



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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February 10, 2022

City of Anacortes
ATTN: John Lunsford
P.O. Box 547
Anacortes, WA 98221

RE: Water Quality Certification Order No. **21035** for Corps Reference No. **NWS-2020-260**,
Washington Park Boat Launch Maintenance & Beach Nourishment in
Skagit County, Washington

Dear John Lunsford:

On August 17, 2021, the City of Anacortes submitted a request for a Section 401 Water Quality Certification (WQC) under the Federal Clean Water Act for the Washington Park Boat Launch Maintenance and Beach Nourishment project in Skagit County, Washington.

The project entails removing sand, rock, and woody debris that accumulates on a concrete boat ramp and placing it back on the beach to the east of the ramp waterward of the ordinary high water mark. This authorization would be good for 10 years.

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 about this decision, please contact Penny Kelley at (360) 280-8856. The enclosed Order may be appealed by following the procedures described within the Order.

Washington Park Boat Launch Ramp Maintenance & Beach Nourishment

Order No. 21035, Corps No. NWS-2020-260

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Sincerely,

A handwritten signature in blue ink, appearing to read "Brenden", with a long horizontal flourish extending to the right.

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

Enclosure

E-cc: Danette Guy, Corps of Engineers
Marcus Reaves, WDFW
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A WATER) WQC ORDER No. 21035
QUALITY CERTIFICATION TO) Corps Reference No. NWS-2020-260
City of Anacortes) Washington Park Boat Launch Ramp
pursuant to 33 U.S.C. 1341) Maintenance & Beach Nourishment on Guemes
(FWPCA § 401), RCW 90.48.120, RCW) Channel located in Skagit County, Washington.
90.48.260 and Chapter 173-201A WAC)

City of Anacortes
Attn: John Lunsford
P.O. Box 547
Anacortes, WA 98221

On August 17, 2021, the City of Anacortes submitted a request for a Section 401 Water Quality Certification (WQC) under the Federal Clean Water Act to the Department of Ecology (Ecology) for the Washington Park Boat Launch Ramp Maintenance & Beach Nourishment project in Skagit County, Washington. On December 20, 2021, the U.S. Army Corps of Engineers (Corps) and Ecology issued a joint public notice.

The project proposes to clear sand, rock, and woody debris that accumulates on a concrete boat ramp (~40' x 100'). The volume of material being removed at any given time is approximately 120 cubic yards and it will be placed back on the beach to the east of the ramp waterward of the ordinary high water mark (OHWM). All equipment will operate from the ramp when removing material and then above the OHWM during beach placement.

The project site is located at 6300 Sunset Ave on Guemes Channel within the City of Anacortes in Skagit County, Washington, Section 21, Township 35N., Range 01E., within Water Resource Inventory Area (WRIA) 03- Lower Skagit-Samish.

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; 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.
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, the City of Anacortes’ request for a Section 401 Water Quality Certification for the Washington Park Boat Ramp Maintenance & Beach Nourishment on Guemes Channel located in Skagit County. Ecology has determined that the proposed discharge(s) 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 August 17, 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
August 17, 2021	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA, signed August 17, 2021	City of Anacortes
August 17, 2021	Drawings	Boat Launch – Maintenance Permit dated February 21, 2020	City of Anacortes
August 17, 2021	Biological Evaluation	Biological Evaluation, dated March 2, 2020	GeoEngineers
August 17, 2021	HPA	Hydraulic Project Approval Washington Park Boat Launch dated July 25, 2019	Washington Department of Fish & Wildlife

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize the City of Anacortes 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 the City of Anacortes 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 City of Anacortes.

A. General Conditions

1. In this WQC Order, the term “Applicant” shall mean the City of Anacortes 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 Penny.Kelley@ecy.wa.gov. The submittals shall be identified with WQC Order No. 21035 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 August 17, 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. 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.
9. 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.

10. 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.
11. 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.
12. 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.

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 Penny.Kelley@ecy.wa.gov. Notifications shall be identified with WQC Order No. 21035 Corps Reference No NWS-2020-260, 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 conducting initial in-water work activities.
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.

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. 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 WAC 173-201A.

2. 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.
3. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity shall be considered an exceedance of the standard.

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.
2. If material removed from the boat ramp is stockpiled in an upland location (above the OHWM) for later placement on the shoreline, the material shall be secured or covered to prevent material from eroding.
3. If stockpiled material needs dewatering, all dewatering water shall be contained and treated prior to any discharge to waters of the state.
4. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
5. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.

Equipment & Maintenance

6. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands, unless otherwise requested and authorized by Ecology.
7. 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.
8. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.
9. 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.

10. 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.

F. Emergency/Contingency Measures

1. 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.
2. 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.

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).

WQC Order No 21035, Corps No. NWS-2020-260,
Aquatics ID 140784
February 10, 2022
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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 WQC Order to:

Penny Kelley
Department of Ecology
360-280-8856
Penny.Kelley@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>

SIGNATURE

Dated this 10th day of February, 2022 at the Department of Ecology, Olympia Washington



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