



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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February 3, 2022

Snohomish County Parks, Recreation and Tourism
ATTN: Carol Ohlfs
6705 Puget Park Drive, M/S 303
Snohomish, WA 98296

RE: Water Quality Certification Order No. 20085 for Corps Reference No. NWS-2019-650-
WRD, Kayak Point County Park Day Use Area Improvements Project, Stanwood,
Snohomish County, Washington

Dear Carol Ohlfs:

On November 3, 2021, Snohomish County Parks, Recreation and Tourism submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Kayak Point County Park Day Use Area Improvements project, located in Stanwood, Snohomish County, Washington.

On behalf of the State of Washington, the Department of Ecology certifies that the work described in the Water Quality Certification Request and supplemental documents complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

Please ensure that anyone doing work under this Order has read, is familiar with, and is able to follow all of the provisions within the attached Order.

If you have any questions, please contact Rebekah Padgett at (425) 365-6571. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar".

Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program

Sent by electronic mail: carol.ohlfs@snoco.org

Enclosure

Snohomish County Parks, Recreation and Tourism

February 3, 2022

Page 2 of 2

e-cc: Andrew Shuckhart, US Army Corps of Engineers
Jim Brennan, J.A. Brennan Associates, PLLC
Kirk Lakey, WA Department of Fish and Wildlife
Ben Cooksey, WA Department of Natural Resources
Andra Nordin, WA Department of Natural Resources
Chris Luerkens, Ecology
Stephanie Barney, Ecology
Grant Yang, Ecology
Amy Jankowiak, Ecology
Loree' Randall, Ecology
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A) WQC ORDER No. 20085
WATER QUALITY) Corps Reference No. NWS-2019-650-WRD
CERTIFICATION TO) Kayak Point County Park Day Use Area
Snohomish County Parks, Recreation) Improvements Project, Port Susan, Puget Sound,
and Tourism) Stanwood, Snohomish County, Washington.
pursuant to 33 U.S.C. 1341 (FWPCA)
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)

Snohomish County Parks, Recreation and Tourism
Snohomish County
ATTN: Carol Ohlfs
6705 Puget Park Drive, M/S 303
Snohomish, WA 98296

On November 3, 2021, Snohomish County Parks, Recreation and Tourism submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act to the Washington State Department of Ecology (Ecology) for the Kayak Point County Park Day Use Area Improvements project located in Snohomish County, Washington. On November 5, 2021, the U.S. Army Corps of Engineers (Corps) issued a joint public notice.

The project proposes to improve existing park recreational opportunities while protecting the existing park area from anticipated sea level rise.

In-water work includes: replacement of an existing concrete slab boat launch with an elevated boat launch and float, installation of debris deflectors at the boat ramp, and repairs to the fishing pier, and replacement of existing solid pier decking with light permeable decking. It also includes ongoing maintenance of the new boat launch, including removal of woody debris from the elevated launch and clearing sand from the end of the paved launch.

Upland improvements include: enhancement of the backshore berm zone; elevation of the upland recreation park areas; renovation of restrooms, a picnic shelter, and concession building; relocation of picnic shelters; pedestrian circulation paths; re-design of the parking area; upgrading the stormwater system; and improvements to utility infrastructure.

Mitigation for approximately 3,326 square feet of impacts to aquatic habitat and 1,020 square feet of impacts at the site from operation of the boat launch comprises: approximately 3,255 square feet of forage fish habitat restoration between elevations -20 and the Ordinary High Water Mark (OHWM), including sea wall removal along the northern portion of the Kayak Point Day Use Area. Additional nearshore habitat enhancement includes approximately 1,683 square feet of longshore drift due to the elevated launch design, 246 square feet of creosote timber removal from Kayak Point pier cross-bracing and deep-water pilings, 3,878 square feet of light-penetrating decking replacing timber decking on the pier, and 13,809 square feet of protected planted shoreline enhancement (1,445 linear feet of new planted backshore berm to replace paving, structures, and lawn).

The project site is located at the Kayak Point County Park, 15711 Marine Drive, Port Susan, Puget Sound, in Stanwood, Snohomish County, Washington, Section 36, Township 31 N., Range 3 E., within Water Resource Inventory Area (WRIA) 5 Stillaguamish River Basin.

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 Applicant 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, Snohomish County Parks, Recreation and Tourism’s request for a Section 401 Water Quality Certification for the Kayak Point County Park Day Use Area Improvements, Port Susan located in Snohomish County. Ecology has determined that the proposed discharges 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 November 3, 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
June 25, 2020	Geotechnical Engineering Report	<i>Draft Geotechnical Engineering Report, Kayak Point Regional Park, Day Use Area, Step 2, Snohomish County, Washington (dated July 2019)</i>	Shannon & Wilson

November 3, 2021	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA (dated July 25, 2019)	Snohomish County Parks
November 3, 2021	Drawings	Plan set, Sheets 1 to 13 (dated April 17, 2020) Sheets 6 and 7 of 13 (dated April 17, 2020, revised September 22, 2021) Sheets EN-3 and EN-5 (dated July 25, 2019) Sheets EN-1, EN-2, and EN-4 (dated July 1, 2021)	J.A. Brennan Associates, PLLC, and Reid Middleton, Inc.
November 3, 2021	State Environmental Policy Act	Determination of Nonsignificance (signed July 16, 2021, issued August 4, 2021)	Snohomish County Planning and Development Services
November 3, 2021	Critical Area Report & Habitat Management Plan	Critical Area Report & Habitat Management Plan for Kayak Point Regional Park Day Use Area Improvements, Snohomish County, Washington (dated July 25, 2019, revised December 17, 2020)	Raedeke Associates, Inc.
November 3, 2021	Mitigation Plan	Memorandum from Carol Ohlfs, to Paul Marczin, Washington Department of Fish and Wildlife, RE: Mitigation Sequencing for Marine Habitat Impacts at Kayak Point Park (dated November 2, 2021) Attachment: Memorandum from Jim Johannessen, Coastal Geologic Services, Inc., to JA Brennan And Associates, Tanja Wilcox, Jim Brennan, RE: Kayak Point Regional Park – Day Use Aea barge material	Snohomish County Parks and Recreation Coastal Geologic Services, Inc.

		delivery technical memo-DRAFT (dated April 6, 2021) Attachment: Eelgrass Survey and Map, Kayak Point Habitat Report (dated May 2019)	Marine Surveys & Assessments
November 3, 2021	Planting/Restoration Plan	Sheet MIT-2, (dated November 30, 2020) Sheets L-19 to L-22 and L-29 to L-34 (dated April 6, 2021)	J.A. Brennan Associates, PLLC
November 3, 2021	Water Quality Monitoring and Protection Plan	Water Quality Monitoring and Protection Plan (WQMPP), Snohomish County Parks & Recreation, Kayak Point Park—Day Use Area Improvements (dated May 27, 2021)	Reid Middleton and JA Brennan Associates
November 16, 2021	Biological Assessment	Biological Assessment, Kayak Point Regional Park Day Use Area Improvements, Snohomish County, Washington (dated July 24, 2019)	Raedeke Associates, Inc.
November 16, 2021	Site Preparation & Demolition Plan	Phase 1: Sheets SP-1 to SP-3 (dated September 27, 2021) Phase 2: Sheets SP-1 to SP-4 (dated September 27, 2021)	J.A. Brennan Associates, PLLC
November 16, 2021	Application Attachment	JARPA Attachment E (signed by Washington Department of Natural Resources on July 30, 2019)	Snohomish County Parks and Recreation
November 23, 2021	Memo	Memo from Carol Ohlfs, Snohomish County Parks, to Rebekah Padgett, Ecology, RE: Clarification questions from Ecology (dated November 23, 2021)	Carol Ohlfs, Snohomish County Parks

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Snohomish County Parks, Recreation and Tourism 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 Snohomish County Parks, Recreation and Tourism from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

The following conditions will be incorporated into the Corps permit and strictly adhered to by the Snohomish County Parks, Recreation and Tourism.

A. General Conditions

1. In this WQC Order, the term “Applicant” shall mean the Snohomish County Parks, Recreation and Tourism and its agents, assignees, and contractors.
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 and cc to Rebekah.Padgett@ecy.wa.gov. The submittals shall be identified with WQC Order #20085 and include the Applicant’s name, Corps permit number, project name, project contact, and the contact phone number.
3. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on November 3, 2021, and the supporting documentation identified in Table 1.
4. The Applicant 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.
5. The Applicant 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.
6. 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. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
7. 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 may issue an amendment to this Order to incorporate any such changes or amendments applicable to this project.

8. The Applicant 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 Applicant shall provide Ecology a signed statement (see Attachment A for an example) before construction begins.
9. 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.
10. 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.
11. The Applicant shall provide Ecology documentation for review and approval 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.
12. The Applicant shall send (per A.2.) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.
13. Nothing in this WQC Order waives Ecology's discretionary authority to issue additional Orders if Ecology determines that further actions are necessary to implement the water quality laws of the state.
14. 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.;
 - 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.

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 and cc to Rebekah.Padgett@ecy.wa.gov. Notifications shall be identified with WQC Order #20085 Corps reference #, and include the Applicant 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 all pre-construction meetings
 - c. At least ten (10) days prior to conducting initial in-water work activities.

- d. Within seven (7) days of completing in-water work activities. (NOTE: If multiple years say “of each in-water work window” or for dredging “each dredging cycle”)
2. In addition to the phone or e-mail notification required under B.1.a. above, the Applicant 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.
3. If the project construction is not completed within 13 months of issuance of this WQC Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction and mitigation are completed.

C. Timing

1. This WQC Order is effective upon issuance of the U.S. Corps of Engineers (Corps) individual permit for this project and will remain valid for the duration of the associated permit for the project.
2. The following work windows apply to the project, unless otherwise approved by Ecology:
 - a. Work conducted below the ordinary high water line (OHWL) shall be conducted between July 1 and February 15;
 - b. Work below the tidal elevation of +5 feet shall be conducted between April 15 and January 31 to protect Pacific Herring;
 - c. Work below the OHWL and above the tidal elevation of +4 feet shall be conducted between March 1 and October 15 to protect Pacific Sand Lance; and
 - d. Work below the OHWL and above the tidal elevation of +5 feet, will only be allowed if a biologist approved by the Washington Department of Fish and Wildlife (WDFW) does not detect surf smelt eggs during a beach survey conducted per WDFW protocol.
3. Any project change that requires a new or revised Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife should be sent to Ecology for review before the change is implemented.

D. Water Quality Monitoring & Criteria

1. This WQC Order does not authorize the Applicant to exceed applicable water quality standards beyond the limits established in Chapter 173-201A WAC.
2. This WQC Order does not authorize the Applicant to exceed applicable turbidity standards beyond the limits established in Chapter 173-201A-210 WAC.
3. If water quality exceedances for turbidity are observed outside the point of compliance, work shall cease immediately and the Applicant or the contractor shall assess the cause of the water quality problem and take immediate action to stop, contain, and correct the problem and prevent further water quality turbidity exceedances.

4. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity, shall be considered an exceedance of the standard.
5. The Applicant shall revise the *Draft Water Quality Monitoring and Protection Plan, Snohomish County Parks & Recreation, Kayak Point Park-Day Use Area Improvements* (WQMPP) prepared by Reid Middleton and JA Brennan Associates, dated May 27, 2021, to address Ecology comments made on January 21, 2022 and to be consistent with the conditions of this Order. A final Plan shall be submitted to Ecology's Federal Permit Manager (per Condition A.2 of this Order) **for review and approval** at least 30 days prior to beginning any work covered by this Order.
6. Monitoring results shall be submitted monthly to Ecology's Federal Permit Manager, per condition A.2.
7. Ecology may ask or could use its discretionary authority to require the Applicant to provide mitigation and/or additional monitoring if the monitoring results indicate that the water quality standards have not been met.

E. 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.
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.
3. No stockpiling or staging of materials shall occur at or below the OHWM of any waterbody, unless otherwise approved by Ecology.
4. The Applicant shall obtain and comply with the conditions of the Construction Stormwater General Permit (National Pollutant Discharge Elimination System - NPDES) issued for this project.
5. Within the project limits¹ all environmentally sensitive areas including, but not limited to, wetlands, wetland 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:

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

- 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 2.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.
6. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
 7. 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.
 8. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.
 9. All manmade debris that has been deposited below the Ordinary High Water Line (OHWL) within the construction work area shall be removed and disposed of upland such that it does not enter waters of the state. Concrete rubble, metal debris, and other debris in the construction work corridor that have washed into marine areas shall be removed from the project area.
 10. If cast in place, wet concrete/grout shall be prevented from entering waters of the state. Forms for any concrete/grout structure shall be constructed to prevent leaching of wet concrete/grout. Impervious materials shall be placed over any exposed concrete/grout not lined with the forms that will come in contact with state waters. Forms and impervious materials shall remain in place until the concrete/grout is fully cured.
 11. Concrete delivery systems situated over water shall be inspected daily to prevent any discharges of concrete and/or slurry water into waters of the state.
 12. Concrete process water shall not be allowed to enter waters of the state. Any process water/contact water shall be routed to a contained area for treatment and shall be disposed of at an upland location.
 13. The Applicant shall use tarps or other containment method when cutting or drilling over water to prevent debris, sawdust, and other materials from entering the water.

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

14. Clean Fill Criteria: Applicant shall ensure that fill (sand, gravel, or other material) placed for the proposed project does not contain toxic materials in toxic amounts.
15. Project activities shall be conducted to minimize siltation of the beach area and bed.
16. In-water construction, including demolition of the boat launch, shall occur in the dry when the work area is not inundated by tidal waters, to the extent practicable.

Equipment & Maintenance

17. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands.
18. 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.
19. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.
20. 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.
21. 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 Applicant shall set up a designated area for washing down equipment.
22. Turbidity curtains shall be properly deployed and maintained in order to minimize turbidity and re-suspension of sediment.
23. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash-out of concrete delivery trucks, pumping equipment, and tools.
24. During construction, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
25. The Applicant shall operate the barge(s) and tug in deep water to the extent practicable so as to minimize nearshore propeller wash impacts such as suspension of nearshore sediments.
26. Barge grounding will be limited to the extent practicable, and barge landing for import of fill material shall be restricted to the designated site in order to minimize potential direct or indirect impacts to eelgrass and forage fish spawning habitat.
27. Barges shall be swept, as necessary, and kept free of material that could be blown into water.

28. No return water is allowed to discharge from the barge(s) into waters of the state.
29. Eelgrass beds near the in-water work and barge access and landing areas shall be marked with buoys prior to start of in-water construction in order to minimize impacts to eelgrass from barges and other work vessels.
30. Spudding shall not be allowed in eelgrass areas or special aquatic sites.

Removal of Piles

31. Pile removal, handling, and disposal shall follow the EPA Region 10 Best Management Practices for Piling Removal and Placement in Washington State, dated February 18, 2016.
32. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.
33. The pile shall not be shaken, hosed off, left hanging to drip or any other action intended to clean or remove adhering material from the pile over waters of the state.
34. If pile removal fails, the pile stub must be cut at least 2 ft below mudline, and the location (latitude and longitude) of all cut piling shall be reported to Ecology within 2 months of removal of all piles.
35. During pile removal, containment booms and absorbent sausage booms shall be placed around the perimeter of the in-water work area and upland storage area, if used, to capture wood debris, oil, and other materials from being released into waters of the state.
36. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.
37. If a barge is used to remove piles, the work surface on the barge deck shall include containment for piles and any liquid or sediment removed during pulling of the piling.
38. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris at an approved upland disposal site.
39. Water left in the containment on the barge shall not be discharged into waters of the state.

Pile Driving

40. Steel pilings shall be installed using a vibratory hammer whenever possible.
41. Pile driving shall be conducted in the dry to the extent practicable.

Excavation/Dredging for New Boat Launch

42. A turbidity curtain shall be installed around the excavation/dredging area prior to start of this activity.

Boat Launch Maintenance/Substrate Material Relocation

43. Maintenance of the paved launch shall be conducted in the dry when the work area is not inundated by tidal waters, to the extent practicable.

F. Project Mitigation Conditions

1. The Applicant shall conduct mitigation for aquatic habitat impacts according to the following documents, hereafter referred to as the Mitigation Plan, (hereafter referred to as Mitigation Plan), or as modified by this Order or revised and approved by Ecology:
 - a. *Critical Area Report & Habitat Management Plan for Kayak Point Regional Park Day Use Area Improvements, Snohomish County, Washington*, prepared by Raedeke Associates, Inc., dated July 25, 2019, revised December 17, 2020, pages 44-47; and
 - b. *Mitigation Sequencing for Marine Habitat Impacts at Kayak Point Park*, to Paul Marczin, Washington Department of Fish and Wildlife, prepared by Snohomish County Department of Conservation and Natural Resources, Parks and Recreation, dated November 2, 2021.
2. The Applicant shall submit any changes to the Mitigation Plan in writing to Ecology (see A2) for review and approval before implementing the changes.
3. The Applicant shall submit an As-Built Report per Condition A1 within 90 days of completion of each phase of the forage fish habitat restoration (e.g. seawall removal, etc. below OHWM), describing any changes related to the mitigation components, and including photos.
4. The Applicant shall submit an As-Built Report per Condition A1 within 90 days of completion of planting, showing planting location, size, and species, describing any changes in related to the mitigation components, and including photos of the plantings.
5. The Applicant shall submit monitoring reports annually, by December 31 of each year, to Ecology (see A1) documenting the plant mitigation site conditions for years 1, 2, and 5. The reports shall include monitoring results for the plants, such as survival and areal coverage of riparian vegetation, photographs, and a discussion on whether the performance standards are being met and contingency measures to be taken.
6. If the Applicant has not met all conditions, including performance standards for the mitigation site at the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both.

G. Emergency/Contingency Measures

1. The Applicant shall develop and implement a spill prevention and containment plan for this project.

2. The Applicant 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.
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.
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 Applicant 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.
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.

Your right to appeal

You have a right to appeal this WQC Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this WQC 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 WQC Order:

- File your appeal and a copy of this WQC 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 WQC 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.

Filing an appeal with the PCHB

Mailing Address:

Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

Street Address:

Pollution Control Hearings Board
1111 Israel RD SW
STE 301
Tumwater, WA 98501

Serving a copy of the appeal on Ecology:

Mailing Address:

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

Street Address:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Contact Information

Please direct all questions about this Order to:

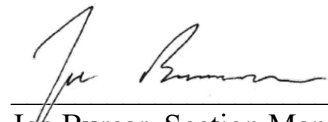
Rebekah Padgett
Department of Ecology
Northwest Regional Office
(425) 365-6571
Rebekah.Padgett@ecy.wa.gov

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>

- **Chapter 90.48 RCW – Water Pollution Control**
<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 WAC – Sediment Management Standards**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

DATED February 3, 2022, at Shoreline, Washington.



Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office
Washington State Department of Ecology

Attachment A

**Statement of Understanding
Water Quality Certification Conditions**

Kayak Point County Park Day Use Area Improvements Project

Water Quality Certification WQC Order #20085

As the Applicant for the Kayak Point County Park Day Use Area Improvements project, I have read and understand the conditions of Washington State Department of Ecology WQC Order #20085, and any permits, plans, documents, and approvals referenced in the WQC Order. I have and will continue to ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this WQC Order and any permits, plans, documents, and approvals referenced in the WQC Order.

Signature _____ Date _____

Title _____ Phone _____

Company _____