



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*Northwest Regional Office • PO Box 330316 • Shoreline, Washington 98133-9716 • (206) 594-0000
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March 4, 2022

Naval Base Kitsap
ATTN: R. N. Massie, Captain U.S. Navy, Commanding Officer
120 S. Dewey Street
Bremerton, WA 98134-5020

RE: Water Quality Certification Order No. 21050 for Corps Reference No. NWS-2020-1051,
Thin Layer Placement at Mooring G, Naval Base Kitsap Bremerton Project,
Kitsap County, Washington

Dear R. N. Massie:

On December 2, 2020, Naval Base Kitsap submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Thin Layer Placement at Mooring G, Naval Base Kitsap Bremerton project, Kitsap County, Washington. Under the Environmental Protection Agency's 2020 Section 401 rule in place at that time, Ecology's one-year statutory clock did not begin until receipt of a valid request. The WQC Request was considered valid on March 4, 2021. On March 4, 2021, Ecology notified the Navy and Corps by e-mail that the WQC Request was valid.

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 Rebekah Padgett at (425) 365-6571. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

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

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

Enclosure

Naval Base Kitsap
Aquatics # 139007
March 4, 2022
Page 2 of 2

Sent by electronic mail: richard.n.massie.mil@us.navy.mil

e-cc: Jason Sweeney, US Army Corps of Engineers
Matt Bennett, US Army Corps of Engineers
Dan Krenz, US Army Corps of Engineers
Julia Stockton, NBK Bremerton Environmental
Lynn Daniels, Naval Base Kitsap
Scott Horwitz, Naval Base Kitsap
Richard Chong, NAVFAC Northwest
Nam Siu, Washington Department of Fish and Wildlife
Chris Waldbillig, Washington Department of Fish and Wildlife
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Kathleen Barnhardt, Suquamish Indian Tribe
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Tom Ostrom, Suquamish Indian Tribe
Anne Christopher, Environmental Protection Agency
Erika Hoffman, Environmental Protection Agency
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ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A)	WQC ORDER No. 21050
WATER QUALITY)	Corps Reference No. NWS-2020-1051
CERTIFICATION TO)	Thin Layer Placement at Mooring G, Naval Base
Naval Base Kitsap)	Kitsap Bremerton Project, Sinclair Inlet, located
pursuant to 33 U.S.C. 1341 (FWPCA)	in Kitsap County, Washington.
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

Naval Base Kitsap
ATTN: R. N. Massie, Captain U.S. Navy, Commanding Officer
120 S. Dewey Street
Bremerton, WA 98134-5020

On December 2, 2020, Naval Base Kitsap submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Thin Layer Placement at Mooring G, Naval Base Kitsap Bremerton project (project), Kitsap County, Washington. Under the Environmental Protection Agency’s 2020 Section 401 rule in place at that time, Washington State Department of Ecology’s (Ecology) one-year statutory clock did not begin until receipt of a valid request. The WQC Request was considered valid on March 4, 2021. The following processing dates are referenced below:

- On March 4, 2021, Ecology notified Naval Base Kitsap and U.S. Army Corps of Engineers (Corps) by e-mail that the WQC Request was valid.
- On March 4, 2021, Ecology issued a public notice.
- On February 25, 2022, the Corps sent a permit notification to Ecology that indicated that they are processing the project under Nationwide Permit (NWP) #38.

The project proposes to place a thin layer (six to nine inches) of clean sand in Sinclair Inlet at the location of the former moored footprint of the aircraft carrier USS Independence (CV-62), with additional buffer, totaling an area of 8.03 acres. The material will create a clean layer of material in the biologically active zone. After placement, the thickness of the clean material will be verified to ensure that there is a minimum of four inches of clean sand overlying the existing sediment surface within the placement footprint.

The project site is located on the west side of Mooring G at Naval Base Kitsap Bremerton, Sinclair Inlet, in Bremerton, Kitsap County, Washington, Section 22, Township 24 N., Range 1 E., within Water Resource Inventory Area (WRIA) 15, Kitsap.

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 Chapter 90.48.010 RCW.
4. Conformance with Washington’s prohibition on discharges that cause or tend to cause pollution of waters of the state of Washington as required by Chapter 90.48.080 RCW.
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, Naval Base Kitsap’s request for a Section 401 Water Quality Certification for the Thin Layer Placement at Mooring G, Naval Base Kitsap Bremerton project, Sinclair Inlet, located in Kitsap 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 December 2, 2020, which was determined to be valid under the EPA rule on March 4, 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
11/19/20	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA (signed October 1, 2020)	Naval Base Kitsap
12/2/20	Endangered Species Act	Consultation letter (signed November 16, 2020)	U.S. Fish and Wildlife Service
2/3/21	Biological Evaluation	Biological Evaluation, Thin Layer Placement at Mooring G, Naval Base Kitsap Bremerton, Kitsap County, Washington (undated)	Naval Base Kitsap

2/3/21	Endangered Species Act	Concurrence Letter (dated December 31, 2020)	National Marine Fisheries Service
2/9/21	Water Quality Monitoring Report	Water Quality Monitoring of Biofouling Removal from the ex-USS INDEPENDENCE (CV 62), (dated October 2017).	Space and Naval Warfare Systems Center Pacific Environmental Sciences/Energy & Environmental Sustainability and Naval Undersea Warfare Center Division Newport, RI
2/9/21	Sediment Monitoring Report	Biofouling Removal from the ex-INDEPENDENCE (CV 62) Moored in Sinclair Inlet, Puget Sound, WA: Sediment Monitoring Report (dated April 2018)	Space and Naval Warfare Systems Center Pacific
11/10/21	Standard Operating Procedure	NAVFAC NW Standard Operating Procedure, Sub-Bottom Profiling at NBK Bremerton (dated August 2019)	NAVFAC NW
2/17/22	Memorandum	Memorandum to Ecology, RE: U.S. Army Corps of Engineers Reference #NWS-2020-1051, Application Update for Section 401 Water Quality Certification for the Installation of a Thin Layer Placement at Mooring G, Naval Base Kitsap-Bremerton Washington (dated February 17, 2022)	Commanding Officer, Naval Base Kitsap
2/28/22	Water Quality Monitoring and Protection Plan	Water Quality Monitoring and Protection Plan, Naval Facilities Engineering Systems Command Northwest, Thin Layer Placement at Mooring G, Naval Base Kitsap Bremerton, Bremerton WA (dated February 28, 2022)	WSP USA

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Naval Base Kitsap 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 Naval Base Kitsap 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 Naval Base Kitsap.

A. General Conditions

1. In this WQC Order, the term “Applicant” shall mean Naval Base Kitsap 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 #21050 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 March 4, 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 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 #21050, Corps reference #NWS-2020-1051, 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 and re-starting activity after the test plot.
 - d. Within seven (7) days of completion of the test plot and each in-water work window.
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 not effective until the U.S. Corps of Engineers (Corps) issues a permit for this project and will remain valid for the duration of the associated permit for the project.
2. The following in-water work window applies to the project:
 - a. All activities below the Ordinary High Water Line of Sinclair Inlet may be conducted between July 16 and February 15 of any year.

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 Project Proponent to exceed applicable turbidity standards beyond the limits established in Chapter 173-201A-210(1)(e)(i) 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 implement the *Water Quality Monitoring and Protection Plan, Naval Facilities Engineering Systems Command Northwest, Thin Layer Placement at Mooring G, Naval Base Kitsap Bremerton, Bremerton WA* (Plan) prepared by WSP USA, dated February 28, 2022, as proposed and approved by Ecology.

6. The Applicant shall submit any changes to the Plan in writing to Ecology (see A2) for review and approval prior to implementing the change.
7. Monitoring results shall be submitted weekly to Ecology's Federal Permit Manager, per condition A.2.
8. Ecology may 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. No stockpiling or staging of materials shall occur at or below the OHWM of any waterbody.
3. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
4. 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.
5. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.

Equipment & Maintenance

6. 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.
7. 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.
8. Barges shall not be allowed to ground-out during in-water construction.
9. 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.

Material Placement

10. All material placement shall be conducted per best management practices in the *Water Quality Monitoring and Protection Plan, Naval Facilities Engineering Systems Command Northwest, Thin Layer Placement at Mooring G, Naval Base Kitsap Bremerton, Bremerton WA* (Plan) prepared by WSP USA, dated February 28, 2022, as proposed and approved by Ecology.
11. Clean Fill Criteria: Applicant shall ensure that fill (sand) placed for the proposed project does not contain toxic materials in toxic amounts.
12. Placement of material shall be conducted in a manner that minimizes the disturbance and siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into state waters.
13. As-built drawings in portable document format (PDF) shall be submitted to Ecology per Condition A2 within 60 days of completion of in-water work, unless otherwise approved by Ecology.

F. 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 WQC Order to:


Rebekah Padgett
Department of Ecology
(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>

SIGNATURE

Dated this 4th day of March 2022, at the Department of Ecology, Shoreline Washington.



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

Attachment A

**Statement of Understanding
Water Quality Certification Conditions**

Thin Layer Placement at Mooring G, Naval Base Kitsap Bremerton Project

Water Quality Certification WQC Order #21050

As the Applicant for Thin Layer Placement at Mooring G, Naval Base Kitsap Bremerton project, I have read and understand the conditions of Washington State Department of Ecology WQC Order #21050, 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 _____