



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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January 19, 2022

Port of Grays Harbor
ATTN: Gary Nelson
PO Box 660
Aberdeen, WA 98520

RE: Second Amendment to 401 Water Quality Certification Order No. **15769** for U.S. Army Corps of Engineers Reference No. **NWS-2017-850**, Port of Grays Harbor Terminals 1, 2, and 4, Aberdeen, Grays Harbor, Washington

Dear Gary Nelson:

Enclosed is the second amendment to Water Quality Certification Order No. **15769**, issued on June 6, 2018, for the above project.

The purpose of this amendment is to increase the annual dredge volume for Terminal 4 from 24,000 cubic yards (CY) to 45,000 CY.

If you have any questions, please contact Laura Inouye at (360) 407-6165. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

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

E-cc: Danette Guy, U.S. Army Corps of Engineers
Evan Carnes, U.S. Army Corps of Engineers
Michael Johnson, Port of Grays Harbor
Laura Inouye – HQ
Loree' Randall – HQ
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A WATER) ORDER No. 15769
QUALITY CERTIFICATION TO) Second Amendment
Port of Grays Harbor) Corps Reference No. NWS-2017-850
in accordance with 33 U.S.C. 1341) Port of Grays Harbor Terminals 1, 2, and 4,
(FWPCA § 401), RCW 90.48.120, RCW) Aberdeen, Grays Harbor, Washington
90.48.260 and Chapter 173-201A WAC)
)

TO: Port of Grays Harbor
ATTN: Gary Nelson
PO Box 660
Aberdeen, WA 98520

On June 6, 2018 the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to the Port of Grays Harbor for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request on January 6, 2022 to increase annual dredging at Terminal 4 from 24,000 Cubic Yards (CY) to 45,000 CY.

Order No. 15769 dated June 6, 2018 is hereby amended as follows:

I. The project description which reads:

Port of Grays Harbor proposes maintenance dredging at the marine Terminals 1, 2, and 4. Additionally, the Port proposes dredging for maintenance and repair of the Jet Array System on the western end of Terminal 4. Dredging at Terminal 1 (up to 30,000 cy annually), Terminal 2 (up to 80,000 cy annually), and Terminal 4 (up to 24,000 cy annually) will have a maximal depth of -43 ft MLLW (Authorized depth -41 plus 2 feet overdredge allowance). Terminal dredging will be accomplished with a clamshell dredge, and material will be transported via split hull bottom dump barge to either Point Chehalis or South Jetty. Dredging for maintenance/repair of the Jet Array System will use a land-based crane with bucket, and material will be placed into dump trucks and hauled to an upland City of Hoquiam fill site.

Is replaced with:

Port of Grays Harbor proposes maintenance dredging at the marine Terminals 1, 2, and 4. Additionally, the Port proposes dredging for maintenance and repair of the Jet Array System on the western end of Terminal 4. Dredging at Terminal 1 (up to 30,000 cy annually), Terminal 2 (up to 80,000 cy annually), and Terminal 4 (up to 45,000 cy annually) will have a maximal depth of -43 ft MLLW (Authorized depth -41 plus 2 feet overdredge allowance). Terminal dredging will be accomplished with a clamshell dredge, and material will be transported via split hull bottom dump barge to either Point Chehalis or South Jetty. Dredging for maintenance/repair of the Jet Array System will use a land-based crane with bucket, and material will be placed into dump trucks and hauled to an upland City of Hoquiam fill site.

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:

Laura Inouye
Department of Ecology
Headquarters Office
PO Box 67600
Olympia, WA 98504-7600
(360) 407-6165
Laura.Inouye@ecy.wa.gov

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>



January 19, 2022

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

DATE

IN THE MATTER OF GRANTING A)	ORDER No. 15769-June 6, 2018
WATER QUALITY CERTIFICATION TO)	1st Amendment June 14, 2018
Port of Grays Harbor)	Second Amendment January 19, 2022
in accordance with 33 U.S.C. 1341)	Corps Reference No. NWS-2017-850
(FWPCA § 401), RCW 90.48.120, RCW)	Port of Grays Harbor Terminals 1, 2, and 4,
90.48.260 and Chapter 173-201A WAC)	Aberdeen, Grays Harbor, Washington

TO: Port of Grays Harbor
 ATTN: Gary Nelson
 PO Box 660
 Aberdeen, WA 98520

On September 22, 2017 the Port of Grays Harbor submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A joint public notice regarding the request was distributed by the Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on March 23, 2018. This certification rescinds and replaces previous Orders No. 7023 and No. 5402.

Port of Grays Harbor proposes maintenance dredging at the marine Terminals 1, 2, and 4. Additionally, the Port proposes dredging for maintenance and repair of the Jet Array System on the western end of Terminal 4. Dredging at Terminal 1 (up to 30,000 cy annually), Terminal 2 (up to 80,000 cy annually), and Terminal 4 (up to ~~24,000~~ 45,000 cy annually) will have a maximal depth of -43 ft. Mean Lower Low Water (MLLW), authorized depth -41 plus 2 feet over dredge allowance. Terminal dredging will be accomplished with a clamshell dredge, and material will be transported via split hull bottom dump barge to either Point Chehalis or South Jetty. Dredging for maintenance/repair of the Jet Array System will use a land-based crane with bucket, and material will be placed into dump trucks and hauled to an upland City of Hoquiam fill site.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined 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.

Order No. 15769, Corps No. NWS-2017-850

Port of Grays Harbor Terminals 1, 2, and 4 Maintenance Dredge

June 6, 2018 Original Issued

June 14, 2018 1st Amendment Issued, January 19, 2022 2nd Amendment Issued

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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 meet the 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 the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. In this Order, the term "Applicant" shall mean the Port of Grays Harbor and its agents, assignees and contractors.
2. All submittals required by this Order shall be sent to Ecology's Headquarters Office, Attn: Federal Permit Coordinator, P.O. Box 47600 Olympia, WA 98504-7600 and/or fednotification@ecy.wa.gov. Any submittals shall reference Order No. 15769 and Corps Reference No. NWS-2017-850.
3. All notifications listed below shall be made via phone to Laura Inouye, (360) 407-6165, or e-mail at fednotification@ecy.wa.gov with a cc to Laura.Inouye@ecy.wa.gov. These notifications shall be identified with Order No. 15769 and include the Applicant's Name, the Project Contact, and the Contact's phone number.
 - a. At least ten (10) days prior to conducting initial in-water work activities for each in-water work window.
 - b. Within at least seven (7) days after completion of the in-water work.
4. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on September 22, 2017, unless otherwise authorized by Ecology.

5. 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.
6. Within 30 days of receipt of the updated information, Ecology will determine if the revised project requires a new public notice and Certification or if a modification to this Order is required.
7. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue an individual 404 and/or Section 10 permit for the project.
8. The Applicant shall send (per A.2.) a copy of the final Section 404 Corps permit to Ecology' Federal Project Manager within two weeks of receiving it from the Corps.
9. 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, lead workers, and state and local government inspectors.
10. Upon Ecology personnel's request, the Applicant shall provide access to the project site, all staging areas, and mitigation sites for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
11. 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. Furthermore, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified or if additional conditions are necessary to further protect water quality.
12. 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 will issue an administrative order to incorporate any such changes or amendments applicable to this project.
13. The Applicant shall ensure that all appropriate project engineers and contractors at the project site 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 project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.

14. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state (including wetlands) or related aquatic resources, except as specifically provided for in conditions of this Order.
15. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.
16. 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.

B. Water Quality Conditions:

1. This Order does not authorize exceedances of water quality standards beyond the limits established in WAC 173-201A.
2. This Order authorizes a temporary turbidity mixing zones.
 - The area of mixing established for this project is a ~~300~~ 600-foot radius surrounding the in-water activity. Turbidity occurring outside that zone that is more than 10 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 20% increase in turbidity when the background turbidity is more than 50 NTU is a violation of the turbidity water quality standard.
 - Visible turbidity anywhere at ~~300~~ 600 ft. point of compliance from the activity and/or the disposal location shall be considered to be an exceedance of the standard.

C. Water Quality Monitoring

1. For each dredging cycle, the Applicant shall submit a **Water Quality Monitoring Plan** to Ecology per Condition A2 at least 14 days prior to the pre-dredge meeting (Condition D8). This plan shall be approved by Ecology prior to any in-water work. The plan shall include at a minimum the following information:
 - a. Name and contact information of the person or firm responsible for monitoring;

- b. Map of sample locations including background, an early warning point, and the point of compliance for at or near the surface, midway, and bottom depths. For this project, the point of compliance is a 300 feet radius from the activity causing the turbidity.
 - c. Parameter(s) to be monitored: turbidity
 - d. Sample method;
 - e. Frequency, and
 - f. Steps to be taken if monitoring results indicate an exceedance has occurred. The amount of the exceedance and the reason for the exceedance shall also be reported.
 - g. If changes to the WQMP are proposed at any time during the duration of this Order, the Applicant shall submit a revised plan to Ecology for review and approval. The Applicant shall allow at least a 14-day review time for Ecology. Following Ecology's approval, the Applicant shall comply with the approved, updated WQMP.
2. Turbidity monitoring reports shall be sent weekly to the 401/CZM Federal Permit coordinator. The permit coordinator shall be contacted within 24 hours if an exceedance occurs.

D. Dredging:

1. All dredging is to be done using a clamshell dredge. **Use of any other type of dredge requires preapproval from Ecology.**
2. Dredging operations shall be conducted in a manner that minimizes the disturbance or siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into waters of the State.
3. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.
4. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
5. The scow shall not be overfilled to the point where dredge material overtops the sidewalls.

6. Caution shall be used when placing material from the bucket into the scow to limit splash and prevent spillage.
7. The Dredge operator shall pause the bucket at the surface, after its ascent through the water column, to minimize turbidity by allowing free water to drain from the bucket prior to swinging the bucket to the bottom dump scow.
8. A pre-dredge meeting is required to be convened prior to the start of dredging for each dredging cycle. A **Dredging and Disposal Plan** is required and shall be submitted to Ecology to the 401/CZM Federal Permit Coordinator at the address shown in Condition A2 for review and approval 2 weeks prior to the pre-construction meeting.
9. Prior to each dredging cycle, the Applicant shall contact the DMMP agencies to determine whether additional sediment testing is required. If additional testing is required, no dredging or disposal shall be conducted until the material has been tested and a suitability determination (SDM) has been issued. This area ranks low in potential for contamination and the recency determination extends until December 2021. If necessary, contact the DMMO for a possible extension on the SDM.

E. Disposal

1. All dredged material suitable for in-water disposal will be placed at either the South Jetty or Point Chehalis dispersive sites via bottom dump barge. **Use of any other type of disposal method or location requires pre-approval by Ecology.**
2. For material being taken to open water disposal sites, all debris (larger than 2 feet in any dimension) shall be removed from the dredged sediment prior to disposal. A 12 inch by 12-inch debris screen must be used for all material going to in-water disposal sites, unless information is provided to show debris is not present. Similar debris found floating in the dredging or disposal area shall also be removed.
3. For all dredged material (Jet Array) that will be placed at a permitted upland location:
 - a. A transload plan is required and shall be submitted to Ecology to the 401/CZM Federal Permit Coordinator at the address shown in Condition A2 for review and approval 4 weeks prior to the pre-dredge meeting.
 - b. Appropriate permits and approvals for the final destination of the sediments must be provided to Ecology prior to start of dredging the Jet Array.

F. Timing Requirements:

1. All in-water work shall be completed during July 16 and February 14 of any year through 2019, after which time the current HPA expires. Any project change that requires a new or revised HPA should also be sent to Ecology for review. New HPAs that are issued for this project shall be submitted to Ecology.
2. This Order shall remain in effect for a period of 10 years from date of issuance. Continuing this project beyond the 10-year term of this Order will require separate certifications every 10 years.

G. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing the compliance problem.
 - 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 finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. 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.
 - e. Immediately notify Ecology's 24-Hour Spill Response Team at 1 (800) 258-5990, **and** within 24 hours of spills or other events Ecology's 401/CZM Federal Permit Coordinator at (360) 407-6165.

Order No. 15769, Corps No.NWS-2017-850

Port of Grays Harbor Terminals 1, 2, and 4 Maintenance Dredge

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- f. 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.
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, including wetlands.
4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.

Copy with Amended Conditions