



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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April 6, 2022

Washington State Ferries  
ATTN: Kevin Bartoy  
2901 3<sup>rd</sup> Ave  
Seattle, WA 98121-1042

RE: Water Quality Certification Order **No. 21108** for Corps Reference No. **NWS-2016-545** for the Eagle Harbor Maintenance Facility Slip F Drive-on Slip Improvement in Kitsap County, Washington

Dear Kevin Bartoy:

On January 13, 2022, the Washington State Ferries submitted a request for a Section 401 Water Quality Certification (WQC) under the Federal Clean Water Act for the Eagle Harbor Maintenance Facility Slip F Drive-on Slip Improvement project in Kitsap County, Washington.

The proposed project entails replacing an existing gangplank system with a new steel pile trestle and transfer span that has an adjustable mechanical system. This new infrastructure will provide additional vehicle drive-on access to ferries of all types when they are brought in for maintenance.

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.

Eagle Harbor Maintenance Facility Slip F Drive-on Slip Improvement

Order No 21108, Corps No. NWS-2016-545

April 6, 2022

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Sincerely,



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

Enclosure

E-cc: Jennifer Lang, Corps of Engineers  
Justine Barton, EPA  
Adrienne Stutes, WSF  
Grant Yang, Ecology TCP  
ECY RE FEDPERMITS

**IN THE MATTER OF GRANTING A ) WQC ORDER No. 21108**  
**WATER QUALITY ) Corps Reference No. NWS-2016-545**  
**CERTIFICATION TO ) Eagle Harbor Maintenance Facility Slip F Drive-**  
Washington State Ferries ) on Slip Improvement on Eagle Harbor in Puget  
pursuant to 33 U.S.C. 1341 (FWPCA ) Sound located in Kitsap County, Washington.  
§ 401), RCW 90.48.120, RCW 90.48.260 )  
and Chapter 173-201A WAC )

Washington State Ferries  
Attn: Kevin Bartoy  
2901 3<sup>rd</sup> Ave  
Seattle, WA 98121-1042

On January 13, 2022, the Washington State Ferries (WSF) 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 Eagle Harbor Maintenance Facility Slip F Drive-on Slip Improvement in Kitsap County, Washington. On February 11, 2022, Ecology issued a public notice for the project.

Washington State Ferries operates the Eagle Harbor Maintenance Facility, consisting of six vessel slips, to keep the ferry system fleet running. Several of the vessels in the fleet require maintenance using a vehicle drive-on slip of which there are only two at the facility. This project proposes to replace the existing Slip F gangplank system with a new steel pile trestle and transfer span that has an adjustable mechanical system, providing additional vehicle drive-on access to ferries of all types. The trestle and transfer span will be located adjacent to the Trask Pier and will move the vessel berthing at this location into deeper water.

The new trestle will be 80' long x 15' wide and the transfer span will be 50' long x 14' wide. Both structures will include grated decking allowing light to reach the water surface. An existing pair of timber dolphins will be replaced with a new pair of steel wing walls. Two new fixed dolphins will be constructed adjacent to the Trask Pier and require the existing floating piers be relocated. As part of the replacement, an existing timber walkway, four timber pile dolphins, and a U-float will be removed.

The project site is located at 497 Harbor View Drive SE, Bainbridge Island in Eagle Harbor on Puget Sound, Kitsap County, Washington, Section 26, Township 25N., Range 02E., within Water Resource Inventory Area No. 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; 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, Washington State Ferries’ request for a Section 401 Water Quality Certification for the Eagle Harbor Maintenance Facility Slip F Drive-on Slip Improvement project in Eagle Harbor on Puget Sound located in Kitsap 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 January 13, 2022, the supporting documents referenced in Table 1 below, **and the conditions of this WQC Order.**

**Table 1.** Supporting Documents

<b>Date Received</b>	<b>Document Type</b>	<b>Title &amp; Date</b>	<b>Author</b>
January 13, 2022	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA (signed April 6, 2020)	Washington State Ferries
April 15, 2020	Biological Assessment	Eagle Harbor Maintenance Facility Slip F Drive-on Improvement project, Washington State Ferries (WSF) Capital, Repair and Maintenance Projects, Biological Assessment Reference Project Form, dated	Washington State Ferries
February 15, 2022	HPA	Hydraulic Project Approval/Eagle Harbor Maintenance Facility Slip F Drive-on Slip Improvement, dated	Washington Department of Fish &

		July 7, 2021	Wildlife
March 25, 2022	Water Quality Monitoring Plan or Water Quality Monitoring and Protection Plan	In-Water Work Water Quality Monitoring & Protection Plan, Eagle Harbor Slip F Drive-On Tie-Up Slip (dated March 25, 2022)	Washington State Ferries
February 8, 2022	Final BMP Memorandum	Best Management Practices Plan – WSF Eagle Harbor Slip F CERCLA Coordination (NWS-2016-0545-A)	Washington State Ferries

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Washington State Ferries 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 Washington State Ferries 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 Washington State Ferries.

**A. General Conditions**

1. In this WQC Order, the term “Applicant” shall mean the Washington State Ferries 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](mailto:fednotification@ecy.wa.gov) and cc to [Penny.Kelley@ecy.wa.gov](mailto:Penny.Kelley@ecy.wa.gov). The submittals shall be identified with WQC Order No. 21108 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 January 13, 2022 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.

## **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](mailto:fednotification@ecy.wa.gov) and cc to

Penny.Kelley@ecy.wa.gov. Notifications shall be identified with WQC Order No. 21108 Corps Reference No. NWS-2016-545, 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.
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) 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 Eagle Harbor may be conducted between August 1 through December 31 and January 1 through February 15 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. 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.
7. The Applicant shall submit a final copy of the *Draft In-Water Work Water Quality Monitoring & Protection Plan, Eagle Harbor Slip F Drive-On Tie-Up Slip* (Plan) prepared by Washington State Ferries, dated March 25, 2022. 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.
8. The Applicant must provide, in writing, any changes or additions to the Plan and obtain approval from Ecology's Federal Permit Manager prior to implementing the changes or additions.
11. Monitoring results shall be submitted monthly to Ecology's Federal Permit Manager, per condition A.2.
12. 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.

#### Monitoring & Reporting

13. The Applicant shall submit a copy of the 2021, 2022, and 2023 annual monitoring reports for the West Harbor Operable unit, Wyckoff/Eagle harbor Superfund Site to Ecology, per condition A.2

### **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.
5. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.



6. 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.
7. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.

#### Equipment & Maintenance

8. 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.
9. No heavy equipment shall be allowed on the beach within or outside the immediate project area.
10. 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.
11. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.
12. 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.
13. 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.
14. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the washout of concrete delivery trucks, pumping equipment, and tools.

#### Trestle & Transfer Span Construction - Concrete

15. All forms for concrete shall be completely sealed to prevent the possibility of fresh concrete entering waters of the state.
16. All concrete shall be completely cured prior to coming into contact with water.
17. Concrete process water shall not enter waters of the state. Any concrete process/contact water discharged from a confined area with curing concrete shall be routed to upland areas to be treated and disposed of appropriately with no possible entry to state waters.

Timber Trestle, Dolphin Removal and Removal of Creosote Piles

18. For the timber trestle removal, all saw cutwater and debris generated from saw cutting activities that occur above water shall be contained and disposed of appropriately with no possible entry to waters of the state.
35. During timber trestle and 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. A small skiff shall be onsite to remove floating debris.
37. Floating debris shall be removed each day.
38. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.
39. 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.
40. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.
41. 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.
42. If pile removal fails, the pile stub must be cut at least 3 ft. below mudline, and the location (latitude and longitude) of all cut piling.
43. 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.
44. Barges shall not be allowed to groundout during in-water construction.
45. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris at an approved upland disposal site.
46. Water left in the containment on the barge shall not be discharged into waters of the state.

**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:

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>

WQC Order No. 21108, Corps No. NWS-2016-545,  
Aquatics No. 138721  
April 6, 2022  
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**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 6th day of April 2022 at the Department of Ecology, Olympia Washington



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

**Attachment A**

**Statement of Understanding  
Water Quality Certification Conditions**

Eagle Harbor Maintenance Facility Slip F Drive-on Slip Improvement

Water Quality Certification WQC Order No. 21108

As the Applicant for Eagle Harbor Maintenance Facility Slip F Drive-on Slip Improvement project, I have read and understand the conditions of Washington State Department of Ecology WQC Order No. 21108, 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