STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO	)	
	)	**ORDER # 9011**
	)	**3rd Amendment**
	)	**Corps Ref# NWS-2010-146**
Washington State Department of Transportation	)	Widen SR 520 to six lanes, add a new bridge over the Montlake cut, and replace the Portage Bay Bridge, Union Bay Bridge and the Evergreen Point Bridge

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

Administrative Order No. 9011 is hereby amended:

The amendment is as follows

Condition G.1 that reads:
The Applicant shall mitigate wetland impacts as described in the *SR 520, I-5 to Medina: Bridge Replacement and HOV Project final Wetland Mitigation Report* (hereafter called the "Mitigation Plan") prepared by Patrick Togher, Beth Peterson, and Maki Dalzell, of HDR Engineering, Inc. for WSDOT and Federal Highway Administration, and dated December 2011 and revised in February 2012, or as modified by this Order or revised and approved by Ecology.

Is replaced as follows:
The Applicant shall mitigate wetland impacts as described in the following plans or as modified by this Order or revised and approved by Ecology:

a. *SR 520, I-5 to Medina: Bridge Replacement and HOV Project Final Wetland Mitigation Report* (hereafter called the "Mitigation Plan") prepared by Patrick Togher, Beth Peterson, and Maki Dalzell, of HDR Engineering, Inc. for WSDOT and Federal Highway Administration, and dated December 2011 and revised in February 2012, and
b. *SR 520, I-5 to Medina: Bridge Replacement and HOV project Final Wetland Mitigation Report Addendum 1* prepared by Chris Berger of Confluence Environmental Company for WSDOT and Federal Highway Administration, and dated April 2013.
    i. The Applicant shall submit a copy of the Statement of Sale to Ecology (see A.2) within 20 days of completing the transaction as proof of purchase for 5.00 acres of wetland and aquatic mitigation at the Elliot Bridge Reach Mitigation Site.

Condition G.2 that reads:
The Applicant shall submit final grading and planting plans, with appropriate hydrologic information, for the WSDOT Owned Peninsula Mitigation Site, Union Bay Natural Area Mitigation Site (UBNA), Magnuson Park Mitigation Site, and Elliot Bridge Reach Mitigation Site (hereafter call the "Wetland Mitigation Sites") for review and approval before mitigation site construction begins.

Is replaced as follows:
The Applicant shall submit final grading and planting plans, with appropriate hydrologic information, for the WSDOT-Owned Peninsula Mitigation Site, Union Bay Natural Area Mitigation Site (UBNA), and Magnuson Park Mitigation Site (hereafter called the "Wetland Mitigation Sites") for review and approval before mitigation site construction begins.

Condition G.6 that reads:
Unless otherwise approved by Ecology in writing, the Applicant shall begin construction of the UBNA, Magnuson Park Mitigation Site, and Elliot Bridge Reach Mitigation Site compensatory mitigation projects before, or concurrent with impacting wetlands or Ecology may require additional compensation to account for additional temporal loss of wetland functions. Construction of the WSDOT Owned Peninsula Mitigation Site may begin after impacting wetlands.

Is replaced as follows:
Unless otherwise approved by Ecology in writing, the Applicant shall begin construction of the UBNA and Magnuson Park Mitigation Site compensatory mitigation projects before, or concurrent with impacting wetlands or Ecology may require additional compensation to account for additional temporal loss of wetland functions. Construction of the WSDOT-Owned Peninsula Mitigation Site may begin after impacting wetlands. The Applicant shall complete the purchase of acres at the Elliot Bridge Reach Site from King County's Mitigation Reserve Program before the impacts to wetlands occur, or Ecology may require additional compensation to account for additional temporal loss.

Condition G.7 that reads:
If the mitigation sites cannot be completed within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of
a. SR 520, I-5 Medina: Bridge Replacement Project.
b. Wetland Mitigation Sites
With the:
c. Reason for the delay.
d. Expected date of completion
The Applicant shall submit an updated written notification every 12 months thereafter until the SR 520, I-5 to Medina: Bridge Replacement and HOV Project and WSDOT Owned Peninsula

Mitigation Site, UBNA, Magnuson Park Mitigation Site, and Elliot Bridge Reach Mitigation Site are complete.

Is replaced as follows:
If the mitigation sites cannot be completed within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of
a. SR 520, I-5 Medina: Bridge Replacement Project.
b. Wetland Mitigation Sites
With the:
c. Reason for the delay.
d. Expected date of completion
The Applicant shall submit an updated written notification every 12 months thereafter until the SR 520, I-5 to Medina: Bridge Replacement and HOV Project and WSDOT Owned Peninsula Mitigation Site, UBNA, and Magnuson Park Mitigation Site are complete.

Condition H.1 that reads:
The Applicant shall mitigate aquatic impacts as described in the JARPA Attachment I Final Aquatic Mitigation Report SR 520, I-5 Medina: Bridge Replacement and HOV Project (hereafter called the "Aquatic Mitigation Plan") prepared by Pete Lawson, Parametrix Inc, Chad Wiseman, HDR Engineering, Inc., and Chris Berger, Confluence Environmental Company, dated December 2011 and revised in February 2012, or as modified by the Order or revised and approved by Ecology.

If replaced with the following:
The Applicant shall mitigate aquatic impacts as described in the following plans or as modified by the Order or revised and approved by Ecology:

a. JARPA Attachment I Final Aquatic Mitigation Report SR 520, I-5 to Medina: Bridge Replacement and HOV Project (hereafter called the "Aquatic Mitigation Plan") prepared by Pete Lawson, Parametrix Inc, Chad Wiseman, HDR Engineering, Inc., and Chris Berger, Confluence Environmental Company, dated December 2011 and revised in February 2012, and
b. SR 520, I-5 to Medina: Bridge Replacement and HOV Project Final Aquatic Mitigation Plan Addendum 1 prepared by Chris Berger of Confluence Environmental Company for WSDOT and Federal Highway Administration, and dated April 2013.
    i. The Applicant shall submit a copy of the Statement of Sale to Ecology (see A.2) as required in condition G1.b.i.

No other conditions or requirements of the above-mentioned order are affected by this amendment.

The 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 ORDER

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

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

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

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

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

ADDRESS AND LOCATION INFORMATION

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

CONTACT INFORMATION

Please direct all questions about this Order to:

Penny Kelley
Department of Ecology
P.O. Box 47600
Olympia, WA 98503-7600

360-407-7298
pkel461@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
  www.eho.wa.gov/Boards_PCHB.aspx
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
  http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B
- **Chapter 371-08 WAC – Practice And Procedure**
  http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08
- **Chapter 34.05 RCW – Administrative Procedure Act**
  http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05
- **Chapter 90.48 RCW – Water Pollution Control**
  http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48
- **Chapter 173.204 Washington Administrative Code (WAC) Sediment Management Standards**
  http://www.ecy.wa.gov/biblio/wac173204.html
- **Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington**
  http://www.ecy.wa.gov/biblio/wac173200.html
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**
  http://www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE

Dated this 22nd day of May, 2013 at the Department of Ecology, Lacey Washington

Brenden McFarland, Section Manager
Environmental Review and Transportation
Shorelands and Environmental Assistance Program
Headquarters