



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

May 2, 2022

Whatcom County Public Works
Attn: James P. Karcher
322 N Commercial, Suite 301
Bellingham, WA 98225

RE: Water Quality Certification Order No. **21125** for Corps Reference
No. **NWS-2021-876** for the Samish Lake Bridge #107 Replacement project
in Whatcom County, Washington

Dear James Karcher:

On November 8, 2021, Whatcom County Public Works submitted a request for a Section 401 Water Quality Certification (WQC) under the Federal Clean Water Act for the Samish Lake Bridge #107 Replacement project in Kitsap County, Washington.

The project proposes to demolish an existing bridge and replace it with a new concrete bridge. The existing roadway on either side of the new bridge will be regraded and paved for the bridge approaches and a south road intersection will be regraded and expanded to re-align it with the new, wider bridge and roadway.

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.

Order No. 21125, Corps No. NWS-2021-876

May 2, 2022

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Sincerely,



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

Enclosure

E-cc: Randall Perry, Corps of Engineers
Wendy Cole, WDFW
Steve Fox, Whatcom County
Kevin Thompson, Whatcom County
ECY RE FEDPERMITS



IN THE MATTER OF GRANTING A)	WQC ORDER No. 21125
WATER QUALITY)	Corps Reference No. NWS-2021-876
CERTIFICATION TO)	Samish Lake Bridge #107 Replacement on Lake
Whatcom County Public Works)	Samish located in Whatcom County,
pursuant to 33 U.S.C. 1341 (FWPCA)	Washington.
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

Whatcom County Public Works
 Attn: James P Karcher
 322 N Commercial, Suite 301
 Bellingham, WA 98225

On November 8, 2021, Whatcom County Public Works 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 Samish Lake Bridge #107 Replacement project in Whatcom County, Washington.

The following processing dates are referenced below:

- On September 8, 2021, Whatcom County Public Works submitted a pre-filing meeting request.
- On March 8, 2022, Ecology issued a public notice for the project.

The project proposes to demolish an existing bridge and replace it with a new concrete bridge. Demolition and construction will be done from temporary work trestles and entails the following:

- Cut the existing bridge structure that is above the water into manageable sections
- Transport those pieces of demolish bridge offsite to an approved waste or recycling facility
- Construction 2 of the 4 new piers need for the concrete bridge in the lake
- Build the new bridge deck and install guardrails

The new bridge will require work on either side of the structure. The remaining two new piers are the bridge abutments located above the lake (above the ordinary high water line). Other work entails regrading and paving the roadway for the bridge approaches, regrading and expand the south road intersection to re-align the new wider bridge and roadway, and relocating the utilities from the old bridge to the new bridge. The work trestles will be removed at the end of construction and disturbed areas will be restored and planted.

The project site is located on North Lake Samish Drive, Lake Samish in Bellingham, Whatcom County, Washington, Section 27, Township 37N., Range 3E., within Water Resource Inventory Area (WRIA) 3 Lower Skagit-Samish.

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this WQC request pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §§1311, 1312, 1313, 1316, and 1317
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.
4. Conformance with Washington’s prohibition on discharges that cause or tend to cause pollution of waters of the state of Washington. RCW 90.48.080.
5. The project proponent 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, Whatcom County Public Works request for a Section 401 Water Quality Certification for the Samish Lake Bridge #107 Replacement on Lake Samish located in Whatcom 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 November 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
November 8, 2021	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA (dated April 23, 2021)	Whatcom County Public Works
November 8, 2021	Drawings	N. Lake Samish Dr Bridge #107 Replacement (dated September 2016 - July 2020)	Trantech Engineering LLC

November 8, 2021	Erosion Control Plan	N Lake Samish Dr Bridge #107 Replacement Erosion Control Plan (dated September 2016)	Trantech Engineering LLC
March 15, 2022	Water Quality Monitoring Plan or Water Quality Monitoring and Protection Plan	Draft Water Quality Monitoring Protection Plan (WQMPP) N. Lake Samish Bridge #107 Replacement (dated 11/4/2021 and revised 3/15/2022)	Whatcom County Public Works
March 17, 2022	HPA	Hydraulic Project Approval N. Lake Samish Bridge Replacement (dated July 26, 2021)	Washington Department of Fish & Wildlife

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Whatcom County Public Works 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 Whatcom County Public Works from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Water Quality Certification Conditions

The following conditions will be incorporated into the Corps permit and strictly adhered to by the Whatcom County Public Works. Specific condition justifications and citations are provided below each condition in *italic text*.

A. General Conditions

1. In this WQC Order, the term “Project Proponent” shall mean the Whatcom County Public Works and its agents, assignees, and contractors.
 - *Justification - Ecology needs to identify that conditions of this WQC Order apply to anyone conducting work on behalf of the Project Proponent to ensure compliance with the water quality standards and other applicable state laws.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.080, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, Chapter 173-201A WAC, and WAC 173-225-010.*
2. All submittals required by this WQC Order shall be sent to Ecology’s Headquarters Office, Attn: Federal Permit Manager, via e-mail to fednotification@ecy.wa.gov and cc to Penny.Kelley@ecy.wa.gov. The submittals shall be identified with WQC Order No. 21125 and

include the Project Proponent's Name, Corps Permit Number, Project Name, Project Contact, and the Contact Phone Number.

- *Justification - Ecology needs to identify where information and submittals are to be submitted to be in compliance with the requirements of this WQC Order.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.120, RCW 90.48.260, Chapter 173-201A WAC, and WAC 173-225-010.*
3. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on November 8, 2021 and the supporting documentation identified in Table 1.
- *Justification - Ecology has the authority to prevent and control pollution of state waters. By authorizing a discharge into a water of the state, through a WQC, Ecology is certifying the project as proposed will not negatively impact water quality. Therefore, it is imperative the project is conducted as it was presented during the review process. Any deviations from information within the WQC Request package and this WQC Order must be disclosed prior to the initiation of the planned work.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, Chapter 173-201A WAC, Chapter 173-204 WAC, and WAC 173-225-010.*
4. The Project Proponent 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.
- *Justification - All parties (including on-site contractors) must be aware of and comply with the WQC Order for the protection of water quality.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.*
5. The Project Proponent 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.
- *Justification - Ecology must be able to investigate and inspect construction sites and facilities for compliance with all state rules and laws.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.090, Chapter 173-201A WAC, and WAC 173-225-010.*

6. The Project Proponent 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.
 - *Justification- Ecology has independent authority to enforce our 401 certification conditions issued through this WQC Order pursuant to RCW 90.48, and has independent state authority to ensure protection of state water quality. In order to ensure the project will comply with water quality standards in the event of any major changes, Ecology must be able to review the scope of work involved in the construction and operation of the project, otherwise all work must stop and a new 401 certification pre-filing meeting, followed by a new 401 request (after requisite 30-days) is required.*
 - *Citation- Chapter 90.48 RCW, and Chapter 173-201 WAC.*
7. The Project Proponent 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 Project Proponent shall provide Ecology a signed statement (see Attachment A for an example) before construction begins.
 - *Justification - Ecology needs to ensure that anyone conducting work at the project, on behalf of the Project Proponent, are aware of and understand the required conditions of this WQC Order to ensure compliance with the water quality standards and other applicable state laws.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.*
8. This WQC Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this WQC Order.
 - *Justification - Ecology has the authority to prevent and control pollution of state waters, and to protect designated uses. By authorizing a discharge into a water of the state, through a water quality certification, Ecology is certifying the project as proposed will not negatively impact state water quality and will comply with the state's water quality requirements. Therefore, it is imperative the project is conducted as it was presented during the review process, and as conditioned herein.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300(2) (e) (i), WAC 173-201A-310, WAC 173-204-120, and WAC 173-225-010.*

9. Failure of any person or entity to comply with the WQC Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the state's water quality standards.
 - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses. Ecology has independent state authority to ensure protection of state water quality. Civil penalties and other enforcement actions are the primary means of securing compliance with water quality requirements.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.037, RCW 90.48.080, RCW 90.48.120, RCW 90.48.140, RCW 90.48.142, RCW 90.48.144, and WAC 173-225-010.*
10. The Project Proponent 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.
 - *Justification- Ecology has independent authority to enforce our 401 Certification conditions issued through this WQC Order pursuant to RCW 90.48, and has independent state authority to ensure protection of state water quality. In order to ensure the project will comply with water quality standards in the event of any major changes, Ecology must be able to review the scope of work involved in the construction and operation of the project, otherwise all work must stop and a new 401 certification pre-filing meeting, followed by a new 401 request (after requisite 30-days) is required.*
 - *Citation- Chapter 90.48 RCW, and Chapter 173-201 WAC.*
11. The Project Proponent shall send (per A.2.) a copy of the final Federal permit to Ecology's Federal Permit Manager within two weeks of receiving it.
 - *Justification - This condition is needed to ensure that all the conditions of the WQC Order have been incorporated into the federal permit.*
 - *Citation- Chapter 90.48 RCW*
12. This WQC Order will automatically transfer to a new owner or operator if:
 - a. A written agreement between the Project Proponent 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 WQC Order is provided to the new owner or operator; and

- c. Ecology does not notify the new Project Proponent that a new WQC Order is required to complete the transfer.
 - *Justification – Ecology has independent state authority to ensure protection of state water quality. Ecology needs to ensure that anyone conducting work at the project, including any new owners or operators, are aware of and understand the required conditions of this WQC Order to ensure compliance with the water quality standards and other applicable state laws.*
 - *Citation –Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.*

B. Notification Requirements

1. The following notification shall be made via phone or e-mail (e-mail is preferred) to Ecology’s Federal Permit Manager via e-mail to fednotification@ecy.wa.gov and cc to Penny.Kelley@ecy.wa.gov. Notifications shall be identified with WQC Order No 21125 Corps Reference Number, and include the Project Proponent 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. (NOTE: If multiple years say “of each in-water work window” or for dredging “each dredging cycle”)
 - *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must be aware of when a project starts and ends and whether there are any issues. This allows Ecology to evaluate compliance with the state water quality requirements.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, WAC 173-201A-300 - 330, Chapter 173-204 WAC, and WAC 173-225-010.*
2. In addition to the phone or e-mail notification required under B.1.a. above, the Project Proponent 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.

- *Justification - Ecology has independent state authority to ensure protection of state water quality. This condition is intended to assure the Project Proponent remains in full compliance with state water quality requirements for the duration of the project.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.120, Chapter 173-201A WAC, and WAC 173-225-010.*
3. If the project construction is not completed within 13 months of issuance of this WQC Order, the Project Proponent shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction are completed.
- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must be aware of when a project starts and ends and whether there are any issues. This allows Ecology to evaluate compliance with the state water quality requirements.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, WAC 173-201A-300 - 330, Chapter 173-204 WAC, and WAC 173-225-010.*

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.
- *Justification – Certifications are required for any license or permit that authorizes an activity that may result in a discharge or fill material into waters. This WQC Order is not valid until the Federal agency issues a permit. Additionally, Ecology needs to be able to specify how long the WQC Order will be in effect.*
 - *Citation –Chapter 90.48 RCW, Chapter 173-201A, and WAC 173-225-010.*
2. The following in-water work windows apply to the project:
- a. All activities within the wetted perimeter of Samish Lake may be conducted between June 15 and October 15 of any year.
- *Justification - This condition is reaffirming the project will take place during a time period that will not harm fish or other aquatic species.*
 - *Citation - Chapter 77.55 RCW, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300, WAC 173-201A-330, WAC 173-225-010, and Chapter 220-660 WAC.*

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.

- *Justification - This condition is reaffirming the project will take place during a time period that will not harm fish or other aquatic species.*
- *Citation - Chapter 77.55 RCW, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300, WAC 173-201A-330, WAC 173-225-010, and Chapter 220-660 WAC.*

D. Water Quality Monitoring & Criteria

1. This WQC Order does not authorize the Project Proponent to exceed applicable water quality standards beyond the limits established in WAC 173-201A.

- *Justification - Ecology has independent state authority to ensure protection of state water quality. This condition provides citation to the appropriate water quality standard criteria to protect surface waters of the state. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

2. If water quality exceedances for turbidity are observed outside the point of compliance, work shall cease immediately and the Project Proponent 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.

- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution and know if there are exceedances of the water quality standards that protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

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

- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges*

of pollution and know if there are exceedances of the water quality standards that protect aquatic life and beneficial uses.

- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

4. The Applicant shall submit a final copy of the *Draft Water Quality Monitoring and Protection Plan (WQMPP) N. Lake Samish Bridge #107 Replacement (Plan)* prepared by Whatcom County Public Works, dated March 15, 2022. The final Plan shall be submitted to Ecology's Federal Permit Manager (per Condition A.2 of this Order) **for review** at least 30 days prior to beginning any work covered by this Order.

- *Justification - Ecology has independent state authority to ensure protection of state water quality. This condition is necessary to ensure that the monitoring and BMP's that are proposed by the Project Proponent and authorized by Ecology are conducted to protect water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*

- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

5. Monitoring results shall be submitted monthly to Ecology's Federal Permit Manager, per condition A.2.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and know if there are exceedances of the water quality standards that protect aquatic life and beneficial uses.*

- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

6. Ecology may ask or could use its discretionary authority to require the Project Proponent to provide mitigation and/or additional monitoring if the monitoring results indicate that the water quality standards have not been met.

- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution and know if there are exceedances of the water quality standards that protect aquatic life and beneficial uses.*

- *Citation - RCW 90.48, 90.48, RCW 90.48.030 Chapter 173-201A WAC, 173-201A-300-330 WAC, Chapter 173-204 WAC.*

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.
 - *Justification - Ecology has independent state authority to ensure protection of state water quality. Disturbed areas without appropriate BMP's and construction methods can discharge excess sediment to waters of the state and degrade water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
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.
 - *Justification - Ecology has independent state authority to ensure protection of state water quality. Ensures that the project proponent preserves sensitive areas from discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
3. No stockpiling or staging of materials shall occur at or below the OHWM of any waterbody.
 - *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
4. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.

- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation -Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
5. 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.
- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must be assured that the Project Proponent is managing and disposing of material to protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation- Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
6. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.
- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

Equipment & Maintenance

7. 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.
- *Justification - Ecology has independent state authority to ensure protection of state water quality. Requiring a minimum setback ensures that material will not end up in waters of the state. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
8. 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.

- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
9. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.
- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
10. 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.
- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 173-200, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
11. 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 Project Proponent shall set up a designated area for washing down equipment.
- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

12. Turbidity curtains shall be properly deployed and maintained in order to minimize turbidity and re-suspension of sediment.
 - *Justification - Ecology has independent state authority to ensure protection of state water quality. This condition would ensure containment and limit movement of sediment that could cause water quality exceedances. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
13. 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.
 - *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
14. Barges shall not be allowed to groundout during in-water construction.
 - *Justification - Ecology has independent state authority to ensure protection of state water quality. This condition is necessary to protect shallow water habitat and prevent suspension of sediment. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, 173-201A-300-330 WAC, and Chapter 173-204 WAC*
15. Barges shall be kept free of material that could be blown into water.
 - *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
16. No return water is allowed to discharge from the barge(s) into waters of the state.

- *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

Bridge Construction and Demolition

17. No structural material may enter waters of the state during bridge demolition activities.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

18. During demolition, structures shall be removed from the banks, existing roads, or from adjacent bridges whenever possible. When necessary, equipment may operate below the OHWL, provided the work is consistent with the project's most recent HPA.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

19. The Project Proponent shall minimize disturbance of vegetation when constructing temporary work platforms for bridge construction and demolition activities.

- *Justification - Vegetation removal or disturbance can contribute to erosion and turbidity issues. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010.*

20. Ground improvement activities for the new bridge shall not cause exceedance of water quality standards.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

21. All forms for concrete shall be completely sealed to prevent the possibility of fresh concrete entering waters of the state.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

22. All concrete shall be completely cured prior to coming into contact with water.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

23. 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.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

24. 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.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*

- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
25. All excavated sediment shall be disposed upland in an approved disposal site, unless otherwise requested and authorized by Ecology.
- *Justification - - Ecology must be assured that the Project Proponent is managing and disposing of sediment to protect water quality and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

Dewatering

26. Turbid de-watering water associated with in-water work shall not be discharged directly to waters of the state, including wetlands. Turbid de-watering water shall be routed to an upland area for on-site or off-site settling.
- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
27. Clean de-watering water associated with in-water work that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state including wetlands. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.
- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

F. Emergency/Contingency Measures

1. The Project Proponent shall develop and implement a spill prevention and containment plan for all aspects of this project.
- *Justification - Ecology must ensure that the Project Proponent has a plan to prevent pollution from entering waterways. Ecology must protect waters of the state from all*

discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and Chapter 173-303-145 WAC.*
2. The Project Proponent 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.
- *Justification - Ecology must have assurance that the Project Proponent has the material readily available in WQC Order to address any spills that might occur to protect waters of the state. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and Chapter 173-303-145 WAC.*
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.
- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and Chapter 173-303-145 WAC.*
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 Project Proponent 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.
 - *Justification - This condition is necessary to prevent oil and hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and Chapter 173-303-145 WAC.*
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.
- *Justification - Oil and hazardous materials spills cause environmental damage. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and Chapter 173-303-145 WAC.*

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>

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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 2nd day of May 2022 at the Department of Ecology, Olympia, Washington



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

Attachment A

**Statement of Understanding
Water Quality Certification Conditions
Samish Lake Bridge #107 Replacement
Water Quality Certification WQC Order No 21125**

As the Project Proponent for Samish Lake Bridge #107 Replacement project, I have read and understand the conditions of Washington State Department of Ecology WQC Order No 21125, 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