STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

June 14, 2011

Evan Lewis
Environmental Resources Section
U.S. Army Corps of Engineers
PO Box 3755
Seattle, WA 98124

RE: First Amendment to Administrative Order #02SEANR-4968 for U.S. Army Corps of Engineers (Corps) Reference #PL-02-02, Union Slough Section1135 Restoration, Everett, Snohomish County, Washington

Dear Mr. Lewis:

Enclosed is the first amendment to the Water Quality Certification issued on December 6, 2002, for the above project.

The purpose of this amendment is to respond to the April 19, 2011 request by the Corps to change aspects of the project. The two pedestrian bridges will be removed, the pedestrian trail relocated to the west along the setback levee, remnant levee material along the slough side of the beaches removed, and additional low flow channels created within the estuary.

If you have any questions, please contact Rebekah Padgett at (425) 649-7129. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

Erik Stockdale

Erik Stockdale, Unit Supervisor
Northwest Regional Office
Shorelands and Environmental Assistance Program

ES:rrp:cja

By certified mail # 7009 1410 0001 5661 6827

cc: Jonathan Smith, U.S. Army Corps of Engineers
Michael Scuderi, U.S. Army Corps of Engineers
Heather Griffin, City of Everett
Paul Crane, City of Everett
Dan Mathias, City of Everett
Tom Ehrlichman
Jamie Bails, Washington Department of Fish and Wildlife

e-cc: Erik Stockdale – NWRO
Loree' Randall – HQ
Raman Iyer – NWRO
ecyrefedpermits@ecy.wa.gov

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF GRANTING	)	**ORDER #02SEANR-4968 1st Amendment**
A WATER QUALITY	)	**U.S. Army Corps of Engineers Reference**
CERTIFICATION TO	)	**#PL-02-02**
U.S. Army Corps of Engineers	)	Union Slough Section 1135 Restoration
	)	Project; Everett, Snohomish County,
	)	Washington.

TO: Evan Lewis
Environmental Resources Section
U.S. Army Corps of Engineers
PO Box 3755
Seattle, WA 98124

As requested on April 19, 2011, the Department of Ecology (Ecology) is amending the above-referenced Administrative Order.

This amendment is issued under the provisions of Chapter 90.48 RCW and Chapter 173-201A WAC.

Administrative Order #02SEANR-4968 is hereby amended as follows:

1. **Conditions B3-B4 that read:**

B3. If the results of turbidity sampling indicate no exceedances, results shall be forwarded to Department of Ecology on a weekly basis to Alice Kelly at e-mail akel461@ecy.wa.gov, or fax at (425) 649-7098.

B4. If exceedances of the turbidity standards occur:
- Immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem.
- Notify Ecology of the failure to comply within 24 hours to Ecology's Alice Kelly at (425) 649-7145.
- Submit a detailed written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

Are replaced with:

B3. If the results of turbidity sampling indicate no exceedances, results shall be forwarded to Department of Ecology on a weekly basis to 401/CZM Federal Permit Manager at rebekah.padgett@ecy.wa.gov, or fax at (425) 649-7098.

B4. If exceedances of the turbidity standards occur:

- Immediately take action to stop, contain, and prevent unauthorized discharges or otherwise stop the violation and correct the problem.
- Notify Ecology of the failure to comply within 24 hours to Ecology's 401/CZM Federal Permit Manager at (425) 649-7129 or rebekah.padgett@ecy.wa.gov.
- Submit a detailed written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

2. Condition F1 that reads:

F1. In the event U.S. Army Corps of Engineers is unable to comply with any of the permit terms and conditions due to any cause, the applicant shall:

- Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
- Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (425) 649-7000, and within 24 hours to Ecology's Alice Kelly at (425) 649-7145.
- Submit a detailed written report to Ecology within five days that describes the nature of the violation, 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 U.S. Army Corps of Engineers from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

Is replaced with:

F1. In the event U.S. Army Corps of Engineers is unable to comply with any of the permit terms and conditions due to any cause, the applicant shall:

- Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
- Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (425) 649-7000, and within 24 hours to Ecology's 401/CZM Federal Permit Manager at (425) 649-7129 or rebekah.padgett@ecy.wa.gov.
- Submit a detailed written report to Ecology within five days that describes the nature of the violation, 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 U.S. Army Corps of Engineers from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

3. The following Conditions are added:

D10. Construction equipment shall be used in tidally inundated areas of the site only during low tides, and water draining out of the site at low tide shall be diverted around the work areas to create as dry of a working area as practicable.

D11. Equipment shall operate from atop the dike as practicable and in order to avoid operations within the tidal portion of the site.

D12. The Applicant shall use tarps or other containment method when cutting or drilling over water in order to prevent debris, dust, concrete rubble, and other materials from entering the water.

D13. Concrete debris from the bridge removal shall be disposed of at an upland location.

D14. All excavated dike material shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.

D15. Asphalt shall be prevented from entering waters of the state.

D16. In removal of the bridges and foundation, all geogrid material also shall be removed and disposed of upland.

No other conditions or requirements of the above-mentioned Order are affected by this Amendment. The Department of Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

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

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

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

CONTACT INFORMATION

Please direct all questions about this Order to:

Rebekah Padgett
Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008
(425) 649-7129
rpad461@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website
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 371-08 WAC – Practice And Procedure
http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08

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

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

SIGNATURE

Erik Stockdale

Erik Stockdale, Unit Supervisor
Wetlands/401 Unit
Shorelands and Environmental Assistance Program
Northwest Regional Office

June 14, 2011