



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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TTY 711 or 800-833-6388 (for the speech or hearing impaired)

December 22, 2006

REGISTERED MAIL

Allison Ray
Washington State Department of Transportation
I-405 Project Office
600 108th Avenue NE, Suite 405
Bellevue, WA 98004

RE: Water Quality Certification # 3433 and Coastal Zone Management consistency determination for Corp Public Notice No. 200600097 to widen I-405 from I-5 Interchange to the SR 169 interchange, including a portion of SR 167 in King County, Washington.

On January 4, 2006, the Washington State Department of Transportation (WSDOT) 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 I-405, I-5 to SR 169 project. The project proposes widen the roadway, add additional northbound and southbound lanes, improve local roads and freeway structures, construct new stormwater facilities, replace two bridges, extend one culvert, and remove one culvert. The U.S. Army Corps of Engineers issued the project's public notice on June 6, 2006.

On behalf of the State of Washington, Ecology certifies that the work proposed in the JARPA Ecology received on January 4, 2006 and the public notice complies with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and other appropriate requirements of state law. This certification is subject to the conditions contained in the enclosed Order.

On June 12, 2006, WSDOT submitted to Ecology a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with WSDOT's determination that this work is consistent with the approved Washington State CZMP. This concurrence is based upon the applicant's compliance with all applicable enforceable policies of the CZMP, including Section 401 of the federal Water Pollution Control Act.

This letter also serves as a State response to the Corps of Engineers' Public Notice. The enclosed Order may be appealed by following the procedures described in the Order.



If you have any questions, please contact Rebecca Ponzio, the Federal Project Coordinator for this project, at (425) 649-7181 or rpon461@ecy.wa.gov

Sincerely,



for Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program

BM:rp
Enclosure

cc: Katie Chamberlin, Department of Transportation
Christina Martinez, Department of Transportation
John Maas, Department of Transportation
Don Ponder, Department of Fish & Wildlife
Jim Fraser, Department of Fish & Wildlife
Rebecca McAndrew, Corps of Engineers

e-cc: Penny Keys, Ecology
Loree' Randall, Ecology

IN THE MATTER OF GRANTING A)	ORDER # 3433
WATER QUALITY)	Corps Reference No. 200600097
CERTIFICATION TO)	Expand I-405 between I-5 and SR-169, add
Washington State Department of)	additional northbound and southbound lanes,
Transportation)	improve local roads, and freeway structures,
in accordance with 33 U.S.C. 1341)	construct new stormwater facilities, replace two
(FWPCA § 401), RCW 90.48.120, RCW)	bridges, extend one culvert, and remove one
90.48.260 and Chapter 173-201A WAC)	culvert in the Green River, and Cedar River
)	watersheds in King County, Washington.

TO: Attn: Allison Ray
Washington State Department of Transportation
Urban Corridors Program
600 108th Avenue NE, Suite 405
Bellevue, WA 98004

On January 4, 2006 the Washington State Department of Transportation submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A 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 Chapter 173-225 WAC on June 7, 2006.

The proposed project is located on Interstate (I) 405 between I-5 and State Route (SR) 169 in the Cities of Renton and Tukwila in King County, Washington. The project is in Sections 23, 24; Township 23 N; Range 4 E and Sections 17, 19, 20, 30, and 31; Township 23 N; Range 5E. The project proposes to widen 3.7 miles of I-405 between I-5 and SR 169 and widen 1.6 miles of SR 167 between I-405 and Southwest 41st Street. This widening includes adding a general purpose lane and a merging lane on both the northbound and southbound lanes of I-405 and adding a high occupancy vehicle lane and a merging lane on the southbound portion of SR 167. In addition, two parallel bridges will be demolished and replaced to span Springbrook Creek, a box culvert will be removed from Springbrook Creek, and a culvert will be extended in Panther creek, noise walls will be constructed, and utility protection work will be done. Reconfiguration of the stormwater drainage system is also part of the proposed work and includes installing drainage ditches and pipes, ecology embankments, a stormwater treatment wetland, detention facilities, and flow control structures, and reconfiguring the stormwater drainage system. The project will permanently directly impact 1.62 acres of wetlands and 3.64 acres of wetland buffer; and 0.07 acres of stream and 1.51 acres of stream buffer; and permanently indirectly impact 0.27 acres of stream.

The proposed project is located in Water Resource Inventory Area (WRIA) 8 and 9 (Cedar/Sammamish and Duwamish/Green, respectively) in the Green River Watershed and the Cedar River Watershed. Work is located within or adjacent to tributaries to the Green River including Cottage Creek, Gilliam Creek, and un-named tributary to Gilliam Creek, Springbrook Creek, the East and West Fork of Panther Creek, Rolling Hills Creek, an un-named tributary to Rolling Hills Creek, and Thunder Hills Creek. Work is also located within or adjacent to the Cedar River in the northern section of the project. Stream impacts will be mitigated by removing a box culvert, restoring the

stream bed, and spanning a bridge instead of the existing parallel bridges within the main channel of Springbrook Creek. Compensatory mitigation for wetland impacts associated with the roadway project will occur at the Springbrook Wetland Mitigation Bank with a total of 1.353 wetland mitigation credits debited from the bank.

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 quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve Washington State Department of Transportation 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 the Washington State Department of Transportation and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required as conditions shall be sent to Ecology's Northwest Regional Office, Attn: Federal Project Coordinator – MAP Team, 3190 160th Avenue SE, Bellevue, WA 98008 or via e-mail (preferred) if possible to the Coordinator

assigned to this project. Notifications shall be made via phone and /or e-mail (preferred). All submittals and notifications shall be identified with Order No. 3433 and include the Applicant's name, project name, project location, the project contact and the contact's phone number.

3. Work authorized by this Order is limited to the work described in the JARPA Ecology received on January 4, 2006. 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 U.S. Army Corps of Engineers does not issue a 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 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 workers 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 per day for each day of continuing noncompliance.

B. Notification Requirements

1. Notification shall be made to Ecology's Federal Project Coordinator – MAP Team at 425-649-7181, Fax 425-640-7098, mail 3190- 160th Avenue SE, Bellevue, WA 98008-5452, or email at rpon461@ecy.wa.gov 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 initiating work on the project site;
 - c. At least 10 days prior to initial in-water activities;
 - d. At least 5 days prior to dewatering of Springbrook Creek;
 - e. At least 10 days prior to removal of the box culvert in Springbrook Creek;
 - f. Immediately following a violation of state water quality standards or conditions of this Order.

NOTE: These notifications shall include the applicant's name, project name, project location, the number of this Order, contact name, and contact's phone number.

C. Water Quality

1. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173.201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology.
2. Springbrook Creek, Cottage Creek, Gilliam Creek, and un-named tributary to Gilliam Creek, Panther Creek, Rolling Hills Creek, an un-named tributary to Rolling Hills Creek, and Thunder Creek are classified as a Class A waters of the state. The Cedar River is classified as a Class A water of the state within this project. The Class A water quality standards of 173-201A-030(2) apply.
3. Springbrook Creek has been identified on the current 303(d) list as exceeding state water quality standards for dissolved oxygen and fecal coliform, sediment bioassay, chromium, mercury, temperature, zinc, copper, and cadmium. This proposed project shall not result in further exceedances of water quality standards. The Cedar River has been identified on the current 303(d) list as exceeding state water quality standards for fecal coliform.

Monitoring

4. The Applicant shall submit a Water Quality Monitoring Plan (Plan) for review and approval to the Federal Project Coordinator at least twenty (20) days prior to beginning in-water work. All in-water work activities are not authorized to be conducted until approval of the Plan is received. This Plan shall include the following information:
 - a. Name(s) and phone number(s) of person(s) responsible for monitoring;
 - b. Map with numbered or named sampling locations associated with the in-water activities for each stream. Include the background and the point of compliance per the requirements in WAC 173-201A-110(3a-d);
 - c. Parameters to be monitored: turbidity and pH;
 - d. A description of the Best Management Practices (BMPs) that will be used on the project to protect water quality, including a description of procedures for concrete work and bridge removal activities;
 - e. Construction activities that will be monitored, including turbidity for in-water work and pH during concrete pouring over, in, and adjacent to water;
 - f. Sample frequency for each activity to be monitored;
 - g. Final De-Watering and Diversion Plan; and
 - h. Example of monthly summary report.
5. Any changes to the Plan must be approved in writing by Ecology.
6. Monitoring results shall be submitted monthly to the Federal Project Coordinator per A.2. All monitoring results shall also be kept onsite and submitted to Ecology upon request.
7. If monitoring results show that water quality standards are not being met, the Applicant shall modify or stop the activity causing the problem and commence hourly monitoring until standards are met for two (2) consecutive sample periods.
8. Mitigation and/or additional monitoring may be required if water quality standards are not met.

D. Construction Conditions

1. The Applicant shall comply with and implement the conditions of the National Pollutant Discharge Elimination System Waste Discharge Permit (NPDES Permit) Ecology issued for this project.
2. In-water work shall be subject to timing limitations imposed by Washington State Department of Fish and Wildlife (WDFW) in the most current HPA for the project.
3. All environmentally sensitive areas, mitigation areas, and wetland buffers, shall be fenced with high visibility construction fence prior to construction activities, including clearing. Clearing limits, travel corridors and stockpile sites shall be clearly marked. All project

staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.

4. If any wetlands, wetland buffers, streams, or stream buffers are temporarily impacted by the project, these areas shall be protected from erosion. These areas shall be replanted with native vegetation within the first appropriate planting season after construction is completed.
5. Work in or near waters of the state shall be done in a manner that minimizes turbidity, erosion, and other water quality impacts.
6. No petroleum products, fresh concrete, lime, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
7. Equipment used for any in-water work shall be free of external petroleum-based products, and this equipment shall be checked daily for leaks while working around water of the state. Any necessary repairs shall be completed prior to commencing work activities.
8. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
9. No contaminated soil or hazardous material shall be allowed to enter waters of the state. 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 Northwest Regional Spill Response Office at 425-649-7000.

Bridge Removal and Replacement

10. All construction debris resulting from the removal of the parallel bridges across Springbrook Creek along I-405 shall be properly disposed of to prohibit its entrance into waters of the state. All incidental debris shall be removed from Springbrook Creek.
11. Pier or pile removal shall be done in a manner as to not cause water quality impacts. Removed material shall be moved immediately from the stream onto an upland area. Materials shall not be shaken, hosed-off, left hanging to drip, nor shall any other actions be taken that is intended to clean or remove adhering material while in or over the water.
12. If bridge removal activities involve saw cutting of concrete, containment methods are required to control and contain all affected water and debris. The water shall be disposed of upland with no possibility of entry to Indian Slough or Higgins Slough or other waters of the state. All debris shall be properly disposed of to prohibit its entrance into waters of the state.

13. Adequate containment shall be used for any mechanical equipment on a structure over water, such as temporary work bridge or platform, in order to prevent any spills and/or discharges of contaminants to waters of the state.
14. Measures shall be used to minimize disturbance of vegetation when removing and constructing the bridge, including construction of any temporary work platforms.
15. All disturbed areas resulting from bridge removal and construction of the new bridge shall be adequately stabilized within seven (7) days after bridge work is completed so as to prevent erosion or sediment debris from entering waters of the state, including wetlands.

Culvert Work

16. Concrete process water shall not enter surface waters of the state. All concrete shall be completely cured prior to coming into contact with surface waters. Any contact water discharged from the 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.
17. All culvert work shall be conducted in the dry or in isolation from stream flow. The stream diversion system shall be designed and operated so as to not cause erosion or scour in the stream channel or on the banks of the waterbody in which work is being conducted.
18. Prior to returning stream flow to the de-watered work area, all bank protection and/or armoring shall be completed.
19. Temporary sediment traps shall be cleaned out and the settled sediments removed from stream channel before removing any stream diversion system and returning the flow of the stream to its natural channel. Settled sediments shall not be allowed to enter waters of the state, including wetlands, due to water or runoff flows that may occur during or after construction is completed.
20. Reintroduction of waters to the channel shall be done gradually and at a rate not higher than normal stream flow in order to minimize the mobilization of sediments and fines into downstream waters.
21. Upon completion of the project, all materials used in the temporary bypass, or other method of work area isolation, shall be removed from the stream and stream buffer. The work area shall then be restored per the Conceptual Stream Mitigation Plan, prepared by Washington State Department of Transportation, dated November 2006.
22. Culverts shall be installed and maintained to avoid stream scouring and to prevent erosion of stream banks within and downstream of the project.

E. Wetland and Stream Mitigation and Monitoring

1. Impacts to wetlands shall be mitigated as described in the August 30, 2006 "I-405, I-5 to SR 169 Project Wetland Mitigation Memorandum," prepared by Allison Ray.
2. Impacts to stream shall be mitigated as described in the Conceptual Stream Mitigation Plan, prepared by Washington State Department of Transportation, dated November 2006.
3. Per Ecology letter dated November 9, 2006 from Gretchen Lux (Ecology) to Bill Leonard (WSDOT) and US Army Corps of Engineers letter dated November 9, 2006 from Frances Coffey (US Army Corps) to Bill Leonard (WSDOT), 4.5 credits from the Springbrook Mitigation Bank have been approved for release.
4. In the event that the Applicant determines it needs to change the stream mitigation, then a stream mitigation plan reflecting the changes shall be submitted to Ecology for review and approval. The Applicant shall notify Ecology of its intent to change the stream mitigation and shall identify the changes prior to impacting streams associated with the construction of the project.
5. Any changes to the approved wetland mitigation memo and/or the Conceptual Stream Mitigation Plan, beyond minor modifications, shall be submitted in writing to Ecology's Federal Project Coordinator, attn: Rebecca Ponzio per Condition A.2 for approval.
6. According to the Memorandum dated August 30, 2006 cited above in condition E.1, 1.353 wetland mitigation credits shall be debited from the Springbrook Wetland Mitigation Bank.
7. Prior to impacts to wetlands, including buffers, associated with the construction of the project, the Applicant shall submit a copy of the official ledger indicating that 1.353 wetland mitigation credits have been debited for the wetland mitigation of this project. If the Applicant cannot provide evidence that the ledger has been completed, the Applicant shall contact Ecology for approval of an alternative wetland mitigation proposal prior to impacting any wetlands, including buffers, associated with the project.

F. Timing

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

G. Emergency/Contingency Measures

1. The Applicant shall develop a spill prevention and containment plan for all aspects of this project.
2. The Applicant shall have adequate and appropriate spill response materials on hand to respond to an emergency release of petroleum products or any other material into waters of the state.

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. 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, 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 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 be proper disposal of any spilled material and used cleanup materials.
 - d. Notify Ecology of the failure to comply. 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 Manager – MAP Team at (425) 649-7181.
 - e. 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.

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 December 22, 2006 at Olympia, Washington.

Barbara J. Hetchie
for _____
Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington

Attachment A:
Water Quality Certification Order # 3433
Statement of Understanding

I, _____, state that I will be involved as an agent or contractor for Washington State Department of Transportation in constructing roadway improvements to I-405, I-5 to SR 169 project, MP 0.19 to MP 3.85 along I-405 and MP 24.67 to MP 26.23 along SR 167 in King County, Washington.

The Washington State Department of Transportation (WSDOT) is proposing to widen the roadway, add additional northbound and southbound lanes, improve local roads and freeway structures, construct new stormwater facilities, replace two bridges, extend one culvert, and remove one culvert. The project will permanently impact 1.62 acres of wetland and 3.64 acres of wetland buffer, and permanently impact 0.08 acres of stream and 0.83 acres of stream buffer, as well as permanently indirectly impact 0.27 acres of stream.

I further state that I have read and understand the relevant conditions of Washington State Department of Ecology Water Quality Certification Order # 3433 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