



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*Northwest Regional Office • PO Box 330316 • Shoreline, Washington 98133-9716 • (206) 594-0000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341*

February 7, 2022

City of Kenmore Parks
Attn: Maureen Colaizzi
18120 68th Avenue NE
Kenmore, WA 98028

RE: Amendment to 401 Water Quality Certification Order No. **18159** for U.S. Army Corps of Engineers Reference No. **NWS-2019-434**, Squire's Landing Park Waterfront Access Improvements, Swamp Creek, Kenmore, King County, Washington

Dear Maureen Colaizzi:

Enclosed is an amendment to Water Quality Certification Order No. 18159, issued on September 23, 2020, for the above project. We have also included a strikeout version of the Water Quality Certification that reflects the changes made. All other conditions of Water Quality Certification No. 18159 remain in effect.

The purpose of this amendment is to address a change in the in-water work window timing and revised date of the Draft Water Quality Monitoring and Protection Plan.

If you have any questions, please contact Doug Gresham at (425) 429-1846. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar".

Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office

Enclosure

e-cc: Colleen Anderson, U.S. Army Corps of Engineers
Marlene Meaders, Confluence Environmental Company
Doug Gresham, Ecology
Loree' Randall, Ecology
ecyrefedpermits@ecy.wa.gov

**IN THE MATTER OF GRANTING A
WATER QUALITY
CERTIFICATION TO**
City of Kenmore Parks
In accordance with 33 U.S.C. 1341
(FWPCA §401), RCW 90.48.120, RCW
90.48.260 and Chapter 173-201A WAC

) **ORDER No. 18159**
) **First Amendment**
) **Corps Reference No. NWS-2019-434**
) Squire’s Landing Park Waterfront Access
) Improvements Project, King County,
) Washington

City of Kenmore Parks
Attn: Maureen Colaizzi
18120 68th Avenue NE
Kenmore, WA 98028

On September 23, 2020, the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to City of Kenmore Parks for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request on January 19, 2022, to change the in-water work window timing. On December 23, 2021, we also received a revised Draft Water Quality Monitoring and Protection Plan.

Order No. 18159 dated September 23, 2020, is hereby amended as follows:

I. Condition number C.2 which reads:

In-Water Work Window Timing

For any year, in-water work shall be conducted between July 16, and August 31 for Swamp Creek and the Samammish River; and between July 1 and September 30 for the Squires Landing Lagoon.

Is replaced with:

In-Water Work Window Timing

For any year, in-water work shall be conducted between July 16, and August 31 for Swamp Creek and the Samammish River; and between July 1 and September 30 for the Squires Landing Lagoon, unless otherwise authorized by Ecology.

For the 2021/22 winter season only, in-water work shall be conducted between November 16, 2021 and February 11, 2022, for Swamp Creek and the Sammamish River.

II. Condition number D.3 which reads:

The Applicant shall submit a final copy of *Squire’s Landing Park Waterfront Access Improvements Project—Draft Water Quality Monitoring and Protection Plan* (Plan) prepared by Confluence Environmental Consultants for the City of Kenmore, dated September 2020. The final Plan shall be submitted to Ecology’s Federal Permit Manager

(per Condition A.2 of this Order) for review and approval at least 30 days prior to beginning any work covered by this Order.

Is replaced with:

The Applicant shall submit a final copy of *Squire's Landing Park Waterfront Access Improvements Project - Draft Water Quality Monitoring and Protection Plan* (Plan) prepared by Confluence Environmental Consultants for the City of Kenmore, revised on December 23, 2021. The final Plan shall be submitted to Ecology's Federal Permit Manager (per Condition A.2 of this Order) for review and approval at least 30 days prior to beginning any work covered by this Order.

No other conditions or requirements of the above referenced Order are affected by this amendment.

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 amended Order may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this amended Order.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearings 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 all of 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

Filing an appeal with the PCHB:

Mailing Address:

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

Street address:

Pollution Control Hearings Board
1111 Israel RD SW
STE 301
Tumwater, WA 98501

Serving a copy of the appeal on Ecology:

Mailing Address:

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

Street Address:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

CONTACT INFORMATION

Please direct all questions about this Order to:

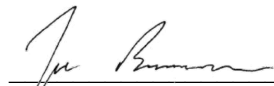
Doug Gresham
Department of Ecology
Northwest Regional Office
(425) 429-1846
Doug.Gresham@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
<http://www.eluho.wa.gov/Board/PCHB>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>

SIGNATURE

Dated this 7th day of February, 2022, at the Department of Ecology, Shoreline Washington.



Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office

This document shows the activities and conditions that have been amended since the original Order was issued. Therefore, it is not the official certification and should be used for information purposes only.

IN THE MATTER OF GRANTING A)	ORDER # 18159 – 1st Amendment
WATER QUALITY)	Corps Reference No. NWS-2019-434
CERTIFICATION TO)	Squire’s Landing Park Waterfront Access
City of Kenmore Parks)	Improvements Project, King County,
in accordance with 33 U.S.C. 1341)	Washington.
(FWPCA § 401), RCW 90.48.120, RCW)	
90.48.260 and Chapter 173-201A WAC)	

Maureen Colaizzi
City of Kenmore Parks
18120 68th Avenue NE
Kenmore, WA 98028

On November 19, 2019, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification (WQC) from the City of Kenmore Parks for waterfront access improvements to the Squire’s Landing Park. The U.S. Army Corps of Engineers (Corps) issued a joint public notice for the project on March 13, 2020.

The proposed project entails improving public shoreline access for pedestrians and non-motorized boats at this City of Kenmore park including installation of: recreational floats, and elevated boardwalk, a pedestrian bridge, gravel paths, a picnic pavilion and plaza, a parking lot, and improvements to an existing lagoon. This site is located at 7353 NE 175th Street at the confluence of Swamp Creek and the Sammamish River near Lake Washington in Section 12, Township 26N, Range 4E, within Water Resource Inventory Area (WRIA) #8.

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, 302, 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.
4. Conformance with Washington’s prohibition on discharges that cause or tend to cause pollution of waters of the state of Washington. RCW 90.48.080

WATER QUALITY CERTIFICATION CONDITIONS

With this Water Quality Certification (WQC) and 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.

Issuance of this WQC for this proposal does not authorize City of Kenmore Parks 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 absolves Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

A. General Conditions

1. In this Order, the term “Applicant” shall mean the City of Kenmore Parks and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to Ecology’s Northwest Regional Office, Attn: 401/CZM Federal Permit Manager, Shorelands and Environmental Assistance Program, 3190 160th Avenue SE, Bellevue, WA 98008, OR via email to fednotification@ecy.wa.gov and cc: doug.gresham@ecy.wa.gov. The submittals shall be identified with Order 18159 and include the Applicant name, project name, project contact, and the contact phone number.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Permit Application (JARPA) received by Ecology on November 19, 2019.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
5. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new public notice and Water Quality Certification or if a modification to this Order is required.
6. This Order is not effective until the U.S. Army Corps of Engineers (Corps) issues a permit for this project.

7. The Applicant shall send (per A.2) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.
8. The Applicant shall keep copies of this Order 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.
9. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, and/or necessary data collection, to ensure that conditions of this Order are being met.
10. 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.
11. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48) or the federal Clean Water Act, Ecology may issue an amendment to this Order to incorporate any such changes or amendments applicable to this project.
12. 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.
13. 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.
14. 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. Notification Requirements

1. The following notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Permit Manager via e-mail to fednotification@ecy.wa.gov and cc to

doug.gresham@ecy.wa.gov. Notifications shall be identified with Order No. 18159 and include the Applicant name, project name, project location, project contact and the contact phone number.

- a. Within 24 hours following a violation of state water quality standards or when the project is out of compliance with any of this Orders conditions.
 1. In addition to the phone or e-mail notification, 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 all pre-construction meetings
 - c. At least ten (10) days prior to conducting initial in-water work activities for each in-water work window.
 - d. At least seven (7) days prior to completing each wetland mitigation site.
 - e. At least seven (7) days within project completion.
2. If the project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction and mitigation are completed.

C. Timing

1. This Order will expire when all its conditions have been met and upon receipt of a mitigation closeout letter from Ecology.

In-Water Work Window Timing

2. For any year, in-water work shall be conducted between July 16, and August 31 for Swamp Creek and the Samammish River; and between July 1 and September 30 for the Squires Landing Lagoon, **unless otherwise authorized by Ecology.**

For the 2021/22 winter season only, in-water work shall be conducted between November 16, 2021 and February 11, 2022, for Swamp Creek and the Sammamish River.

3. Any project change that requires a new or revised Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife should be sent to Ecology for review before the change is implemented.

D. Water Quality Monitoring & Criteria

1. Swamp Creek and Sammamish River are categorized under the Water Quality Standards For Surface Waters of the State of Washington as Salmonid Spawning Rearing and

Migration and the criteria of the categorization apply as described in WAC 173-201A-200 (1), except as specifically modified by this Order.

2. This Order authorizes a temporary turbidity mixing zones for the following activities per Table 1 below:

Table 1

Activity	Point of Compliance
Work in Swamp Creek	300 feet

3. The Applicant shall submit a final copy of *Squire's Landing Park Waterfront Access Improvements Project - Draft Water Quality Monitoring and Protection Plan* (Plan) prepared by Confluence Environmental Consultants for the City of Kenmore, dated ~~September 2020~~, revised on December 23, 2021. The final Plan shall be submitted to Ecology's Federal Permit Manager (per Condition A.2 of this Order) for review and approval at least 30 days prior to beginning any work covered by this Order.
4. The Applicant must provide, in writing, any changes or additions to the Plan and obtain approval from Ecology's Federal Permit Manager prior to implementing the changes or additions.
5. Monitoring results shall be submitted monthly to Ecology's Federal Permit Manager, per condition A.2.
6. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

E. Construction

General Conditions

1. The Applicant shall obtain and comply with the conditions of the current Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) issued for this project.
2. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
3. No stockpiling or staging of materials shall occur at or below the OHWM of any waterbody.

4. Within the project limits¹ all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, and mitigation areas shall be fenced with high visibility construction (HVF) prior to commencing construction activities. Construction activities include equipment staging, materials storage, and work vehicle parking. *Note: This condition does not apply to activities such as pre-construction surveying and installing HVF and construction zone signage.*
5. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
6. Turbid de-watering water associated with in-water work shall not be discharged directly to waters of the state, including wetlands. Turbid de-watering water shall be routed to an upland area for on-site or off-site settling.
7. Clean de-watering water associated with in-water work that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state including wetlands. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.
8. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.

Equipment & Maintenance

9. 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 Manager before placing the staging area in the 50-foot setback area.
10. Equipment used for this project shall be free of external petroleum-based products while used around the 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.
11. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order.
12. Stationary equipment such as cranes used for in-water and over-water work shall be provided with secondary containment for any leaks or drips of hydraulic fluid or oil.

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

13. 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.
14. Wash water containing oils, grease, or other hazardous materials resulting from washing of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.
15. 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.
16. Work skiffs, flexi floats, or any other floating work platform structures shall not be allowed to ground-out during in-water construction.
17. Work skiff, flexi floats or any other floating work platform structures shall be kept free of material that could be blown into water.

Bank Stabilization & Habitat Benches

18. Quarry spalls or cobble shall be placed using equipment and not end dumped into waters of the state to minimize turbidity.
19. Excavated sediment containing invasive species shall be removed from the site and taken to an approved upland disposal area.
20. Excavated material for habitat benches shall not be temporarily stockpiled below the OHWM.

Lagoon Dredging

21. Dredging operations shall be conducted in a manner that minimizes the disturbance and siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into state waters.
22. Dredged material shall not be temporarily or permanently stockpiled below the OHWM.
23. Any material temporarily stockpiled within the project site prior to being taken to an approved upland facility shall be fully contained and not allowed to enter waters of the state.
24. Material shall not be temporarily stockpiled on the project site for longer than 6 months.

25. Barges or any other temporary work surface used to temporarily store and remove excavated sediment from dredging shall utilize BMPs to allow filtering of dewatering water.
26. Vegetation shall not be cleared to create a temporary stockpile area.
27. Any debris encountered during dredging shall be removed and disposed off site at an approved upland facility

F. Wetland Compensatory Mitigation Conditions

1. The Applicant shall submit a final copy of the *Final Mitigation Plan for Squire's Landing Park Waterfront Access Improvement Project* (hereafter called the "Mitigation Plan") prepared by Confluence Environmental Consultants, and dated September, 2020. The final Mitigation Plan shall be submitted to Ecology's Federal Permit Manager (per Condition A.2 of this Order) for review and approval at least 30 days prior to beginning any work covered by this Order.
2. The Applicant shall submit any proposed changes to the Mitigation Plan in writing to Ecology (see A.2) for review and approval before implementing the changes.
3. The Applicant shall have a qualified wetland professional at the wetland mitigation areas to supervise during construction and planting.

Implementation

4. Unless otherwise approved by Ecology in writing, the Applicant shall begin the compensatory mitigation project before, or concurrently with, impacting wetlands, or Ecology may require additional compensation to account for additional temporal loss of wetland functions.
5. If the mitigation areas cannot be completed within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of:
 - a. Squire's Landing Park Waterfront Access Improvements Project
 - b. Mitigation areasWith the:
 - c. Reason for the delay.
 - d. Expected date of completion.
 - e. The Applicant shall submit an updated written notification every 12 months thereafter until the Squire's Landing Park Waterfront Access Improvements Project mitigation areas are complete.

6. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers and landward of the 100-year floodplain, unless otherwise provided for in the Mitigation Plan.
7. The Applicant shall ensure that no material is stockpiled within existing wetlands or their buffers at the wetland mitigation areas at any time, unless otherwise provided for in the Mitigation Plan.
8. The Applicant shall ensure that no construction debris is deposited within existing wetlands or their buffers at the wetland mitigation areas at any time, unless otherwise provided for in the Mitigation Plan.
9. The Applicant shall not use polyacrylamide at the mitigation areas.
10. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation areas, unless otherwise approved by Ecology.
11. Aquatic herbicides can be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category.
 - a. Applicators are required to be permitted under Ecology's Noxious Weed Control Permit.
 - b. Applicators shall comply with all conditions of the Noxious Weed Control Permit.
12. If weed-barrier fabric is used on the site, the Applicant shall use only water-permeable, fully biodegradable, non-toxic weed-barrier fabric for the entire-site and/or individual plant weed control, unless otherwise approved by Ecology. If non-biodegradable plastic weed-barrier fabric is approved by Ecology, it shall be used only at the base of individual plants and shall be removed before it starts to break down, before it interferes with plant growth, or before the end of the monitoring period, whichever comes first.
13. If seeding is used for temporary erosion control, it must be a seed mix consisting of native, annual, non-invasive plant species, unless otherwise approved by Ecology.
14. The Applicant shall not use solid or mesh plant protector tubes in mitigation areas subject to flooding unless otherwise provided for in the Mitigation Plan. If solid or mesh plant protector tubes are used at the mitigation areas, Ecology strongly recommends that the Applicant use fully biodegradable options. If non-biodegradable plant protection options are used, they shall be removed before they interfere with plant growth or before the end of the monitoring period, whichever comes first.

15. The Applicant shall place signs at the mitigation area's boundaries, including buffers, every 100 feet to mark the area as a wetland mitigation site.
16. Upon completion of site grading and prior to planting, the Applicant shall submit to Ecology written confirmation (email or signed letter) from a surveyor or project engineer that the finished grades are consistent with the approved Mitigation Plan or subsequent Ecology-approved plan changes and also indicate how final elevations were determined.
17. After completing construction and planting of the mitigation areas, the Applicant shall submit to Ecology (see A.2) an as-built report, including plan sheets, documenting site conditions at Year Zero. The as-built report must:
 - a. Be submitted within 90 days of completing construction and planting. Include one hard copy and one electronic file.
 - b. Include the information listed in Attachment B (Information Required for As-built Reports).
 - c. Include documentation of the recorded legal site protection mechanism required in Condition F.18.
18. The Applicant shall provide Ecology with documentation of a recorded Wetland Notice for the Squire's Landing Park mitigation areas. The Applicant shall:
 - a. Send a draft Wetlands Notice to Ecology for review and approval prior to recording,
 - b. Record the approved Wetland Notice with the King County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property,
 - c. Record the Wetland Notice with the site map from the final wetland mitigation plan or as-built report showing the location of wetlands and their buffers, and
 - d. Send a copy of the recorded Wetland Notice to Ecology with the As-Built Report (see F.17), unless otherwise approved by Ecology.

Monitoring and Maintenance

19. The Applicant shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards. If an irrigation system is installed, it shall be removed by the end of year three unless Ecology authorizes in writing the system to remain for a longer period.
20. The Applicant shall monitor the mitigation site for a minimum of 10 years. The Applicant shall use the monitoring methods described on pages 59-62 of the Mitigation Plan.
21. The Applicant shall submit to Ecology (see A.2) monitoring reports documenting mitigation site conditions for years 1, 2, 3, 5, 7, and 10. The monitoring reports must:

- a. Be submitted by December 31 of each monitoring year. Include one hard copy and one electronic file.
 - b. Include the information listed in Attachment D (Information Required for Monitoring Reports).
22. The Applicant shall implement the Mitigation Plan's contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.
 23. Prior to implementing contingency measures not specified in the Mitigation Plan, the Applicant shall consult with and obtain written approval from Ecology for the contingency measures.
 24. When necessary to meet the performance standards, the Applicant shall replace dead or dying plants with the same species, or an appropriate native plant alternative, during the current or upcoming planting season and note species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.
 25. For monitoring years five (5) and ten (10), the Applicant shall use the currently approved federal wetland delineation manual and appropriate regional supplement to delineate both created wetland areas and include delineation information (e.g., data sheets, maps, wetland size, etc.) in the monitoring reports.
 26. The Applicant shall use the *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington* for the wetland enhancement area to determine if there was functional lift, and include this information for monitoring years five (5) and ten (10).
 27. If the Applicant has not met all compensatory mitigation conditions by the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both. Conditions include specifications in the approved Mitigation Plan, such as performance standards for the mitigation site.
 28. The Applicant's obligation to compensate for wetland impacts under Condition F.1 is not met until the applicant has received written notice from Ecology that the obligation is met.

G. Emergency/Contingency Measures

1. The Applicant shall develop and implement a spill prevention and containment plan for this project.
2. The Applicant shall have adequate and appropriate spill cleanup material available on site at all times during construction.

3. The Applicant shall have adequate and appropriate spill response materials available on site to respond to any release of petroleum products or any other material into waters of the state.
4. 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.
5. Work causing distressed or dying fish and 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 notify Ecology's Federal Permit Manager per condition B.1. and immediately take the following actions:
 - a. Cease operations at the location of the non-compliance.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and 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 Regional Spill Response Office and the Washington State Department of Fish & Wildlife with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems.
 - e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
6. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.

CONTACT INFORMATION

Please direct all questions about this Order to:

Doug Gresham
Department of Ecology, Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008
Phone: (425) 429-1846 or email: Doug.Gresham@ecy.wa.gov