




August 26, 2009

TO: Keith Metcalf, Eastern Region
Dan Sarles, North Central Region
Lorena Eng, Northwest Region
Kevin Dayton, Olympic Region
Don Whitehouse, South Central Region
Donald Wagner, Southwest Region
Craig Stone, Toll Division Director
Ron Paananen, AWW Program Administrator
Julie Meredith, SR 520 Program Director
Paul Brodeur, WSF, Director of Maintenance, Preservation and Engineering
Tim Smith, WSF, Director, Terminal Engineering

FROM:  J. C. Lenzi
(360) 705-7032

SUBJECT: **Project Delivery Memo #09-01** - Incorporating Environmental Commitments Into WSDOT Contracts

Background

During the winter of 2008, both the Headquarters Construction and Environmental Services Offices reviewed how Regions incorporate environmental commitments into contracts. A report was prepared and it is available at:

<http://wwwi.wsdot.wa.gov/eesc/design/BestPractices.pdf>.

Among the findings of the report were four recommendations. One in particular caught the attention of Project Development Engineers, Construction Engineers, and Region Environmental Managers. It involved amending existing Standard Specifications, as well as developing three new Headquarters General Special Provisions (GSP), to address the recurring requirements in programmatic permits and agreements. These include:

1. U.S. Army Corps of Engineers Nationwide Permits
2. National Pollutant Discharge Eliminations System (NPDES) General Construction Stormwater Permit
3. The 1998 Water Quality Implementing Agreement with Dept. of Ecology
4. The 2004 Compliance Implementing Agreement with Dept. of Ecology

In addition, the report also recommended a process for incorporating environmental commitments into contracts.

A work group was assembled to implement these recommendations. It consisted of staff from Headquarters and the Regions, representing design, construction, and the environment. They took a series of Olympic Region GSPs, as well as a process, and modified them for statewide use. The result is three new GSPs and an "Environmental Commitments Meeting" to customize the specifications for particular projects.

The intent of this memorandum is to:

1. Recommend steps for a successful Environmental Commitments Meeting
2. Describe deliverables resulting from the Environmental Commitments Meeting
3. Identify resources Regions can use during the Environmental Commitments Meeting
4. Identify roles and responsibilities so Regions can successfully incorporate environmental commitments into contracts

Recommended Steps for the Environmental Commitments Meeting:

1. Region Design Office presents an overview (e.g., project scope, work methods, etc.) of the project and schedule for advertisement.
2. Region Environmental Office provides an update on the status of all permits and project-specific environmental documents.
3. Environmental Commitments Meeting participants review all permits and environmental documents (i.e., NEPA/SEPA, Biological Opinions, Concurrence Letters, etc.).
4. Environmental Commitments Meeting participants review the GSP (1-07.5, 1-07.6, and 1-07.15(1)):
 - Select provisions of 1-07.5 to include in the contract;
 - Select the permits and licenses to include in the 1-07.6 table;
 - Make choices on fill-ins; and
 - Create project-specific Special Provisions to supplement or amend sections of the Standard Specifications for conditions tied to a specific work item (e.g. Concrete, Excavation, Demolition, etc.);
5. Environmental Commitments Meeting participants develop a list of action items to address any unresolved issues and set any follow up meetings.

Note: Permits and documents often contain commitments that must be incorporated early in design. Many permits are obtained near the completion of design. Therefore, it may be necessary for some projects to hold the Environmental Commitments Meeting early to evaluate design commitments and once again to evaluate permit commitments prior to final PS&E. For large projects with significant environmental impacts, it may be necessary to hold multiple Environmental Commitments Meetings.

Preferred Deliverables:

1. Project-specific Special Provisions delivered by the Design Office to the Plans Office.
2. Annotated crosswalk between the environmental commitments and the contract documents prepared by the Environmental Office (i.e., a binder containing all of the project-specific environmental permits and environmental documents with language noting how each of the environmental commitments is included in the contract.

Resources for Region Use

A series of documents exist that facilitate the use of GSP (1-07.5, 1-07.6, and 1-07.15(1)) and are resources that can be used in the Environmental Commitments Meeting. They are available on the Environmental Services Office sub-webpage at:

<http://wwwi.wsdot.wa.gov/Environment/EnvtCommitments/>

Action Requested

Ensure contracts for your projects accurately reflect all environmental commitments from permits and project-specific environmental documents.

Roles and Responsibilities:

Region Design Offices

The primary responsibility for producing Special Provisions lies with the Region Design Offices and this remains true for those developed through the Environmental Commitments Meeting. Region Design Offices will:

- Set up the Environmental Commitments Meeting and invite participants from the Construction, Environmental and Plans Review Offices or any other support group deemed necessary by the Design Office to be at the meeting.
- Consult with the Region Environmental Office in setting up the Environmental Commitment Meetings and inviting participants.
- Create an agenda that defines, for example, roles/responsibilities and the permits/documents to be reviewed.
- Record changes made to the General Special Provisions for Section 1-07.5, 1-07.6, and 1-07.15(1) during the Environmental Commitment Meetings.
- Distribute draft contract language to Environmental Commitment Meetings participants.

Region Construction Office

In some cases the Region Design Office and Construction Office will be different. In those cases the Construction Project Engineer and the responsible Region Construction Engineer will be invited to the Environmental Commitments Meeting. The individual representing the Construction Office will:

- Review Special Provisions to ensure the contract describes a constructible project while adhering to environmental commitments made with the regulatory agencies and the tribes.

Region Environmental Office (Documentation/Permitting)

The individual(s) representing the Environmental Office will:

- Bring copies of the most current version of the GSP (1-07.5, 1-07.6, and 1-07.15(1)) as found on the Environmental Services Office sub-webpage at: <http://wwwi.wsdot.wa.gov/Environment/EnvtCommitments/>
- Bring copies of all project permits and environmental documents.
- Document how commitments in permits and environmental documents are addressed in the Special Provisions, Standard Specifications, or Plans.

Region Plans Review Office

The individual representing the Plans Office will be the last person to see the Special Provisions before printing the contract for advertisement. This person will:

- Bring the applicable version of the Standard Specifications manual, Amendments to the Standard Specifications, and a review set of the contract to the Environmental Commitment Meeting.
- Ensure the correct sections of the Standard Specifications are referenced throughout the contract.
- Ensure the three new GSP are used and that contract-relevant commitments from U.S Army Corps Nationwide Permits, the National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit, the 1998 Water Quality Implementing Agreement, and the 2004 Compliance Implementing Agreement are inserted into the contract when applicable.
- Ensure additional commitments not covered by existing contract documents are addressed by project-specific Special Provisions.

HQ Construction, Design, and Environmental Services Office

The Offices will work together and collaborate with the Regions and the contracting community to maintain existing and future environmental contract language. This will follow the published schedule for amending the Standard Specifications and GSPs.

Keith Metcalf et al.
August 26, 2009
Page 5

JCL:sc
PB/NB/JC/MW/CM

cc: Region Project Development Engineers
Region Construction Engineers
Region Environmental Managers
David Moseley, Assistant Secretary for WSF
Jean Baker, Deputy Chief for Ferries
Megan White
Pasco Bakotich
Jeff Carpenter
John White
Kim Henry