



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

February 14, 2008

REGISTERED MAIL

RB 670 357 538 US

Lake Stevens Sewer District
Attn: Darwin Smith, Manager
1106 Vernon Road, Suite A
Lake Stevens, WA 98258

RE: Water Quality Certification Order #5335 and Coastal Zone Management
Consistency Determination for U.S. Army Corps of Engineers Reference
#200600443, Sunnyside Wastewater Treatment Facility, Wetlands and Ebey
Slough, Snohomish County, Washington

Dear Mr. Smith:

On April 14, 2006, Lake Stevens Sewer District submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act (CWA) for the proposed Sunnyside Wastewater Treatment Facility Replacement project. A request to withdraw and re-apply for a 401 Certification was submitted on March 30, 2007. The Corps issued a joint public notice for a Section 404 and Section 10 Permit on April 23, 2007, for the proposed project.

The project includes construction of a sewage treatment plant and associated facilities to replace the existing Wastewater Treatment Facility.

On behalf of the State of Washington, through the enclosed Order, Ecology certifies that the work described in the April 14, 2006 JARPA, the updated project description (Memorandum from Jim Dougherty to Paul Anderson, RE: Responses to Your Letter Dated December 11, 2007 regarding the Project Description and Other Information Needed to Complete 401 Water Quality Certification for the Lake Stevens Sewer District's Sunnyside WWTF Project, Reference #200600443 [JARPA Addendum], dated December 13, 2007, received December 19, 2007), and the April 23, 2007 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 April 24, 2007, Lake Stevens Sewer District submitted a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). On October 19, 2007, Ecology and Lake Stevens Sewer District jointly requested a CZM extension from the Corps. Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with Lake Stevens Sewer District's determination that the proposed work is consistent with Washington's CZMP. This concurrence is based upon Lake Stevens Sewer District's compliance with all applicable enforceable policies of the CZMP, including Section 401 of the CWA.

If you have any questions, please contact Rebekah Padgett at (425) 649-7129 or email at rp461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Geoff Tallent
Northwest Regional Office
Shorelands and Environmental Assistance Program

GT:rrp
Enclosure

cc: Jonathan Smith, U.S. Army Corps of Engineers
Matt Bennett, U.S. Army Corps of Engineers
Jamie Bails, Washington Department of Fish and Wildlife
Brenda Werden, WA Department of Natural Resources
Karen Myers, U.S. Fish and Wildlife Service
Brett Farman, NOAA Fisheries
Claude Williams, Puget Sound Clean Air Agency
Ed Caine, Snohomish County Dept of Planning and Development Services
Roxanne Justice, City of Lake Stevens
Michael Jauhola, Gray & Osborne, Inc.
Jim Dougherty, Gray & Osborne, Inc.
Briana Pavey, Shockey Brent, Inc.
May Mar Aung Ko
Byron Parsons
Cloreta & Ronald Rodriquez
Dean Knight
Bruce & Jessica Brill
Malcolm McNaughton & Coreen McEney
Velda Myers

cc (cont.):

Murna Huber
Douglas Hageman
Richard & Jill Snow
Timothy Yates
Robert Hansen
Murna Willott
Mark & Christine Hinricksen
Andrew & Mary Stole
Solveig Vinje
Mary Petrelli
Terry Ion
Bernie & Glenn Grinnell
Esther McKay
Jerold Wynne
Rex Ryan
Scott Packebush
Brian & Luanne White
Gabriel Rohweder
Kevin & Rhonda Blair
David Anderson
Owner or Resident, 818 72nd Dr SE, Everett, WA 98205
Scott & Jodi Rennie
Dan and Janet Peterson
Jeffrey Towne
Janice Drayton
Jacqueline Haase
Thomas Bosserman
Virgil & Anna Vincent
John Stewart & Kim Henderson
Lance Carleton
State Department of Game
Ried & Mary Carleton
Brian Huber
Owner or Resident, 925 Sunnyside Blvd SE, Everett, WA 98205
Owner or Resident, 1029 Sunnyside Blvd SE, Everett, WA 98205
Lake Stevens Sewer District
Owner or Resident, 630 Sunnyside Blvd SE, Everett, WA 98205
Owner or Resident, 1125 Sunnyside Blvd SE, Everett, WA 98205
William Cunningham
Owner or Resident, 1000 Sunnyside Blvd SE, Everett, WA 98205
Sharon TTEE Holtz
William Carleton
James Thrash
Robert Lundvall

cc (cont.):

Ralph & June Leber
Delores Kaiser
ROF Developments
Jim Leesy Hanson or Current Owner
Cowden
Gogal
Florence & Arnold Johnson
Skip & Neva Alf
Jeanne Sparks
Tim Kaintz
Owner or Resident, 11807 7th Ave NE, Lake Stevens, WA 98258
Cressell
Allen & Mary Swenson

e-cc: Paul Anderson – NWRO
David Pater – NWRO
Laura Fricke – NWRO
Donna Podger – HQ
Christina Merten – NWRO
Chuck Steele – NWRO
Raman Iyer – NWRO

IN THE MATTER OF GRANTING A) ORDER #5335
WATER QUALITY) Corps Reference No. 200600443
CERTIFICATION TO) Sunnyside Wastewater Treatment Facility;
Lake Stevens Sewer District) Wetlands and Ebey Slough, Everett, Snohomish
in accordance with 33 U.S.C. 1341) County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

TO: Lake Stevens Sewer District
Attn: Darwin Smith, Manager
1106 Vernon Road, Suite A
Lake Stevens, WA 98258

On April 14, 2006, Lake Stevens Sewer District submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification. A request to withdraw and re-apply for a 401 Certification was submitted on March 30, 2007. 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 WAC on April 23, 2007. An updated project description (Memorandum from Jim Dougherty to Paul Anderson, RE: Responses to Your Letter Dated December 11, 2007 regarding the Project Description and Other Information Needed to Complete 401 Water Quality Certification for the Lake Stevens Sewer District's Sunnyside WWTF Project, Reference #200600443, dated December 13, 2007) was received on December 19, 2007.

Construction of the Sunnyside Wastewater Treatment Facility (WWTF) includes the following components:

- Sunnyside Membrane Bioreactor WWTF: Construction of a new WWTF includes clearing and grading the site. Fill 1.3 acres (1 acre in Wetland 1 and 0.3 acre in Wetland 2).
- Sunnyside Lift Station: Construct a new lift station. Fill approximately 0.04 acres (Wetland 4).
- Existing WWTF Site: Once the new WWTF is on line, sewage from the area north of the existing WWTF will be pumped to the Sunnyside WWTF via the Sunnyside Lift Station and Southwest Interceptor for treatment and disposal through a new outfall to Ebey Slough. The existing WWTF components will be demolished and removed, and the site restored, under separate permitting starting in approximately 2014.
- Southwest Interceptor Pipeline: The 24-inch Southwest Interceptor has already been installed (permitted under Corps Reference #200500921). Once the new WWTF is in

operation, flow will be reversed and the Southwest Interceptor will carry flow to the new WWTF. No new wetland impacts.

- Sunnyside Sewer Alignment: Two 12-inch pipes will be installed to convey flows from the existing pipeline near the edge of Sunnyside Boulevard over the existing Wieser Creek Culvert. Once across the culvert, the two pipes will be combined into one 21-inch pipe that will extend to the Sunnyside Lift Station and then on to the existing WWTF until the new WWTF is in operation. No in-water work.
- Vernon Road Diversion: A new 36-inch sewer main will be installed to carry wastewater from the Vernon Road area to the new WWTF. Excavated areas will be backfilled and planted with native trees, grasses, and shrubs. Fill approximately 0.0284 acre wetland and 0.31 acre wetland buffer:
 - Wetland 8 0.0144 acre temporary impact
 - Wetland 9 0.0140 acre temporary impact
- Effluent Pipeline/Outfall: Install a new 30-inch HDPE pipeline with a diffuser system. The outfall will extend approximately 95 feet into Ebey Slough from the Ordinary High Water Mark. Work includes:
 - Trench wetland/pasture and pull back the levee approximately 20 feet.
 - Create a temporary 10-foot-wide access roadway adjacent to the trench.
 - Approximately 0.5 acre total wetland impact (.02 acre permanent and 0.48 acre temporary)
 - Create approximately 0.02 acre riparian wetland on the west side of the levee and plant native riparian vegetation.
 - Dredge approximately 40 cubic yards of sediment from Ebey Slough.
 - Place approximately 40 cubic yards of quarry spalls as bedding for the outfall.
 - Place approximately 380 cubic yards of crushed base course material on top of the outfall assembly.

As described above, the project proposes to permanently place fill in a total of 1.44 acres of wetlands for construction of the Sunnyside WWTF and attendant facilities. These impacts will be compensated for by: 1) purchasing 1.42 credits from the Skykomish Habitat Mitigation Bank, and 2) 0.02 acre of onsite wetland restoration.

The project is located in Everett, Snohomish County, Washington, in wetlands and Ebey Slough, Sections 23 and 14, T. 29 N., R. 5E., WRIA 7.

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:

- A1. For purposes of this Order, the term "Applicant" shall mean Lake Stevens Sewer District and its agents, assignees and contractors.
- A2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Northwest Regional Office, Attn: 401/CZM Federal Project Manager, 3190 160th Avenue SE, Bellevue, WA 98008-5452. Any submittals shall reference Order #5335 and Corps Reference #200600443.

- A3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on April 14, 2006, and the updated project description (Memorandum from Jim Dougherty to Paul Anderson, RE: Responses to Your Letter Dated December 11, 2007 regarding the Project Description and Other Information Needed to Complete 401 Water Quality Certification for the Lake Stevens Sewer District's Sunnyside WWTF Project, Reference #200600443, dated December 13, 2007, received December 19, 2007). 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.
- A4. 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.
- A5. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue an individual Section 404 permit.
- A6. This Order does not exempt, and is provisional upon, compliance with other statutes and codes administered by federal, state, and local agencies.
- A7. 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.
- A8. 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.
- A9. 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.
- A10. 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 or mitigation sites.

- A11. 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.
- A12. 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) per violation for each day of continuing noncompliance.

B. Project Mitigation for Wetlands:

- B1. The project proposes to fill 1.42 acres of palustrine forested and emergent Category III wetlands and 0.02 acre of Category IV palustrine emergent wetland. The filling of 1.38 acres of palustrine forested and emergent Category III wetlands will be mitigated through the purchase of mitigation credits from the Skykomish Habitat Mitigation Bank. The filling of 0.02 acre of Category IV palustrine emergent wetland will be mitigated onsite. These measures are described in the following documents, except as modified by this Order, and including any approved revisions:
- a. Signed Agreements to Purchase Mitigation Credits (dated January 3, 2008, and February 6, 2008).
 - b. Addendum to Final Wetland Mitigation Plan Effluent Outfall to Ebey Slough, by Curran Environmental Services, LLC, dated January 28, 2008.
 - c. Letter to Matthew Bennett, US Army Corps of Engineers Seattle District Office, from Briana Pavey, Shockey/Brent, Inc., dated October 31, 2007.
 - d. Final Wetland Mitigation Plan Effluent Outfall to Ebey Slough prepared for Lake Stevens Sewer District (Mitigation Plan), by Shockey/Brent, Inc., dated October, 2007.
- B2. In addition to mitigation measures described in the above-referenced documents, the following requirement shall be conditions for the development and mitigation sites:
- a. Proof of Mitigation Bank Credit Purchase: Prior to impacting wetlands, including buffers, associated with the construction of the project, the Applicant shall submit the following to Ecology per Condition A2:
 - i. A credit ledger listing Corps Reference #200600443 showing the date that the Corps 404 permit is issued, Ecology Order #5335 showing that the Order was

issued on February 14, 2008, and the debited credits verifying credit withdrawal from the Skykomish Habitat Mitigation Bank.

- ii. Documentation that credits applied to the project have been registered at the Snohomish County Auditor's office. The documentation shall include Corps Reference #200600443 showing the date that the Corps 404 permit is issued, and Ecology Order #5335 showing that the Order was issued on February 14, 2008.
- b. Timing: On-site mitigation work shall begin as early as site conditions allow following completion of the effluent outfall and construction of the replacement levee.
 - c. Field Supervision: The wetland mitigation implementation shall be field-supervised by a qualified wetland ecologist to ensure that grading was completed as planned and plants are appropriately placed.
 - d. As-Built Report: Submit a final as-built report for the wetland mitigation projects, with drawings, to Ecology (per condition A2) within 60 days of completing construction, including planting.
 1. Provide one (1) electronic copy on compact disc and one (1) hard copy. Always prominently display the Corps Reference Number and Ecology Order Number.
 2. Include the following information in the as-built report:
 - i. Final site topography.
 - ii. Photographs taken from permanent reference points.
 - iii. Installed planting scheme with quantities, densities, sizes and approximate locations.
 - iv. Types of habitat features (snags, rootwads, etc.) and their locations.
 - v. Important dates including:
 - a. When the development project's construction began.
 - b. Starting and completion dates of the construction of the compensatory mitigation project, including grading and planting of the site.
 - vi. Name and contact information of the parties responsible for the mitigation site, including the applicant, landowner, and wetland professional on site during construction.
 - vii. Description of and reasons for any changes to the plan.
 - viii. Description of any problems that occurred during construction.
 - ix. List of any follow-up actions needed, with a schedule.
 - x. Copy of the deed notification.

- e. Permanent Protection: The Applicant shall provide documentation showing the means of permanent protection for the mitigation site (such as a deed restriction, conservation easement, or similar instrument) to Ecology's 401/CZM Federal Project Manager along with the as-built report.
- f. Performance Standards: The performance standards for the wetland mitigation shall be as listed in the Mitigation Plan, which details standards for plant survival and plant cover.
- g. Monitoring: Monitoring to ensure that the project performance standards are met shall be performed as described in the Mitigation Plan. In addition, all mitigation monitoring shall take place over a period of at least five years, in years 1, 2, 3, and 5. If performance standards are not met in Year 5, additional monitoring shall be done in Year 7; and if performance standards are not met in Year 7, additional monitoring shall be done in Year 10. **Two (2) copies of all monitoring reports shall be submitted to Ecology per Condition A2.**
- h. Maintenance: Maintenance of the wetland mitigation sites is necessary to ensure that the required performance standards are met. Maintenance shall be performed as described in the Mitigation Plan.
- i. Year 5 Delineation: The mitigated wetlands shall be delineated using the 1997 Washington State Wetlands Identification and Delineation Manual (or as updated) during the 5th year monitoring period (or later as specified in B2.g. above) to determine the actual area of wetlands restored.
- j. Year 5 Rating: The 2004 Washington State Wetlands Rating System (or as updated) shall be applied to the mitigation area at the end of the monitoring period to determine the classification and rating of the restored wetlands.
- k. Contingency Measures: The Applicant is responsible for the success of the onsite mitigation and the maintenance of existing functions of wetlands to remain on the development site. Contingency measures described on pages 12 and 13 of the Mitigation Plan shall be implemented as soon as monitoring shows that one or more performance standards have not been met.

C. Water Quality Conditions:

- C1. This Order does not authorize a temporary turbidity exceedance beyond the limits established in WAC 173-201A-200(1)(e)(i) for Ebey Slough. Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any

subsequent cleanup or surface waters or sediments occurring as a result of project construction or operations.

- C2. In-Water Construction Water Quality Sampling and Monitoring: An in-water construction Water Quality Monitoring Plan shall be developed and implemented. "In-water construction" is defined as all work below the ordinary high water mark of Ebey Slough. Ecology may require changes and modifications to the Plan. The Plan shall include the following minimum requirements:
- a. Locations of samples: Locations of water quality sampling sites shall be identified and described in the plan and on a map of the project area. At a minimum, sampling shall take place at the point of compliance as specified in WAC 173-201A-200(1)(e)(i), which allows a 300-foot temporary mixing zone for turbidity resulting from disturbance of in-place sediments in Ebey Slough. Background samples shall be collected outside the area of influence of the in-water work. Background samples shall be collected at the same frequency as the point of compliance samples.
 - b. Number of samples: Samples shall be collected a minimum of one (1) time per tide change during in-water work through the first four (4) days of each in-water construction activity, as well as during removal of the sediment curtain. Subsequent sampling is dependent on monitoring results, but shall be a minimum of one (1) time per day at slack tide during in-water activity if no exceedances are detected. Additional sampling may be required if turbidity exceedances are observed or measured to be above the temporary mixing zone criteria of WAC 173-201A-200(1)(e)(i).
 - c. Parameter to be sampled: Turbidity shall be sampled for this project.
 - d. Equipment: Sampling for turbidity is to be accomplished using a turbidometer properly calibrated according to the operator's manual.
 - e. Detection of exceedances: Water quality standards for turbidity in "Salmonid Spawning, Rearing, and Migration" waters are as follows: turbidity shall not exceed 5 NTU over background conditions when the background is 50 NTU or less, or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU. If exceedances of this standard at the point of compliance specified in WAC 173-201A-200(1)(e)(i) are detected through water quality sampling and monitoring, the Applicant shall immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem. After such an event, the Applicant shall assess the efficacy of the site Best Management Practices (BMPs) and update or improve the BMPs used at the work site in an effort to reduce or prevent recurrence of the turbidity exceedance.

- f. Reporting: If no exceedances are detected, results of water quality sampling, as determined by the Water Quality Protection Plan, shall be forwarded to Ecology on a monthly basis in accordance to Condition A2.
- g. Notification of exceedances: Notification of exceedances that are detected through water quality sampling shall be made to Ecology within 24 hours of occurrence. Notification shall be made per Condition A2. The Applicant shall, at a minimum, provide Ecology with the following information:
 - i. A description of the nature and cause of non-compliance, including the quantity and quality of any unauthorized discharges;
 - ii. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the Applicant will return to compliance; and
 - iii. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
 - iv. 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 violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, photographs, and any other pertinent information.

D. Conditions for In-Water Activities:

General Conditions:

- D1. Construction stormwater, sediment, and erosion control best management practices (BMPs; *e.g.*, filter fences, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting construction at the site.
- D2. Sediment and erosion control measures shall be inspected and maintained prior to and during project implementation.
- D3. Work shall be accomplished per the best management practices described on pages 33-34 of the *Biological Assessment, Sunnyside Wastewater Treatment Facility Project*, prepared by Gray & Osborne, Inc., dated April 10, 2006, except as modified by this Order:
- D4. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.

- D5. Machinery and equipment used during construction shall be serviced, fueled, and maintained upland, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.
- D6. 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.

Work in Fresh Waters:

- D7. During all in-water work, a sediment curtain shall be deployed and maintained in a functional manner to contain suspended sediments at the work site.
- D8. The Applicant shall monitor the sediment curtain daily and repair any breaches in the curtain promptly.
- D9. The sediment curtain shall be maintained in place for at least three (3) days following in-water work to allow sediments within the contained area to settle prior to removal.
- D10. All manmade debris that has been deposited below the Ordinary High Water Line within the construction work area shall be removed and disposed of upland such that it does not enter waters of the state. Concrete blocks, metal debris, cables, submerged timbers and other debris in the construction work corridor that have washed into marine areas shall be removed from the project area.
- D11. Project activities shall be conducted to minimize siltation of the beach area and bed.
- D12. The Applicant shall operate the barge(s) and tug in deep water so as to minimize nearshore propeller wash impacts such as suspension of nearshore sediments.
- D13. Barges shall not be allowed to ground-out during construction.
- D14. All material placed beneath and on top of the outfall (i.e., quarry spalls and crushed base coarse material) shall be washed prior to placement in waters of the state.

E. Stormwater Management Condition:

- E1. Applicant shall comply with Construction Stormwater General Permit #WAR-0010010 for this project.

F. Municipal Wastewater Treatment Facility Discharge Condition:

- F1. Applicant shall obtain and comply with the Individual Municipal National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit for this project.

G. Emergency/Contingency Measures:

- G1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project.
- G2. The Applicant 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.
- G3. 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.
- G4. 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 these occur, the Applicant shall immediately take the following actions:
- a. Cease operations at the location of the violation or spill.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. Notify Ecology of the failure to comply. All oil spills shall be reported immediately to Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events to Ecology's 401/CZM Federal Project Manager at (425) 649-7129 or (425) 649-7000.
 - d. 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.

Compliance with this condition does not relieve the Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

H. Timing Requirements

- H1. This Order is valid until all compliance requirements in this document have been met.
- H2. In-water work shall be subject to timing limitations imposed by WDFW. Work in or near the water that may affect fish migration, spawning, or rearing shall cease immediately upon a determination by WDFW that fisheries resources may be adversely affected.

I. Reporting and Notification Requirement Conditions

- I1. Applicant shall provide notice to Ecology's 401/CZM Federal Project Manager at least three (3) days prior to the start of construction and within 14 days after completion of construction at the project site. Notification, referencing Corps Reference #200600443, Order #5335 can take place by telephone to (425) 649-7129 or (425) 649-7000, fax to (425) 649-7098, or in writing.
- I2. Applicant shall provide notice to Ecology per Condition I1 at least three (3) days prior to start of boring under Wetland 11.
- I3. Applicant shall provide notice of any deviation in construction technique from boring at Wetland 11 to Ecology per Condition I1 within 24 hours.

J. Appeal Process:

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

Deliver your appeal in person to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

Deliver your appeal in person to:

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

OR

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

3. And send a copy of your appeal to:

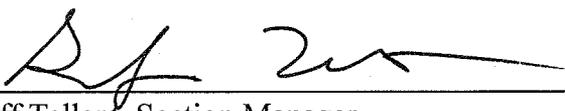
Department of Ecology
Northwest Regional Office
Attn: Rebekah Padgett
3190 160th Avenue SE
Bellevue, WA 98008

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

To find laws and agency rules visit the Washington State Legislature Website:
<http://www1.leg.wa.gov/CodeReviser>

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

Dated February 14, 2008 at Bellevue, Washington.



Geoff Tallent, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington

ATTACHMENT A

**LAKE STEVENS SEWER DISTRICT
SUNNYSIDE WASTEWATER TREATMENT FACILITY PROJECT
Water Quality Certification Order #5335**

**Statement of Understanding of
Water Quality Certification Conditions**

I have read and understand the conditions of Order #5335 Section 401 Water Quality Certification for the Lake Stevens Sewer District Sunnyside Wastewater Treatment Facility Project. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this Order.

Signature

Date

Title

Company