



**STATE OF WASHINGTON**  
**DEPARTMENT OF ECOLOGY**

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

October 6, 2023

South Puget Sound Salmon Enhancement Group  
Attn: Brian Combs  
6700 Martin Rd East STE 112  
Olympia, WA 98516-5586

Squaxin Island Tribe  
Attn: Scott Steltzner  
200 Southeast Billy Frank Jr. Way  
Shelton, WA 98584

Re: Amendment to 401 Water Quality Certification Order No. 16041 for U.S. Army Corps of Engineers (Corps) Reference No. NWS-2017-366, West Oakland Bay Restoration project located within Oakland Bay, Shelton, Mason County, Washington

Dear Brian Combs and Scott Steltzner:

Enclosed is an amendment to Water Quality Certification Order No. 16041, issued on November 9, 2018, 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. 16041 remain in effect.

The purpose of this amendment is to amend condition B.1. to match the expiration date of this certification to that of the Corps permit.

If you have any questions, please contact Laura Inouye at (360) 515-8213. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

Loree' Randall, Section Manager  
Aquatic Permitting & Protection Section

First Amendment to WQC Order No. 16041  
Aquatics ID No. 135664, Corps No. NWS-2017-366  
October 6, 2023  
Page 2 of 2

Shorelands and Environmental Assistance Program

Enclosure (2)

By certified mail: 9489 0090 0027 6383 6854 72 and 9489 0090 0027 6383 6854 89

Sent via e-mail: [brianc@spsseg.org](mailto:brianc@spsseg.org) and [ssteltzner@squaxin.us](mailto:ssteltzner@squaxin.us)

E-cc: Pam Sanguinetti, U.S. Army Corps of Engineers  
Laura Inouye, Ecology  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)

**In The Matter of Granting a Water Quality  
Certification to the South Puget Sound Salmon Enhancement Group  
(Brian Combs) and Squaxin Island Tribe (Scott Steltzner)  
pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW  
90.48.260 and Chapter 173-201A WAC**

South Puget Sound Salmon Enhancement Group  
Attn: Brian Combs  
6700 Martin Rd East STE 112  
Olympia, WA 98516-5586

Squaxin Island Tribe  
Attn: Scott Steltzner  
200 Southeast Billy Frank Jr. Way  
Shelton, WA 98584

<b>WQC Order No.</b>	16041, First Amendment
<b>Corps Reference No.</b>	NWS-2017-366
<b>Site Location</b>	West Oakland Bay Restoration project located within Oakland Bay, Shelton, Mason County, Washington.

On November 9, 2018, the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to the South Puget Sound Salmon Enhancement Group (Brian Combs) and the Squaxin Island Tribe (Scott Steltzner) for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request August 3, 2023, to extend the Water Quality Certification to allow completion of the project.

WQC Order No. 16041 dated November 9, 2018, is hereby amended as follows:

I. Condition number B.1 which reads:

This Order will expire five (5) years from the issuance of this certification. An extension beyond this five year period will require review and written approval by Ecology, not to exceed a total of ten (10 ) years total.

Is replaced with:

This WQC Order will remain valid for the duration of the associated U.S. Corps of Engineers (Corps) permit for the project.

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 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 notice of 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 -335. "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 mail, in person, or by email (see addresses below).

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

## **Filing an appeal**

### **Filing with the PCHB**

For the most current information regarding filing with the PCHB, visit: <https://elaho.wa.gov/> or call: 360-664-9160.

### **Service on Ecology**

#### **Street Addresses:**

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

#### **Mailing Addresses:**

Department of Ecology

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

**E-Mail Address:**

ecologyappeals@ecy.wa.gov

## Contact Information

Please direct all questions about this Order to:

Laura Inouye  
Department of Ecology  
(360) 515-8213  
Laura.Inouye@ecy.wa.gov

## More Information

- **Pollution Control Hearings Board Website**  
<https://elaho.wa.gov>
- **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 6th day of October 2023 at the Department of Ecology, Lacey, Washington.



Loree' Randall, Section Manager  
Aquatic Permitting & Protection Section  
Shorelands and Environmental Assistance Program

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

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 16041, First Amendment</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2017-0366</b>
<b>CERTIFICATION TO</b>	)	West Oakland Bay Restoration (aka Shelton
<b>South Puget Sound Salmon</b>	)	Harbor Restoration), Oakland Bay located in
<b>Enhancement Group (SPSSEG)</b>	)	Mason County, Washington.
in accordance with 33 U.S.C. 1341	)	
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	

South Puget Sound Salmon Enhancement Group (SPSSEG)

Attn: Brian Combs

3700 Martin Rd East STE 112

Olympia, WA 98516-5586

Squaxin Island Tribe

Attn: Scott Steltzner

200 Southeast Billy Frank Way Jr. Way

Shelton, WA 98584

On February 8, 2018, Ecology received a Joint Aquatic Resources Permit Application (JARPA) from SPSSEG and the Squaxin Island Tribe requesting a Section 401 Water Quality Certification (WQC). The U.S. Army Corps of Engineers (Corps) issued a joint public notice for the project on August 2, 2018, under the project name of Shelton Harbor Restoration.

The project will place up to 600,000 cubic yards of fill material into 50 acres of waters of the U.S. waterward of the mean higher high water (MHHW) line to create an estuary and salt marsh in Shelton Harbor. Three salt marsh lobes (south west, and north) will be constructed over five years. Each salt marsh lobe would be built to elevations that support salt marsh habitat, with Goldsborough Creek realigned to flow in between the west and south lobes. The project also involves constructing a lagoon at the confluence of Shelton Creek and Shelton Harbor, with a berm at the most southeastern end of the lagoon to slow down water flow, with the purpose of collecting sediment that over time creates a more natural stream channel.

The South Lobe will involve removal of the timber railway spit and timber rail trestles located south of the spit. The North Lobe involves extension of the 24 inch stormwater outfall to accommodate the new marsh area, and removal of multiple derelict structures, pilings, and debris. The West Lobe involves removal of a derelict structure and pilings. The lagoon involves removal of pilings and excavation of and a portion of the sediment berm. All of the above elements also involve grading and fill to create marsh habitat, and elevation-based plantings. Realignment of Goldsborough Creek will involve grading and fill placement only.

The project would require the removal of up to 260 creosote piles, in-water debris and structures, and the 750 foot long dike.

All work will be conducted in Shelton Harbor, in Shelton, Washington, Section 20, Township 20N, range 03W, WRIA 14, the Kennedy-Goldsborough Basin.

## **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.

## **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 SPSSEG or the Squaxin Island Tribe 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 SPSSEG and the Squaxin Island Tribe and their agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to SEA-HQ Office, Attn: Laura Inouye, P.O. Box 47600 Olympia, WA 9850-7600 or via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) and cc to [Laura.Inouye@ecy.wa.gov](mailto:Laura.Inouye@ecy.wa.gov). The submittals shall

be identified with Order #16041 and include the Applicant name, project name, project contact, and the contact's phone number.

3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on February 08, 2018.
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 water quality certification and public notice or if a modification to this Order is required.
6. This Order shall be rescinded if the Corps does not issue a Section 404 permit.
7. The Applicant shall send (per A.2.) a copy of the final Section 404 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, necessary data collection, and/or 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.
15. 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
  - c. If Ecology does not notify the new Applicant that this Order must be modified to complete the transfer.

#### **A. Notification Requirements**

1. Notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Permit Manager. Notifications shall be identified with Order No. 16041 and include the Applicants name, project name, project location, project contact and the contact's 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.
    - i. 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 within project completion for each in-water work window.

#### **B. Timing**

1. This WQC Order will remain valid for the duration of the associated U.S. Corps of Engineers (Corps) permit for the project. ~~This Order will expire five (5) years from the date of issuance of this certification. An extension beyond this five year period will~~

~~require review and written approval by Ecology, not to exceed a total of ten (10) years total.~~

2. All in-water work shall be conducted between the July 15 through February 15 work window unless otherwise approved by Ecology in writing.

### C. Water Quality Monitoring & Criteria

1. Inner Shelton Harbor is categorized as Good aquatic life use designation per the standards and the criteria of the categorization apply as described in WAC 173-201A-210 (1), except as specifically modified by this Order.
2. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A, except as otherwise authorized by this Order.
3. This Order authorizes a temporary turbidity mixing zones for the following **in-water** activities per Table 1 below:

**Table 1**

<b>In Water Activity</b>	<b>Point of Compliance</b>
Placement of clean sand	900 ft
All other activities	150 ft

4. The Applicant shall submit a Water Quality Monitoring and Protection Plan (WQMPP) for in-water work to the Federal Permit Manager for review and approval at least 21 days prior to beginning work for each season. **Work is not authorized to begin until approval is received.** At a minimum, the WQMPP shall include:
  - a. The names(s) and phone numbers (s) of the Pollution control inspector and the person responsible for on-site monitoring and report;
  - b. Standard and contingency BMPs and procedures to be used to protect water quality for all activities potentially impacting water quality;
  - c. A water sampling plan for turbidity, which includes sample locations and frequency;
  - d. Sampling locations for turbidity associated with in-water work shall include, but are not limited to; background, half the distance to the point of compliance and at the point of compliance, unless otherwise approved by Ecology.
  - e. A map with numbered or named sampling locations associated with the in-water work activities.
5. Ecology must approve, in writing, any changes or additions to the approved WQMPP.
6. Monitoring results shall be submitted weekly to the Ecology Federal Permit Manager, per condition A.2.

7. Within two (2) months of the end of each in water work season, a summary report shall be submitted to Ecology as per condition A2 that includes:
  1. Volume of material placed/excavated
  2. Numbers of piles/structures removed, and GIS locations of piles that broke and remain in-water.
  3. Percent cover and species of plants occurring in the restoration area
  4. Maps showing where work was conducted
  5. Summary of the season's water quality
8. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.
9. For all upland activities the Applicant shall comply with the conditions of the current Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) issued for this project. Any new NPDES permits for this project (e.g. for staging areas for later elements of the project) must be provided to Ecology as per condition A2 prior to the start of construction.
10. Discharges from **upland** staging areas not already covered under a General Construction Stormwater Permit must meet the water quality criteria using the specified analytical methods, detection limits (DLs) and quantitation limits (QLs) listed in Table 2 below. If alternative methods are used (must produce measurable results and be an EPA-approved method in 40 CFR Part 136), the test method, DLs and QLs must be reported in the water quality report. **All stormwater and return water must either be fully infiltrated, or collected and tested prior to release unless otherwise authorized by Ecology in writing.**

Table 2

Pollutant & CAS No. (if available)	Sampling Frequency	Sample Type	Indicator Level, µg/L	Required Analytical Protocol	Detection Level, µg/L	Quantitation Level, µg/L
PETROLEUM HYDROCARBONS						
Gasoline-Range Hydrocarbons (NWTPH-Gx) <sup>a</sup>	Batch/ Weekly*	Grab	250 <sup>b</sup>	NWTPH-Gx	250	250
Oil-Range Hydrocarbons (NWTPH-Dx) <sup>c</sup>	Batch/ Weekly*	Grab	250 <sup>d</sup>	NWTPH-Dx	250	250
Construction Stormwater General Permit Benchmarks						
Parameter			Benchmark		Analytical Method	
Turbidity		Weekly	Grab	25 NTU	SM2130 <sup>d</sup>	
pH		Weekly	Grab	6.5 - 8.5 SU	SM4500-H <sup>+</sup> B	
a	NWTPH-Gx = Northwest Total Petroleum Hydrocarbons –Volatile petroleum products (includes aviation and automotive gasolines, mineral spirits, Stoddard solvent and naphtha).					
b	No surface water standard, value is laboratory quantitation level.					
c	NWTPH-Dx = Northwest Total Petroleum Hydrocarbons – Semi-volatile (“diesel”) for diesel range organics and heavy oils (includes jet fuels, kerosene, diesel-oils, hydraulic fluids, mineral oils, lubricating oils, and fuel oils).					
d	Or equivalent.					

\* Batch Treatment and sampling required until written approval by Ecology to utilize flow through methods.

## D. Construction

### General Conditions

1. A pre-construction meeting is required to be convened each season prior to the start of in-water activities.
2. At least 30 days prior to each season's pre-construction meeting, the Applicant shall submit a *Restoration Work Plan* to Ecology for review and approval, per A.2.
3. The *Restoration Work Plan* must be reviewed and approved by Ecology prior to the pre-construction meeting.
4. The *Restoration Work Plan* shall include the following:
  - a. General information including schedule, primary contact, and hours of operation
  - b. Equipment list
  - c. Construction plans (pile removal, demolition, sand/other material placement, dredging/soil removal, grading, planting, etc.)
  - d. Construction and monitoring plans for any upland staging areas not covered under an NPDES permit
  - e. Disposal Plans (piles, demolition debris, excavated material, etc.) including transloading of material from barges to uplands
  - f. A description of the BMPs used to protect water quality
  - g. Water Quality Monitoring Plan specific for the season's in-water activities and contractors
  - h. Planting plan specific for the season's activities and contractors
5. During in-water activities, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
6. 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 fencing (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 included in the *Restoration Work Plan* (condition D4). The plan must be approved prior to placing HVF.

<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.

- b. All field staff shall be trained to recognize HVF, understand its purpose and properly install it in the appropriate locations.
  - c. HVF shall be maintained until all work is completed for each project or each stage of a staged project.
7. 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.
8. All fill material shall be tested by Ecology-approved methods, and shall pass the numeric marine Sediment Quality Standards.
9. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
10. 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.
11. 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.
12. All equipment being used below the ordinary high water mark shall utilize bio-degradable hydraulic fluid.
13. The Applicant shall minimize disturbance of vegetation when constructing the temporary work platforms for grading and demolition activities.

Demolition and Dolphin/Creosote Pile Removal

14. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.
15. The pile shall not be shaken, hosed off, left hanging to drip or any other action intended to clean or remove adhering material from the pile.
16. During pile removal, containment booms and absorbent sausage booms shall be placed around the perimeter of the work area to capture wood debris, oil, and other materials from being released into marine waters.
17. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.

18. If a barge is used to remove piles, the work surface on the barge deck shall include containment for piles and any liquid or sediment removed during pulling of the piling.
19. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris at an approved upland disposal site.
20. Water left in the containment on the barge shall not be discharged into waters of the state.
21. All saw cut water and debris generated from saw cutting activities that occur above water shall be contained and disposed of appropriately with no possible entry to waters of the state.
22. No structural material may enter water of the state during demolition activities.
23. The DNR Best Management Practices (BMPs) (Attachment B) for creosote pile removal will be followed with the exceptions below:
  - a. If a pile breaks within an area that will receive at least one foot of clean cover within the same work window, the pile should be cut off at the mudline.
  - b. If piles breaks outside areas that will receive at least one foot of clean fill in the same season, up to 5 (five) pilings per season are allowed to be cut below the mudline as per DNR BMPs, unless otherwise approved by Ecology. If more than 5 piles per season break, Ecology should be contacted to determine the appropriate course of action.
  - c. Broken piles should be mapped with latitude and longitudes of the broken pile provided to Ecology.

Removal of surficial soils at the South Lobe railway spit

24. Removal of material shall be conducted “in the dry” as much as practicable. If work is conducted while inundated, this activity must be covered in the Water Quality Monitoring and Protection (Condition D5).
25. Exposed surfaces must receive sand/gravel cover prior to tidal inundation and excavated slopes should be protected from erosion.
26. All excavated soil/sediment shall be disposed upland in an approved disposal site.
27. Excavated soils shall not be stockpiled where tides may inundate the soil.
28. BMPs for excavating and transloading contaminated surficial soils must be included in the *Restoration Work Plan* (condition D4) for review and approval by Ecology.
29. No return water is allowed to discharge from the barges into waters of the state.

Equipment & Maintenance

30. 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 setback area.
31. 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.
32. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order.
33. 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.
34. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.
35. Barges shall not be allowed to ground-out during in-water construction, with the exception of barges bringing in fill material where grounding may be part of the process of delivering material to the site. In these cases, barges may ground out in areas that will be receiving fill.
36. Barges shall be kept free of material that could be blown into water.
37. When necessary, equipment may operate below the OHWL, provided the plans, including BMPs, are included in the *Restoration Work Plan* (condition D4)

#### **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 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 notify the Ecology Federal Permit Manager per condition B.1.a. 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/or prevent further environmental damage.
  - c. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
  - d. Immediately notify Ecology's 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.
3. 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.