



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

June 15, 2015

BNSF Railway Company
ATTN: Ms. Megan Reagan
2454 Occidental Avenue S, Suite 2-D
Seattle, WA 98134-1451

RE: Water Quality Certification Order No. **11470** for Corps Public Notice No. NWS-2013-1152, Task 6 – Infrastructure Improvements (Martin's Bluff to Longview Junction), and U.S. Coast Guard Public Notice 16591; for work in wetlands, the Coweeman River, and Owl Creek, Kelso, Cowlitz County, Washington

Dear Ms. Reagan:

On November 8, 2013, BNSF Railway Company submitted an initial Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act to construct a new, third main track upon a widened track structure with associated improvements to structures and train signal systems needed to improve the flow of passenger rail service through Kelso, Cowlitz County, Washington.

On behalf of the State of Washington, Ecology certifies that the work described in the original 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 Lori Kingsbury at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Perry J Lund, Unit Manager
Southwest Regional Office
Shorelands and Environmental Assistance Program

Enclosure

By certified mail 7012 2920 0000 1182 2045



cc: Ron Wilcox, U.S. Army Corps of Engineers
Steven Fischer, U.S. Coast Guard
Per Johnson, Shannon & Wilson, Inc.
Ross Widener, Widener and Associates
Steve West, WDFW
Brandon Kingsbury, WA DNR
Chris Regan, WSDOT

e-cc: ECY RE FEDPERMITS
Loree' Randall - HQ, SEA
Lori Kingsbury - SWRO, SEA
Kate Thompson - HQ, SEA
Rebecca Rothwell - SWRO, SEA
Deborah Cornett - SWRO, WQ
Sheila Pendleton-Orme - VFO, WQ

IN THE MATTER OF GRANTING A)	ORDER No. 11470
WATER QUALITY)	
CERTIFICATION TO)	Corps Reference No. NWS-2013-1152
Burlington Northern Santa Fe (BNSF))	To construct Task 6–Infrastructure
Railway Company)	Improvements (Kelso Martins Bluff–Kelso to
ATTN: Ms. Megan Reagan)	Longview Junction) Wetlands, Coweeman
in accordance with 33 U.S.C. 1341)	River, and Owl Creek, Cowlitz County,
(FWPCA § 401), RCW 90.48.120, RCW)	Washington
90.48.260, and Chapter 173-201A WAC)	

TO: Burlington Northern Santa Fe Railway Company
 ATTN: Ms. Megan Reagan
 2454 Occidental Avenue S, Suite 2-D
 Seattle, WA 98134-1451

On November 8, 2013, BNSF Railway Company submitted an initial Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. Revised JARPAs were subsequently submitted on July 21, 2014; May 8, 2015; and, May 29, 2015. A Joint Public Notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 of the Washington Administrative Code (WAC) on September 10, 2014. A Public Notice for the BNSF Bridge over the Coweeman River was issued by the U.S. Coast Guard on May 6, 2015.

The project proposes to construct a new, third main-line track and maintenance road between the passenger station in Kelso to Longview Junction South at the end of the Longview Yard with associated improvements to existing track line, train signal systems, and other structures to improve reliability and enhance efficiency and frequency of high-speed passenger rail service through Kelso, Washington.

Project activities include:

- Modifications to an existing railroad bridge over the Coweeman River at MP 100.1A;
- Construction of a new single-track bridge over the Coweeman River at MP 100.1B;
- Replacement of two culverts under a BNSF access Road at MP 100.29 that currently limit fish passage;
- Replacement of a culvert under the Owl Creek Sand and Gravel Company access road at MP 101.6 that currently limits fish passage;
- Construction of a new overland single-track bridge at MP 101.6;
- Removal of an upland berm at MP 101.05;
- Enhancement of an existing tidal channel within Wetland H to improve tidal exchange;
- Widening of a track structure to the east between MP 102.01 to approximately MP 99.1, and to the west between MP 98.63 and near 97.40;
- Installation of eight new or relocated signals within track structure;
- Installation of a pier protection wall at MP 100.25;
- Relocation of utilities within the ROW of the project corridor; and,

- Construction of a temporary staging area on the north side of the Coweeman River (all other proposed staging locations are pre-existing areas with no improvements).

The project will permanently impact 4.9 acres of Category II and III wetlands and 1.9 acres of Category I wetlands, for a total of 6.8 acres of wetland impacts. Mitigation to compensate for the proposed unavoidable wetland impacts will be accomplished through the purchase of 13.31 wetland bank credits from the Coweeman River Wetland Mitigation Bank (CRWMB). If the applicant has not purchased 13.31 credits at the CRWMB by July 1, 2016, the applicant shall implement permittee-responsible mitigation at the Coweeman bank site.

The Applicant will compensate for habitat impacts through an agreement to acquire properties for enhancement. An agreement will occur through a Letter of Intent and a Memorandum of Agreement between BNSF and the Cowlitz Tribe. The Washington Department of Fish and Wildlife (WDFW) will participate with the Tribe in review and selection of the lands proposed for enhancement.

The project is located within the BNSF right-of-way between MP 97.2 and MP 102.7, near 3001 Talley Way, Kelso, Cowlitz County, Washington 98626; WRIA 26, Cowlitz Watershed.

Section	Township	Range
2, 3, 11, 12, 13, and 24	7 North	2 West
27 and 34	8 North	2 West

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined 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 not violate 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 standards (Chapter 173-200 WAC), or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant 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 Burlington Northern Santa Fe (BNSF) Railway Company and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to Ecology's Southwest Regional Office, Attn: Federal Permit Manager, SEA Program, P.O. Box 47775, Olympia, WA 98504-7775 or lori.kingsbury@ecy.wa.gov. Any submittals shall reference Order No. 11470 and Corps No. NWS-2013-1152.
3. Work authorized by this Order is limited to the work described in the JARPA package received by Ecology on May 29, 2015. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
4. Within 30 days of receipt of an updated JARPA, Ecology will determine whether the revised project requires a new water quality certification and public notice or whether a modification to this Order is required.
5. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue a Section 404 permit.
6. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
7. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
9. The Applicant shall ensure that all 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. The Applicant shall provide Ecology

a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents, and approvals. **These statements shall be provided to Ecology before construction begins at the project site.**

10. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
11. Failure of any persons or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

B. Water Quality Conditions:

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i) and WAC 173-201A-200(1)(g).
 - a. Turbidity criteria for all activities and waterbodies, including wetlands, shall not exceed:
 - 5 NTU over background when the background is 50 NTU or less;
 - A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
 - b. The pH criteria shall be within the range of 6.5 to 8.5, with a human-caused variation within the above range of less than 0.2 units.
2. Water Quality Monitoring: The Applicant shall implement the *Water Quality Monitoring and Protection Plan (WQMPP) Task 6 – Infrastructure Improvements (Kelso Martins Bluff – Kelso to Longview Jct.) Kelso, Washington*, Prepared for BNSF Railway Company, revised June 9, 2015. In addition to the requirements of the plan, the Applicant shall:
 - a. Provide Notification of Exceedances: Notification of exceedances that are detected through water quality monitoring shall be made to Ecology **within 24 hours of occurrence**. Notification shall be made with reference to Order No. 11470 by telephone at (360) 407-6926 or by e-mail at lori.kingsbury@ecy.wa.gov. The Applicant shall provide Ecology with the following information, at a minimum:
 - A description of the nature, extent, and cause of the exceedance.
 - The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the project will return to compliance.
 - The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
 - In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the

exceedance, water quality monitoring results and location, photographs, and any other pertinent information.

- b. Submit Water Quality Reports: Results of the water quality monitoring shall be documented in a report and submitted to Ecology's Federal Permit Manager per Condition A.2 of this Order weekly during in- and over-water work activities
3. Ecology must approve, in writing, changes or additions to the WQMPP identified above in Condition B.2.
4. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

C. Timing Requirements:

1. This Order will expire five (5) years from the date of issuance of the associated Corps Permit unless extended by Ecology for monitoring of the Permittee-Responsible Mitigation.
2. The following in-water work windows shall apply to this project:
 - a. Coweeman River: July 1 - October 31 for calendar years 2015 and 2016;
 - b. Owl Creek and off-channel habitat: July 16 – October 14 for calendar years 2015 and 2016;
 - c. Off-channel habitat tributary to the Coweeman River: July 1 - November 30 for calendar years 2015 and 2016;
 - d. All project-related activities occurring outside/above the wetted perimeter may occur at any time during the life of this Order.

D. Notification Requirements:

1. The Applicant shall provide to Ecology's Federal Permit Manager (per Condition A.2 above) a copy of the final Corps permit within two weeks of receipt of the permit.
2. The Applicant shall provide written notification (FAX, e-mail, or mail) to Ecology's Federal Permit Manager per Condition A.2 above for the following activities:
 - a. At least ten (10) days prior to the onset of in-water work in each construction season;
 - b. Within ten (10) days after completion of in-water work for each project season;
 - c. Immediately following a violation of the state water quality standards or any condition of this Order;
 - d. If project construction is not completed within thirteen (13) months of issuance of this Order, the Applicant shall submit a written construction status report. Status reports shall be submitted every twelve (12) months thereafter until project construction is complete.

NOTE: These notifications shall include the Applicant's name, project name, Order No. 11470, Corps Reference No. 2013-1152, project location, contact name, and contact's phone number.

E. General Construction Conditions:

1. The Applicant shall comply with the conditions of National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit WAR302941 issued for this project.
2. All work in and near waters of the state shall be conducted so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion-control Best Management Practices (BMPs) suitable to prevent exceedances of state water quality standards shall be in place before starting clearing, filling, and grading work and shall be maintained throughout construction.
3. Within the project limits, all environmentally sensitive areas that are to be protected from disturbance shall be fenced with high-visibility construction fence (HVF) prior to commencing construction activities. All project staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries.
4. All clearing limits, travel corridors, stockpile locations, and staging areas shall be clearly marked prior to commencing construction activities and maintained until all work is completed for this project.
5. No petroleum products, fresh concrete, lime, concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
6. All construction debris, silt, excess dirt, or overburden resulting from this project shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
7. Appropriate BMPs shall be implemented to minimize track-out during construction.
8. Clean Fill Criteria: The Applicant shall ensure that fill (soil) placed for the proposed project does not contain toxic materials in toxic amounts.

Equipment & Maintenance

9. The use of equipment below the Ordinary High Water Mark (OHWM) shall be limited to that necessary to gain position for work.
10. All equipment operating within and over state waters shall utilize only vegetable-based biodegradable hydraulic fluid.
11. All construction equipment shall be clean and inspected daily before use to ensure that the equipment is free from external petroleum products and has no fluid leaks.
12. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to its working below the OHWM.

13. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in a confined area in order to prevent contamination to waters of the state. Fueling areas shall be provided with adequate spill containment.
14. Staging areas shall be located a minimum of 50 feet and, where practical, 200 feet from waters of the state (including wetlands), unless otherwise authorized by Ecology.
15. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working area shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.

Culvert /Temporary Diversion Structures/ Dewatering

16. All culvert replacement /installation shall be conducted in the dry or in isolation from surface waters.
17. Temporary cofferdams, sandbag dams to block culverts, floating turbidity curtains, and bypasses used to divert water around the work area shall be in place prior to initiation of work within the wetted perimeter.
18. The temporary diversion/bypass shall be of sufficient size, constructed of non-erosive materials, and installed to divert the entire flow through the bypass or around the isolated work area for the duration of the project.
19. The diversion system shall be designed and operated so as not to cause erosion in the channel or on the bank of the waterbody in which the work is being conducted.
20. Turbid dewatering water (including turbid water generated from cleaning and maintenance activities) shall not be discharged directly into waters of the state. Turbid water shall be pumped to an upland area to allow the turbid water to settle. The discharge from the upland areas shall meet water quality criteria at the point of discharge into surface waters and/or wetlands.
21. Dewatering water that is not turbid may be discharged directly to surface waters and/or wetland provided that: a) waste water containing raw concrete or other harmful material has not been in contact with the water to be discharged; and, b) the water will meet **all of the water quality standards at the point of discharge.**
22. A sandbag revetment or similar device shall be installed at the bypass inlet to divert the entire flow through the bypass.
23. A sandbag revetment or similar device shall be installed at the downstream end of the bypass to prevent backwater from entering the work area.
24. Disturbance of the streambed and banks shall be limited to that necessary to place the culvert and any required channel modification associated with it. Affected streambed and bank areas outside the culvert and associated fill shall be restored to pre-project configuration following installation of the culvert. Within one year of project completion, the banks shall be re-vegetated with native or other approved woody species.

25. Culverts shall be installed to maintain structural integrity to the 100-year peak flow with consideration of the debris likely to be encountered.
26. The culverts shall be installed and maintained to avoid inlet scouring and prevent downstream bank erosion.
27. Prior to returning water flow to the work area, all bank protection measures shall be in place.
28. To minimize sediment releases, re-introduction of water into the isolated work area shall be done gradually, and at a rate not higher than the normal flow, in order to minimize the mobilization of sediments and fines.
29. Upon completion of the project, all material used in the temporary bypass shall be removed from the site and the site returned to pre-project or improved conditions.

Bridge Construction/Concrete Work

30. The Applicant shall have a boat available on site during in- and over-water construction activities to immediately retrieve any debris entering the water.
31. A floating sediment curtain with an oil boom shall be installed around the work area where the cofferdam systems for the bridge will be constructed. The curtain and cofferdams will remain in place until pier construction has been completed, scour protection installed, and final grading work occurs.
32. Pile driving activities will include both impact and vibratory pile driving. During impact pile driving, a dampening device, such as a block of wood at least six inches thick, shall be placed between the piling and the impact pile driver to attenuate noise.
33. Spill protection measures shall be in place prior to any concrete delivery over water.
34. If cast in place, wet concrete/grout shall be prevented from entering waters of the state. All forms for any concrete/grout structure shall be completely sealed off to prevent the possibility of fresh concrete entering waters of the state. Impervious materials shall be placed over any exposed concrete/grout.
35. All concrete shall be completely cured prior to coming into contact with waters of the state.
36. Concrete delivery systems shall be inspected daily to prevent any discharges to surface waters.
37. 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 disposed of properly with no possible entry to waters of the state.

F. Habitat Compensation:

1. The Applicant shall provide compensation for lost habitat functions as outlined in the e-mail from Danniell MacDonald (BNSF) to Lori Kingsbury dated June 8, 2015.

2. The Applicant shall provide a copy of the signed Habitat Compensation Memorandum of Agreement to the Federal Permit Manager per Condition A.2 of this Order prior to the start of project construction.

G. Wetland Compensatory Mitigation Conditions for Bank Use:

1. The Applicant shall mitigate wetland impacts as described in the *Bank Use Plan, Task 6–Infrastructure Improvements (Kelso Martin’s Bluff–Kelso to Longview Junction) Kelso, Washington* (hereafter called the “Bank Use Plan”) prepared by Shannon & Wilson, Inc., dated May 29, 2015, or as revised and approved by Ecology.
2. Prior to impacting wetlands, the Applicant shall submit to Ecology (per condition A.2 of this Order) documentation from the bank sponsor verifying the purchase of 13.31 wetland mitigation bank credits (credits) from the Coweeman Wetland Mitigation Bank. This documentation must include the Order number, Order issuance date, impact acreage, the number of credits required by the Order, and the date of credit purchase.
3. The Applicant shall notify Ecology (per Condition A.2 above) of any changes to the amount of wetland impacts or revision of the Bank Use Plan.
4. If the applicant does not complete the purchase of mitigation bank credits before the impacts to wetlands occur, temporal losses will be assessed at the rate of 0.417% per month for Category III impacts, 0.625% per month for Category II impacts, and 1.25% per month for Category I impacts.
5. If the credits are not purchased by July 1, 2016, the Applicant shall implement the permittee-responsible mitigation plan as described in Section H of this Order, below.

H. Wetland Compensatory Mitigation Conditions for Permittee-Responsible Mitigation:

1. If the Applicant has not purchased the required credits from the Coweeman Wetland Mitigation Bank by July 1, 2016, the Applicant shall immediately notify Ecology and mitigate wetland impacts as described in the *Contingency Plan: Permittee-Responsible Mitigation Task 6–Infrastructure Improvements (Kelso Martins Bluff–Kelso to Longview Jct.) Corps Reference No. NWS-2013-1152 Task 5–Infrastructure Improvements (Kelso Martins Bluff–New Siding) Corps Reference No. NWS-2014-416* (hereafter called the “Mitigation Plan”) prepared by Shannon & Wilson, Inc., and dated June 12, 2015, or as modified by 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) for review and approval before work begins.
3. 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 site.
4. The Applicant shall have a wetland professional at the wetland mitigation site to supervise during construction and planting.

Implementation

5. If the permittee-responsible mitigation site cannot be completed within 13 months of the date of this Order, temporal losses will be assessed at a rate of 0.417 percent per month for Category III impacts, 0.625 percent per month for Category II impacts, and 1.25 percent per month for Category I impacts until the mitigation has been constructed.
6. If the permittee-responsible 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 the
 - a. BNSF Task 6, Infrastructure Improvements, Martin's Bluff to Longview Junction Project; and,
 - b. Coweeman mitigation siteWith the:
 - c. Reason for the delay; and,
 - d. Expected date of completion.

The Applicant shall submit an updated written notification every 12 months thereafter until the BNSF Task 6, Infrastructure Improvements, Martin's Bluff to Longview Junction Project and Coweeman mitigation site are complete.

7. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers and above the 100-year floodplain at the wetland mitigation site.
8. The Applicant shall ensure that no material is stockpiled within existing wetlands or their buffers at the wetland mitigation site at any time, unless provided for in the Ecology-approved Mitigation Plan.
9. The Applicant shall ensure that no construction debris is deposited within existing wetlands or their buffers at the wetland mitigation site at any time, unless provided for in the Ecology-approved Mitigation Plan.
10. The Applicant shall not use polyacrylamide at the mitigation site.
11. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site.
12. Aquatic herbicides can be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category. Applicators are required to be permitted under Ecology's Noxious Weed Control Permit. Applicators shall comply with all conditions of the Noxious Weed Control Permit.
13. 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.
14. If seeding is used as a best management practice for temporary erosion control, it must be a seed mix consisting of native, annual, non-invasive plant species.
 15. Upon completion of site grading and prior to planting, the Applicant shall submit to Ecology written confirmation, from a surveyor or project engineer, that the finished grades are consistent with the approved Mitigation Plan or subsequent Ecology-approved plan changes. The confirmation should indicate how final elevations were determined. The written confirmation can be in the form of an email or signed letter.
 16. After completing construction and planting of the mitigation site, the Applicant shall submit to Ecology (per Condition A.2) an as-built report, including plan sheets, documenting site conditions at Year Zero. The as-built report must:
 - a. Be submitted within 90 days of completing construction and planting. Include one hard copy and one electronic file;
 - b. Include the information listed in Attachment B (Information Required for As-built Reports); and,
 - c. Include documentation of the recorded legal mechanism required in Condition G.17.
 17. If by July 1, 2016, credits are not purchased and the Permittee-Responsible Mitigation Plan is implemented, the Applicant shall submit a draft conservation easement for the Coweeman mitigation site to Ecology for review by October 1, 2016. Upon receiving written Ecology approval of the conservation easement, the Applicant shall record the conservation easement, along with a copy of this Order and a site map indicating the location of mitigation site and its buffers. These documents must be recorded with the Cowlitz County Auditor.

Monitoring and Maintenance

18. The Applicant shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards as described in Appendix C of the Mitigation Plan. If an irrigation system is installed, it shall be removed by the end of year three unless permission is received in writing from Ecology to allow the system to remain for a longer period.
19. The Applicant shall monitor the mitigation site for a minimum of ten years. The Applicant shall use the monitoring methods described in Appendix D of the Mitigation Plan.
20. The Applicant shall submit to Ecology (per Condition A.2) monitoring reports documenting mitigation site conditions for years 1, 2, 3, 5, 7, and 10. The monitoring reports must:

- a. Be submitted by December 31 of each monitoring year. Include one hard copy and one electronic file.
 - b. Include the information listed in Attachment C (Information Required for Monitoring Reports).
21. The Applicant shall implement the Mitigation Plan's contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.
 22. Prior to implementing contingency measures not specified in the Mitigation Plan, the Applicant shall consult with and obtain written approval from Ecology for the changes.
 23. When necessary to meet the performance standards, the Applicant shall replace dead or dying plants with the same species, or an appropriate native plant alternative, during the first available planting season and note species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.
 24. For monitoring years five (5) and ten (10) the Applicant shall use the currently approved federal wetland delineation manual and appropriate regional supplement to delineate all compensatory wetlands and include delineation information (e.g., data sheets, maps, etc.) in the monitoring reports.
 25. At the end of the monitoring period, the Applicant shall use the 2014 Washington State Wetlands Rating System for Western Washington (or updated version) to rate all wetlands (except those that have been preserved) and include the information in the monitoring report.
 26. If the Applicant has not met all conditions, including performance standards for the mitigation site, at the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both.
 27. Until the Applicant has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Applicant's obligation under Condition G.1 and/or Condition H.1 to mitigate for wetland impacts is not met.

I. Emergency/Contingency Measures:

1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project and shall have adequate and appropriate spill response materials on hand to respond to emergency release of petroleum products or any other material into waters of the state.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If any of these occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing the compliance problem.
 - 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, the applicant shall 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 is instructed by Ecology on what to do with them. 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 a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - e. Immediately notify Ecology's 24-Hour Spill Response Team at 1-800-258-5990, and within 24 hours of spills or other events to Ecology's Federal Permit Manager at (360) 407-6926 or (360) 407-6300.
 - f. Submit a detailed written report to Ecology's Federal Permit Manager 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.
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc. shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into waters of the state.
 4. If at any time during work the Applicant finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the Applicant shall immediately notify Ecology using the above phone numbers.

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 Rd SW, Suite 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:

Lori Kingsbury
Department of Ecology
Southwest Regional Office
P.O. Box 47775
Olympia, WA 98504-7775
lori.kingsbury@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 371-08 WAC – Practice and Procedure

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

Chapter 34.05 RCW – Administrative Procedure Act

<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>

Chapter 90.48 RCW – Water Pollution Control

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

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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

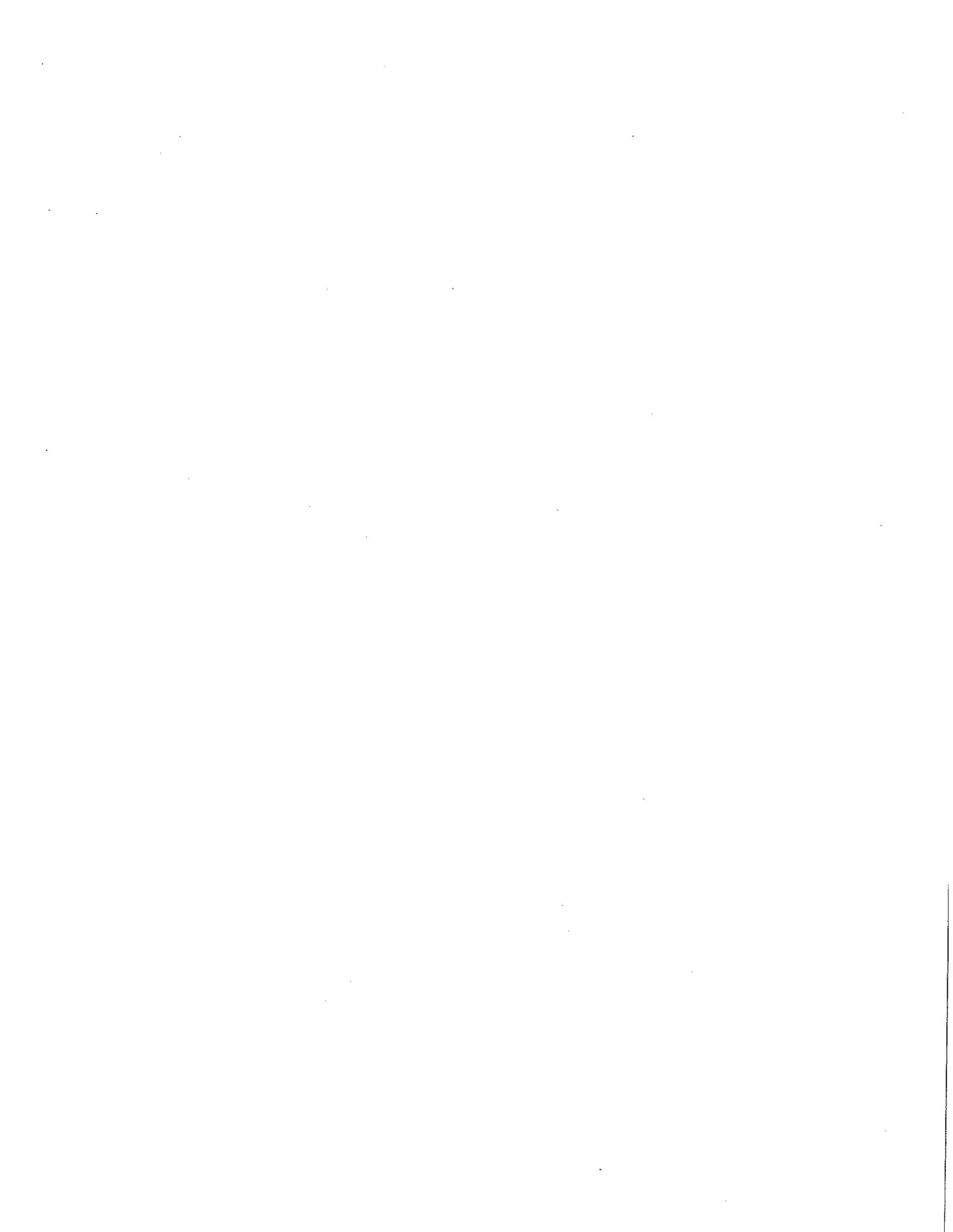
www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE



for
Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office
Department of Ecology

6.15.15
Date



Attachment A
Statement of Understanding
Water Quality Certification Conditions
(See Condition A.9)

BNSF Railway
Task 6 –Infrastructure Improvements,
Kelso, Martin’s Bluff to Longview Junction
Water Quality Certification Order No. 11470
and
Corps Reference No. NWS-2013-1152
and
U.S. Coast Guard No. 16591

I, _____, state that I will be involved as an agent or contractor for BNSF in the site preparation and/or construction of the Task 6–Infrastructure Improvements, Kelso, Martin’s Bluff to Longview Junction, between BNSF Mile Post (MP) 97.2 (north end) to MP 102.7 (south end), City of Kelso, Cowlitz County, Washington. I further state that I have read and understand the relevant conditions of the Washington Department of Ecology Water Quality Certification Order No. 11470 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

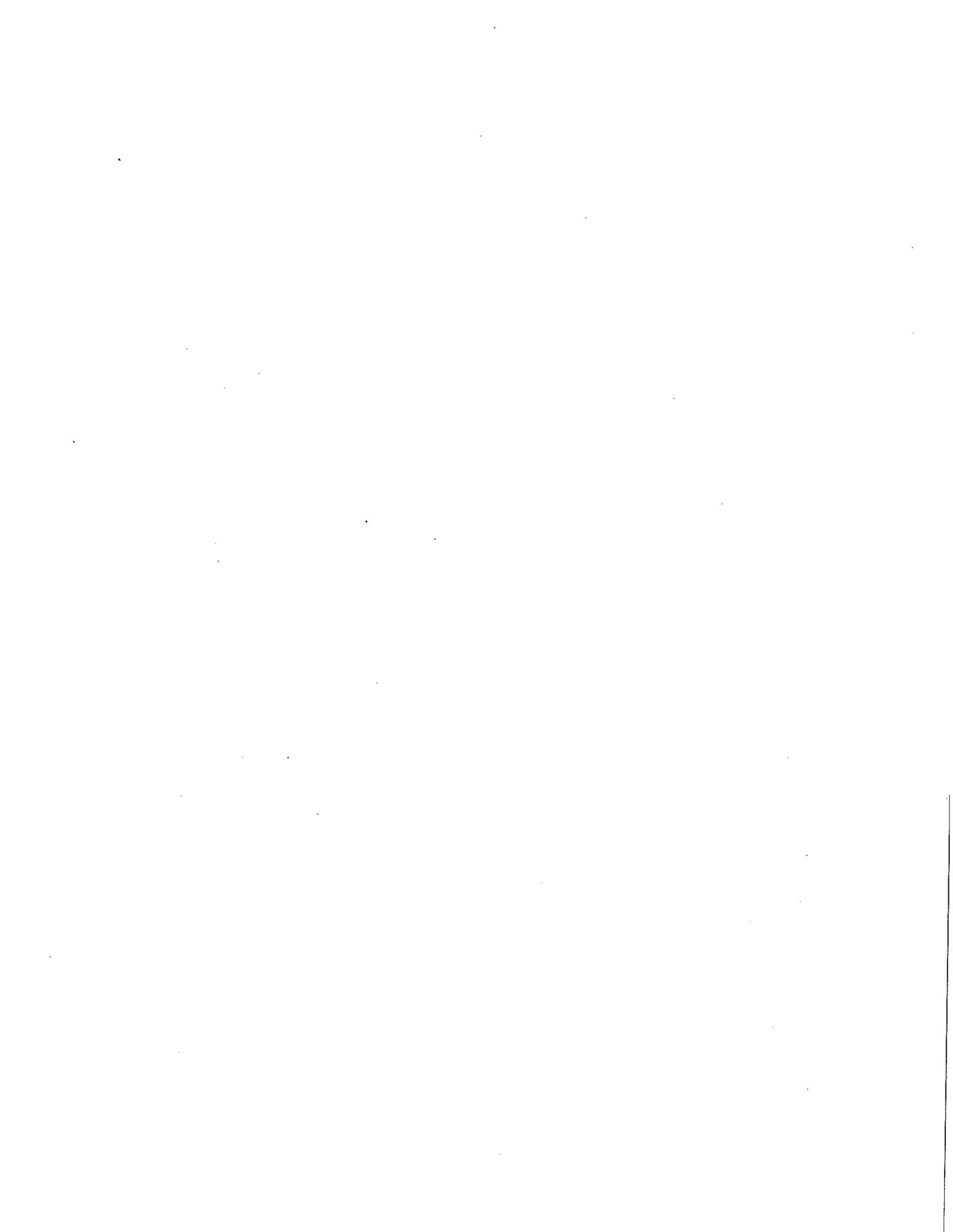
Signature

Date

Title

Phone

Company



Attachment B

Information Required for As-built Reports

BNSF Task 6–Infrastructure Improvements
Kelso, Martins Bluff–Kelso to Longview Junction
Water Quality Certification Order No. 11470
and
Corps Reference No. NWS-2013-1152

Ecology requires the following information for as-built reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

Background Information

- 1) Project name.
- 2) Ecology Order number and the Corps reference number.
- 3) Name and contact information of the person preparing the as-built report. Also, if different from the person preparing the report, include the names of:
 - a) The applicant
 - b) The landowner
 - c) Wetland professional on site during construction of the mitigation site(s).
- 4) Date the report was produced.

Mitigation Project Information

- 5) Brief description of the final mitigation project with any changes from the approved plan made during construction. Include:
 - a) **Actual** acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
 - b) Important dates, including:
 - i. Start of project construction.
 - ii. When work on the mitigation site began and ended.
 - iii. When different activities such as grading, removal of invasive plants, installing plants, and installing habitat features began and ended.
- 6) Description of any problems encountered and solutions implemented (with reasons for changes) during construction of the mitigation site(s).
- 7) List of any follow-up actions needed, with a schedule.
- 8) Vicinity map showing the geographic location of the site(s) with landmarks.
- 9) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
 - a) Boundary of the site(s).
 - b) Topography (with a description of how elevations were determined).
 - c) Installed planting scheme (quantities, densities, sizes, and approximate locations of plants, as well as the source(s) of plant material).
 - d) Location of habitat features.
 - e) Location of permanent photo stations and any other photos taken.

Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions after the site work is completed.

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- 10) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction from which each photo was taken. Photo pans are recommended.
- 11) A copy of any deed notifications, conservation easements, or other approved site protection mechanism.

Attachment C

Information Required for Monitoring Reports

BNSF Task 6–Infrastructure Improvements
Kelso, Martins Bluff–Kelso to Longview Junction
Water Quality Certification Order No. 11470
and
Corps Reference No. NWS-2013-1152

Ecology requires the following information for monitoring reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

Background Information

- 1) Project name.
- 2) Ecology Order number and the Corps reference number.
- 3) Name and contact information of the person preparing the monitoring report. Also, if different from the person preparing the report, include the names of:
 - a) The applicant
 - b) The landowner
 - c) The party responsible for the monitoring activities.
- 4) Dates the monitoring data were collected.
- 5) Date the report was produced.

Mitigation Project Information

- 6) Brief description of the mitigation project, including acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
- 7) Description of the monitoring approach and methods. For each performance standard being measured provide the following information:
 - a) Description of the sampling technique (e.g., monitoring point for soil or hydrology, line or point intercept method, ocular estimates in individually placed plots). If you are using a standardized technique, provide a reference for that method.
 - b) Size and shape of plots or transects.
 - c) Number of sampling locations and how you determined the number of sampling locations to use.
 - d) Percent of the mitigation area being sampled.
 - e) Locations of sampling (provide a map showing the locations), how you determined where to place the sampling locations (e.g., simple random sample), and whether they are permanent or temporary.
 - f) Schedule for sampling (how often and when).
 - g) Description of how the data was evaluated and analyzed.
- 8) Summary table(s) comparing performance standards with monitoring results and whether each standard has been met.

- 9) Discussion of how the monitoring data were used to determine whether the site(s) is meeting performance standards.
 - 10) Goals and objectives and a discussion of whether the project is progressing toward achieving them.
 - 11) Summary, including dates, of management actions implemented at the site(s), for example, maintenance and corrective actions.
 - 12) Summary of any difficulties or significant events that occurred on the site that may affect the success of the project.
 - 13) Specific recommendations for additional maintenance or corrective actions with a timetable.
 - 14) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction the camera is facing. Photo pans are recommended.
 - 15) Vicinity map showing the geographic location of the site(s) with landmarks.
 - 16) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
 - a) Boundary of the site(s).
 - b) Location of permanent photo stations and any other photos taken.
 - c) Data sampling locations, such as points, plots, or transects.
 - d) Approximate locations of any replanted vegetation.
 - e) Changes to site conditions since the last report, such as areas of regrading, a shift in the location of Cowardin classes or habitat features, or a change in water regime.
- Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions during the most recent monitoring year.