



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
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July 28, 2006

REGISTERED MAIL

Jeff Sawyer, Environmental & Hydraulic Manager
Department of Transportation
Olympic Region
P.O. Box 47417
Olympia, WA 98504-7417

RE: Water Quality Certification Order #3417 for Corps Nationwide 27, #200600839 to restore the natural habitat on the Spring Valley site by constructing a new stream channel for the West Branch of Hylebos Creek, removing on site structures and re-establishing, rehabilitating and enhancing on site wetlands, uplands, and riparian areas. The Spring Valley site is located in the City of Federal Way, King County, Washington

Dear Mr. Sawyer:

On May 31, 2006, 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 Spring Valley Restoration project. The project proposes to restore the natural habitat on the Spring Valley Site by constructing a new stream channel for the West Branch of Hylebos Creek, removing on site structures and re-establishing, rehabilitating and enhancing on site wetlands, uplands, and riparian areas. The U.S. Army Corps of Engineers issued a NWP 27, Corps # 200600839 on July 19, 2006 for the proposed project.

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.

On June 26, 2006, Washington Department of Transportation 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.

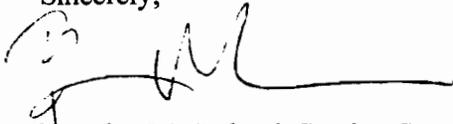


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This concurrence is based upon the applicant's compliance with all applicable enforceable policies of the CZMP, including Section 401 of the federal Water Pollution Control Act.

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 Supervisor
Shorelands and Environmental Assistance Program
Department of Ecology

BM:pk
Enclosure

cc: Karen Rogers, Department of Ecology
Bob Penhale, Water Quality Northwest Region
Sandi Manning, Corps of Engineers
Travis Nelson, Department of Fish & Wildlife
Cynthia Stonick, Department of Transportation
Kim Mueller, Department of Transportation

**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 # 3417**
) **Corps Reference No. 200600839**
) Restore the natural habitat on the Spring Valley
) site by constructing a new stream channel for the
) West Branch of Hylebos Creek, removing on-
) site structures and re-establishing, rehabilitating
) and enhancing on-site wetlands, uplands, and
) riparian areas. The Spring Valley site is located
) in the City of Federal Way, King County,
) Washington

TO: Jeff Sawyer
Department of Transportation
Olympic Region
P.O. Box 47417
Olympia, WA 98504-7417

On May 31, 2006, Washington State 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. A public notice regarding the request was distributed by Department of Ecology for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on June 14, 2006. The U.S. Army Corps of Engineers issued a NWP 27, Corps reference #200600839 on July 19, 2006.

The proposed restoration project is being conducted as advanced mitigation for wetland and stream impacts from future transportation projects in the Lower Puyallup River watershed including the Hylebos Creek Basin. The restoration work will be constructed in three phases. Phase I entails removing sand and gravel from the West Branch of the Hylebos Creek. The areas where sand and gravel will be removed are on either side of, and adjacent to, 373rd street and encompass approximately 800 linear feet. The existing stream flow will be diverted during gravel removal. The Phase I action will alleviate current flooding conditions on the Spring Valley Site. Phase II entails planting a portion of the site that is upland during the fall season. Phase III consists of removing on-site structures including concrete foot bridges and a tennis court, clearing and grading in selected locations for wetland re-establishment and rehabilitation, relocating, and restoring approximately 1400 linear feet of degraded stream channel, installing large woody debris in the creek channel, and construction of a 35 foot wide bottomless culvert on 373rd where the relocated channel will cross under the road. The remaining planting activities for upland riparian enhancement, buffer enhancement and wetland enhancement, re-establishment and rehabilitation will be conducted during phase III at the appropriate time of year. The project is located in the City of Federal Way in King County, Washington at Section 32, Township 21N, Range 04E in WRIA 10- Puyallup/White River Watershed.

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:

For purposes of this Order, the term "Applicant" shall mean WSDOT, and its agents, assignees and contractors.

1. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Headquarters, Attn: Federal Project Coordinator, P.O. Box 47600, Olympia, WA 98504-7600. Any submittals shall reference Order No. 3417 and Corps No. 200600839.
2. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on May 31, 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.

3. 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.
4. This Order shall be rescinded if the Corps of Engineers does not issue a Section 404 permit.
5. This Order does not exempt, and is provisional upon, compliance with other statutes and codes administered by federal, state, and local agencies.
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.
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. 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. The West Branch of Hylebos Creek is classified as a Class A waterbody in this location. The Class A water quality standards of 173-201A-030(2) 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 Class A waters by granting a temporary mixing zone where turbidity criteria may be exceeded. The short term modification applies only to introduction of the West Branch of Hylebos Creek into the new stream channel.
 - a. The short term modification is granted for the duration of 2 days for introduction of the West Branch of Hylebos Creek into the new stream channel during the fish window granted in the most current Hydraulic Project Approval issued by WDFW.
 - b. The temporary turbidity mixing zone is granted for a distance of 600 feet downstream at the point where the stream enters the new channel.
3. Introduction of the stream into the new channel shall be done gradually, in stages, to minimize impacts from turbidity.

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 into the new channel.
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 two locations. Sampling at each location shall be conducted at 300 feet and at 600 feet.
8. Monitoring results shall be submitted monthly to Ecology Federal Project Coordinator in accordance with condition A2 above.

C. Wetlands

1. The restoration project shall be constructed as described in *Spring Valley Restoration Project Mitigation Report* dated June 2, 2006.
2. Copies of the as-built report and drawings shall be submitted to the Federal Project Coordinator in accordance with condition A.1.

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 A.1 above, at least thirty (30) days prior to the 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. All construction debris and other solid waste material shall be properly managed and disposed of in an approved upland disposal site.
5. Turbid de-watering water associated with in-water work shall not be discharged directly to waters of the state including wetlands. Turbid de-watering water shall be routed to an upland area for on-site or off-site settling.
6. Clean de-watering water associated with in-water work that has been tested and confirmed to meet water quality standards may be discharged directly waters of the state including wetlands. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.

Equipment Staging & Maintenance

7. Staging areas shall be located a minimum of 50 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 setback area.
8. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the stage, 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.
9. 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.

10. 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.
11. No cleaning solvents or chemicals used for tool or equipment cleaning may be discharged to the ground or to waters of the state.
12. 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.

Demolition of on-site structures

13. If saw-cutting of concrete is needed for demolition of on-site structures, 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 waters of the state, including wetlands.
14. All demolition debris shall be properly managed and disposed of so as to prevent any discharge of this material into waters of the state, including wetlands.

Culvert Construction

15. Pouring of concrete associated with culvert and road widening for 373rd street shall be conducted during dry weather and in a dry de-watered site if possible. If this is not possible, the concrete contact water shall not enter waters of the state, including wetlands. 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.
16. All forms used for concrete shall be completely sealed and all concrete shall be completely cured prior to coming into contact with state surface waters.

Stream Diversion for Gravel Removal

17. The in-stream work area where material will be removed from the channel shall be isolated from the West Branch of Hylebos Creek.
18. Material removed from the channel that will be used for construction of the new stream channel can be stockpiled on site. Any excess material not being used for construction of the new channel shall be removed per condition E.4.
19. Re-introduction of the creek shall be done in stages to minimize turbidity.

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:

1. At least 10 days prior to the pre-construction meeting for Phase III construction activities
2. At least 2 days prior to the onset of any work on site
3. At least 10 days prior to starting the stream introduction into the new channel
4. 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 Northwest Regional Spill Response Office at 425-649-7000 of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.
 - f. Immediately notify the National Response Center at 1-800-424-8802 for spills to water.
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 NWRO Region Regional Spill Response Office at 425-649-7000.

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:

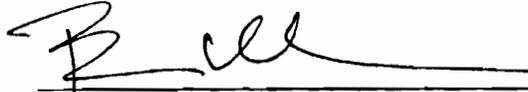
Federal Permit Appeals Coordinator
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

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

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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 July 28, 2006 at Olympia, Washington.



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

Attachment A

Water Quality Certification #3417 Statement of Understanding

I, _____, state that, I will be involved as a WSDOT employee or an agent or contractor for Washington State Department of Transportation in the Spring Valley Restoration project in the City of Federal Way, King County, WA. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order #3417** 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