



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

October 22, 2007

REGISTERED MAIL

RB 252 945 324 US

City of Fife
Department of Public Works
ATTN: Mr. Russ Blount
5411 - 23rd Street East
Fife, Washington 98424

RE: Water Quality Certification Order No **4419** for Corps Public Notice No. 200600706 to widen both Valley Avenue East and 70th Avenue East within the City of Fife, Pierce County, Washington

Dear Mr. Blount:

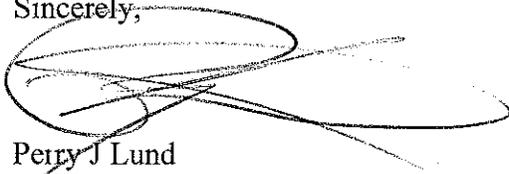
On June 9, 2006 the City of Fife, Public Works Department submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the proposed road widening project. The project proposes to place fill in approximately one acre of wetlands and realign 760 linear feet of Wapato Creek to widen both 70th Avenue East and Valley Avenue East from two to four lanes from the Union Pacific Railroad to 600 feet north of 20th Street East and at Valley Avenue East from 400 feet west of 70th Avenue East to 500 feet east of Freeman Road southeast of Interstate 5 and north of the Puyallup River within the City of Fife. The U.S. Army Corps of Engineers issued a public notice on August 11, 2006 for the proposed project. A revised JARPA was submitted to Ecology April 25, 2007. Ecology issued a Public Notice for the revised proposal on May 22, 2007.

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.



If you have any questions, please contact Lori Ochoa at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Perry J Lund", written over a circular stamp or seal.

Perry J Lund
Southwest Regional Office
Shorelands and Environmental Assistance Program

LO:th
Enclosure

cc: Sandra Manning, U.S. Army Corps of Engineers
Scott Swarts, David Evans and Associates, Inc.
Beverly Boyle, City of Fife
Travis Nelson, WDFW

IN THE MATTER OF GRANTING A) ORDER #4419
WATER QUALITY) Corps Reference No. 200600706
CERTIFICATION TO) To widen both Valley Avenue East and 70th
The City of Fife) Avenue East within the City of Fife, Pierce
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)
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TO: City of Fife
Department of Public Works
Attn: Mr. Russ Blount
5411 – 23rd Street East
Fife, Washington 98424

On June 9, 2006 the City of Fife, Public Works Department submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on August 11, 2006. A revised JARPA was submitted to Ecology April 25, 2007. Ecology issued a Public Notice for the revised proposal on May 22, 2007.

The proposed project will widen both 70th Avenue East and valley Avenue East from two lanes to four lanes from the Union Pacific Railroad to 600 feet north of 20th Street East and at Valley Avenue East from 400 feet west of 70th Avenue East to 500 feet east of Freeman Road southeast of Interstate 5 and north of the Puyallup River within the City of Fife, Pierce County, Washington; Sections 7, 8, 17, and 18 Township 20 North, Range 4 East; WRIA No. 10, Puyallup-White Watershed.

The purpose of the roadway widening project is to add capacity, improve freight mobility, reduce railroad conflicts, and increase capacity to meet current and predicted congestion problems in a developing industrial area. The project will include roadway widening, storm drainage conveyance and treatment/detention facilities, curbs, gutters, sidewalks, culvert replacement, bike lanes, landscape buffers, utility relocations, traffic signals, and retaining walls.

The project will result in approximately one acre of direct wetland impacts to seven separate wetlands adjacent to the existing roadway. The project also includes realigning approximately 760 linear feet of Wapato Creek to accommodate the road widening and allow for creating buffer habitat, wetland creation, and construction of stormwater detention and treatment facilities. The crossing of Wapato Creek will require placement of a longer culvert to accommodate the roadway widening. A new 18 foot-wide by 118 –feet long bottomless culvert will replace two existing smaller culverts.

Compensatory mitigation for unavoidable project impacts will consist of 1.83 acres of wetland creation, 0.64 acres of wetland enhancement, and 2.23 acres of buffer creation. The proposed mitigation will occur adjacent to the realigned segment of Wapato Creek near Valley Avenue East.

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:

1. For purposes of this Order, the term "Applicant" shall mean The City of Fife, Public Works Department and its agents, assignees and contractors.
2. All submittals required by conditions of this Order shall be sent to Ecology's Southwest Regional Office, Attn: Federal Permit Coordinator, SEA Program, P.O. Box 47775;

Olympia, WA 98504-7775 Any submittals shall reference Order No. **4419** and Corps No. 200600706.

3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on June 9, 2006 and as revised on April 25, 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.
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 U.S. Army 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 for each day of continuing noncompliance.

B. No Further Impairment of Existing Water Quality:

- 1 This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A- 200(1)(e)(i). Furthermore, nothing in this certification shall absolve the Applicants from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

C. Timing:

1. This Order is valid until all compliance requirements in this document have been met.
2. In-water work shall be subject to the timing limitations imposed by the most current Hydraulic Project Approval (HPA) issued by the Washington Department of Fish and Wildlife's (WDFW) for this project.

D. Notification Conditions:

- 1 The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Southwest Regional Office Federal Permit Coordinator in writing at least three (3) days prior to the start of construction at the project site.
2. The Applicant shall provide written notification to Ecology's Southwest Regional Office Federal Permit Coordinator in writing within fourteen (14) days after completion of construction.

NOTE: These notifications shall include the Applicant's name, project name, Order No. 4419, Corps Reference No. 200600706, project location, contact and contact's phone number.

E. Construction, Equipment Staging and Maintenance:

Construction Conditions:

1. The Applicant shall comply with all stormwater requirements within the current NPDES Construction Stormwater General Permit issued by Ecology for this project

2. Erosion and sediment control devices (Filter or silt fences, etc.) and other BMP's intended to trap sediment on-site shall be in place before starting project construction and shall be maintained throughout construction until the site is stabilized.
3. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts.
4. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
5. All debris or deleterious material resulting from construction shall be properly contained and disposed of at an approved upland location so that it cannot enter waters of the state.
6. All work within the project limits shall be clearly marked/staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas and buffers that are to be protected from disturbance shall be marked so as to be clearly visible to equipment operators. All project staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.
7. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in a confined area in order to prevent containment to waters of the state. Fueling areas will be provided with adequate spill containment. Fueling equipment and vehicles within 100 feet of state waters and wetlands is not allowed unless otherwise authorized by Ecology.
8. Appropriate Best Management Practices (BMP's) shall be implemented to minimize track-out during construction.
9. All excess excavated material shall be disposed of above the 100-year floodplain and shall be contained so as to prevent its re-entry into waters of the state.
10. Turbid water generated from construction activities, including turbid dewatering water, shall not be discharged directly into waters of the state. Clean dewatering 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.
11. Turbid water shall be routed to an upland location to allow removal of fine sediment and other contaminants.
12. Concrete process water shall not enter surface waters of the state. Uncured concrete and concrete by-products shall be completely sealed off and totally contained using sealed forms or other leak-proof containment systems, and not allowed to contaminate or enter surface waters.

Equipment Staging and Maintenance:

13. Staging area will be located a minimum of 50 feet, unless otherwise approved by Ecology. And where practical, the staging area shall be 200 feet from waters of the state, including wetlands.
14. Fueling of equipment and vehicles shall not occur within 50 feet of waters of the state, including wetlands, unless otherwise approved by Ecology.
15. The Applicant shall establish a separate contained area for washing down vehicles and equipment, which does not have any possibility of draining to surface waters and wetlands. No wash water containing sediments, oils, grease, or other hazardous materials resulting from wash down of the work area, tools, and equipment including concrete delivery trucks or other equipment used for concrete work shall not be discharged into state waters or storm drains.
16. 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 waters of the state.

Channel Realignment, Culvert Replacement and Extension:

17. All new channel construction and 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 not to cause erosion in the stream channel or on the banks of the waterbody in which the work is being conducted.
18. All channel stabilization work and materials shall be in place prior to introducing stream flow into the new channel.
19. Reintroduction of water into the new 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.
20. Culverts shall be installed and maintained to avoid inlet scouring and to prevent erosion of stream banks downstream of the project site.

E. Wetland Mitigation Conditions:

1. Project mitigation shall be constructed and maintained as described in the *City of Fife 70th Avenue East and Valley Avenue East Project Wetland and Stream Mitigation Report (Mitigation Plan)* dated June 2006 and as revised December 2006, or as otherwise approved by Ecology.
2. Compensatory mitigation consists of 1.83 acres of wetland creation, 0.64 acres of wetland enhancement, and 2.23 acres of buffer creation.
3. Any changes to the *Mitigation Plan* must be approved in writing by Ecology.

Mitigation Construction:

4. Compensatory mitigation construction and installation shall occur prior to or concurrently with, project impacts to wetlands.
5. All excess excavated material from the mitigation site shall be disposed of in an appropriate location outside of sensitive area and their buffers and shall be stabilized or contained so as to prevent its entry into waters of the state.
6. No materials shall be stockpiled within the wetlands or stream.
7. All excess excavated material from the mitigation site shall be disposed of in an appropriate location outside of sensitive area and their buffers and shall be stabilized or contained so as to prevent its entry into waters of the state.
8. All earth areas that have been exposed or disturbed on the mitigation site shall be stabilized to prevent erosions by using mulch or an equivalent such as seeding with a suitable erosion control seed mix consisting of native, non-invasive plant species only.

Wetland Mitigation Monitoring and Maintenance:

9. Wetland mitigation monitoring and maintenance shall be implemented as described in the *Wetland Mitigation Plan* dated June 2006 and as revised December 2006.
10. All mitigation sites shall be monitored for a ten year period following project construction. Additional monitoring of the mitigation area may be required by Ecology if wetland monitoring reveals that performance measures are not being met.
11. The property owner shall grant Ecology access to the mitigation areas for inspection during the ten year monitoring period or until mitigation success has been achieved.
12. The Applicant is responsible for achieving the mitigation "Performance Standards" outlined in the *Wetland Mitigation Plan*. The performance standards shall be met over the ten year monitoring period. The final mitigated wetlands shall meet the Category II characteristics as described in the *Washington State Wetlands Rating System for Western Washington* revised August 2004.
13. Contingency measures shall be implemented as identified in the *Wetland Mitigation Plan*. Prior to implementing any contingency measures, applicant will consult with permitting agencies.
14. Any changes to the monitoring requirements included in the mitigation plan must be approved in writing by Ecology before they are incorporated into the plan or implemented on the ground.
15. Deed Restriction: Permanent protection of the wetland mitigation area and buffers shall be recorded on the property deed for the Wetland Mitigation Site. The deed shall clearly indicate that the wetland mitigation areas are "waters of the state". Documentation that

this requirement has been fulfilled shall be provided to the Southwest Regional Office Federal Permit Coordinator as part of the "as-built" report.

Wetland Mitigation Reporting Conditions:

16. A detailed "As Built" report shall be prepared after construction showing any variances from the final mitigation plan. The "As-Built" shall be the baseline document used for all future monitoring of the mitigation project. It shall include but not be limited to:

- comments from a wetland specialist present on site during mitigation construction;
- name and contact information for the parties responsible for the mitigation site including the applicant, landowner, and wetland professional on site during construction;
- important dates including:
 - when the development project's construction began, and
 - the starting and completion dates of the construction of the compensatory mitigation project including grading and planting of the site.
- final site plan showing site topography (both site plan view and typical sections) and clearly indicating the mitigation site boundary;
- photographs of the area taken from permanent photo points which will be designated on the site plan;
- the installed planting scheme showing densities, sizes, and approximate locations of plants as well as plant sources and time of planting;
- types of habitat features and their locations;
- an analysis of any changes to the mitigation plan and any problems that occurred during construction;
- demonstration that the mitigation areas have been successfully established and that the "Additional Measures" have been implemented;
- documentation that the wetland mitigation area and buffers have been recorded on the property deed for the Wetland Mitigation Site.

Two copies of the "as-built" report and drawings shall be sent to Ecology's Southwest Regional Federal Permit Coordinator within 60 days of completing mitigation (including planting). "As-built" submittals shall reference Order No. 4419 and Corps No. 200600706.

If the mitigation construction is not completed within 12 months of the date of this Order, a written status report shall be submitted to Ecology's Southwest Regional Federal Permit Coordinator. Mitigation construction status reports shall continue to be submitted every 12 months until the construction is complete and the final "as-built" report is submitted.

- 17 Two copies of the mitigation monitoring reports shall be submitted to Ecology by December 31 of each monitoring year for years 1, 2, 3, 5, 7, and 10 and as further described in the Monitoring Plan Section of the *Wetland Mitigation* Plan dated June 2006 and as revised December 2006.

H. Emergency/Contingency Measures:

1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project, and shall have spill cleanup materials and an emergency call list available on site.
2. 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, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing the compliance problem.
 - 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, the applicant shall 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 is instructed by Ecology on what to do with them. 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, taking 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 the Washington State 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.
 - f. Submit a detailed written report to Ecology's Federal Permit Coordinator 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.

3. 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, including wetlands

4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology's Southwest Regional Spill Response Office at 360 407-6300.

I. 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:

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

OR

Deliver your appeal in person to:

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:

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

OR

Deliver your appeal in person to:

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

3. And send a copy of your appeal to:

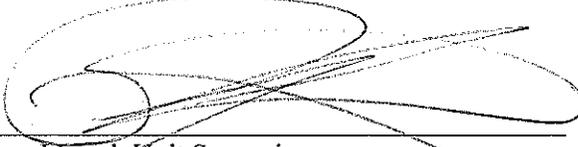
Lori Ochoa
Department of Ecology
Southwest Regional Office
P O. Box 47775
Olympia, WA 98504-7775

*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>*

Order #4419, Corps No. 200600706,
October 22, 2007
Page 11 of 11

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 this 22 day of OCTOBER, 2007 at Lacey, Washington



Perry J Lund, Unit Supervisor
Shorelands and Environmental Assistance Program
Southwest Regional Office

