



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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September 30, 2005

REGISTERED MAIL

Rebecca Smith
WSDOT Eastern Region
2714 N. Mayfair Street
Spokane, WA 99207-2090

RE: Water Quality Certification Order No. 2847, for Corps Public Notice 200500225. The project will include filling 5.91 acres of wetland to widen State Route (SR) 270 within the Pullman (Washington) to the Idaho State Line Corridor to reduce existing traffic congestion and improve highway safety in Whitman County, Washington.

Dear Ms. Smith:

On February 22, 2005, the Washington State Department of Transportation (WSDOT) 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 SR-270 road-widening project. The project proposes to widen SR-270 from an existing two lane roadway to a four lane roadway with a center turning lane for separation as a capacity and safety enhancement project. On July 14, 2005, the U.S. Army Corps of Engineers (the Corps) issued a public notice for the proposed project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the Corps' 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. This letter also serves as the State response to the Corps' July 14, 2005 public notice for this project.

If you have any questions, please contact Michael Maher of Ecology's Eastern Regional Office at (509) 329-3584 or mmah461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

Enclosures

cc: WSDOT Eastern Region- Erv Koller
Army Corps of Engineers –Anne Robinson



Ecology, Eastern Region – Chris Merker
Ecology, Eastern Region – Mimi Wainwright
Ecology, Eastern Region – Michael Maher
WDFW – Karin Divens
Ecology, HQ – Penny Keys

IN THE MATTER OF GRANTING)
A WATER QUALITY)
CERTIFICATION TO)
Washington State Department of Transportation)
in accordance with 33 U.S.C. 1341)
FWPCA § 401, RCW 90.48.260,)
RCW 90.48.120 and WAC 173-201A)

ORDER #2847
(Corps No. 200500225)
SR-270 Pullman, Washington to the Idaho State
Line , Whitman County, Washington

TO: Rebecca Smith
WSDOT Eastern Region
2714 N. Mayfair Street
Spokane, WA 99207-2090

On February 22, 2005 the Washington State Department of Transportation submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a water quality certification for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The request for certification was made available for public review and comment through the Corps of Engineers' Public Notice No. 200500225 on July 14,2005. The only comment received was regarding notification and was addressed by the Corps.

The SR-270, Pullman to Idaho State Line Roadway Improvement Project is located in Whitman County, Washington adjacent to Paradise Creek in Sections 4, 3, 2 and 1 of Township 14N, Range 45 E.W.M.; Sections 31 and 32 of Township 15N, and Range 46 E.W.M.; and Section 5 of Township 14N, and Range 46 E.W.M. The project will widen SR-270 from an existing two lane to a four lane roadway with a center turning lane for separation as a capacity and safety enhancement project. The total permanent wetland impacts will be 5.91 acres. The unavoidable impacts to wetlands will be mitigated per the September 2005 version of the SR-270 Pullman to Idaho State Line Final Mitigation Plan, except as modified by this Order.

For purposes of Order #2847 (Order), the term "Applicant" shall mean the Washington State Department of Transportation (WSDOT) and its agents, assigns, and contractors.

AUTHORITIES:

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

1. Conformance with applicable water quality-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 302,303, 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 with other applicable state laws; and
3. Conformance with the provisions 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 90.48.260, RCW 90.48.120, Chapter 173-200 WAC and Chapter 173-201A WAC, certification is granted to WSDOT's Eastern Region subject to the following conditions:

A. Water Quality Standard Conditions:

1. Paradise Creek is a Class "A" water of the state. 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 (173-204 WAC). Water quality criteria contained in 173-201A-030(1) WAC and 173-201A-040 WAC shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in 173-201A-110(3). Furthermore, 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 reach of Paradise Creek has been identified on the current 303(d) list as exceeding state water quality standards for Ammonia-N, Dissolved Oxygen, Fecal Coliform and Temperature. This proposed project shall not result in further exceedances of these standards. Our review of this proposal indicates that no further exceedances of these standards will occur as a result of this project. Should the project change such that exceedances might occur, the Applicant shall reapply with an updated application.

B. Timing:

1. This Order shall be valid during construction and the long-term operation of the project. The Applicant shall reapply with an updated application for certification if five years elapse between the date of the issuance of this Order and the beginning of construction and/or discharge for which federal license or permit is being sought. The Applicant shall reapply with an updated application if the information contained in the public notice is voided by subsequent submittals to the federal agency. Any further action at this project location, emergency or otherwise, that is not described in the public notice or not approved by Ecology, is not authorized by this Order. All further actions shall be coordinated with Ecology for approval prior to implementation of such action.

C. Notification Conditions:

1. Notification shall be made for the following activities:
 - at least 20 days prior to the pre-construction meeting,
 - at least 7 days prior to the onset of any work on-site,
 - at least 7 days before construction begins at the on-site mitigation site,
 - within 7 days after the completion of the project.

NOTE: These notifications shall include the applicant's name, project name, project location, the number of this Order, contact and contact's phone number and shall

be called into Ecology's Federal Permit Manager for this project, Michael Maher, at (509) 329-3584 and shall be followed up by an email to mmah461@ecy.wa.gov.

2. The Applicant shall ensure that all appropriate project engineers and contractors at the project and/or mitigation sites have read and understand the relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide to Ecology a signed statement from each project engineer and contractor that they have read and understand the conditions of this Order and the referenced permits, plans, documents and approvals. These statements shall be provided to Ecology on the form provided (Attachment A) no less than 7 days before construction begins at the project and/or mitigation sites.

D. Construction Stormwater Monitoring and Reporting Conditions:

1. The Applicant shall submit a Water Quality Monitoring Plan, at least 30 days prior to beginning construction, for Ecology's approval. This plan shall include, but is not limited to, the following information:
 - a. Water Quality Monitoring Plan
 - Name and phone number of person responsible for monitoring;
 - Map of sample locations, including background;
 - Parameter(s) to be monitored, including turbidity, pH, and temperature;
 - Sample method;
 - Sample frequency
2. If the results of the monitoring show that water quality standards or project performance standards are not being met, additional monitoring and mitigation may be required.

E. Construction Activity Conditions:

1. During construction the Applicant shall comply with all requirements of the NPDES Construction Stormwater Permit for this project.
2. The project shall be clearly marked and/or staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas to be protected from disturbance shall be delineated so as to be clearly visible to equipment operators. Equipment shall enter and operate only within the delineated clearing limits, corridors and stockpiled areas.
3. Work in or near the waterbody shall be done so as to minimize turbidity, erosion, and other water quality impacts.
4. Erosion control devices (e.g., filter fences, hay bales, etc.) suitable to prevent exceedence of state water quality standards shall be in place before starting project construction and shall be maintained throughout construction.
5. All excess excavated material shall be disposed of above the 100-year floodplain and shall be stabilized or contained so as to prevent its re-entry into waters of the state.
6. Periodic inspection and maintenance of all erosion control structures shall be conducted no less than every 7 days from the start of the project to 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 it is determined during the inspection that additional measures are needed to control stormwater and erosion, they shall be implemented immediately.

7. 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.
8. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in order to prevent contamination to surface waters.
9. Turbid water generated from construction activities, including turbid dewatering water, shall not be discharged directly into waters of the state. Turbid water shall be pumped to an upland area to allow the turbid water to settle. The discharge from the upland areas shall meet the water quality criteria at the point of discharge into surface waters and/or wetlands.
10. Dewatering water that is not turbid may be discharged directly into surface waters and/or wetlands provided that: a) waste water containing raw concrete or other harmful material has not been in contact with the water to be dewatered and b) the water will meet all the water quality standards at the point of discharge.
11. 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.
12. Fresh, uncured concrete in direct contact with the water is toxic to aquatic life. All concrete shall be poured in the dry, or within the confined waters not being dewatered, and shall be completely cured prior to coming into contact with state waters.

F. Wetland Mitigation and Monitoring Conditions:

1. Mitigation for this project shall be constructed and maintained as described in the *Revised Draft Wetland Mitigation Plan, SR 270, Pullman to Idaho State Line* (Revised Draft) and approved by Chris Merker, wetland specialist for the Department of Ecology, dated September 2005, except as modified by this Order. All modifications that follow shall be included in the final wetland mitigation plan for this project.
2. Mitigation elements are more fully described in the above-referenced documents and as revised through the conditions of this Order. A final wetland mitigation plan report shall be approved by Ecology prior to commencing construction at the project mitigation site and shall reflect this Order's modifications made to the Revised Draft. If conflicting language exists for a particular issue, conditions of the Order take precedence over all other documents.
 - . If this Order does not address the issue, the most recent document prevails.
3. Any changes to the mitigation plan after final approval must be approved in writing by Ecology prior to implementing the changes.
4. Compensatory mitigation construction and installation shall occur prior to, or concurrently with, project impacts to wetlands.

5. Upon completion of grading on the mitigation sites, and prior to planting, the Applicant shall provide evidence (e.g., letter certifying that final elevations were confirmed by survey) to Ecology that finished grades are consistent with the final wetland mitigation plan or other subsequent Ecology-approved modifications to grading plans.
6. 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, numbers and approximate locations of plants, as well as plant sources and the time of planting;
 - habitat features (snags, large woody debris, etc.) and their locations if any;
 - drawings clearly identifying the boundaries of new or enhanced wetlands;
 - locations of sampling and monitoring sites; and
 - any changes to the final approved mitigation plan that occurred during construction.
7. The "As-Built" report shall be sent to Ecology's Federal Permit Manager for this project within sixty days of completing construction and planting of the wetland mitigation site and in no case later than December 31" of the year in which the mitigation site is completed.
8. If a particular performance measure is not met during monitoring years 1 through 7, WSDOT shall present to Ecology the reasons for non-attainment. Ecology will determine whether remedial actions should be taken, additional wetland mitigation is needed, or the performance measure should be adjusted.
9. When needed to meet the performance measures stated in the Revised Draft Wetland Mitigation Plan, dead or dying plants shall be replaced during the first available planting season with the same species or a native plant alternative, as approved by Ecology.
10. Appropriate and effective sediment control BMPs shall be installed adjacent to any surface water body on the mitigation site prior to commencing earthwork.
11. Removal or weeding of invasive species shall be done, at a minimum, directly around new plantings, and continued aggressive maintenance of the site shall be conducted to ensure the success of the plantings. If herbicides are used, all necessary permits and approvals must be obtained prior to use.
12. Monitoring of the wetland mitigation site will occur for a minimum of 10 years, with monitoring performed at the end of years 1, 3, 5, 7 and 10. If, at any monitoring year 10, all required performance standards have not been met, Ecology may require additional monitoring and/or additional wetland mitigation.
13. Monitoring of the wetland mitigation site shall be completed as described in the Revised Draft Wetland Mitigation Plan prepared by the Washington State Department of Transportation.
14. A copy of the Annual Monitoring Report shall be submitted to Chris Merker, wetland specialist for the Department of Ecology, 4601 N. Monroe Street, Spokane, WA 99205-1295

for this project no later than April 30th of the year following the formal monitoring periods of years 1, 3, 5, 7 and 10.

15. Water levels, above or below ground as appropriate, shall be monitored at the on-site wetland creation area during the first three growing seasons following completion of the mitigation installation. The monitoring shall occur at a minimum of 10 monitoring points and at a minimum frequency of once monthly throughout each growing season, such growing season being defined data from the nearest weather monitoring station noted in the Soil Survey for Whitman County (average period of frost free days for 5 of 10 years).

G. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project and shall have spill cleanup materials 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, or onto land with a potential for entry into state waters, is prohibited. If any of these occur, the Applicant shall immediately take the following actions:
 - a. Cease the operations that are causing compliance problems.
 - b. Assess the cause of any water quality problems and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. Immediately notify Ecology's Eastern Regional Spill Response Office at (509) 329-3400 of the nature of the problem, any corrective actions taken and any proposed changes in operations to prevent further problems.
 - d. Begin containment and cleanup efforts immediately and complete them as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - e. 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 is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - f. Send a Final Incident Mitigation Report to Ecology's Federal Permit Manager for this project, Michael Maher, to 4601 N. Monroe Street, Spokane, WA 98205-1295.

H. General Conditions:

1. 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.
2. This Order does not exempt, and is conditioned upon, compliance with other statutes and codes administered by federal, state, and local agencies.

3. Ecology retains continuing jurisdiction to make modifications hereto through supplemental Orders, if it appears necessary to further protect the public interest.
4. The Applicant shall construct and operate the project in a manner consistent with the project description contained in the JARPA and the Public Notice for certification, or as otherwise approved by Ecology.
5. 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 and surface waters of the state.
6. The WSDOT representative shall have adequate authority to ensure proper implementation of the Erosion and Sediment Control Plan, as well as immediate corrective actions necessary because of changing field conditions. If the WSDOT representative issues a directive necessary to prevent pollution to the waterbody, all personnel on-site, including the construction contractor and the contractor's employees, shall immediately comply with this directive.
7. 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, or to ensure that conditions of this Order are being met.
8. Copies of this Order and all related permits, approvals, and documents shall be kept on the project site and readily available for reference by the project managers, construction managers and lead personnel, other employees and contractors of the Applicant, and state agency personnel.
9. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

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:

Loree' Randall
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 43.21.320. These procedures are consistent with Chapter 43.21B RCW.

Dated Sept 30, 2005 at Olympia, Washington.



Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program
State of Washington

Water Quality Certification Docket # 2847 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 widening of SR 270 Pullman to Idaho State Line. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order Docket# 2847** 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