



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

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

July 14, 2022

U.S. Army Corps of Engineers  
Regulatory Branch  
ATTN: Daniel Krenz  
4735 E Marginal Way S, Building 1202  
Seattle, WA 98134-2388

Re: Water Quality Certification Order No. 21235 for Corps Reference No. NWS-2002-1291  
Regional General Permit 6: Structures in Inland Marine Waters of Washington State

Dear Daniel Krenz:

On November 18, 2021, the U.S. Army Corps of Engineers submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the reissuance of Regional General Permit 6 (RGP 6): Structures in Inland Marine Waters of Washington State. This includes tidally influenced waters from South Puget Sound and Hood Canal to and including the Strait of Juan de Fuca and the Strait of Georgia, in multiple counties, 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 Erin Hanlon Brown at (360) 280-1037. The enclosed WQC Order may be appealed by following the procedures described within.

Order No. 21235, Corps No. 200201291

Aquatics ID 135226

July 14, 2022

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Sincerely,



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

Enclosure

E-cc: Daniel Krenz, U.S. Army Corps of Engineers  
Tina Tong, U.S. Army Corps of Engineers  
Randy Lumper, Northwest Indian Fisheries Commission  
Loree' Randall, Ecology  
Erin Hanlon Brown, Ecology  
ECYREFEDPERMITS@ecy.wa.gov – Aquatics No. 135226



<b>IN THE MATTER OF GRANTING A</b>	)	<b>WQC ORDER No. 21235</b>
<b>WATER QUALITY CERTIFICATION TO</b>	)	<b>Corps Reference No. NWS-2002-1291</b>
U.S. Army Corps of Engineers	)	Regional General Permit 6: Structures in
pursuant to 33 U.S.C. 1341 (FWPCA	)	Inland Marine Waters of Washington State,
§ 401), RCW 90.48.120, RCW 90.48.260	)	multiple counties, Washington.
and Chapter 173-201A WAC	)	

U.S. Army Corps of Engineers  
 Regulatory Branch  
 4735 E Marginal Way S, Building 1202  
 Seattle, WA 98134-2388

8/8/2022 - A minor edit was made to  
 Condition D.3. in red, see page 6.

On November 18, 2021, 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 Regional General Permit 6 (RGP 6): Structures in Inland Marine Waters of Washington State. This includes tidally influenced waters from South Puget Sound and Hood Canal to and including the Strait of Juan de Fuca and the Strait of Georgia, in multiple counties, Washington.

- On December 9, 2021 Ecology issued a public notice for the project.
- The Corps provided a deadline for the WQC of May 17, 2022 within their request for WQC. On April 25, 2022 Ecology requested an extension of the reasonable period of time. On April 28, 2022 the Corps extended the timeframe to July 17, 2022.

The Corps proposes to modify and reissue RGP 6 which authorizes the construction of new residential piers, ramps, floats, buoys, marine rails, stairways, trams and watercraft lifts in inland marine waters of Washington State.

**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 RGP6 in tidally influenced waters from South Puget Sound and Hood Canal to and including the Strait of Juan de Fuca and the Strait of Georgia, in multiple counties. 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 November 18, 2021; the modifications to RGP 6 proposed by the Corps in the Special Public Notice and draft proposed RGP 6 dated November 17, 2021; any inclusions to RGP 6 agreed upon in email communications between the Corps and Ecology; the National Marine Fisheries Service (NMFS) Salish Sea Nearshore Programmatic Biological Opinion finalized June 29, 2022; **and the conditions of this WQC Order.**

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Project Proponents 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 anyone authorized by RGP 6 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 anyone authorized by RGP 6. Specific condition justifications and citations required by 40 CFR 121.7(d)(1) are provided below each condition in italic text.

#### **A. General Conditions**

1. In this WQC Order, the term "Project Proponent" shall mean the prospective permittee(s) 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](mailto:fednotification@ecy.wa.gov) and cc to [Erin.HanlonBrown@ecy.wa.gov](mailto:Erin.HanlonBrown@ecy.wa.gov). The submittals shall be identified with WQC Order No. 21235 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 November 18, 2021 and modifications to RGP 6 proposed by the Corps in the Special Public Notice and draft proposed RGP 6 dated November 17, 2021.
  - *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 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.*
5. 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.

- *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.*
6. 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.*
7. 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.*
8. 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.*

9. The Project Proponent shall send (per A.2.) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.

- *Justification - This conditions is needed to ensure that all the conditions of the WQC Order have been incorporated into the federal permit.*
- *Citation - 40 CFR 121.10.*

## **B. Timing**

1. This WQC Order is effective upon issuance of RGP 6 by the U.S. Corps of Engineers (Corps) and will remain valid for five years.

- *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 Chapter 173-225-010 WAC.*

## **C. 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 - 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.*

#### **D. 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 - 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, 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. No stockpiling or staging of materials shall occur at or below the OHWM of any waterbody.
  - *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. 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 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. 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 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, 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. 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.*

#### Equipment & Maintenance

6. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
- *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.*
7. If used 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 90.48 RCW, Chapter 90.48.030 RCW, Chapter 173-201A WAC, 173-201A-300-330 WAC, and Chapter 173-204 WAC*
8. If used, barges shall be swept, as necessary, and kept free of material that could be blown into 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, 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.*
9. If used, no return or containment water is allowed to discharge from the barge(s) into 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.*
10. If a barge is used to remove piles, the work surface on the barge deck shall include containment for piles and any liquid or sediment removed during pulling of the piling.
- *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.*

### Dolphin Removal or Removal of Creosote Piles

11. Pile removal, handling, and disposal shall follow the EPA Region 10 *Best Management Practices for Piling Removal and Placement in Washington State*, dated February 18, 2016.

- *Justification- The EPA BMPs were developed to protect water, sediment, and habitat quality by minimizing turbidity, sediment disturbance and debris re-entry to the water column and benthic zone during pile removal/placement activities.*
- *Citations - 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.*

12. 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.*

13. The pile shall not be shaken, hosed off, left hanging to drip or any other action intended to clean or remove adhering material from the pile over waters of the state.

- *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.*

14. If pile removal fails, the pile stub must be cut at least 2 ft. below mudline, and the location (latitude and longitude) of all cut piling shall be reported to Ecology within 2 months of removal of all piles.

- *Justification - Pile stubs can release associated creosote if exposed, and stubs at the surface can result in localized erosion that leads to further exposure of the stubs.*

- *Citations - 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.*

15. During pile removal, containment booms and absorbent sausage booms shall be placed around the perimeter of the in-water work area and upland storage area, if used, to capture wood debris, oil, and other materials from being released into waters of the state.

- *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.*

16. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.

- *Justification - Ecology must be assured that the Project Proponent is managing and disposing of piles and debris 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.*

17. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris 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.*

## **E. 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. During construction, use, and the continued operation, 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. 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.*
4. 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/>.

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/182>

#### **Filing by mail**

##### **Mailing Address:**

Pollution Control Hearing 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](mailto: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 98503

### **Contact Information**

Please direct all questions about this WQC Order to:

Erin Hanlon Brown  
Department of Ecology  
360-280-1037  
[Erin.HanlonBrown@ecy.wa.gov](mailto:Erin.HanlonBrown@ecy.wa.gov)

## More Information

- **Pollution Control Hearings Board Website**  
<http://www.eluho.wa.gov/Board/PCHB>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**  
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 WAC – Sediment Management Standards**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

## SIGNATURE

Dated this 14th day of July 2022 at the Department of Ecology, Olympia, Washington



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Brenden McFarland, Section Manager  
Environmental Review and Transportation Section  
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