



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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March 23, 2022

Port of Port Townsend
ATTN: Matt Klontz
P.O. Box 1180
Port Townsend, Washington 98368

RE: Water Quality Certification Order No. **21075** for Corps Reference No. **NWS-2021-00129**,
Point Hudson Marina Breakwater Rehabilitation Project, Jefferson County, Washington

Dear Matt Klontz,

On December 8, 2021, the Port of Port Townsend submitted a request for a Section 401 Water Quality Certification (WQC) under the Federal Clean Water Act for the Point Hudson Marina Breakwater Rehabilitation Project, Jefferson 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 Laura Inouye at (360) 515-8213. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

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

Point Hudson Marina Breakwater Rehabilitation
Corps No. NWS-2021-00139, Aquatics No. 135321
March 23, 2022
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Enclosure

E-cc: Daisy Douglass, Corps of Engineers
Pam Sanguinetti, Corps of Engineers
Ross Widener, Widener and Associates
Loree' Randall, Ecology
ECY RE FEDPERMITS

IN THE MATTER OF GRANTING A) WQC ORDER No. 21075
WATER QUALITY) Corps Reference No. NWS-2021-00139
CERTIFICATION TO) Point Hudson Marina Breakwater
Port of Port Townsend) Rehabilitation, Port Townsend Bay,
pursuant to 33 U.S.C. 1341 (FWPCA) located in Jefferson County, Washington.
§ 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

Port of Port Townsend
ATTN: Matt Klontz
P.O. Box 1180
Port Townsend, Washington 98368

On December 8, 2021, the Port of Port Townsend 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 Point Hudson Marina Breakwater Rehabilitation, Port Townsend Bay, located in Jefferson County, Washington. The following processing dates are referenced below:

- On October 27, 2021, the U.S. Army Corps of Engineers (Corps) issued a public notice for the project.
- On February 9, 2022, Ecology issued a public notice for the project.

The project proposes to rehabilitate the Point Hudson Marina breakwater. Activities include breakwater replacement (removal of armor, creosote pilings and associated cables, and the timber walkway), dredging the navigational channel with upland disposal, habitat enhancement (rock habitat feature, placement of salvaged rock between the mooring buoy and the end of the south breakwater), and installation of the replacement breakwater (pile installation, armor stone placement, installation of eight foot wide walkway, and four foot thick shoreline armoring placed over two ft. bedding stone on top of geotextile fabric).

The project site is located at Point Hudson Marina, Port Townsend Bay, Jefferson County, Washington, Section SW1, Township 30N., Range 01W., within Water Resource Inventory Area (WRIA) 17{Quilcene-Snow}.

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, Port of Port Townsend’s request for a Section 401 Water Quality Certification for the Point Hudson Marina Breakwater Rehabilitation, Port Townsend Bay, located in Jefferson 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 December 8, 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
December 8, 2021	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA (signed December 1, 2021)	Widener and Associates
December 8, 2021	Drawings	Rock Nursery Plan (dated 10/22/2021)	Widener and Associates
February 11, 2022	Water Quality Monitoring and Protection Plan	Water Quality Monitoring and Protection Plan, Point Hudson Breakwater Replacement Project (dated February 2022)	Widener and Associates
March 4, 2022	Biological Opinion	Endangered Species Act Section 7(a) (2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Point Hudson	Kim Krantz, NOAA/NMFS

		Breakwater Replacement. (dated February 23, 2022)	
March 4, 2022	SEPA Addendum	City of Port Townsend Responsible Official's Addendum to a Previously Issued Determination of Non-Significance (DNS), signed March 4, 2022	Judy Surber, City of Port Townsend

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize the Port of Port Townsend 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 Port of Port Townsend 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 Port of Port Townsend.

A. General Conditions

1. In this WQC Order, the term “Applicant” shall mean the Port of Port Townsend 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 Laura.Inouye@ecy.wa.gov. The submittals shall be identified with WQC Order No. 21075 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 December 8, 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 the 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 [Laura Inouye@ecy.wa.gov](mailto:Laura.Inouye@ecy.wa.gov). Notifications shall be identified with WQC Order No. 21075 Corps Reference No. NWS-2021-00139, 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 each 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. The following in-water work windows apply to the project unless otherwise approved by Ecology:
 - a. In-water activities will be limited to September 15 to January 15.
 - b. 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. This WQC Order does not authorize the Applicant to exceed applicable turbidity standards beyond the limits established in WAC 173-201A-210(1) (e) (i).
3. Port Townsend is designated as excellent quality for aquatic life uses.
 - a. Turbidity shall not exceed 5NTU 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.
 - b. The point of compliance is 150 feet from the in-water activity.
4. 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.
5. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity shall be considered an exceedance of the standard.
6. The Applicant shall conduct water quality monitoring as described in the approved *Water Quality Monitoring and Protection Plan, Point Hudson Breakwater Replacement Project* as identified in Table 1 (hereafter referred to as the WQMPP)
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. 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.

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. Barges shall not be allowed to groundout during in-water construction.
8. Barges shall be kept free of material that could be blown into water.

Bank Stabilization

9. Placement of riprap shall be conducted in compliance with water quality standards for turbidity.

Dolphin Removal or Removal of Creosote Piles

10. 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.
11. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.
12. 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.
13. 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.
14. 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.

15. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.
16. 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.
17. No return water is allowed to discharge from the barge(s) into waters of the state.
18. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris at an approved upland disposal site.
19. Water left in the containment on the barge shall not be discharged into waters of the state.

Rock Habitat

20. Placement of rock shall be conducted in compliance with water quality standards for turbidity.

Dredging

21. All dredging is to be done using a mechanical (clamshell) dredge. Ecology must approve any other dredging method prior to its use.
22. All dredged material will be transloaded at a permitted facility and disposed of at a permitted upland disposal site.
23. 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.
24. Dredged material shall not be temporarily or permanently stockpiled below the OHWM.
25. A pre-dredge meeting is required to be convened prior to the start of dredging. A **Dredging and Disposal Workplan** (Workplan) shall be submitted to Ecology per Condition A2 two weeks prior to the pre-dredge meeting. The Dredging and Disposal Workplan (Workplan) shall include the following:
 - a. General information including schedule, primary contact, and hours of operation
 - b. Dredged quantities and disposal location, including any upland locations.
 - c. Dredging procedures and sequence
 - d. Equipment list

- e. A description of the BMPs to be used for dredging, dewatering, transloading, and disposal.

26. A pre-dredge meeting is required to be convened prior to the start of dredging.

27. Only approximately 1,045 cubic yards of dredged material is allowed.

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:

Laura Inouye
Department of Ecology
360-515-8213
Laura.Inouye@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website

<http://www.eluho.wa.gov/Board/PCHB>

Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board

<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>

Chapter 371-08 WAC – Practice and Procedure

<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>

Chapter 34.05 RCW – Administrative Procedure Act

<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>

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>

WQC Order No. 21075, Corps No. NWS-2021-00139

Aquatics No. 135321

March 23, 2022

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SIGNATURE

Dated this 23rd day of March 2022 at the Department of Ecology, Olympia Washington



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

Attachment A

**Statement of Understanding
Water Quality Certification Conditions**

Point Hudson Marina Breakwater Rehabilitation
Water Quality Certification WQC Order No 21075

As the Applicant for Point Hudson Marina Breakwater Rehabilitation project, I have read and understand the conditions of Washington State Department of Ecology WQC Order No. 21075, 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 _____