

IN THE MATTER OF GRANTING A)
WATER QUALITY CERTIFICATION TO)
Clark County Public Works in accordance with)
33 U.S.C. 1341 FWPCA § 401, RCW 90.48.260)
RCW 90.48.120 and 173-201A)
)

ORDER #2463
(CORPS # 200300845)
Fill Wetlands to Widen and Upgrade
NE 72nd Avenue and St. John's Road
in Clark County, Washington

TO: Clark County Public Works Department
PO Box 9810
Vancouver, WA 98666-9810

ATTN: Phil Gaddis

On October 14, 2004, a request for water quality certification from the State of Washington was made available for public review and comment through the Corps of Engineers' Public Notice No. 200300845. Fill will be placed in a total of 7.08 acres of emergent, scrub/shrub, and forested wetlands in 30 separate roadside locations, four proposed stormwater facilities, and up to 0.5 of an acre of jurisdictional roadside ditches in order to correct safety and mobility deficiencies on 72nd Avenue and St. John's Road. In addition, a total of 6.1 acres of buffer will be impacted. Mitigation for these impacts include creation of a total of 6.44 acres of wetland, enhancement of 23.37 acres of wetland, and enhancement of 0.49 of an acre of buffer in the Curtin Creek and LaLonde Creek sub-basins of the Salmon Creek watershed.

For purposes of this Order, the term "Applicant" shall mean the Clark County Public Works Department 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 investigated 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, 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 appropriate 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: In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW, 90.48.120 RCW and Chapter 173-201A WAC, certification is granted to the Applicant subject to the following conditions:

A. Water Quality Standard Conditions:

1. Salmon 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), 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) WAC. 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.

B. Timing:

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

C. Notification Conditions:

1. Notification shall be made for the following activities:
 - At least thirty (30) days prior to the pre-construction meeting
 - to at least seven (7) days prior to the onset of any work on site
 - at least seven (7) days prior to construction of the mitigation site
 - within seven (7) days after completion of the project
2. The Applicant shall ensure that all appropriate project engineers and contractors at the project and/or mitigation sites have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order, including the August 2004 Wetland Mitigation Plan. The Applicant shall provide to Ecology a signed statement from the project engineer and each 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 seven (7) days before construction begins at the project site or mitigation site.
3. The Applicant will provide of the date of issuance and permit number of the General Permit to Discharge Stormwater Associated with Construction Activity when this permit has been obtained.

NOTE: These notifications shall include the Applicant's name, project name, project location, the number of this Order, and contact name and phone number and shall be sent to Ecology's Southwest Regional Office Federal Permit Coordinator by fax to 360/ 407-6305, or mail to P.O. Box 47775, Olympia, WA 98504-7775.

D. Construction Activity Conditions

1. Prior to commencing construction at the project or mitigation sites, the Applicant shall obtain a General Permit to Discharge Stormwater Associated with Construction Activity from the Department of Ecology.
2. During construction the Applicant shall comply with all stormwater requirements within the General Permit to Discharge Stormwater Associated with Construction Activity.
3. The project site shall be clearly marked/staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Equipment shall enter and operate only within the delineated clearing limits, corridors, and stockpile areas.
4. Prior to clearing and grading in wetlands, the adjacent wetlands shall be protected from construction impacts. Construction fencing or flagging (using brightly colored tape at no less than twenty-five foot (25') intervals) of the existing wetlands and stream channels to be protected shall be installed prior to clearing. All project staff shall be trained to recognize construction fencing or flagging that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channels that are not authorized to be filled.
5. Work in or near waters of the state shall be done in a manner that minimizes turbidity, erosion, and other water quality impacts.

6. Erosion control devices consistent with the BMPs specified in the General Permit to Discharge Stormwater Associated with Construction Activity and suitable to prevent exceedances of state water quality standards shall be in place before starting project construction and shall be maintained throughout construction.
7. 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 rainfall forecast to exceed 0.5 inches per 24 hour period and after rainfall exceeding 0.5 inches per 24 hour period to ensure erosion control measures are in good working condition. Any damaged structures shall be immediately repaired. If it is determined at the inspection that additional measures are needed to control stormwater and erosion, they shall be implemented immediately.
8. 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 except as authorized by an NPDES or state waste discharge permit.
9. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in order to prevent contamination to surface waters.
10. 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
11. Dewatering water that is not turbid may be discharged directly to 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 discharged and b) the water will meet all the water quality standards at the point of discharge.
12. A separate area shall be set aside, which does not have any possibility of draining to surface waters, to wash out concrete delivery trucks, pumping equipment, and tools.
13. Fresh, uncured concrete in direct contact with water is toxic to aquatic life. All concrete shall be poured in the dry, or within confined waters not being dewatered, and shall be completely cured prior to coming into contact with state waters.
14. All construction debris shall be properly disposed of on land so that it cannot cause water quality degradation to state waters.
15. 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.
16. At the completion of construction, hydroseeding may be done to stabilize slopes and soils until other required planting is completed. Hydroseed mix shall consist only of native, non-invasive, or annual plant species.

E. Mitigation

1. Project mitigation shall be constructed and maintained as described in the Revised Draft Wetland Mitigation Plan NE 72nd Ave/St. Johns Rd. Widening Project Prepared by Philip K. Gaddis, Ph.D., P.W.S, Dept. Public Works, August, 2004.
2. The property owner shall grant Ecology access to the mitigation areas for inspection during the 10 year monitoring period or until mitigation success has been achieved.

3. Prior to implementing any contingency measures, Applicant will consult with permitting agencies.
4. Contingency measures and additional monitoring of the mitigation may be required by Ecology if wetland monitoring reveals that performance measures are not being met.
5. Any changes to the mitigation plan or monitoring requirements must be approved by Ecology **before** they are incorporated into the plan or implemented on the ground.

F. Reporting Conditions

1. 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:
 - a) comments from a wetland specialist present on site during mitigation construction;
 - b) final site plan showing site topography (both site plan view and typical sections) and clearly indicating the mitigation site boundary;
 - c) photographs of the area taken from permanent photo points which will be designated on the site plan;
 - d) the installed planting scheme showing densities, sizes, and approximate locations of plants as well as plant sources and time of planting; and,
 - e) an analysis of any changes to the mitigation plan that occurred during construction.
2. Monitoring reports shall be submitted to Ecology within 30 days of completion of monitoring activity.
3. A copy of the Conservation Covenants described in the August 2004 Mitigation Plan shall be submitted to Ecology 15 days prior to beginning construction on the roadway improvements.

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 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 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 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.
 - d) Immediately notify Ecology's Southwest Regional Spill Response Office at (360) 407-6300 of the nature of the problem and any actions taken to correct the problem and any proposed changes in operations to prevent further problems.

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

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. The Applicant shall construct and operate the project in a manner consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology.
4. The Applicant shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
5. 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 foremen, other employees and contractors of the Applicant, and state agency personnel.
6. Ecology retains continuing jurisdiction to make modifications hereto through supplemental Order, if it appears necessary to further protect the public interest.
7. 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.

Any person aggrieved by Order No. 2463 may obtain review thereof by appeal. Pursuant to Ch. 43.21B RCW, a person can appeal this order to the Pollution Control Hearings Board within 30 days of the date of receipt of this Order. Any such appeal must be sent to the Washington Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, Attn: Loree' Randall, P.O. Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated 19 MAY 2005 at Lacey, Washington



Perry J Lund, Unit Supervisor
Shorelands and Environmental Assistance Program
Department of Ecology – Southwest Regional Office

Attachment # A

Water Quality Certification Statement of Understanding

I, _____, state that, I will be involved as an agent or contractor for Clark County in widening NE 72nd Avenue and St. John's Road and/or construction of the mitigation for that activity. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order #2463 and the applicable permits and approvals, including the August 2004 Wetland Mitigation Plan, referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company