



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000  
TTY 711 or 800-833-6388 (for the speech or hearing impaired)

May 10, 2006

REGISTERED MAIL

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

RE: Water Quality Certification Order #3265 for Corps Public Notice No. 200600183 to seismically retrofit and repair deteriorating bridge columns on bridges SR5/342 and SR 5/342NE, MP 114.09, on Interstate 5 located in Thurston County, Washington.

Dear Mr. Whitney:

On February 13, 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 I-5 McAllister Creek Bridge Repair transportation project. The project proposes to repair deteriorating bridge columns and seismically retrofit the repaired columns. The U.S. Army Corps of Engineers issued a Nationwide Permit 23, Corps reference # 200600183, on March 3, 2006.

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 April 28, 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. 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.



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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: Sandi Manning, Corps of Engineers  
Tom Barton, Department of Transportation  
Stacie Kelsey, Department of Transportation

e-cc: Penny Keys, HQ  
Loree' Randall, HQ  
Betsy Dickes, Department of Ecology

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 3265</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. 200600183</b>
<b>CERTIFICATION TO</b>	)	Seismically retrofit and repair deteriorating
<b>Washington State Department of</b>	)	bridge columns on bridges SR5/342 and SR
<b>Transportation</b>	)	5/342NE, MP 114.09 on Interstate 5 located in
in accordance with 33 U.S.C. 1341	)	Thurston County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	
	)	

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

On February 13, 2006, the Washington State Department of Transportation (WSDOT) submitted a Joint Aquatic Resource Permits Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. Ecology distributed a public notice for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on March 23, 2006. The U.S. Army Corps of Engineers issued a nationwide permit #23, Corps Reference No. 200600183, on March 3, 2006.

The proposed project entails seismically retrofitting and repairing deteriorating bridge columns on two bridges, SR 5/342E (I-5 Northbound Mainline) & SR 5/324NE (I-5 Northbound Off Ramp). These bridges span McAllister Creek, and the bridge columns needing repair are located within the creek channel. Repair work entails replacing damaged reinforcing steel and removing loose concrete. The retrofit consists of placing a steel jacket sleeve around each damaged column and pressure-injecting epoxy grout between the column and the jacket sleeve. In addition to the column repair and retrofit work, sack concrete along the west bank will be removed and replaced with riprap. Trees will be planted along the top of the slope to provide shade for the creek. The project site is located at Section 7, T18N, R1E, WRIA 11 – Nisqually, in Thurston County at MP 114.09 on Interstate 5.

**AUTHORITIES**

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §§1311, 1312, 1313, 1316, and 1317 (FWPCA §§ 301, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

### **WATER QUALITY CERTIFICATION CONDITIONS:**

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve WSDOT from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

#### **A. General Conditions**

1. For purposes of this Order, the term "Applicant" shall mean WSDOT and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required as conditions shall be sent to Ecology's HQ, Attn: Federal Project Coordinator, P.O. Box 47600, WA 98504-7600 or by e-mail at [pkel461@ecy.wa.gov](mailto:pkel461@ecy.wa.gov). Any submittals shall reference Order No. 3265 and Corps No. 200600183.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on February 13, 2006. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.

4. Within 30 days of receipt of an updated JARPA Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
5. This Order shall be rescinded if the Corps of Engineers does not issue a Section 404 permit.
6. This Order does not exempt, and is provisional upon, compliance with other statutes and codes administered by federal, state, and local agencies.
7. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
8. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications 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.
10. 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.
11. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
12. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation per day for each day of continuing noncompliance.

## **B. Water Quality**

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), except as modified by this Order.

1. McAllister Creek is a tributary to Puget Sound which is classified as a Class AA waterbody in this location. The class AA water quality standards of 173-201A-030(1) 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 AA waters by granting a temporary mixing zone where turbidity criteria may be exceeded. The short term modification only applies to the installation and removal of the turbidity curtain and excavation of sack concrete along the west bank of McAllister Creek.
  - a. The short term modification is granted for the duration of seventy contract working days to occur during the work window specified in the HPA.
  - b. The temporary turbidity mixing zone is granted for a distance of 2000 feet upstream and 2000 feet downstream of the in water work area.
3. Nothing in this Order 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.

### **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 installing the turbidity curtain.
5. Water quality monitoring shall be conducted during the activities for which the modification was granted.
6. Water quality monitoring shall be conducted twice daily and be spaced at a minimum of four hours apart.
7. A background sample shall be collected prior to taking the compliance sample. These samples are collected for the purpose of measuring turbidity.
8. Monitoring shall be conducted at ~500 foot intervals for both the upstream and downstream mixing zone area.
9. Monitoring results shall be submitted monthly to Ecology's Federal Project Coordinator in accordance with condition A2 above.

### **C. Construction Conditions**

1. The Applicant shall submit a copy of the Temporary Erosion and Sediment Control Plan and the Spill Prevention, Pollution Control Plan to the Federal Project Coordinator at least thirty (30) days prior to beginning construction for review.
2. Work in or near waters of the state shall be done in a manner that minimizes turbidity, erosion, and other water quality impacts.
3. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
4. All construction debris, excess sediment, 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. Such water shall be routed to an upland area for on-site settling or off-site disposal. The discharge from the upland areas shall meet the water quality criteria at the point of discharge.
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 to waters of the state. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.
7. Disturbance from excavation activities shall be limited to that necessary to provide access to bridge columns needing repair and retrofit. Excavated stream bank areas shall be protected from temporary erosion using BMPs until stabilized by placement of riprap.

### **Equipment Staging and Maintenance**

8. Staging areas will be located a minimum of 50 feet and, where practical, 200 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 placing the staging area in the setback area.
9. 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.

10. 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.
11. 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.
12. No cleaning solvents or chemicals used for tool or equipment cleaning may be discharged to the ground or to waters of the state.
13. 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.

#### **D. Timing Requirements**

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

#### **E. Notification Requirements**

Notification shall be made to Ecology's Federal Project Coordinator in accordance with condition A2 above for the following activities:

- a. At least 10 days prior to the pre-construction meeting;
- b. At least 10 days prior to the onset of any work on site;
- c. At least 10 days prior to installing the turbidity curtain;
- d. 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.

#### **F. 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 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.

#### **G. 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 May 10, 2006 at Olympia, Washington.



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

## Water Quality Certification #3265 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 bridge repair and seismic retrofit of I-5 McAllister Creek Bridge Repair at MP 114.09 in Thurston County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order #3265** 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