



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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May 5, 2021

Phillips 66 Company Ferndale Refinery
Attn: Joe Murphy
3901 Unick Road
Ferndale, WA 98248

RE: Amendment to 401 Water Quality Certification Order #19407 for U.S. Army Corps of Engineers Reference No. NWS-2020-203, West Turnaround Contractor Parking Lot, Whatcom County, Washington

Dear Joe Murphy:

Enclosed is an amendment to Water Quality Certification (WQC) Order #19407, issued on September 23, 2020, for the above project. The amended WQC includes a strikeout version identifying specific changes to the original WQC conditions. All other (non-amended) conditions of the original WQC #19407 remain in effect.

This amendment clarifies acreages of compensatory wetland mitigation required for wetland impacts from the West Turnaround Parking Lot project. Wetlands impacts will be mitigated through use of 1.525 acres of wetland creation area, 1.271 acres of wetland rehabilitation, and 1.344 acres of buffer enhancement previously approved as advance mitigation under U.S. Army Corps of Engineers reference number NWS-2013-172. The amendment also removes two conditions from the WQC.

If you have any further questions regarding this amendment, please contact Chris Luerkens at (360) 255-4399. The enclosed WQC Amendment is an appealable action pursuant to the procedures described within this Amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar", is written over a horizontal line.

Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office

Sent via email: joe.murphy@p66.com

e-cc: Randel Perry, Corps of Engineers
Jeff Walker, AECOM
Amie Blystone, Phillips 66
Kim Wigfield, Ecology
Grant Yang, Ecology-TCP
Rebekah Padgett, Ecology-SEA
Elizabeth Fint, Ecology-WQ
Loree' Randall, Ecology-HQ, SEA
Dana Mock, Ecology-SEA
ECY RE FEDPERMITS

IN THE MATTER OF GRANTING A) ORDER #19407, First Amendment
WATER QUALITY) Corps Reference No. NWS-2020-203
CERTIFICATION TO) West Turnaround Contractor Parking Lot;
Phillips 66 Company Ferndale) Wetlands, located in Ferndale, Whatcom County,
Refinery) Washington.
in accordance with 33 U.S.C. 1341)
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

TO: Phillips 66 Company Ferndale Refinery
Attn: Joe Murphy
3901 Unick Road
Ferndale, WA 98248

On September 23, 2020, the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification (WQC) to Phillips 66 Company Ferndale Refinery for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request AECOM to amend WQC Order #19407. The amendment request is to clarify required compensatory mitigation acreage and remove two conditions associated with monitoring compensatory wetlands from the WQC, which are not needed as the applicant will be compensating for project impacts utilizing advanced mitigation that was formally documented and approved through U.S. Army Corps of Engineers (Corps) reference number NWS-2013-172

Order No. 19407 dated March 25, 2020 is hereby amended as follows:

I. Wetland impacts and mitigation description is updated from:

The proposed project entails construction of a 4.2 acre gravel contractor parking lot, stormwater facilities, and modification of an existing roadside ditch. The project will result in fill of approximately 2.54 acres of wetland. Wetland impacts will be mitigated through use of 1.656 acres of wetland creation area, and 3.887 acres of wetland rehabilitation previously approved as advance mitigation under Corps reference number NWS-2013-172.

Is replaced with:

The proposed project entails construction of a 4.2 acre gravel contractor parking lot, stormwater facilities, and modification of an existing roadside ditch. The project will result in fill of approximately 2.54 acres of wetland. Wetland impacts will be mitigated through use of 1.525 acres of wetland creation area, 1.271 acres of wetland rehabilitation, and 1.344 acres of buffer enhancement previously approved as advance mitigation under Corps reference number NWS-2013-172.

II. Condition numbers F.16 through F.19 that read:

16. For monitoring years ten (10), the Applicant shall use the currently approved federal wetland delineation manual and appropriate regional supplement to delineate all compensatory wetlands and include delineation information (e.g., data sheets, maps, wetland size, etc.) in the monitoring reports.
17. At the end of the monitoring period, the Applicant shall use the October 2014 version of the “Washington State Wetlands Rating System for Western Washington” to rate all wetlands (except those that have been preserved) and include the information in the monitoring report.
18. If the Applicant has not met all compensatory mitigation conditions by the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both. Conditions include specifications in the approved Mitigation Plan, such as performance standards for the mitigation site.
19. The Applicant’s obligation to compensate for wetland impacts under Condition F.1 is not met until the applicant has received written notice from Ecology that the obligation is met.

Are replaced with:

16. If the Applicant has not met all compensatory mitigation conditions by the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both. Conditions include specifications in the approved Mitigation Plan, such as performance standards for the mitigation site.
17. The Applicant’s obligation to compensate for wetland impacts under Condition F.1 is not met until the applicant has received written notice from Ecology that the obligation is met.

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 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 both 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	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

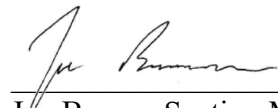
Chris Luerkens
Department of Ecology
Bellingham Field Office
913 Squalicum Way, Suite 101
Bellingham, WA 98225
(360) 255-4399

MORE INFORMATION

- **Pollution Control Hearings Board Website**
<http://www.eluho.wa.gov/Board/PCHB>
- **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 5th day of May, 2021, at the Department of Ecology, Bellevue, Washington.



Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office