



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

July 19, 2022

U.S. Army Corps of Engineers
ATTN: Melissa Leslie
4735 E. Marginal Way South Bldg. 1202
Seattle, WA 98134

Re: Water Quality Certification Order No. **21226** for Shoalwater Bay Shoreline Erosion Control Project Emergency Repair in Pacific County, Washington

Dear Melissa Leslie:

On May 25, 2022 the Corps of Engineers (Corps) submitted a request for a Section 401 Water Quality Certification (WQC) under the Federal Clean Water Act for the Shoalwater Bay Shoreline Erosion Control Project Emergency Repair in Pacific 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 Water Quality Certification Order (WQC Order).

Please ensure that anyone doing work under this WQC Order has read, is familiar with, and is able to follow all of the provisions within the attached WQC Order.

If you have any questions about this decision, please contact Penny Kelley at (360) 280-8856. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

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

Shoalwater Bay Shoreline Erosion Control Project Emergency Repair

Order No. 21226, Aquatics No. 141640

July 19, 2022

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Enclosure

E-cc: Justine Barton, EPA

Lauren Bauernschmidt, WDFW

Loree' Randall, Ecology

ECYREFEDPERMITS@ecy.wa.gov – Aquatics No. 141640



IN THE MATTER OF GRANTING A)	WQC ORDER No. No.21226
WATER QUALITY CERTIFICATION TO)	Shoalwater Bay Shoreline Erosion Control
U.S. Army Corps of Engineers)	Project Emergency Repair in Willapa Bay located
pursuant to 33 U.S.C. 1341 (FWPCA)	in Pacific County, Washington.
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

U.S. Army Corps of Engineers
 Attn: Melissa Leslie
 4735 E. Marginal Way South, Bldg. 1202
 Seattle, WA 98134

On May 25, 2022, the U.S. Army Corps of Engineers (Corps) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Shoalwater Bay Shoreline Erosion Control Project Emergency Repair in Pacific County, Washington. The following required processing dates are referenced below:

- On the April 25, 2022, the Corps submitted a pre-filing meeting request.
- On May 25, 2022, the Corps submitted additional information, and the Department of Ecology (Ecology) considered the Request valid on this date.
- On June 8, 2022, Ecology issued a public notice for the project.

The Corps of Engineers is proposing to dredge approximately 460,000 cubic yards (CY) of sand offshore of the Tokeland Peninsula to restore an existing barrier dune on Empire Spit. This barrier dune was constructed in 2013 utilizing 709,000 cy of dredge material from a borrow area one mile off shore and then repaired in 2018 utilizing 937,000 cy of dredge material in two borrow areas adjacent to the Willapa Bay entrance and channel. The current borrow location is still adjacent to the Willapa Bay entrance and channel but has been shifted southeast to an area that has higher accretion rates of sand. To access the barrier dune, a 30-foot wide temporary haul road will be constructed across Graveyard and Empire Spit. The road will be composed of 40,000 tons to quarry spalls and either removed post construction or left in place.

This project is an emergency repair aimed at reducing coastal erosion and flooding to the Shoalwater Reservation. The Corps of Engineers has also requested a Section 401 WQC from the Environmental Protection Agency (EPA) for the following work on the Shoalwater Reservation:

- 4000 linear feet of sand placement
- 4000 linear feet of cobble placement

- Construct a portion of the access road where it crosses the Shoalwater Reservation
- Install 3700 linear feet of sand fencing on the back or landward side of the dune

The placement of sand will repair the section of barrier dune that has eroded and the toe of the dune will be stabilized with approximately 216,000 tons of quarried spall.

This Section 401 WQC Order authorizes:

- dredging of approximately 460,000 cubic yards of sand
- Constructing an access road across Graveyard Spit from SR 105 to the boundary of the Shoalwater Reservation.
- Installing a section of pipeline from the borrow dredging location to the edge of the Shoalwater Reservation boundary.

The project site is located on the Shoalwater Bay Tribal Reservation near Tokeland and in Willapa Bay in Pacific County, Washington, Sections 2, 3, 4, Township 14N. Range 11W., within Water Resource Inventory Area (WRIA) 24, Willapa

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, the Corps request for a Section 401 Water Quality Certification for the Shoalwater Bay Shoreline Erosion Control Project Emergency Repair in Willapa Bay located in Pacific County. Ecology has determined that the proposed discharges will comply with all applicable state water quality requirements, provided the project is conducted in accordance with the Section 401 Water Quality Certification request that Ecology received on May 25, 2022, 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
May 25, 2022	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA (dated May 25, 2022)	Corps
May 25, 2022	Drawings	Shoalwater Bay Barrier Dune – Coastal Storm Risk Management Project (dated February 24, 2022)	Corps
	Water Quality Monitoring Plan	Water Quality Monitoring Plan (dated July 18, 2022)	ECC Environmental LLC Ross Island Sand & Gravel Co. Rognlin’s Inc.
June 15, 2022	Environmental Protection Plan	Shoalwater Dune Barrier Restoration Environmental Protection Plan (dated June 2022)	ECC Environmental LLC Ross Island Sand & Gravel Co. Rognlin’s Inc. Jacobs, Inc.
June 15, 2022	Spill Prevention and Containment Plan	Draft Shoalwater Dune Barrier Restoration Spill Prevention and Containment Plan (dated May 2022)	ECC Environmental LLC Ross Island Sand & Gravel Co. Rognlin’s Inc. Jacobs, Inc.

June 15, 2022	Dredge Plan	Shoalwater Dune Barrier Restoration Work Plan, (dated June 2022)	ECC Environmental LLC Ross Island Sand & Gravel Co. Rognlin's Inc. Jacobs, Inc
June 15, 2022	Project Site Access Plan	Shoalwater Barrier Dune Restoration Project, Dune Site Ingress/Egress Estimation (dated June 6, 2022)	Ross Island Sand & Gravel Co.
June 24, 2022	Suitability Determination	Memorandum for Record Tier 1 Determination (dated January 11, 2018)	Dredge Materials Management Program

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Corps 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 Corps 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 strictly adhered to by the Corps. Specific condition justifications and citations required by 40 CFR 121.7(d)(1) are provided below each condition in italic text.

A. General Conditions

- In this WQC Order, the term "Project Proponent" shall mean the Corps 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 - 40 CFR 121.1(j), Chapter 90.48 RCW, Chapter 90.48.080 RCW, Chapter 90.48.120 RCW, Chapter 90.48.260 RCW, Chapter 173-200 WAC, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*

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. 21226** 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 - 40 CFR 121, Chapter 90.48 RCW, Chapter 90.48.120 RCW, Chapter 90.48.260 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
3. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on May 25, 2022 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 our state's 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 - 40 CFR 121.5, Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.120 RCW, Chapter 90.48.260 RCW, Chapter 173-200 WAC, Chapter 173-201A WAC, Chapter 173-204 WAC, and Chapter 173-225-010 WAC.*
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 - 40 CFR 121.3, Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
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, Chapter 90.48.030 RCW, Chapter 90.48.090 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
6. The Project Proponent shall ensure that all project engineers, contractors, 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 - 40 CFR 121.1(j), Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
7. 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, we are certifying the project as proposed will not negatively impact our state's 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, Chapter 90.48.030 RCW, Chapter 173-200 WAC, Chapter 173-201A WAC, Chapter 173-201A-300(2)(e)(i) WAC, Chapter 173-201A-310 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
8. 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. Civil penalties and other enforcement actions are the primary means of securing compliance with water quality requirements.

- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.037 RCW, Chapter 90.48.080 RCW, Chapter 90.48.120 RCW, Chapter 90.48.142 RCW, Chapter 90.48.144 RCW, and Chapter 173-225-010 WAC.*

9. 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. 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- 40 CFR 121.1(k) & (n), 40 CFR 121.3, Chapter 90.48 RCW, and Chapter 173-201 WAC.*

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. 21226** 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 conducting initial in-water work activities.
 - c) Within seven (7) days of completing in-water work activities.
 - *Justification - 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, Chapter 90.48.030 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204 WAC, and Chapter 173-225-010 WAC.*

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 - Ensure the Project Proponent remains in full compliance with state water quality requirements for the duration of the project.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.120 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*

C. Timing

1. This WQC Order will expire May 25, 2027.

- *Justification - Certifications are required for any license or permit that authorizes an activity that may result in a discharge. 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 Chapter 173-225-010 WAC.*

2. All activities within the wetted perimeter of Willapa Bay may be conducted between July 15th and February 15th 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300 WAC, Chapter 173-201A-330 WAC, Chapter 173-225-010 WAC, and Chapter 220-660 WAC.*

D. Water Quality Monitoring and 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 - 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
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 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
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 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
4. The Project Proponent shall conduct water quality monitoring as described in the approved Water Quality Monitoring Plan as identified in Table 1 (hereafter referred to as the WQMP)
- *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 - RCW 90.48, RCW 90.48.030, Chapter 173-201A WAC, 173-201A-300-330 and Chapter 173-225-010 WAC.*
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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
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 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 90.48.030Chapter 173-201A WAC, 173-201A-300-330 WAC, Chapter 173-204 WAC.*

E. Dredging & Dune Construction

Establishing Pipeline

1. Upland travel routes to lay pipeline and conduct maintenance inspections of the pipeline, once assembled, shall be clearly marked and maintained until all work is complete.
 - *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC*
2. Any material laid down to stabilize upland routes for pipeline maintenance shall be removed at the end of construction.

- *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC*
3. Geotextile fabric, other fabric, or tarping used for stabilizing construction entrances and/or roads shall be removed and properly managed or disposed in an approved upland site.
- *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
4. No equipment, stockpiling or staging of pipeline materials shall occur at or below the OHWM of any waterbody or in wetlands.
- *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
5. Removal of native bank line vegetation for establishing the pipeline shall be limited to the minimum amount needed.
- *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC.*

6. All natural habitat features on the beach larger than twelve inches in diameter, including trees, stumps, logs and rocks shall be retained on site. The natural habitat features may be moved during laying and connecting pipeline but should be placed near the pre-project location after the pipeline is removed.

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

7. Construction debris shall be stored upland of the ordinary high water mark so that it cannot enter the water or cause water quality degradation. All debris shall be properly disposed of on land in an approved upland facility.

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

8. Garbage, plastic and other debris encountered during construction shall be removed from the site and disposed in an approved upland facility.

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

Equipment & Maintenance

9. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.
 - *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

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.
 - *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

11. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.
 - *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

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.

- *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 173-200, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

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 Project Proponent shall set up a designated area for washing down equipment.

- *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

14. Barges shall not be allowed to ground out during in-water construction.

- *Justification - 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 173-201A-300(2)(e)(i) WAC, Chapter 173-201A-310 WAC, and Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

15. Anchors and/or spuds shall not be deployed in eel grass, kelp or forage fish spawning

- *Justification – 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 affect water quality to protect aquatic life and beneficial uses.*
- *Citation – Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 173-201A WAC, 173-201A-300-300 WAC, and Chapter 173-204 WAC*

16. Barges shall be kept free of material that could be blown into the 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 70A-200 RCW, Chapter 79.02-300 RCW, and Chapter 90.48 RCW, and Chapter 173-225-010 WAC.*

Dredging

17. All dredging is to be done using a hydraulic dredge. Use of any other type of dredge requires preapproval from Ecology.

- *Justification - Ecology has reviewed the project and the BMPs for a specific type of dredging. Changes to the dredging method would require different BMPs. If new dredging methods are proposed, a new WQC pre-filing meeting request, followed by a new WQC request (after requisite 30-days) is required.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.52-040 RCW, Chapter 90.54.020(2)(b) RCW, Chapter 173-201A WAC, Chapter 173-201A-240(5)(b) WAC, and Chapter 173-204-400(2) WAC, and Chapter 173-225-010 WAC.*

18. The dredge shall only be operated with the intake at or below the surface of the sand being removed. The intake shall only be raised a maximum of three feet along the bed for brief periods of purging or flushing the intake system.

- *Justification – This condition would limit re-suspension 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC*

19. 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.

- *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

20. The Project Proponent shall follow the approved Dredge and Disposal Workplan as identified in Table 1.

- *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC.*

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

- *Justification - Ecology would like to meet with the Project Proponent and contractor to go over the Workplan prior start of work to ensure that the plan reflects the project that has been authorized by this WQC Order. If there has been major changes work must not proceed and a new WQC pre-filing meeting request, followed by a new WQC request (after requisite 30-days) is required.*
- *Citation -Chapter 70A-200 RCW, Chapter 77.55 RCW, Chapter 79.02.30040 RCW, Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.52-040 RCW, Chapter 90.54.020(2)(b) RCW, Chapter 173-201A WAC, Chapter 173-201A-240(5)(b) WAC, Chapter 173-201A-300 WAC, Chapter 173-201A-330 WAC, Chapter 173-204-400(2) WAC, Chapter 173-225-010 WAC, and Chapter 220-660 WAC.*

22. All dredging and disposal shall have a valid suitability determination prior to in-water work. This area ranks very low in potential for contamination and the recency determination extends through January 2028. Contact the DMMO for a possible extension on this suitability determination.

- *Justification - The DMMP process confirms that material is suitable for in-water disposal and that the project meets state antidegradation regulations.*

- *Citation - Chapter 173-201A WAC, Chapter 173-201A-230 WAC, Chapter 173-201A-240(1) WAC, Chapter 173-201A-240(2) WAC, Chapter 173-204 WAC, Chapter 173-204-110-120 WAC, Chapter 173-204-400(2) WAC, Chapter 173-204-410(7) WAC, Chapter 173-204-350(d), and Chapter 173-225 WAC.*

Temporary Mooring Dolphin

23. The applicant shall not use treated wood piling for temporary mooring dolphins

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

24. Piles used to construct the temporary mooring dolphin shall be removed at the end of construction.

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

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

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

26. 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.

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

27. If a barge is used to remove piles, the work surface on the barge deck shall include low walls or other containment devices for piles and sediment removed during pulling of the piling. Any water on the barge shall be contained and filtered using BMPs before being discharged back 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC*

28. Sediments spilled on work surfaces during pile removal shall be contained and disposed of at an approved upland disposal site.

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

29. The temporary mooring dolphins shall not be located in any eel grass, kelp or forage fish spawning beds.

- *Justification – 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 affect water quality to protect aquatic life and beneficial uses.*
- *Citation – Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 173-201A WAC, 173-201A-300-300 WAC, and Chapter 173-204 WAC*

F. Emergency/Contingency Measures

1. The Project Proponent shall develop and implement a spill prevention and containment plan for 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter*

173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, and Chapter 173-303-145 WAC.*

Your right to appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt. The appeal process is governed by RCW 43.21B and WAC 371-08. "Date of receipt" is defined in RCW 43.21B.001(2). More information is available at <https://eluhwa.gov/content/11>.

To appeal, you must do all of the following within 30 days of the date of receipt of this Order:

- File your notice of appeal and a copy of this Order with the PCHB (see filing options below). "Filing" means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. "Notice of appeal" is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this Order on the Department of 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 RCW 43.21B and WAC 371-08.

Filing an appeal with the PCHB:

For the most current information regarding filing with the PCHB, visit:
<https://eluhwa.gov/content/11>

Filing by mail

Mailing Address:

Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

Filing in person (or by certified mail/courier)

Street Address:

Pollution Control Hearings Board
1111 Israel RD SW
STE 301
Tumwater, WA 98501

Filing electronically

Email address:

pchb-shbappeals@eluhwa.gov

Serving a copy of the appeal on Ecology:

Electronic copies of appeals are not accepted at the Department of Ecology per
WAC 371-08-305(10).

Filing by mail

Mailing Address:

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

Filing in person (or by certified mail/courier)

Street Address:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 9850

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.eluhwa.gov/Board/PCHB>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**

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

- **Chapter 371-08 WAC – Practice and Procedure**

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

- **Chapter 34.05 RCW – Administrative Procedure Act**

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

- **Chapter 90.48 RCW – Water Pollution Control**

<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>

- **Chapter 173.204 WAC – Sediment Management Standards**

<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>

- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**

<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>

- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**

<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

SIGNATURE

Dated this 19th day of July 2022 at the Department of Ecology, Olympia, Washington



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

Attachment A

**Statement of Understanding
Water Quality Certification Conditions**

Shoalwater Bay Shoreline Erosion Control Project Emergency Repair
Water Quality Certification WQC Order **No. 21226**

As the Project Proponent for Shoalwater Bay Shoreline Erosion Control Project Emergency Repair, I have read and understand the conditions of Washington State Department of Ecology WQC Order **No. 21226**, 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