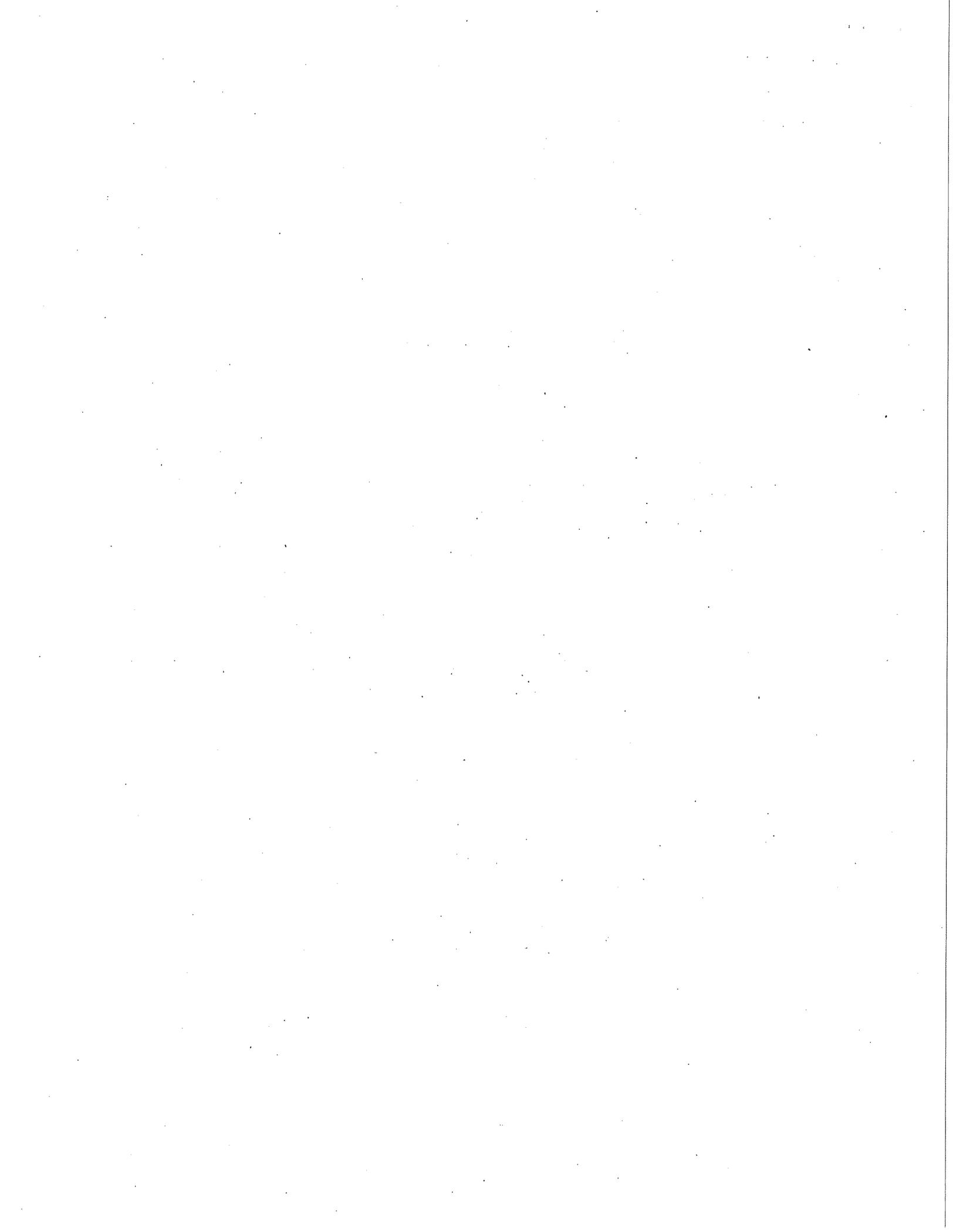
State of Washington)  
County of \_\_\_\_\_)

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 D 19)**

Windsor Site Middle School  
  
Administrative Order # 8605  
And  
Corps Reference # NWS-2011-227

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.