



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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August 29, 2006

REGISTERED MAIL

Washington State Department of Transportation
Attn: Ms. Becky Michaliszyn
P.O. Box 1709
Vancouver, WA 98668-1709

RE: Water Quality Certification Order # 3382 for Corps Public Notice No. 200501249 to construct a new interchange at I-5 and State Route 502 (NE 219th St), and a new extension of SR 502 located in Clark County, Washington.

On November 1, 2005, the Department of Transportation submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. The Army Corps of Engineers and Ecology issued a joint public notice regarding the request on April 24, 2006 pursuant to the provisions Chapter 173-225 WAC.

On behalf of the State of Washington, Ecology certifies that the work proposed in the JARPA Ecology received on November 1, 2005 and the joint 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.

The enclosed Order may be appealed by following the procedures described in the Order.

If you have any questions, please contact Lisa Rozmyn, the Federal Project Coordinator for this project, at (360) 407-7032 or lroz461@ecy.wa.gov.

Sincerely,

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

Enclosures

cc: Eric Luengo, Ecology
Sandra Manning, Corps of Engineers
Vickie Albert, Department of Transportation



IN THE MATTER OF GRANTING A) ORDER # 3382
WATER QUALITY) Corps Reference No. 200501249
CERTIFICATION TO) Construction of a new interchange at I-5 and
Washington Department of) State Route 502 (NE 219th St), and a new
Transportation) extension of SR 502 located in Clark County,
in accordance with 33 U.S.C. 1341) Washington.
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)
)

TO: Becky Michaliszyn
Department of Transportation
Southwest Region
P.O. Box 1709
Vancouver, WA 98668-1709

On November 1, 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. The Army Corps of Engineers issued a joint public notice regarding the request on April 24, 2006 pursuant to the provisions in Chapter 173-225 WAC.

The proposed project entails construction of a new I-5 interchange at SR 502 (NE 219th Street) in north Clark County. The interchange is intended to ease congestion and improve safety both northbound and southbound on I-5, improve safety at the NE 179th Street interchange by reducing congestion, improve safety on I-5 by reducing weaving between the junction of I-5 and I-205 and the existing exit, and help improve access to Battle Ground. The new extension will be constructed as a four lane highway that will connect the City of Battleground to I-5. The road work will partially impact 20 wetlands, the majority of which are located directly adjacent to I-5, resulting in the loss of 6.42 acres of wetlands and temporary impacts to 0.2 acres of wetlands for bridge construction. A mitigation site will be constructed to offset wetland impacts. In addition, the interchange includes a two lane bridge over I-5 which will completely span Gee Creek and wetlands to avoid additional impacts. Also included in the project is the removal of a fish passage barrier to be replaced by a passable structure and ten additional culverts will be modified or constructed to provide continued hydraulic connectivity between wetlands and streams in the project vicinity.

The project is located in north Clark County, Washington, Township 04N, Range 01E, and is located in the Water Resource Inventory Area #28, Salmon/Washougal.

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:

- 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);
- 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
- 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 the Washington State Department of Transportation (WSDOT) Southwest Region, its agents, assignees, and contractors.

1. All submittals required by conditions of this Order shall be sent to Ecology's Headquarters office, Attn: Federal Permit Manager, SEA Program, P.O. Box 47600, Olympia, WA 98504-7600, with Order No. 3382 displayed.
2. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on November 1, 2005, with updated drawings dated May 15, 2006. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the November 1, 2005 JARPA and the May 15, 2006 drawings are voided by subsequent changes to the project not authorized by this Order.

3. Ecology will determine within thirty (30) days of receipt of an updated JARPA if a modification of this Order is required.
4. This Order shall be withdrawn if the U. S. Army Corps of Engineers does not issue a 404 permit. It shall also be withdrawn if the project or its purpose is revised in such a manner that Ecology determines that the revised project requires a new authorization and public notice. The Applicant will then be required to reapply for a 401 Water Quality Certification by submitting a new JARPA to Ecology.
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 foremen, and state and local government inspectors.
7. The Applicant shall provide access to the project and the mitigation site 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. The Applicant's representative shall have adequate authority to ensure proper implementation of the Erosion and Sediment Control Plan (TESC Plan), as well as immediate corrective actions necessary because of changing field conditions. If the Applicant's representative issues a directive necessary to implement a portion of the TESC, or to prevent pollution to waters of the state, all personnel on site, including the construction contractor and the contractor's employees, shall immediately comply with this directive.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to comply with the state's water quality laws. Furthermore, 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 the public interest.
10. 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 non-compliance.
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. A WSDOT representative shall be on-site, or on-call and readily accessible to the site, at all times while construction activities are occurring that may affect the quality of ground or surface waters of the state, including all periods of in-water construction activities including wetlands at the project and mitigation site.

B. Water Quality Conditions:

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC), ground water standards (173-200 WAC) or sediment quality standards (Chapter 173-204 WAC).

1. Nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
2. This order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3).

C. Timing:

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

D. Notification Requirements:

1. Notification shall be made to Ecology's Federal Permit Manager, SEA Program, P. O. Box 47600, Olympia, WA 98504-7600, for the following activities:
 - At least 10 days prior to the pre-construction meeting.
 - At least 10 days prior to the onset of any work on site.
 - Immediately following a violation of the state water quality standards or conditions of this Order.
 - At least 10 prior to the onset of any work at the mitigation site.
 - Upon project completion

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.

2. The Applicant shall ensure that all appropriate Project Engineers and Contractors at this project site and/or mitigation site have read and understand all relevant conditions of this Order and all permits, approvals, and documents referenced in the Order. The Applicant shall provide Ecology with a signed statement (see Attachment A for an example) from each Project Engineer and Contractor that shows 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 and/or mitigation sites.

E. Construction, Equipment Staging and Maintenance:

Construction Conditions:

1. The Applicant shall comply with the General Construction Stormwater National Pollutant Discharge Elimination System (NPDES) permit issued for this project.
2. The Applicant shall submit a Temporary Erosion and Sediment Control Plan (TESC Plan) to the Federal Permit Manager thirty (30) days prior to beginning construction for review. The TESC Plan shall include the following:
 - Name and phone number of persons responsible for implementing plan;
 - Best management practices (BMP's) anticipated to be implemented;
 - Frequency of BMP inspections;
 - Contingency plan in the event of adverse weather conditions or other foreseeable undesirable conditions.
3. Sediment control devices (filter or silt fences, check dams, etc.) and other BMPs intended to trap sediment on-site shall be in place before starting project construction and shall be maintained throughout construction.
4. Within the project limits, the Applicant shall mark all clearing limits that occur within 500 feet or less of sensitive aquatic areas, including buffers, with highly visible construction fence prior to beginning clearing or other construction activities in that area. Equipment shall enter and operate only within the delineated clearing zones, corridors, and stockpile areas.
5. Prior to clearing and grading in wetlands, the adjacent wetlands shall be protected from construction impacts. Wetland areas to be protected from disturbance shall be marked so as to be clearly visible to equipment operators. Equipment shall not be moved into or operated in wetlands that are not authorized to be filled and shall operate only within the designated clearing limits, corridors and stockpile areas.
6. Work in or near waters of the state shall be done in a manner that minimizes turbidity, erosion, and other water quality impacts.
7. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state except as approved for invasive species treatment at the mitigation site as defined in the final mitigation plan.

8. Periodic inspection and maintenance of all erosion control structures shall be conducted no less than every seven (7) days from the start of the project for site stabilization. Additional inspections shall be conducted prior to and after expected rainfall events to ensure erosion control measures are in working condition. Any damaged structures shall be immediately repaired. If the inspection reveals that additional measures are needed to control stormwater and erosion, they shall be implemented immediately.
9. All construction debris, excess sediment, and other waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
10. 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.
11. There shall be no visible sheen from petroleum products in any discharge to state waters. The presence of a sheen shall invoke a clean-up response.
12. Any wooden components used for the construction of temporary work platforms, if composed of pressure treated wood, shall comply with all current best management practices as contained in the "Western Wood Preservers Institute's latest edition of Best Management Practices for Use of Treated Wood in Aquatic Environments.
13. Turbid water generated from construction activities, including turbid de-watering water, shall not be discharged directly to waters of the state. Clean de-watering water 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 state waters, banks or vegetation.

Equipment Staging and Maintenance

14. Staging areas will be located a minimum of 50 feet, and where practical, 200 feet, from waters of the state, including wetlands that are not being filled or disturbed. 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 Permit Manager before placement of the staging area in the set back area.
15. Equipment used during construction shall be serviced, fueled, and maintained on upland areas in order to prevent contamination of surface waters. All fueling areas shall be provided with adequate spill containment. Where possible, fueling of equipment and vehicles shall not occur within 50 feet of state waters and wetlands.

16. 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.
17. 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.
18. 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 separate area for washing down equipment where there is no possibility of draining to surface waters.
19. No cleaning solvents or chemicals used for tool or equipment cleaning may be discharged to the ground or to waters of the state.

Culvert Removal and Replacement:

20. All culvert work shall be conducted in the dry or in isolation from stream flow by installing a bypass flume or culvert, or by pumping the stream flow around the work area. 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.
21. Disturbance of the streambed and banks shall be limited to that necessary to replace the culvert and to construct any required channel modification associated with it. Affected streambed and bank areas outside the culvert shall be restored to pre-project or improved conditions following installation of the culvert. All disturbed streambank areas shall be protected from temporary erosion using BMPs until stabilized by vegetation. At the end of each in-water work window for the construction season, all disturbed areas from culvert replacement work shall be planted with native species within the next appropriate planting season.
22. If saw cutting of concrete is necessary, 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. All debris shall be properly disposed of to prohibit its entrance into waters of the state.
23. Temporary sediment traps shall be cleaned out and the settled sediments removed from the 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.

24. Culverts shall be installed and maintained to avoid inlet scouring and to prevent erosion of stream banks downstream of the project.
25. Prior to returning stream flow to the de-watered work area, all bank protection shall be completed.
26. 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.
27. Upon completion of the project, all materials used in the temporary bypass, or other method of work area isolation, shall be removed from the site and placed in an area approved by the appropriate regulatory authority.

F. Wetland Mitigation Conditions:

1. Impacts to aquatic resources shall be mitigated as described in the “*I-5/SR 502 Interchange Final Wetland Mitigation Plan*” (hereafter referred to as “mitigation plan”), prepared by the Applicant, dated February, 2006, and addendum dated August 9, 2006.
2. Any changes to the mitigation plan must be approved in writing by Ecology.

Mitigation Construction

3. Compensatory mitigation construction and installation shall occur prior to, or concurrently with, project impacts to wetlands.
4. Appropriate and effective BMPs shall be installed adjacent to all wetland areas that will not be graded on the mitigation site prior to commencing earthwork so as to clearly mark the grading areas, and minimize erosion, turbidity, and other water quality impacts to the protected areas.
5. All excess excavated material from the mitigation sites shall be disposed of in an appropriate location outside of sensitive areas and their buffers and shall be stabilized or contained so as to prevent its entry into waters of the state including wetlands.
6. No materials shall be stockpiled within the wetlands or streams on the mitigation site unless prior approval is granted from Ecology.

7. Appropriate BMPs shall be implemented to minimize track-out during construction at the mitigation sites.
8. All areas that have been exposed or disturbed on the mitigation sites shall be stabilized to prevent erosion by using mulch or equivalent such as seeding with a suitable erosion control seed mix consisting of native grasses and forbs within seven (7) days of completion of grading.
9. An as-built report documenting the final design of the mitigation site shall be prepared when the mitigation site is completed. The report shall include the following:
 - final site topography;
 - photographs of the area taken from established permanent reference points;
 - a planting plan showing species, densities, sizes, and approximate locations of plants, as well as plant sources and the dates of planting;
 - habitat features (snags, large woody debris, etc) and their locations if any;
 - drawings in the report shall clearly identify the boundaries of the project;
 - locations of sampling and monitoring sites; and
 - any changes to the plan that occurred during construction.
10. The as-built report shall be sent to Ecology's Federal Permit Manager within 1 year of completing mitigation construction.

Mitigation Monitoring & Maintenance

11. All plantings at the mitigation site shall be watered as needed as defined on page 27 of the mitigation plan.
12. When needed to meet the performance standards stated in the mitigation plan, dead or dying plants shall be replaced during the first available planting season with the same species or a native plant alternative that is appropriate for the location. The species, numbers, approximate locations of all replanted material, and the date planted, shall be noted in the subsequent monitoring report.
13. Monitoring of the wetland mitigation sites will occur for a minimum of 10 years, with monitoring performed as described in the mitigation plan. If, at monitoring year 10, all required performance standards have not been met, Ecology may require additional monitoring and/or additional wetland mitigation area. Formal monitoring reports shall be submitted to Ecology's Federal Permit Manager by March 31st of the following year.
14. Any changes to the wetland monitoring requirements as defined in pages 30-35 of the mitigation plan must be approved in writing by Ecology.

G. Emergency/Contingency Measures Conditions:

1. The Applicant shall develop 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 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 Southwest Regional Spill Response Office at 360-407-6300 and Department of Fish and Wildlife 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 Southwest Region Regional Spill Response Office at 360-407-6300.

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

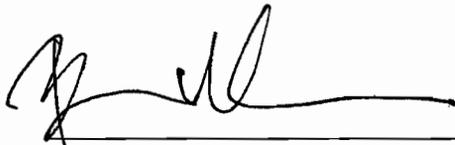
Your appeal must also be served on:
The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, Washington 98504-7608.

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 Aug 29, 2006 at Olympia, Washington.



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

Water Quality Certification Order #3382 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 construction of a new interchange at I-5 and State Route 502 (NE 219th St), and a new extension of SR 502 located in Clark County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order #3382** 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