



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

Central Region Office

1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490

September 26, 2022

Ellensburg School District  
ATTN: Brian Aiken  
1300 East 3<sup>rd</sup> Avenue  
Ellensburg, Washington 98926

Re: Amendment to 401 Water Quality Certification Order No. **18188** for U.S. Army Corps of Engineers Reference No. **NWS-2020-134**, New Elementary School, wetland impacts located in Kittitas County, Washington

Dear Brian Aiken:

Enclosed is an amendment to Water Quality Certification Order No. 18188, issued on June 29, 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. 18188 remain in effect.

The purpose of this amendment is to include the two retention ponds and the additional mitigation needed to offset the impacts associated with the construction of the retention ponds located east of Cora Street.

If you have any questions, please contact Lori White at (564) 669-1396. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

Gary Graff, Section Manager  
Central Region Office  
Shorelands and Environmental Assistance Program

Enclosures (2)

Ellensburg School District

September 26, 2022

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ec: David Moore, U.S. Army Corps of Engineers  
Jim Shannon, Hart Crowser, Inc.  
Vincent Barthels, T-O Engineers  
Loree' Randall – HQ  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)  
Lori White, CRO



**IN THE MATTER OF GRANTING A WATER ) ORDER No. 18188, First Amendment**  
**QUALITY CERTIFICATION TO ) Corps Reference No. NWS-2020-134**  
**Brian Aiken, Ellensburg School District )**  
In accordance with 33U.S.C. 1341 )  
(FWPCA §401), RCW 90.48.120, RCW )  
90.48.260 and Chapter 173-201A WAC )

Ellensburg School District  
Brian Aiken  
1300 East 3<sup>rd</sup> Avenue  
Ellensburg, Washington 98926

On June 29, 2020 the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to Brian Aiken, Ellensburg School District for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request to include a newly constructed retention pond within the mitigation site and the additional required mitigation. Two retention ponds will be excavated (0.40 acres and 0.16 acres, respectively) on the east side of Cora Street. An additional 0.16 acres of mitigation will be added on the west side of Cora Street, consisting of an approximately 0.07-acre emergent wetland constructed to a depth of 18 inches. The remaining 0.09 acres will be planted in upland trees and shrubs for buffer habitat.

Order No. 18188 dated June 29, 2020 is hereby amended as follows:

I. Project Description:

On May 14, 2020, the Department of Ecology (Ecology) received Ellensburg School District's request for a Section 401 Water Quality Certification. On May 7, 2020, the U.S. Army Corps of Engineers (Corps) issued a Nationwide Permit (NWP) # 39, Commercial and Institutional Developments, to Brian Aiken/Ellensburg School District for the New Elementary School project. A public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on May 19, 2020.

The proposed project involves the new construction of a 55,000 square-foot elementary school, parking lot, and the extension of Cora Street in the City of Ellensburg at Township 18N, Range 18E, and Section 35 NW and within WRIA 39. Approximately 4,000 cubic yards of fill will be placed within 0.31 acres of Category III wetland. An additional 0.79 acres of permanent indirect impacts will occur due to the northern extension of Cora Street.

Is replaced with:

On May 14, 2020, the Department of Ecology (Ecology) received Ellensburg School District's request for a Section 401 Water Quality Certification. On May 7, 2020, the U.S. Army Corps of Engineers (Corps) issued a Nationwide Permit (NWP) # 39, Commercial and Institutional Developments, to Brian Aiken/Ellensburg School District for the New Elementary School project. A public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on May 19, 2020.

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Two retention ponds will be excavated (0.40 acres and 0.16 acres, respectively) on the east side of Cora Street. An additional 0.16 acres of mitigation will be added on the west side of Cora Street, consisting of an approximately 0.07-acre emergent wetland constructed to a depth of 18 inches. The remaining 0.09 acres will be planted in upland trees and shrubs for buffer habitat.

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. The appeal process is governed by RCW 43.21B and WAC 371-08. "Date of receipt" is defined in RCW 43.21B.001(2). More Information is available at <https://eluh.wa.gov/content/11>.

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

- File your notice appeal and a copy of this Order with the PCHB (see filing options below). “Filing” means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -355. “Notice of appeal” is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this Order on the Department of 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 RCW 43.21B and WAC 371-08.

### **Filing an appeal with the PCHB:**

For the most current information regarding filing with the PCHB, visit:  
<https://eluhwa.gov/content/11>

#### **Filing by mail**

##### **Mailing Address:**

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

#### **Filing in person (or by certified mail/courier)**

##### **Street Address:**

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

#### **Filing electronically**

##### **Email Address:**

[Pchb-shbappeals@eluhwa.gov](mailto:Pchb-shbappeals@eluhwa.gov)

### **Serving a copy of the appeal on Ecology:**

Electronic copies of appeals are not accepted at the Department of Ecology per WAC 371-08-305(10).

#### **Filing by mail**

##### **Mailing Address:**

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

#### **Filing in person (or by certified mail/courier)**

##### **Street Address:**

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

### **Contact Information**

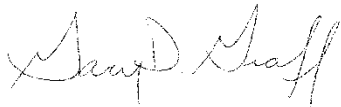
Please direct all questions about this Order to:

Lori White  
Department of Ecology  
Central Region Office  
1250 W Alder Street  
Union Gap, WA 98903  
564-669-1396

#### More Information

- **Pollution Control Hearings Board Website**  
<http://www.eluho.wa.gov/content/11>
- **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



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Gary Graff, Section Manager  
Shorelands and Environmental Assistance Program

9/26/2022

DATE

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**September 26, 2022 First Amendment changes are reflected in Red**

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 18188</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No.</b>
<b>CERTIFICATION TO</b>	)	<b>NWS-2020-134</b>
Brian Aiken, Ellensburg School District	)	New Elementary School, wetland impacts
in accordance with 33 U.S.C. 1341	)	located in Kittitas County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	

Ellensburg School District  
Brian Aiken  
1300 East 3<sup>rd</sup> Avenue  
Ellensburg, Washington 98926

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#### **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.

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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 Certification 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.

Certification of this proposal does not authorize Ellensburg School District 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 Ellensburg School District and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to Central Regional Office, Attn: Lori White, Federal Permit Manager, 1250 W Alder Street Union Gap, WA 98903 or via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) and cc to [lori.white@ecy.wa.gov](mailto:lori.white@ecy.wa.gov). The submittals shall be identified with Order 18188 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 May 14, 2020.
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.



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6. 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.
7. 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.
8. 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.
9. 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.
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.
13. This Order will automatically transfer to a new owner or operator if:
  - a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
  - b. A copy of this Order is provided to the new owner or operator; and

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- c. If Ecology does not notify the new Applicant that this Order must be modified to complete the transfer.
14. Conditions in this Order apply to all planned phases of the construction and the mitigation for this project.

## **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](mailto:fednotification@ecy.wa.gov) and cc to [lori.white@ecy.wa.gov](mailto:lori.white@ecy.wa.gov). Notifications shall be identified with Order No. 18188 and include the Applicant name, project name, project location, project contact and the contact phone number.
  - a. Immediately following a violation of state water quality standards or when the project is out of compliance with any of this Orders conditions.
  - 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. In addition to the phone or e-mail notification above, 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.
3. 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 closeout letter from Ecology.

## **D. Construction**

### General Conditions

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1. All work in and near waters of the state shall be conducted to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMPs) suitable to prevent exceedances of state water quality standards shall be in place before starting maintenance and shall be maintained throughout the duration of the activity.
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 or within any wetland boundary.
4. The Applicant shall obtain and comply with the conditions of the Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) issued for this project.
5. 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 (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.*
  - a. If the project will be constructed in stages<sup>2</sup> a detailed description and drawings of the stages shall be sent to Ecology for review at least 20 days prior to placing HVF.
  - b. Condition 2.a. shall apply to each stage.
  - c. All field staff shall be trained to recognize HVF, understand its purpose and properly install it in the appropriate locations.
  - d. HVF shall be maintained until all work is completed for each project or each stage of a staged project.
6. 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.

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

<sup>2</sup> A stage is part of a project that has been separated into at least two distinct areas to be built during separate timeframes.

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7. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
8. 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.
9. 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.
10. 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.
11. All equipment being used below the ordinary high water mark or within a water of the state (including wetlands), shall utilize biodegradable hydraulic fluid.

#### Equipment & Maintenance

12. 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.
13. 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.
14. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order.
15. 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.
16. 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.

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17. 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.

#### Dewatering Conditions

- 18) All works shall be conducted in the dry. Should in-water work be needed, the Applicant shall prepare and submit a Dewatering Plan for Ecology review and approval per Condition A2 at least 30 days prior to the start of in-water work to address dewatering activities, water pumped from shaft construction and cofferdams, discharge from excavated materials, and any other upland or in-water activities that are similar to dewatering activities.

The Plan shall include the following minimum requirements associated with the handling, treatment, and discharge/disposal of the dewatering water and dewatered solids:

- a. Handling protocols for dewatering water and dewatered solids, including containment and transport as applicable.
- b. Testing of dewatering water for turbidity, pH, and potential contaminant types and concentrations.
- c. Treatment system description, including appropriateness of the selected treatment technology for the pollutants of concern (turbidity, pH, any contaminants). Dewatering water may not be discharged or conveyed to surface waters unless it meets Surface Water Quality Standards (Chapter 173-201A WAC) at the point of discharge for pollutants of concern.
- d. Monitoring plan for post-treatment effluent to ensure treatment system effectiveness. The plan shall include parameters of concern, frequency of testing, and reporting.
- e. Discharge and disposal plan for dewatering water. The method of discharge shall be designed and operated so as not to cause erosion or scour in state waters, banks, or vegetation.
- f. Disposal plan for dewatered solids.
- g. Identify contingencies that will be implemented to handle dewatering water if it does not meet standards for discharge to surface waters.

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## **E. Wetland Compensatory Mitigation Conditions**

1. The Applicant shall mitigate wetland impacts as described in the *Critical Areas Report and Mitigation Plan, New Ellensburg School* (hereafter called the “Mitigation Plan”) prepared by OAC Services, Inc, and dated January 15, 2020, or as modified by this Order or revised and approved by Ecology.
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 site 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 site(s) cannot be completed within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of:
    - a. New Elementary School.
    - b. Wetland A Enhancement and Wetland A Creation.
- With 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 New Elementary School and Wetland A enhancement and creation 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 site(s) at any time, unless otherwise provided for in the Mitigation Plan.

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8. The Applicant shall ensure that no construction debris is deposited within existing wetlands or their buffers at the wetland mitigation site(s) at any time, unless otherwise provided for in the Mitigation Plan.
9. The Applicant shall not use polyacrylamide at the mitigation site(s).
10. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site(s), unless otherwise approved by Ecology.
11. 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.
12. If solid or mesh plant protector tubes are used on the mitigation site(s), 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.
13. The Applicant shall place signs at the mitigation area's boundaries, including buffers, every 50 feet to mark the area as a wetland mitigation site.
14. 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.
15. After completing construction and planting of the mitigation sites(s), 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 E.18.



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*June 29, 2020*

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16. The Applicant shall provide Ecology with documentation of a recorded Wetland Notice for the New Elementary School Wetland A enhancement and creation mitigation. The Applicant shall:

- a. Send a draft Wetlands Notice (see Attachment C: Wetland Notice for Deed Notification) to Ecology for review and approval prior to recording,
- b. Record the approved Wetland Notice with the 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 E.17), unless otherwise approved by Ecology.

### Monitoring and Maintenance

17. 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.

18. The Applicant shall monitor the mitigation site for a minimum of 10 years. The Applicant shall use the monitoring methods described on page(s) 18 of the Mitigation Plan. If the site meets the performance standards for Year 5 as listed on Pages 11- 13 of the mitigation plan, Ecology *may* consider releasing the project from additional monitoring.

19. The Applicant shall implement the Mitigation Plan's contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.

20. 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.

21. 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.



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22. 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 all compensatory wetlands and include delineation information (e.g., data sheets, maps, wetland size, etc.) in the monitoring reports.

23. 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.

24. The Applicant's obligation to compensate for wetland impacts under Condition E.1 is not met until the applicant has received written notice from Ecology that the obligation is met.

#### **E. 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

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- 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.