



**STATE OF WASHINGTON**  
**DEPARTMENT OF ECOLOGY**

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

November 4, 2022

Port of Everett  
ATTN: Laura Gurley  
1205 Craftsman Way, Suite 200  
Everett, WA 98201

Re: Water Quality Certification Order No. 21419 for Corps Reference No. 202100485, Central Marina West Maintenance Dredging, Snohomish County, Washington

Dear Laura Gurley:

On January 21, 2022, Port of Everett submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Central Marina West Maintenance Dredging, Snohomish 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 Loree' Randall at (360) 485-2796. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

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

*Order No. 21419, Corps No. 202100485*

*Aquatics ID 141386*

*November 4, 2022*

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Enclosure

E-cc: Kelly Werdick, U.S. Army Corps of Engineers  
Ann C. House, Snoqualmie Indian Tribe  
Loree' Randall, Ecology  
Laura Inouye, Ecology  
ECYREFEDPERMITS@ecy.wa.gov



**IN THE MATTER OF GRANTING A** ) **WQC ORDER No. 21419**  
**WATER QUALITY CERTIFICATION TO** ) **Corps Reference No. 202100485**  
Port of Everett ) Central Marina West Maintenance Dredging,  
pursuant to 33 U.S.C. 1341 (FWPCA ) Snohomish River, located in Snohomish County,  
§ 401), RCW 90.48.120, RCW 90.48.260 ) Washington.  
and Chapter 173-201A WAC )

Port of Everett  
Attn: Laura Gurley  
1205 Craftsman Way, Suite 200  
Everett, WA 98201

On January 21, 2022, Port of Everett submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Central Marina West Maintenance Dredging, Snohomish County, Washington. The following required processing dates are referenced below:

- On February 18, 2022, the U.S. Army Corps of Engineers (Corps) issued a joint public notice.

The project proposes maintenance dredging in the Central Marina West to continue use of the Marina facilities and maintain access to existing pier and dock structures. In total, 33,890 cubic yards of material will be dredged. DMMP sediment characterization was conducted in February 2021 and a suitability determination was issued on July 7, 2021, determining that the material is suitable for open-water disposal. Barge-based mechanical dredging will be used. Approximately 53,890 cubic yards of material will be dredged over an area of approximately 7.2 acres to a design dredge depth of -12 feet MLLW, plus 2 feet of over-dredge allowance. The dredged material will be transported to the disposal site by bottom-dump barge.

The project site is located at 14<sup>th</sup> Street and West Marine View Drive, Snohomish County, Washington, Section 18, Township 29N., Range 5E., within Water Resource Inventory Area (WRIA) 7 Snohomish Watershed.

## **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, Port of Everett request for a Section 401 Water Quality Certification for the Central Marina West Maintenance Dredging, Snohomish River located in Snohomish 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 January 21, 2022, the supporting documents referenced in Table 1 below, **and the conditions of this WQC Order.**

**Table 1.** Supporting Documents

<b>Date Received</b>	<b>Document Type</b>	<b>Title &amp; Date</b>	<b>Author</b>
1/21/2022	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA (5/12/2021)	Port of Everett
1/21/2022	Drawings	Central Marina West Maintenance Dredging (4/2021)	Port of Everett
1/21/2022	State Environmental Policy Act	Notice of Mitigated Determination of Non-Significance (1/10/2022)	Port of Everett
5/12/2022 and 8/23/2022	Water Quality Monitoring Plan	Port of Everett Central Marina West: Water Quality Monitoring Plan (3/2022) and Revised (8/2022)	Windward Environmental LLC
1/21/2022	Suitability Determination	Suitability Determination Memorandum and Antidegradation Assessment for Port of Everett Central Marina West, Maintenance Dredging (7/7/2021)	Dredge Materials Management Program, U S Army Corps of Engineers

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Port of Everett to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water

quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this Section 401 Water Quality Certification absolves the Port of Everett 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 Port of Everett. 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 Port of Everett 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 [Loree.Randall@ecy.wa.gov](mailto:Loree.Randall@ecy.wa.gov). The submittals shall be identified with WQC Order No. 21419 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 January 21, 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, 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 - 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.*

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

11. Nothing in this WQC Order waives Ecology's discretionary authority to issue additional Orders if Ecology determines that further actions are necessary to implement the water quality laws of the state.

- *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 90.48.120 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*

12. This 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 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 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 – 40 CFR 121.3, Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 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 Loree.Randall@ecy.wa.gov. Notifications shall be identified with WQC Order No. 21419, Corps reference No. NWS-2021-485, 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 completion of each dredging cycle.
    - *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.*
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 and mitigation are completed.
- *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.*

### **C. Timing**

1. This WQC Order is effective upon issuance of the U.S. Corps of Engineers (Corps) individual permit for this project and will remain valid for the duration of the associated permit for the project.

- *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.*

2. The following in-water work windows apply to the project:

- a) All activities within the wetted perimeter of the Snohomish River and Port of Gardner may be conducted between September 1 and February 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, 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.*

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, 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. This WQC Order does not authorize the Project Proponent to exceed applicable turbidity standards beyond the limits established in WAC 173-201A 210(1)(e)(i).
  - *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. For in-water activities within fresh waters (including wetlands) turbidity shall not exceed 5 NTU over background when the background is 50 NTU or less; or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU;
  - a. Temporary area of mixing for turbidity established within the state water quality standards for fresh waters (WAC 173-201A-200) is as follows:
    - i. For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from the activity causing the turbidity exceedance.
    - ii. For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of the activity causing the turbidity exceedance.
    - iii. For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of the activity causing the turbidity exceedance.
    - iv. For projects working within or along lakes, ponds, wetlands, or other non-flowing waters, the point of compliance shall be at a radius of one hundred fifty feet from the activity causing the turbidity exceedance.
      - *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. 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.*
4. 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.*
5. The Project Proponent shall conduct water quality monitoring as described in the approved *Port of Everett Central Marina West: 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.*
6. The Project Proponent shall implement the Water Quality Monitoring and Protection Plan as proposed and approved by Ecology.
- *Justification - 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, 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.*
7. 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.*
8. 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 90.48.030, Chapter 173-201A WAC, 173-201A-300-330 WAC, Chapter 173-204 WAC.*

#### **E. Dredging**

1. All dredging is to be done using a mechanical (clamshell) dredge.
- *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.*
2. All suitable dredged material will be disposed of by bottom dump barge at the Port of Gardner open-water disposal site.
- *Justification - Ecology has reviewed the project and the BMPs for a specific type of disposal technique and disposal location. If different in-water disposal sites 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), and Chapter 173-225-010 WAC.*
3. All unsuitable material will be transloaded at a permitted facility and disposed of at a permitted upland disposal site.
- *Justification - Use of a permitted transloading facility ensures that appropriate BMPs, including appropriate containment and spill plans, are implemented. Additionally, use of a permitted disposal location ensures appropriate BMPs will be implemented to prevent contaminants from migrating into groundwater or surface waters.*
  - *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 173-200 WAC, Chapter 173-201A WAC, Chapter 173-201A-240(5)(b) WAC, and Chapter 173-204-400(2), and Chapter 173-225-010 WAC.*
4. 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.*
5. Dredged material shall not be temporarily or permanently stockpiled below the OHWM.
- *Justification - Stockpiles below the OHWM 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.*

6. All debris larger than two (2) feet in any dimension shall be removed from the dredged sediment prior to disposal at the open water site. Similar-sized debris floating in the dredging or disposal area shall be removed.
  - *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.*
  
7. A pre-dredge meeting is required to be convened prior to the start of dredging. A **Dredging and Disposal Workplan** (Workplan) shall be submitted to Ecology per Condition A2 two weeks prior to the pre-dredge meeting. The Dredging and Disposal Workplan (Workplan) shall include the following:
  - a. General information including schedule, primary contact, and hours of operation
  - b. Dredged quantities and disposal location, including any upland locations.
  - c. Dredging procedures and sequence
  - d. Equipment list
  - e. A description of the BMPs to be used for dredging, dewatering, transloading, and disposal.
    - *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. Ecology has reviewed the project and the BMPs prior to the contractor being brought on board, therefore we need to obtain specific information regarding dredging and disposal plan to ensure that the specific type of dredging, disposal technique and disposal location within the Workplan. This information will allow Ecology to ensure the project will comply with water quality standards. Also, if there have been major changes to the original proposed dredging and disposal, 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.

8. Only approximately 53,890 cubic yards of dredged material is allowed each maintenance dredge every three months and disposed at the Port Gardner open water disposal site of approximately 53,890 cubic yards.
  - *Justification - The volume of material is limited to what was characterized under the DMMP process.*
  - *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.*
9. 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.*
10. 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.*

#### **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-30-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, and Chapter 173-303-45 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 Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2). More information is available at [www.eluho.wa.gov/content/11](http://www.eluho.wa.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 Chapter 43.21B RCW and Chapter 371-08 WAC.

### **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**

##### **E-mail 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 98503

## Contact Information

Please direct all questions about this WQC Order to:

Loree' Randall  
Department of Ecology  
(360) 485-2796  
Loree.randall@ecy.wa.gov

## More Information

- **Pollution Control Hearings Board Website**  
<http://www.eluho.wa.gov/content/11>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice and Procedure**  
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 WAC – Sediment Management Standards**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

WQC Order No. 21419, Corps No. 202100485

Aquatics No. 141386

November 4, 2022

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**SIGNATURE**

Dated this 4th day of November 2022 at the Department of Ecology, Olympia, Washington



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

