



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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REGISTERED MAIL

January 30, 2006

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

RE: Water Quality Certification Order # 2941 for Corps Public Notice No. 200501330 to replace the current signalized intersection at I-5 exit 79 in Lewis County, Washington with four roundabouts to reduce traffic congestion.

On September 6, 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 request for certification was made available for public review and comment through the Department of Ecology Public Notice process on December 21, 2005. On January 11, 2006, the Army Corps of Engineers issued this project a permit under Nationwide 23, Approved Categorical Exclusions.

On behalf of the State of Washington, Ecology certifies that the work proposed in the JARPA Ecology received on September 6, 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.

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 Permit Manager for this project, at (360) 407-7032 or lroz461@ecy.wa.gov.

Sincerely,

Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program

Enclosures

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



IN THE MATTER OF GRANTING)	Order # 2941
A WATER QUALITY CERTIFICATION)	Corps # 200501330
TO the Washington State Department of)	Replace the current signalized
Transportation in accordance with)	intersection at I-5 Exit 79, Chamber
33 U.S.C. 1341 (FWPCA § 401),)	Way, in Chehalis, Lewis County,
RCW 90.48.120, RCW 90.48.260,)	WA with roundabouts to reduce
and Chapter 173-201A WAC)	traffic congestion.

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

On September 6, 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 request for certification was made available for public review and comment through the Department of Ecology Public Notice process on December 21, 2005.

The proposed project is located within the city of Chehalis in Lewis County, Washington, Section 30, Township 14N, Range 2W. The project entails improving the flow of traffic on Interstate 5 and reducing congestion on Chamber of Commerce Way at Exit 79 in Chehalis, WA by replacing the current signalized intersection with a series of four roundabouts on Chamber Way. This project includes roadside grading and paving and work within the wetlands and floodplains associated with the Upper Chehalis River and Salzer Creek. Impacts to 1.4 acres of wetlands will be mitigated using credits from the nearby Newaukum Wetland Mitigation 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 reviewed 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. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 303, 306, and 307);
- 2) Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and other requirements of state law; 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 project as proposed and conditioned will not violate applicable water quality standards and other applicable requirements of state law. Therefore, in view of the foregoing and in accordance with 33 U.S.C. 1341, RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC, Certification is granted to the Washington State Department of Transportation (WSDOT) Southwest Region subject to the following conditions:

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. 2941 displayed.
2. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on September 6, 2005. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the September 6, 2005, JARPA is 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 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. 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.

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:

1. This Order is valid until all requirements in this document have been met.
2. The Applicant shall reapply with an updated application if the information contained in the Corps/Ecology Public Notice and JARPA submitted on November 21, 2005 is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the public notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.

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; and
 - Immediately following a violation of the 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.

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 current Construction National Pollutant Discharge Elimination System (NPDES) permit issued by Ecology.
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. All temporarily disturbed areas, including wetlands, wetland buffers, and stream buffers, shall be protected from erosion using mulch or equivalent for the duration of the project and within seven days of the project completion. If erosion control seed mixes are used in these areas, they shall consist of native species unless otherwise approved by modification to this Order. All disturbed areas shall be replanted with native vegetation within the first appropriate planting season after construction is completed.
6. Temporary impacts to vegetation shall be limited to the amount necessary for construction. Bare soils in these areas shall be adequately protected from erosion for the duration of the project and seeded with suitable erosion control seed mix within seven (7) days after project completion.
7. Work in or near waters of the state shall be done in a manner that minimizes turbidity, erosion, and other water quality impacts.
8. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
9. Erosion control devices (plastic sheets, straw, fiber mats, etc.) suitable to prevent exceedance of state water quality standards shall be in place and maintained throughout construction in order to prevent erosion. The Applicant shall stabilize all exposed and unworked soils by applying effective BMPs that protect the soil from the erosive forces. The Applicant shall stabilize the disturbed soils from October 1 through April 30 so that no soils remain exposed and unworked for more than two (2) days; and from May 1 through September 30, no soils shall remain exposed and unworked for more than seven (7) days.
10. 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.
11. 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.

12. 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.
13. No paint shall enter any water of the state, including wetlands, at any point during the project duration.

Equipment Staging & Maintenance

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. No cleaning solvents or chemicals used for tool or equipment cleaning may be discharged to the ground or to waters of the state.
7. 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.

F. Wetland Mitigation Conditions:

- 1 Impacts to aquatic resources shall be mitigated through the use of the North Fork

Newaukum Mitigation Bank. Credits to be withdrawn from the bank will be a total of 1.16 credits in accordance with the N. Fork Newaukum Mitigation Bank Instrument.

2. Prior to work beginning on this project, submit to Ecology a credit ledger for verification of credit withdrawal.
3. Any changes to the amount of wetland impacts will require notification to Ecology and will need to be accurately reflected in the credit withdrawal ledger, and shall be submitted in writing to Ecology's Federal Permit Manager for verification.

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 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 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

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January 30, 2006
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Appeal Process:

Any person aggrieved by Order # 2941 may obtain review thereof by appeal. Pursuant to Chapter 43.21B RCW, a person can appeal this Order to the Pollution Control Hearings Board within thirty (30) days of the date of receipt of this Order.

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

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

In addition, please send a copy of your appeal to:
Federal Permit Appeal Coordinator
Department of Ecology
P.O. Box 47600, Olympia, WA 98504-7600.

For additional information see: 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 Jan 30, 2006 at Olympia, Washington



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