



**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Southwest Region Office**

PO Box 47775, Olympia, WA 98504-7775 • 360-407-6300

April 30, 2025

Five-Twelve, LLC
ATTN: Nate Allen
13555 SE 36th Street, Suite 320
Bellevue, WA 98006

Re: Amendment to 401 Water Quality Certification Order No. **21101** for U.S. Army Corps of Engineers Reference No. **NWS-2011-430**, Two Multi-Family Residential Community a.k.a. Regent Court Five-Twelve Project, Pierce County, Washington

Dear Nate Allen:

Enclosed is an amendment to Water Quality Certification Order No. 21101, issued on July 14, 2022, 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. 21101 remain in effect.

The purpose of this amendment is to extend the expiration date of Water Quality Certification Order No. 21101, and to update contact for the Project Proponent Five-Twelve, LLC.

If you have any questions, please contact Lydia Albright at (360) 870-2983 or Lydia.Albright@ecy.wa.gov. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

A handwritten signature in blue ink, reading "Maria Sandercock".

Maria Sandercock, Section Manager
Southwest Regional Office
Shorelands and Environmental Assistance Program

Enclosure (2)

By certified mail: 9489 0090 0027 6085 7505 91

First Amendment to Order No. 21101
Aquatics No. 135957, Corps No. NWS-2011-430
April 30, 2025
Page 2 of 2

Sent via e-mail: nate.allen@isolahomes.com

E-cc: Alex Hammond, U.S. Army Corps of Engineers
Curtis Wambach, EnviroVector
Lydia Albright, Ecology
Erin Hanlon Brown, Ecology
Loree' Randall, Ecology
Brook Swensen, Ecology
Zach Meyer, Ecology
ecyrefedpermits@ecy.wa.gov

**In The Matter of Granting a Water Quality
Certification with Conditions (WQC) to Five-Twelve, LLC (Nate Allen)
pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW
90.48.260 and Chapter 173-201A WAC**

Five-Twelve, LLC
Attn: Nate Allen
13555 SE 36th Street, Suite 320
Seattle, WA 98006

WQC Order No.	21101, First Amendment
Corps Reference No.	NWS-2011-430
Site Location	Two Multi-Family Residential Community a.k.a. Regent Court Five-Twelve Project, Pierce County, Washington.

On July 14, 2022, the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to Five-Twelve, LLC for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

The Corps notified Ecology on March 12, 2025, of Five-Twelve, LLC (Nate Allen) request to extend the expiration date of Water Quality Certification Order No. 21101. On April 1, 2025, Ecology verified the amended information with Five-Twelve, LLC (Nate Allen).

WQC Order No. 21101 dated July 14, 2022, is hereby amended as follows:

I. Project Proponent which reads:

Five-Twelve, LLC (Jeff Wegener)

Is replaced with:

Five-Twelve, LLC (Nate Allen)

II. Condition C. Timing which reads:

This WQC Order is effective upon issuance of the U.S. Corps of Engineers (Corps) permit for this project and will remain valid for the duration of the associated permit for the project.

- Justification - Certifications are required for any license or permit that authorizes an activity that may result in a discharge or fill material into waters. This WQC Order is not valid until the Federal agency issues a permit. Additionally, Ecology needs to be able to specify how long the WQC Order will be in effect.
- Citation - Chapter 90.48 RCW, Chapter 173-201A, and WAC 173-225-010.

Is replaced with:

This WQC Order is effective upon issuance of the U.S. Corps of Engineers (Corps) individual permit for this project and will remain valid until July 19, 2029.

- Justification – Certifications are required for any license or permit that authorizes an activity that may result in a discharge or fill material into waters. This WQC Order is not valid until the Federal agency issues a permit. Additionally, Ecology needs to be able to specify how long the WQC Order will be in effect.
- Citation – Chapter 90.48 RCW, Chapter 173-201A WAC, and WAC 173-225-010

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 information 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 by 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.

Address and Location Information

Filing with the PCHB

For the most current information regarding filing with the PCHB, visit: <https://eluh0.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:

Lydia Albright
Department of Ecology
(360) 870-2983
Lydia.Albright@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

First Amendment to WQC Order No. 21101
Aquatics No. 135957, Corps No. NWS-2011-430
April 30, 2025
Page 4 of 4

Dated this 30th day of April 2025 at the Department of Ecology, Lacey, Washington.



Maria Sandercock, Section Manager
Southwest Regional Office
Shorelands and Environmental Assistance Program

This document shows the activities and/or 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 WATER)	WQC Order No. 21101 First Amendment
QUALITY CERTIFICATION TO)	Corps Reference No. NWS-2011-430
Five-Twelve, LLC)	Regent Court, Two Multi-Family Residential
pursuant to 33 U.S.C. 1341 (FWPCA)	Community a.k.a. Regent Court Five-Twelve
§ 401), RCW 90.48.120, RCW 90.48.260)	Project, Wetlands, Pierce County, Washington.
and Chapter 173-201A WAC)	

Five-Twelve, LLC
ATTN: ~~Jeff Wegener~~ Nate Allen
13555 SE 36th Street, Suite 320
Bellevue, WA 98006

On August 2, 2021, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Regent Court Two Multi-Family Residential Community Project (also known as the Regent Court Five-Twelve Project), Pierce County, Washington.

- On April 8, 2021, Five-Twelve, LLC submitted a pre-filing meeting request.
- On October 15, 2021, Five-Twelve, LLC submitted additional information, and the Department of Ecology (Ecology) considered the Request valid on this date.
- On November 8, 2021, the U.S. Army Corps of Engineers (Corps) sent a permit notification to Ecology that indicated that they are processing the project under a Standard Individual Permit. Within that notice, the Corps provided a deadline for the WQC of October 15, 2022.
- On November 18, 2021, Ecology issued a public notice for the project.

The project proposes to construct a multi-family residential community and associated infrastructure within the central and western portion of a 17.34-acre project site. The eastern portion of the project site will be retained to provide compensatory wetland mitigation.

The project will impact 0.69 of an acre of Category IV wetlands. To compensate for wetland impacts, the applicant will provide on-site mitigation through a combination of on-site wetland creation, preservation, and enhancement. The wetland creation area will be provided at a 2.66:1 ratio and will consist of 1.83 acres with an 80-foot vegetated buffer. Additionally, 1.29 acres of existing on-site wetlands will be preserved and enhanced.

The project site is located within wetlands at the 700 block of 112th Street East, in the Parkland area of Pierce County, Washington, 98445; Southeast Quarter of Section 4, Township 19 North, Range 3 East, within Water Resource Inventory Area (WRIA) 12, Chambers-Clover Watershed.

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this WQC request 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.
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.
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.
5. The project proponent of the project authorized is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, local or tribal authorities.

With this Water Quality Certification (WQC) Order, Ecology is granting with conditions, Five-Twelve, LLC's request for a Section 401 Water Quality Certification for the Regent Court Two Multi-Family Residential Community Project (also known as the Regent Court Five Twelve Project), located within wetlands in Pierce County, Washington. Ecology has determined that the proposed discharge(s) will comply with all applicable state water quality requirements, provided the project is conducted in accordance with the Section 401 Water Quality Certification request that Ecology received on August 2, 2021, the supporting documents referenced in Table 1 below, **and the conditions of this WQC Order.**

Table 1. Supporting Documents

Date Received	Document Type	Title & Date	Author
8/02/2021	Joint Aquatic Resources Permit Application (JARPA) Form and Drawings	JARPA dated May 15, 2018	Curtis Wambach
8/02/2021	Biological Evaluation	Biological Evaluation, No Effects Determination, Five-Twelve Project, Pierce County, Washington dated June 18, 2018	Curtis Wambach, EnviroVector
10/15/2021	State Environmental Policy Act (SEPA)	DNS, dated June 23, 2010	Adonais Clark, Pierce County
10/15/2021	Stormwater Pollution	Omega Short Plat Shared access for Isola Homes dated October 1, 2021	Paul Green, Azure Green Consultants

Date Received	Document Type	Title & Date	Author
	Prevention Plan		
12/27/2021	Updated Wetland Analysis and Mitigation Plan	Five Twelve Wetland Analysis Report & Mitigation Plan dated December 24, 2021	Curtis Wambach, EnviroVector
3/17/2022	E-mail from Applicant to Project Manager	E-mail providing change in Applicant name and address	Jeff Wegener, Isola Homes

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Five-Twelve, LLC 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 Section 401 Water Quality Certification absolves the Five-Twelve, LLC from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Water Quality Certification Conditions

The following conditions will be incorporated into the Corps permit and strictly adhered to by Five-Twelve, LLC. Specific condition justifications and citations are provided below each condition in *italic text*.

A. General Conditions

1. In this WQC Order, the term "Project Proponent" shall mean Five-Twelve, LLC (~~Jeff Wegener~~ **Nate Allen**) and its agents, assignees, and contractors.
 - *Justification - Ecology needs to identify that conditions of this WQC Order apply to anyone conducting work on behalf of the Project Proponent to ensure compliance with the water quality standards and other applicable state laws.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.080, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, Chapter 173-201A WAC, and WAC 173-225-010.*

2. All submittals required by this WQC Order shall be sent to Ecology's Headquarters Office, Attn: Federal Permit Manager, via e-mail to fednotification@ecy.wa.gov with a copy to Lori.kingsbury@ecy.wa.gov. The submittals shall be identified with WQC Order No. 21101 and include the Project Proponent's name, Corps permit number, project name, project contact, and the contact phone number.
 - *Justification - Ecology needs to identify where information and submittals are to be submitted to be in compliance with the requirements of this WQC Order.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.120, RCW 90.48.260, Chapter 173-201A WAC, and WAC 173-225-010.*
3. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on August 2, 2021, and the supporting documentation identified in Table 1.
 - *Justification - Ecology has the authority to prevent and control pollution of state waters. By authorizing a discharge into a water of the state, through a WQC, Ecology is certifying the project as proposed will not negatively impact water quality. Therefore, it is imperative the project is conducted as it was presented during the review process. Any deviations from information within the WQC Request package and this WQC Order must be disclosed prior to the initiation of the planned work.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, Chapter 173-201A WAC, Chapter 173-204 WAC, and WAC 173-225-010.*
4. The Project Proponent shall keep copies of this WQC 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.
 - *Justification - All parties (including on-site contractors) must be aware of and comply with the WQC Order for the protection of water quality.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.*
5. The Project Proponent 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 WQC Order are being met.
 - *Justification - Ecology must be able to investigate and inspect construction sites and facilities for compliance with all state rules and laws.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.090, Chapter 173-201A WAC, and WAC 173-225-010.*
6. The Project Proponent 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 WQC Order and all permits, approvals, and documents referenced in this WQC Order. The

Project Proponent shall provide Ecology a signed statement (see Attachment A for an example) before construction begins.

- *Justification - Ecology needs to ensure that anyone conducting work at the project, on behalf of the Project Proponent, are aware of and understand the required conditions of this WQC Order to ensure compliance with the water quality standards and other applicable state laws.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.*

7. This WQC 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 WQC Order.

- *Justification - Ecology has the authority to prevent and control pollution of state waters, and to protect designated uses. By authorizing a discharge into a water of the state, through a water quality certification, Ecology is certifying the project as proposed will not negatively impact state water quality and will comply with the state's water quality requirements. Therefore, it is imperative the project is conducted as it was presented during the review process, and as conditioned herein.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300(2)(e)(i), WAC 173-201A-310, WAC 173-204-120, and WAC 173-225-010.*

8. Failure of any person or entity to comply with the WQC Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the state's water quality standards.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses. Ecology has independent state authority to ensure protection of state water quality. Civil penalties and other enforcement actions are the primary means of securing compliance with water quality requirements.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.037, RCW 90.48.080, RCW 90.48.120, RCW 90.48.140, RCW 90.48.142, RCW 90.48.144, and WAC 173-225-010.*

9. The Project Proponent shall provide Ecology documentation for review before undertaking any major changes to the proposed project that could significantly and adversely affect water quality, other than those project changes required by this WQC Order.

- *Justification- Ecology has independent authority to enforce our 401 certification conditions issued through this WQC Order pursuant to RCW 90.48, and has independent state authority to ensure protection of state water quality. In order to ensure the project will comply with water quality standards in the event of any major changes, Ecology must be able to review the scope of work involved in the construction and operation of the project, otherwise all work must stop and a new 401 certification pre-filing meeting, followed by a new 401 request (after requisite 30-days) is required.*
- *Citation - Chapter 90.48 RCW, and Chapter 173-201 WAC.*

10. The Project Proponent shall send (per A.2.) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.

- *Justification - This condition is needed to ensure that all the conditions of the WQC Order have been incorporated into the federal permit.*
- *Citation - Chapter 90.48 RCW*

11. 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 WQC Order's obligations, coverage, and liability is submitted to Ecology per condition A.2. of this Order;
- b. A copy of this Order is provided to the new owner or operator; and,
- c. Ecology does not notify the new Applicant that a new WQC Order is required to complete the transfer.
 - *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology needs to ensure that anyone conducting work at the project, including any new owners or operators, are aware of and understand the required conditions of this WQC Order to ensure compliance with the water quality standards and other applicable state laws.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.*

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 with a copy to Lori.kingsbury@ecy.wa.gov. Notifications shall be identified with WQC Order No. 21101; Corps Reference No. NWS-2011-430; and include the Project Proponent 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 conditions of this WQC Order.
 - b. At least ten (10) days prior to conducting initial in-water work activities.
- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must be aware of when a project starts and ends and whether there are any*

issues. This allows Ecology to evaluate compliance with the state water quality requirements.

- *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, WAC 173-201A-300 - 330, Chapter 173-204 WAC, and WAC 173-225-010.*
2. Within seven (7) days of completing in-water work activities. In addition to the phone or e-mail notification required under B.1.a. above, the Project Proponent 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.
- *Justification - Ecology has independent state authority to ensure protection of state water quality. This condition is intended to assure the Project Proponent remains in full compliance with state water quality requirements for the duration of the project.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.120, Chapter 173-201A WAC, and WAC 173-225-010.*
3. If the project construction is not completed within 13 months of issuance of this WQC Order, the Project Proponent shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction and mitigation are completed.
- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must be aware of when a project starts and ends and whether there are any issues. This allows Ecology to evaluate compliance with the state water quality requirements.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, WAC 173-201A-300 - 330, Chapter 173-204 WAC, and WAC 173-225-010.*

C. Timing

~~This WQC Order is effective upon issuance of the U.S. Corps of Engineers (Corps) permit for this project and will remain valid for the duration of the associated permit for the project.~~

- ~~• *Justification – Certifications are required for any license or permit that authorizes an activity that may result in a discharge or fill material into waters. This WQC Order is not valid until the Federal agency issues a permit. Additionally, Ecology needs to be able to specify how long the WQC Order will be in effect.*~~
- ~~• *Citation – Chapter 90.48 RCW, Chapter 173-201A, and WAC 173-225-010.*~~

This WQC Order is effective upon issuance of the U.S. Corps of Engineers (Corps) individual permit for this project and will remain valid until July 19, 2029.

- Justification – Certifications are required for any license or permit that authorizes an activity that may result in a discharge or fill material into waters. This WQC Order is not valid until the Federal agency issues a permit. Additionally, Ecology needs to be able to specify how long the WQC Order will be in effect.
- Citation – Chapter 90.48 RCW, Chapter 173-201A WAC, and WAC 173-225-010

D. Construction

General Conditions

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.
 - *Justification - Disturbed areas without appropriate BMP's and construction methods can discharge excess sediment to waters of the state and degrade water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
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.
 - *Justification - Ensures that the project proponent preserves sensitive areas from discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
3. No stockpiling or staging of materials shall occur at or below the OHWM of any waterbody.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
4. The Project Proponent shall obtain and comply with the conditions of the Construction Stormwater General Permit (National Pollutant Discharge Elimination System - NPDES) issued for this project.
- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation – Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
5. Within the project limits¹ all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, shoreline riparian buffers and mitigation areas shall be fenced with high visibility construction 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 stages² 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 5.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.
 - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
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.

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

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

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
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.
- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
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.
- *Justification - Ecology must be assured that the Project Proponent is managing and disposing of material to protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
9. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.
- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

Equipment & Maintenance

10. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands.
- *Justification - Requiring a minimum setback ensures that material will not end up in waters of the state. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

11. 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.
 - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
12. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.
 - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
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.
 - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 173-200, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
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 Project Proponent shall set up a designated area for washing down equipment.
 - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

E. Wetland Mitigation

1. The Project Proponent shall mitigate wetland impacts as described in the *Five-Twelve, Pierce County, Washington, Wetland Analysis Report & Mitigation Plan (hereafter called the "Mitigation Plan")* as identified in Table 1 or as required by this Order.

- *Justification - Alteration of water quality necessitates the use of mitigation as a method of controlling pollution. When mitigation is provided, the impacts are not considered significant enough to water quality, at least in the long-term. The water quality standards, along with mitigation, protect wetlands as well as permitting some level of degradation where unavoidable or necessary.*
 - *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300, and WAC 173-225-010.*
2. The Project Proponent shall submit any proposed changes to the Mitigation Plan in writing to Ecology (per Condition A.2 of this Order) for review before implementing the changes.
- *Justification - When mitigation is provided, the water quality impacts are offset and not considered significant, at least in the long-term. Changes to impacts or mitigation warrant review to ensure adequate mitigation is provided.*
 - *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300, and WAC 173-225-010.*
3. The Project Proponent shall have a qualified wetland professional at the wetland mitigation site to supervise during construction and planting.
- *Justification - Mitigation success is critical to achieving control of pollution. Supervision of qualified professionals helps ensure success.*
 - *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300, and WAC 173-225-010.*

Implementation

4. Unless otherwise authorized by this WQC Order, the Project Proponent shall begin the compensatory mitigation project before, or concurrently with, impacting wetlands, or Ecology could use its discretionary authority to require the Project Proponent to provide additional compensation to account for additional temporal loss of wetland functions.
- *Justification - Mitigation that is not emplaced concurrent with impacts will result in degradation of existing beneficial uses of the wetlands affected by the proposed action.*
 - *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300, and WAC 173-225-010.*
5. If the mitigation site cannot be completed within 13 months of the date of this Order, the Project Proponent shall inform Ecology, in writing, of the status of:

- a. Regent Court Two Multi-Family Residential Community Project (also known as the Regent Court Five Twelve Project),
- b. On-site wetland mitigation.

With the:

- c. Reason for the delay.
- d. Expected date of completion.
- e. The Project Proponent shall submit an updated written notification every 12 months thereafter until the Regent Court Two Multi-Family Residential Community Project (also known as the Regent Court Five Twelve Project) and on-site wetland mitigation is complete.
 - *Justification - Mitigation that is not emplaced concurrent with impacts will result in degradation of existing beneficial uses of the wetlands affected by the proposed action.*
 - *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300, and WAC 173-225-010.*
6. The Project Proponent shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands or their buffers and landward of the 100-year floodplain, unless otherwise provided for in the Mitigation Plan.
 - *Justification - Placement of excess material in wetlands, buffers or floodplains may adversely affect the functions of the wetlands onsite and contribute to a failure of the mitigation plan. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300, and WAC 173-225-010.*
7. The Project Proponent 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.
 - *Justification - Placement of excess material in wetlands or buffers may adversely affect the functions of the wetlands onsite and contribute to a failure of the mitigation plan. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, Chapter 173-201A-300, and WAC 173-225-010.*
8. The Project Proponent 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.

- *Justification - Placement of construction debris in wetlands or buffers may adversely affect the functions of the wetlands onsite and contribute to a failure of the mitigation plan. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, Chapter 173-201A-300 WAC, and WAC 173-225-010.*
9. The Project Proponent shall not use polyacrylamide at the mitigation site(s).
- *Justification - Polyacrylamide breaks down in soils and in the environment to acrylamide, which is a compound of concern and pollutant that would adversely affect water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300, and WAC 173-225-010.*
10. The Project Proponent shall not use hay or straw on exposed or disturbed soil at the mitigation site(s), unless otherwise provided for in the Mitigation Plan.
- *Justification - Straw can be a source of noxious weeds which are a subset of invasive species that have been classified according to the seriousness of the threat they pose. Governments and landowners are required to control them. Noxious weeds can inhibit the success of a mitigation site.*
 - *Citation - Chapter 16-228-1400 WAC, WAC 173-225-010, and Chapter 173-226-110 WAC.*
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.
- *Justification - Noxious weeds are a subset of invasive species that have been classified according to the seriousness of the threat they pose. Governments and landowners are required to control them. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 16-228-1400 WAC, WAC 173-225-010, and Chapter 173-226-110 WAC.*
12. If weed-barrier fabric is used on the site, the Project Proponent shall use only water-permeable, fully biodegradable, non-toxic weed-barrier fabric for the entire-site and/or individual plant weed control, unless otherwise provided for in the Mitigation Plan. 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.

- *Justification - The establishment of hydrophytic vegetation and substrate characteristics, is a necessary element of the mitigation plan and is promoted by weed suppression. Suppression of weeds is necessary until hydrophytic vegetation is established, after which time the presence of the fabric will hinder vegetation establishment and may affect mitigation success.*
- *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300, and WAC 173-225-010.*

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 provided for in the Mitigation Plan.

- *Justification - Establishment of native species are a necessary element of wetland mitigation. Planting mixes must not contain non-native, invasive species, including noxious weeds since they will inhibit the success of the mitigation site and plan. Noxious weeds are a subset of invasive species that have been classified according to the seriousness of the threat they pose. Governments and landowners are required to control them.*
- *Citation - 40 CFR 131.12, Chapter 16-228-1400 WAC, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300, WAC 173-225-010, and Chapter 173-226-110 WAC.*

14. The Project Proponent shall not use solid or mesh plant protector tubes at the mitigation site unless otherwise provided for in the Mitigation Plan.

- *Justification - This requirement provides assurance that the mitigation site has the best chance at being successful in achieving wetland conditions. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, and WAC 173-201A-300.*

15. The Project Proponent shall place signs at the mitigation area's boundaries, including buffers, every 50 feet to mark the area as a wetland mitigation site.

- *Justification - This requirement provides assurance that the mitigation site has the best chance at being successful in achieving wetland conditions.*
- *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, and WAC 173-201A-300.*

16. Upon completion of site grading and prior to planting, the Project Proponent 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 and also indicate how final elevations were determined.

- *Justification - This requirement provides assurance that the mitigation site has the best chance at being successful in achieving wetland conditions.*
- *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii)WAC, WAC 173-201A-300, and WAC 173-225-010.*

17. After completing construction and planting of the mitigation site, the Project Proponent shall submit to Ecology (per Condition A.2. of this Order) 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.
- 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., below.
 - *Justification - This condition is necessary to ensure the mitigation site was constructed and planted per the approved mitigation plan and serves as a baseline for monitoring performance standards, which must be met to ensure success of the mitigation site.*
 - *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, Chapter 173-201A-300 WAC and Chapter 173-225-010 WAC.*

18. The Project Proponent shall provide long-term protection and management of the on-site wetland mitigation areas, including buffers, per Sections 12.6.1 and 12.6.2 of the Mitigation Plan.

- *Justification - The mitigation plan needs to ensure that measures will be taken to protect the site for the long term to ensure that wetland functions and values are replaced, thereby preserving beneficial uses and offsetting pollution.*
- *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, Chapter 173-201A-300 WAC and Chapter 173-225-010 WAC.*

Monitoring and Maintenance

19. The Project Proponent 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 otherwise provided for in the Mitigation Plan.

- *Justification - Designing and implementing an appropriate maintenance plan is crucial to the success of a mitigation site.*

- *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300, and WAC 173-225-010.*

20. The Project Proponent shall monitor the mitigation site for a minimum of ten (10) years. The Project Proponent shall use the monitoring methods described on pages 79 - 86 of the Mitigation Plan.

- *Justification - A monitoring plan describes the methods used to collect and analyze data needed to show that performance standards are being met. Monitoring plans are necessary to track environmental changes at mitigation sites to ensure success of the mitigation site.*
- *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300 and WAC 173-225-010.*

21. The Project Proponent shall submit to Ecology monitoring reports (per Condition A.2. of this Order) 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.
- b. Include the information listed in Attachment C (Information Required for Monitoring Reports).
 - *Justification - Monitoring reports track the environmental progress of the mitigation site and are necessary to track environmental changes at mitigation sites to ensure success of the mitigation site.*
 - *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300 and WAC 173-225-010.*

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

- *Justification - A contingency plan is necessary in case the actions undertaken for the mitigation fail or only partially succeed. A contingency plan contains corrective measures that will be taken if monitoring indicates that performance standards are not being met. The contingency plan outlines the steps that will be taken for each performance standard if it is not met.*
- *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300 and WAC 173-225-010.*

23. Prior to implementing contingency measures not specified in the Mitigation Plan, the Project Proponent shall consult with Ecology regarding the contingency measures.

- *Justification - A contingency plan is necessary in case the actions undertaken for the mitigation fail or only partially succeed. A contingency plan contains corrective measures*

that will be taken if monitoring indicates that performance standards are not being met. The contingency plan should outline the steps that will be taken for each performance standard if it is not met.

- *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300 and WAC 173-225-010.*

24. When necessary to meet the performance standards, the Project Proponent 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.

- *Justification - Performance standards must be met to ensure success of the mitigation site.*
- *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300 and WAC 173-225-010.*

25. For monitoring years five (5) and ten (10), the Project Proponent 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.

- *Justification - Delineation of wetlands helps to determine if the wetland area is adequately replaced, achieving no net loss. Delineation also informs whether mitigation is on track for success or if changes need to be made.*
- *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300 and WAC 173-225-010.*

26. At the end of the monitoring period, the Project Proponent shall use the October 2014 version of the "Washington State Wetlands Rating System for Western Washington" to rate all wetlands and include the information in the monitoring report.

- *Justification - Wetland rating will provide information regarding what wetland functions and values have been established at the mitigation site, informing whether adequate compensation has occurred.*
- *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300, WAC 173-225-010 and Chapter 365-190-090 WAC.*

27. If the Project Proponent 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.

- *Justification - If the mitigation site is not meeting all compensatory mitigation conditions then the water quality impacts will not be offset by the mitigation.*

- *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300 and WAC 173-225-010.*

28. The Project Proponents obligation to compensate for wetland impacts under Condition E.1. of this Order is not met until the Project Proponent has received written notice from Ecology that the obligation is met.

- *Justification - If the mitigation site is not meeting all compensatory mitigation conditions then the water quality impacts will not be offset by the mitigation.*
- *Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, WAC 173-201A-300, and WAC 173-225-010.*

F. Emergency/Contingency Measures

1. The Project Proponent shall develop and implement a spill prevention and containment plan for this project.
 - *Justification - Ecology must ensure that the Project Proponent has a plan to prevent pollution from entering waterways. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and Chapter 173-303-145 WAC.*
2. The Project Proponent shall have adequate and appropriate spill response and cleanup materials available on site to respond to any release of petroleum products or any other material into waters of the state.
 - *Justification - Ecology must have assurance that the Project Proponent has the material readily available in WQC Order to address any spills that might occur to protect waters of the state. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and Chapter 173-303-145 WAC.*
3. 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.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and Chapter 173-303-145 WAC.*
4. 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 Project Proponent shall notify Ecology's Federal Permit Manager per condition A2 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.
 - *Justification - This condition is necessary to prevent oil and hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and Chapter 173-303-145 WAC.*
5. 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.
- *Justification - Oil and hazardous materials spills cause environmental damage. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*

- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and Chapter 173-303-145 WAC.*

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