



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000  
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

October 4, 2011

Carrie Berry  
Washington Department of Transportation  
Olympic Region – Tacoma/Pierce Co. HOV Office  
P.O. Box 47376  
Olympia, WA 98504-7376

RE: Water Quality Certification Order 8773 for Corps Public Notice No. NWS-2011-61-DOT Project in Pierce County, Washington

*Carrie*  
Dear Ms. Berry:

On January 10, 2011, the Washington Department of Transportation (WSDOT), submitted a Joint Aquatic Resources 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 Portland Avenue to Port of Tacoma Road Northbound HOV project.

The proposed project entails constructing a northbound HOV lane by widening and realigning I-5, starting at Portland Avenue (MP 134.62) and ending just past the Port of Tacoma Road Interchange (MP 136.63). The bridge at T-Street will be replaced and 20th street will be realigned. Local roadways and intersections with the WSDOT Right of Way will also be widened. Retaining walls will be constructed to provide structural support for the new roadway north of the Puyallup River. Other project components include new stormwater drainage and treatment facilities, relocating sanitary and water force mains at 20<sup>th</sup> street, and replacing portions of the sanitary sewer in the T-Street corridor. This project will result in 2.44 acres of permanent impacts and 1.20 acres of temporary impacts to Category III and IV wetlands. Unavoidable permanent wetland impacts will be mitigated offsite at the 9.91-acre Clear Creek-Riverside Mitigation Site. This project will use 3.32 acres of wetland mitigation credit at this site to compensate for project impacts.



Ms. Carrie Berry  
October 4, 2011  
Page 2 of 2

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 Penny Kelley at 360-407-7298. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Brenden McFarland  
Environmental Review and Transportation Section  
Shorelands and Environmental Assistance Program  
Ecology Headquarters

Enclosure

by Certified Mail 7009 1410 0002 4001 1750

e-cc: Bill Sullivan – Puyallup Tribe  
Victoria Book – WSDOT  
Stephanie Jackson – Ecology  
Caroline Corcoran – Ecology  
Bobb Nolan - Ecology  
Loree' Randall – Ecology  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)

**IN THE MATTER OF GRANTING A ) ORDER # 8773**  
**WATER QUALITY ) Corps Reference No. NWS-2011-61-DOT**  
**CERTIFICATION TO ) Widen and realign the northbound lanes of I-5.**  
 Washington Department of ) The project is located in Pierce County,  
 Transportation ) Washington.  
 in accordance with 33 U.S.C. 1341 )  
 (FWPCA § 401), RCW 90.48.120, RCW )  
 90.48.260 and Chapter 173-201A WAC )

TO: Carrie Berry  
 Department of Transportation  
 Olympic Region – Tacoma/Pierce Co. HOV Office  
 P.O. Box 47376  
 Olympia, WA 98504-7376

On January 10, 2011, Ecology received a Joint Aquatic Resources Permit Application (JARPA) from the Washington Department of Transportation (WSDOT) requesting a 401 Water Quality Certification (WQC). The U.S. Army Corps of Engineers (Corps) issued a public notice for the project on March 3, 2011.

The proposed project entails constructing a northbound HOV lane by widening and realigning I-5, starting at Portland Avenue (MP 134.62) and ending just past the Port of Tacoma Road Interchange (MP 136.63). The bridge at T-Street will be replaced and 20th street will be realigned. Local roadways and intersections with the WSDOT Right of Way will also be widened. Retaining walls will be constructed to provide structural support for the new roadway north of the Puyallup River. Other project components include new stormwater drainage and treatment facilities, relocating sanitary and water force mains at 20<sup>th</sup> street, and replacing portions of the sanitary sewer in the T-Street corridor. This project will result in wetland impacts that are being mitigated for at the Clear Creek Advanced mitigation site.

The project is within the limits of the City of Tacoma and the City of Fife, in Pierce County Washington.

WRIA 10 Puyallup-White River  
 Section 10 Township 20N Range 3E  
 Section 11 Township 20N Range 3E

**AUTHORITIES**

In exercising authority under 33 U.S.C. § 1341, 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. §§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 comply with 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, Olympia, WA 98504-7600 or via e-mail (preferred), if possible, to the Coordinator assigned to this project. Notifications shall be made via phone or e-mail (preferred). All submittals and notifications shall be identified with Order No. 8773 and include the Applicant's name, project name, project location, the project contact and the contact's phone number.

3. Notification shall be made via phone or e-mail (e-mail preferred) to Ecology's Federal project coordinator in accordance with condition A.2., for the following activities:
  - a. Immediately for any work that is out of compliance with the provisions of this Order.
    - i. In addition to the phone or e-mail notification required for A.2., the Applicant shall submit a detailed written report to Ecology 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.
  - b. At least ten (10) days prior to the preconstruction meeting
  - c. At least ten (10) days prior to the onset of any work on site,
  - d. At least ten (10) days prior to the onset of bridge work
  - e. At least seven (7) days within project completion
4. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on January 10, 2011. 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.
5. 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.
6. This Order shall be rescinded if the U.S. Corps of Engineers does not issue an individual Section 404 permit.
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 project engineers, contractors, and other workers at the project site with authority to direct work 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 signatory that s/he has read and understands the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins.

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. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

#### **B. Timing**

1. This order will expire five (5) years from the date of issuance of the Corps permit.

#### **C. Construction Conditions**

1. The Applicant shall comply with the conditions of the current Construction Stormwater permit (National Pollutant Discharge Elimination System – NPDES) issued for this project.
2. Within the project limits<sup>1</sup> all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, and mitigation areas shall be fenced with high visibility construction fence (HVF) prior to commencing construction activities. Construction activities include equipment staging, materials storage, and worker vehicle parking.  
*Note: This condition does not apply to activities such as pre-construction surveying and installing HVF and construction zone signage.*
  - a. All field staff shall be trained to recognize HVF, understand its purpose and properly install it in the appropriate locations. HVF shall be maintained until all work is completed for each project or each stage of a staged project.
  - b. All clearing limits, stockpiles, staging areas and trees to be preserved shall be clearly marked prior to commencing construction activities and maintained until all work is completed for each project.
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.

---

<sup>1</sup> Project limits include mitigation sites, staging areas, borrow sources, and other sites developed or used to support project construction.

4. All construction debris, excess sediment, and other solid waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.

Equipment & Maintenance

5. 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 waters of the state, then the Applicant shall provide a written explanation and obtain approval from Ecology's Federal Permit Coordinator before placing the staging area in the setback area.
6. Equipment used for this project shall be free of external petroleum-based products while used around 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.
7. No equipment shall enter, operate, be stored or parked within any sensitive area except as specially provided for in this Order.
8. 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.
9. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into states waters. The applicant shall set up a designated area for washing down equipment.
10. No cleaning solvents or chemicals used for tool or equipment cleaning may be discharged to the ground or to waters of the state, including wetlands.
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. No concrete wash water shall be discharged to waters of the state.

Upland Bridge Pier Work

12. Any bridge slurry from construction of drilled shafts in upland areas shall not be allowed to infiltrate in upland areas. The slurry shall be contained and taken to an approved facility for disposal.

#### **D. Wetland Compensatory Mitigation Conditions**

1. The Applicant shall mitigate wetland impacts as described in the *Tacoma/Pierce County HOV Program I-5: Portland Avenue to Port of Tacoma Road Northbound HOV Wetland and River Mitigation Plan* (hereafter called the "Mitigation Plan") prepared by Tacoma HOV Program WSDOT/GEC Wetlands Team, and dated December 22, 2010 and updated September 6, 2011, or as modified by this Order or revised and approved by Ecology.
2. The Applicant shall submit any changes to the Mitigation Plan in writing to Ecology (see A.2) for review and approval before work begins.
3. If the Applicant has not met all the conditions and performance standards for wetland compensatory mitigation at the end of the monitoring period, Ecology may require additional monitoring, additional wetland compensatory mitigation, or both.

#### **E. 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. Work that is out of compliance with the provision of this Order, conditions causing distressed or dying fish, discharges of oil, fuel or chemicals into state waters or onto land with a potential for entry into state waters, is prohibited. If such work, conditions, or discharges occur, the Applicant shall comply with WSDOT's most current Environmental Compliance Assurance Procedure for Construction Project and Activities 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 a discharge of oil, fuel, or chemicals into state waters, or onto land with potential for entry into state waters, being containment and cleanup efforts immediately and complete them 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.
  - d. Immediately notify Ecology's Southwest Regional Spill Response Office at 360-407-6300, and within 24 hours of spills or other events, to Ecology's Federal Project Coordinator at 360-407-7298.
  - e. Immediately notify the National Response Center at 1-800-424-8802 for spills to water.
  - f. Submit a detailed written report to Ecology 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 sample taken, and any other pertinent information.

### **YOUR RIGHT TO APPEAL**

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001 (2).

To appeal you must do the following within 30 days of the date of receipt of this Order:

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

### **ADDRESS AND LOCATION INFORMATION**

<b>Street Addresses</b>	<b>Mailing Addresses</b>
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Road SW STE 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

### **CONTACT INFORMATION**

Please direct all questions about this Order to:

Penny Kelley  
Department of Ecology  
P.O. Box 47600  
Olympia, WA 98503-7600  
360-407-7298  
[pkel461@ecy.wa.gov](mailto:pkel461@ecy.wa.gov)

**MORE INFORMATION**

**Pollution Control Hearings Board Website**

[www.eho.wa.gov/Boards\\_PCHB.aspx](http://www.eho.wa.gov/Boards_PCHB.aspx)

**Chapter 43.21B RCW - Environmental Hearings Office – Pollution Control Hearings Board**

<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

**Chapter 90.48 RCW – Water Pollution Control**

<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

**Chapter 173.204 WAC – Sediment Management Standards**

[www.ecy.wa.gov/biblio/wac173204.html](http://www.ecy.wa.gov/biblio/wac173204.html)

**Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**

[www.ecy.wa.gov/biblio/wac173200.html](http://www.ecy.wa.gov/biblio/wac173200.html)

**Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**

[www.ecy.wa.gov/biblio/wac173201A.html](http://www.ecy.wa.gov/biblio/wac173201A.html)

**SIGNATURE**



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

10 - 4 - 11

\_\_\_\_\_  
Date

Water Quality Certification Order #8773  
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 I-5 Portland Avenue to Port of Tacoma Road Northbound HOV project in Pierce County, WA. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order # 8733** 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