STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
TTY 711 or 800-833-6388 (for the speech or hearing impaired)

June 7, 2006

REGISTERED MAIL

Don Morehouse
Department of Transportation
North Central Region
P.O. Box 98
Wenatchee, WA 98807-0098

RE: Water Quality Certification Order #3305 for Corps Public Notice No. 200500782 to widen SR 17 from 2 lanes to 4 lanes from MP 51.93 to MP 55.03 in Grant County, Washington..

Dear Mr. Whitney:

On December 12, 2005, Department of Transportation submitted a 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 for the proposed SR 17 Pioneer Way to Stratford Road transportation project. The project proposes to widen SR 17 from 2 lanes to 4 lanes from MP 51.93 to MP 55.03. Other work includes relocation of a stream and widening the bridge over Parker Horn. The U.S. Army Corps of Engineers issued a public notice, Corps reference # 200500782, on May 31, 2006.

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, Federal Project Coordinator, at 360-407-7298. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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

BM:PK:mw
Enclosure

cc: Rick Pratt, Corps of Engineers
Chris Merker, Department of Ecology ERO
Mike Maher, Department of Ecology ERO

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 # 3305** **Corps Reference No. 200500782** Widen SR 17 from 2 lanes to 4 lanes from MP 51.93 to MP 55.03 including bridge widening over Parker Horn of Moses Lake located in Grant County, Washington.

TO: Don Morehouse
Department of Transportation
North Central Region
P.O. Box 98
Wenatchee, WA 98807-0098

On December 12, 2005, the Washington Department of Transportation (WSDOT) submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. Ecology issued a public notice regarding the request on February 16, 2006 pursuant to the provisions Chapter 173-225 WAC. The U.S. Army Corps of Engineers (Corps) issued a public notice for the above-referenced project on May 31, 2006.

The proposed project entails widening SR 17 from 2 lanes to 4 lanes from MP 51.93 to MP 55.03. The road work also entails widening a bridge that crosses Parker Horn of Moses Lake. An eight to twelve foot median will be constructed throughout the project for safety purposes, and a noise wall will be built on the west side of the highway between Nelson Road and Wheeler road. Stream C runs alongside a section of SR 17 in a ditch, and it will be relocated to a new channel. A new stream crossing culvert will be installed under Broadway Avenue. Seven roadside wetlands will be impacted from the road widening totaling 0.857 acres of impact. WSDOT is providing compensatory mitigation for unavoidable impacts using bank credits from the Moses Lake Wetland Mitigation Bank. The project is located in the City of Moses Lake in Grant County, Washington, Township 19N, Range 28E. Moses Lake is a tributary of Potholes Reservoir/Lower Crab Creek and is in the Water Resource Inventory Area #41, Lower Crab Creek.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, 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 WSDOT, and its agents, assignees and contractors.

2. For purposes of this Order, all submittals and notifications required by its conditions shall be sent to Ecology's Headquarters, Attn: Federal Project Coordinator, P.O. Box 47600, Olympia, WA 98504-7600 or by e-mail to pkel461@ecy.wa.gov Where applicable, verbal notification can be made by phone to the Federal Project Coordinator at 360-407-7298. Any submittals and notifications, written or verbal, shall reference Order No. 3305, Corps No. 200500782, project name, location, and contact name w/phone number.

3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on December 12, 2005. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.

4. Within 30 days of receipt of an updated JARPA, Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.

5. This Order shall be rescinded if the Corps of Engineers does not issue a public notice for an individual Section 404 permit.

6. This Order does not exempt, and is provisional upon, compliance with other statutes and codes administered by federal, state, and local agencies.

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 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.

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. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars ($10,000.00) per violation for each day of continuing noncompliance.

B. Water Quality

1. Parker Horn of Moses Lake is classified as a Lake Class waterbody in this location. The Lake Class water quality standards of 173-201A-030(5) apply, except as specifically modified by this order.

2. Consistent with WAC 173-201A-110, this Order authorizes a short term modification to the turbidity standards for Lake Class waters by granting a temporary mixing zone where turbidity criteria may be exceeded. The short term modification applies only to pile driving and introduction of Stream C into the new channel that discharges to Moses Lake.

   a. The short term modification is granted for the duration of 1 day for introduction of Stream C into the newly constructed channel and from August 1, 2006 to December 31, 2006 for pile driving.
   b. The temporary turbidity mixing zone is granted for a radial distance of 500 feet from the in-water work area for pile driving and at the point where the new constructed, Stream C channel discharges to Moses Lake

Water Quality Monitoring

4. A water quality monitoring plan shall be developed and submitted to Ecology for review and approval 10 days prior to the start of stream introduction or pile driving, whichever comes first.

5. Water quality monitoring shall be conducted twice daily and be spaced at a minimum of four hours apart.

6. A background sample shall be collected prior to taking the compliance sample. These samples are collected for the purpose of measuring turbidity.

7. Monitoring shall be conducted at a minimum of three locations. Sampling at each location shall be conducted at 250 feet and 500 feet.

8. Monitoring results shall be submitted monthly to Ecology's Federal Project Coordinator in accordance with condition A2 above.

C. Wetlands

1. Impacts to aquatic resources shall be mitigated through the use of the Moses Lake Mitigation Bank. Credits to be withdrawn from the bank will be a total of 0.857 credits in accordance with the Moses Lake Wetland Mitigation Bank Instrument.
2. Any changes to the amount of wetland impacts will require notification to Ecology and shall be accurately reflected in the credit withdrawal ledger and submitted in writing to Ecology's Federal Project Coordinator for verification.

D. Construction Conditions

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

2. The Applicant shall submit a copy of the Stormwater Pollution Prevention Plan to the Federal Project Coordinator, in accordance with condition A2 above, at least thirty (30) days prior to beginning construction for review. The SWPPP shall be prepared in accordance with the requirements of the Construction Stormwater General Permit issued for this project.

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

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, 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.

6. Turbid de-watering water associated with in-water work shall not be discharged directly to waters of the state. Turbid de-watering water shall be routed to an upland area for on-site settling or off-site disposal per the Construction Stormwater General Permit for this project

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. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.

8. Concrete process water shall not enter surface waters of the state. All concrete shall be completely cured prior to coming into contact with state surface waters. Any 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.

Equipment Staging & Maintenance

9. Staging areas shall 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 a water of the state, then the Applicant shall provide a written explanation and obtain approval from Ecology's Federal Project Coordinator before placement of the staging area in the set back area.

10. 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.

11. 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.

12. 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.

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

14. 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.

Excavation and Bridge Widening

15. Excavated materials shall not be stockpiled in Parker Horn or waters of the state.

16. During excavation, each pass with the bucket shall be complete.

17. All construction debris resulting from widening the bridge on SR 17 over Parker Horn shall be properly disposed of and incidental debris shall be removed from Parker Horn.

18. If saw-cutting of concrete is needed to widen the bridge, containment methods are required to control and contain all saw-cut water and debris. The saw-cut water shall be disposed of upland with no possibility of entry to Parker Horn or waters of the state.

19. All forms used for concrete shall be completely sealed.

20. When possible, all concrete shall be poured during dry weather and in a dry de-watered site.

21. If this is not possible, the concrete contact water shall not enter waters of the state or the adjacent bank of Parker Horn.

Channel Relocation

22. New channel construction shall occur in isolation from stream flow.

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

24. Spoils from the new channel shall be placed in an approved upland site. This material, if appropriate, may be used to fill the old channel once the diversion has been completed.

25. 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.

Culvert Installation

26. All culvert installation work shall be conducted prior to introducing stream flow in the new channel.

27. Prior to introducing stream flow to the new culvert, all bank protection shall be completed.

28. The new culvert shall be installed and maintained to avoid inlet scouring and to prevent erosion of stream banks downstream of the project.

29. Fill associated with culvert installation shall be protected from erosion to the 100-year peak flow.

E. Timing Requirements

This Order is valid until all requirements in this document have been met.

F. Notification Requirements

Notification shall be made to Ecology's Federal Project Coordinator in accordance with condition A.2 above for the following activities:

a. At least 10 days prior to the pre-construction meeting;
b. At least 10 days prior to the onset of any work on site;
c. At least 10 days prior to starting pile driving;
d. Immediately following a violation of the state water quality standards or any condition of this Order.

G. 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 is out of compliance with the provisions of this Order, or producing conditions that are causing distressed or dying fish, or causing any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters is prohibited. If such work occurs, the Applicant shall comply with WSDOT's Instructional Letter 4055.00 Environmental Compliance Assurance Procedure for Construction projects and Activities (March 10, 2003) and immediately take the following actions:

   a. Cease operations at the location of the violation;
   b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/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 instructions 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 a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed 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 Eastern Regional Spill Response Office at 509-456-2926 of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.

3. If at any time, the Applicant finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the Applicant shall immediately notify Ecology's Eastern Region Regional Spill Response Office at 509-456-2926.

H. Appeal Process:

You have the right to appeal this Order to the Pollution Control Hearings Board. Pursuant to chapter 43.21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology within thirty (30) days of the date of your receipt of this document.

To appeal this Order, your notice of appeal must contain a copy of the Ecology Order you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board
4224 - 6th Avenue SE, Rowe Six, Bldg. 2
P.O. Box 40903
Lacey, Washington 98504-0903

Your appeal must also be served on:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, Washington 98504-7608.

In addition, please send a copy of your appeal to:

Federal Permit Appeals Coordinator
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

For additional information: Environmental Hearings Office Website: http://www.eho.wa.gov

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 June 7, 2006 at Olympia, Washington.

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

Attachment A

Water Quality Certification 3305
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 widening of SR 17 Pioneer to Stratford Road, MP 51.93 to MP 55.03 in Grant County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order #3305** 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

INTEROFFICE MEMO

DATE: JUNE 2, 2006

TO: BRENDEN MCFARLAND

FROM: PENNY KELLEY

RE: 401 CERTIFICATION FOR SR 17 PIONEER WAY TO STATFORD ROAD

Project Description: The proposed project entails widening SR 17 from 2 lanes to 4 lanes from MP 51.93 to MP 55.03. The road work also entails widening a bridge that crosses Parker Horn of Moses Lake. An eight to twelve foot median will be constructed throughout the project for safety purposes, and a noise wall will be built on the west side of the highway between Nelson Road and Wheeler road. Stream C runs alongside a section of SR 17 in a ditch, and it will be relocated to a new channel. A new stream crossing culvert will be installed under Broadway Avenue. Seven roadside wetlands will be impacted from the road widening totaling 0.857 acres of impact. The project is located in the city of Moses Lake in Grant County, Washington. Moses Lake is a tributary of Potholes Reservoir/Lower Crab Creek and is in the Water Resource Inventory Area #41, Lower Crab Creek.

Recommendation: I am recommending that a 401 Certification be issued to WSDOT authorizing the project. I have granted a short term modification to WSDOT giving them a radial mixing zone of 500 feet for pile driving and introduction of the stream into the new stream channel which does discharge to Parker Horn. WSDOT has provided information on why the modification is needed. They have coordinated with WDFW on the design of the new stream channel. WSDOT also addressed the comment letter received by the Bureau of Reclamation and will be coordinating with their engineer regarding water release on the timing of bridge work. The certification contains the following conditions to provide Ecology reasonable assurance that water quality will be met.

- A water quality monitoring plan has to be submitted to Ecology for review and approval
- The project must comply with the most current NPDES permit for construction
- Wetland impacts are being mitigated through the Moses Lake wetland Mitigation Bank
- Conditions are included for concrete work associated with the bridge widening
- Conditions are included in the certification to address equipment that will be used for the work and protect water quality
- Notification is required for the pre-construction meeting and prior to starting pile driving – notification is required immediately if there is a violation.