



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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March 22, 2022

Northwest Aggregates Co.
Attn: Bryan O. Wigginton
1050 N. River Street
Portland, OR 97227

RE: Water Quality Certification **Order No. 20960** for Corps Reference No. **NWS-2018-1159**,
Northwest Aggregates Co. Maintenance Dredging and Dolphin Replacement
(Port of Vancouver), Clark County, Washington

Dear Bryan Wigginton:

On August 30, 2021, Northwest Aggregates Co. submitted a request for a Section 401 Water Quality Certification (WQC) under the Federal Clean Water Act for the Northwest Aggregates Co. Maintenance Dredging and Dolphin Replacement (Port of Vancouver), Clark 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 about this decision, please contact Kerry Carroll at (360) 407-7503. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

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

Enclosure

E-cc: Danette L. Guy, Corps of Engineers
ECYREFEDPERMITS@ecy.wa.gov – Aquatics No. 140189

IN THE MATTER OF GRANTING A)	WQC ORDER No. 20960
WATER QUALITY)	Corps Reference No. NWS-2018-1159
CERTIFICATION TO)	Northwest Aggregates Co. Maintenance
Northwest Aggregates)	Dredging and Dolphin Replacement (Port of
pursuant to 33 U.S.C. 1341 (FWPCA)	Vancouver), Columbia River located in Clark
§ 401), RCW 90.48.120, RCW 90.48.260)	County, Washington.
and Chapter 173-201A WAC)	

Northwest Aggregates Co.
 Attn: Bryan O. Wigginton
 1050 N. River Street
 Portland, OR 97227

On August 30, 2021, Northwest Aggregates Co. 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 Northwest Aggregates Co. Maintenance Dredging and Dolphin Replacement (Port of Vancouver), Clark County, Washington. The following processing dates are referenced below:

- On September 1, 2021, the U.S. Army Corps of Engineers (Corps) issued a public notice.
- On September 20, 2021, Ecology issued a public notice for the project.

The project proposes to perform maintenance dredging in the Columbia River (river mile 103), where they operate a barge off-loading facility at their Port of Vancouver location. Maintenance dredging activities would occur in the barge berth area of the facility and remove up to 10,000 cubic yards of material over a 10-year period. Dredged material would include silt accumulations deposited by tidal influences within the Columbia River as well as aggregate material that bounces off the barges during the unloading process. Material will be dredged to a maximum depth of -15 feet Columbia River datum (CRD). The dredged material will be disposed of at NW Aggregates’ Santosh Aggregate Plant, located in Scappoose, Oregon, and used for mine reclamation purposes. As part of the project, Northwest Aggregates Co. is also proposing to replace the damaged dolphin, located west of the barge dock in the DNR parcel. Replacement will involve the removal of the existing steel piles and installation of three new non-galvanized steel piles.

The project site is located at the Port of Vancouver, Columbia River, Clark County, Washington, Section 20, 19, Township 2 N., Range 1E, within Water Resource Inventory Area (WRIA) 28, Salmon-Washougal.

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, Northwest Aggregates Co. request for a Section 401 Water Quality Certification for the Northwest Aggregates Co. Maintenance Dredging and Dolphin Replacement (Port of Vancouver), Columbia River located in Clark 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 30, 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
March 10, 2021	No DMMP Testing Memo	Memorandum for Record (dated February 5, 2021)	DMMP Agencies
August 30, 2021	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA (dated September 24, 2020)	Bryan O. Wigginton
August 30, 2021	State Environmental Policy Act	Notice of Final Determination of Nonsignificance (DNS) (dated August 5, 2021)	Keith Jones
January 20, 2022	Water Quality Monitoring Plan	Port of Vancouver Maintenance Dredging and Dolphin Replacement Project (dated January 2022)	Confluence Environmental Company, Grant Novak

January 20, 2022	Dredge Plan	Port of Vancouver Maintenance Dredging Project Dredging and Disposal Plan (dated January 2022)	Confluence Environmental Company, Grant Novak
March 15, 2022	HPA	Hydraulic Project Approval	Amaia Smith, Habitat Biologist

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Northwest Aggregates Co. 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 Northwest Aggregates Co. 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 Northwest Aggregates Co.

A. General Conditions

1. In this WQC Order, the term “Applicant” shall mean the Northwest Aggregates Co. 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 Kerry.Carroll@ecy.wa.gov. The submittals shall be identified with WQC Order #20960 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 30, 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 Kerry.Carroll@ecy.wa.gov. Notifications shall be identified with WQC Order No. 20960

Corps Reference No. 201801159, 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 of 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.

C. Timing

1. This WQC Order is effective upon issuance of the U.S. Corps of Engineers (Corps) individual 404 permit for this project and will remain valid for the duration of the associated permit for the project.
2. The following in-water work windows apply to the project unless otherwise approved by Ecology:
 - a. All activities within the wetted perimeter of the Columbia River must be conducted between October 1 and December 31 of any year.
 - b. Vibratory pile driving must be conducted between September 15-February 28 of any year.
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. Proposed changes shall be implemented only with written approval from Ecology.

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. For in-water activities within fresh waters (including wetlands) turbidity shall not exceed 5 NTU over background when the background is 50 NTU or less; or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU;
 - a. Temporary area of mixing for turbidity established within the state water quality standards for fresh waters (WAC 173-201A-200) is as follows:

- i. For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from the activity causing the turbidity exceedance.
 - ii. For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of the activity causing the turbidity exceedance.
 - iii. For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of the activity causing the turbidity exceedance.
 - iv. For projects working within or along lakes, ponds, wetlands, or other non-flowing waters, the point of compliance shall be at a radius of one hundred fifty feet from the activity causing the turbidity exceedance.
3. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity shall be considered an exceedance of the standard.
4. The Applicant shall conduct water quality monitoring as described in the approved Water Quality Monitoring Plan as identified in Table 1 (hereafter referred to as the WQMP)
5. The Applicant shall implement the Water Quality Monitoring Plan as proposed and approved by Ecology. Any changes to the WQMP shall be submitted to Ecology for review and approval prior to implementing the changes.
6. Monitoring results shall be submitted weekly 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.

Dolphin Removal and Replacement

8. 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.
9. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.
10. 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.

11. 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.
12. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.
13. 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.
14. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris at an approved upland disposal site.
15. Water left in the containment on the barge shall not be discharged into waters of the state.

Dredging

16. All dredging is to be done using a mechanical (clamshell) dredge. Ecology must approve any other dredging method prior to its use.
17. All material will be transloaded at Santosh Aggregate Plant and used as mine reclamation, unless otherwise approved by Ecology.
18. Dredging operations 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.
19. Dredged material shall not be temporarily or permanently stockpiled below the OHWM.
20. The Applicant shall follow the approved Dredge and Disposal Workplan as identified in Table 1.
21. A pre-dredge meeting is required to be convened prior to the start of dredging.
22. Only approximately 10,000 cubic yards of dredged material is allowed over the course of a 10-year period from within the barge berth area with a maximum dredge depth of -15 feet.
23. Barges shall not be allowed to groundout during in-water construction.
24. Barges shall be kept free of material that could be blown into the water.

E. 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 Dr SE
Lacey, WA 98503

CONTACT INFORMATION

Please direct all questions about this WQC Order to:

Kerry Carroll
Department of Ecology
Office: 360-407-7503
Cell: 360-791-0575
Kerry.Carroll@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 173-201A 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 22st day of March 2022 at the Department of Ecology, Lacey Washington



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

Attachment A

**Statement of Understanding
Water Quality Certification Conditions**

Port of Vancouver Maintenance Dredging and Dolphin Replacement Project

Water Quality Certification WQC Order No 20960

As the Applicant for Port of Vancouver Maintenance Dredging and Dolphin Replacement project, I have read and understand the conditions of Washington State Department of Ecology WQC Order No 20960, 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 _____