



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

February 9, 2023

U.S. Army Corps of Engineers, Portland District
ATTN: Elizabeth Santana
PO Box 2946
Portland, OR 97208-2946

Re: Water Quality Certification Order No. **21474** Mouth of the Columbia River (MCR) Channel
Maintenance Dredging, Pacific County, Washington

Dear Elizabeth Santana:

On March 10, 2022, U.S. Army Corps of Engineers, Portland District submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Mouth of the Columbia River (MCR) Channel Maintenance Dredging, 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 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 or loree.randall@ecy.wa.gov. The enclosed WQC Order may be appealed by following the procedures described within.

Mouth of the Columbia River (MCR) Channel Maintenance Dredging
WQC Order No. 21474, Aquatics ID No. 130346
February 9, 2023
Page 2 of 2

Sincerely,



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

By certified mail: 9489 0090 0027 6383 9285 24

Sent via e-mail: Elizabeth.A.Santana@usace.army.mil

Enclosure

E-cc: Lauren Bauernschmidt, WDFW
Jeff Brittain, DEQ
Jay Carmony, Parks
Loree' Randall, Ecology
ECYREFEDPERMITS@ecy.wa.gov

IN THE MATTER OF GRANTING A WATER)	WQC ORDER No. 21474
QUALITY CERTIFICATION TO)	<i>Mouth of the Columbia River (MCR) Channel</i>
U.S. Army Corps of Engineers, Portland)	<i>Maintenance Dredging (RM -3 to +3) located in</i>
District)	<i>Pacific County, Washington.</i>
pursuant to 33 U.S.C. 1341 (FWPCA)	
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

U.S Army Corps of Engineers, Portland District
Attn: Elizabeth Santana
PO Box 2946
Portland, OR 97208-2946

The U.S. Army Corps of Engineers, Portland District submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act to the Department of Ecology (Ecology) for the Mouth of the Columbia River (MCR) Channel Maintenance, Pacific County, Washington. The following processing dates are referenced below:

- On March 10, 2022, Ecology received a request for Clean Water Section 401 Water Quality Certification
- On April 18, 2022, Ecology issued a public notice for the project.

The project proposes to continue maintenance dredging of the Mouth of the Columbia River (MCR) federal navigation channel from river mile (RM) -3.0 to RM +3.0. An average volume of four (4) to five (5) million cubic yards of sediment is dredged every year from the shoals that reoccur at several locations in the entrance reach. The entrance reach will be dredged to the authorized depth of -55 and -48 feet CRD (plus up to 5 feet of advanced maintenance dredging) and an authorized width of 2640 feet.

Dredge material is proposed to be disposed at the following authorized in water disposal sites:

- North Jetty Site
- Shallow Water Site
- Deepwater Site
- North Head Placement Site
- South Jetty Nearshore Site in Oregon

The Corps is proposing to add an additional placement site for permanent use called the Benson Beach Placement Site, and placement of a cobble berm at the root of the MCR North Jetty. The Benson Beach Placement is a beneficial use placement site where material would be placed along Benson Beach from

+4 Mean Lower Low Water (MLLW) to +12 MLLW. Approximately 75 percent of material is expected to remain within the placement site. The Corps anticipates that the majority of the 25 percent of material that leaves the placement site will settle in the WA Littoral Drift zone.

The Corps is also proposing to create a cobble berm site by placing approximately 4,000 to 40,000 cubic yards of cobble at the North Jetty root to fortify the toe of the foredune with the goal of improving the foreshore fronting to resist wave induced erosion and recession.

The construction of the berm will be completed in 1 to 4 weeks and the constructed template crest would be 5 to 15 feet (ft) above the current beach grade depending on season and location of cobble berm. Additionally, the cobble will not extend below Mean High Water Line. Expected cobble berm toe elevation is 9.0 -to 12.0 ft Mean Low Water Line. An additional layer of sand may be placed over this berm, or natural accretion may facilitate sand recruitment after construction. Cobble material would be used from upland sources and placed using trucks and bulldozers. The material would be transported through Cape Disappointment State Park to a beach access point at the project site.

Construction is estimated to be completed this summer or fall. The base of the cobble berm will be built to 3 to 6 ft. below existing beach grade. Some sand will be excavated for placement of the cobble berm. Sand will also be used to backfill the berm to prevent any land sliding at the location. Any leftover materials will be used to cover the berm and placed on the upland beaches.

The project site is located at 46.2504 N and -124.0934 W, Columbia River, Pacific County, Washington, 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 Order (WQC Order), Ecology is granting with conditions U.S. Army Corps of Engineers, Portland District's request for a Section 401 Water Quality Certification for the Mouth of the Columbia River (MCR) Maintenance Dredging, located in Pacific County. Ecology has determined that the proposed discharges will comply with all applicable state water quality and other appropriate requirements of State law, provided the project is conducted in accordance with the WQC request that Ecology received on March 10, 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 and Date	Author
3/10/2022	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA (March 10, 2022)	U.S. Army Corps of Engineers, Portland District
3/10/2022	Drawings	MCR Project Map, Benson Beach Site Plan Maps & Wetlands Map	U.S. Army Corps of Engineers, Portland District
3/10/2022	NMFS Biological Assessment	Reinitiation of Endangered Species Act Section 7 Formal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for the Columbia River to Bonneville Dam, Oregon and Washington (July 11, 2012)	National Marine Fisheries Service
3/10/2022	Water Quality Monitoring Plan	Water Quality Monitoring Plan Hopper Dredging and Placement Columbia River Federal Navigation Channel (RM -3 to 145)	U.S. Army Corps of Engineers, Portland District

Date Received	Document Type	Title and Date	Author
3/10/2022	Regional Sediment Management Plan	Mouth of the Columbia River Regional Sediment Management Plan (August 2011)	Oregon Solutions, Cogan Owens Cogan, Institute for Natural Resources
3/10/2022	Suitability Determination	U.S. Army Corps of Engineers-Portland District, Operations Divisions, Channels and Harbors, Waterways Maintenance Section, Mouth of the Columbia River Federal Navigation Channel (October 10, 2019)	Portland Sediment Evaluation Team (PSET)
January 17, 2023	Advisory HPA	WDFW Advisory HPA (January 13, 2023)	Washington State Department of Fish and Wildlife

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize U.S. Army Corps of Engineers, Portland District 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) or other appropriate requirements of State law. Furthermore, nothing in this Section 401 Water Quality Certification absolves the U.S. Army Corps of Engineers, Portland District 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

Specific condition justifications and citations are provided below each condition in *italic text*.

A. General Conditions

1. In this WQC Order, the term “Project Proponent” shall mean the U.S. Army Corps of Engineers, Portland District 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, RCW 90.48.080, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, Chapter 173-201A WAC, and WAC 173-225-010.*
2. All submittals required by this WQC Order shall be sent to Ecology's Headquarters Office, Attn: Federal Permit Manager, via e-mail to fednotification@ecy.wa.gov and cc to Loree.Randall@ecy.wa.gov. The submittals shall be identified with WQC Order No. 21474 and include the Project Proponent's name, project name, project contact, and the contact phone number.
- *Justification - Ecology needs to identify where information and submittals are to be submitted to be in compliance with the requirements of this WQC Order.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.120, RCW 90.48.260, Chapter 173-201A WAC, and WAC 173-225-010.*
3. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on March 10, 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 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 and may require a new WQC request.*
 - *Citation - 40 CFR 121.5, 40 CFR 121.10, 40 CFR 121.11, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, Chapter 173-201A WAC, Chapter 173-204 WAC, and WAC 173-225-010.*
4. The Project Proponent shall keep copies of this WQC Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
- *Justification - All parties (including on-site contractors) must be aware of and comply with the WQC Order for the protection of water quality.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.*

5. The Project Proponent shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, and/or necessary data collection, to ensure that conditions of this WQC Order are being met.
 - *Justification - Ecology must be able to investigate and inspect construction sites and facilities for compliance with all state rules and laws.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.090, RCW 90.48.120, Chapter 173-201A WAC, and WAC 173-225-010.*
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, Ecology is certifying the project as proposed will not negatively impact state water quality and will comply with the state's water quality requirements. Therefore, it is imperative the project is conducted as it was presented during the review process, and as conditioned herein.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300(2)(e)(i), WAC 173-201A-310, WAC 173-204-120, and WAC 173-225-010.*
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 and the conditions of 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. Ecology has independent state authority to ensure protection of state water quality. Civil penalties and other enforcement actions are the primary means of securing compliance with water quality requirements.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.037, RCW 90.48.080, RCW 90.48.120, RCW 90.48.140, RCW 90.48.142, RCW 90.48.144, and WAC 173-225-010.*
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 and has independent state authority to ensure protection of state water quality. In order to ensure the project will comply with water quality standards in the event of any major changes, Ecology must be able to review the scope of work involved in the construction and operation of the project, otherwise all work must stop and a new 401 certification pre-filing meeting, followed by a new WQC request (after requisite 30-days) is required.*
- *Citation - 40 CFR 121.1(k) and (n), 40 CFR 121.3, 40 CFR 121.5, 40 CFR 121.11, Chapter 90.48 RCW, and Chapter 173-201 WAC.*

B. Notification and Reporting Requirements

1. The following notifications 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. and include the Project Proponent name, project name, project location, project contact and the 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 annual pre-dredge meetings;
 - c. At least fourteen (14) days prior to the scheduled start of the dredging in any year; and
 - d. Within seven (7) days of completion of each dredging cycle.
 - *Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must be aware of when a project starts and ends and whether there are any issues. This allows Ecology to evaluate compliance with the state water quality requirements.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, Chapter 173-201A WAC, WAC 173-201A-300 - 330, Chapter 173-204 WAC, and WAC 173-225-010.*
2. In addition to the phone or e-mail notification required under B.1.a. above, the Project Proponent shall submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

- *Justification - Ecology has independent state authority to ensure protection of state water quality. This condition is intended to assure the Project Proponent remains in full compliance with state water quality requirements for the duration of the project.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.120, Chapter 173-201A WAC, and WAC 173-225-010.*
3. At least seven (7) days prior to dredging and disposal activities the Project Proponent must notify crab fisherman, in the area, of the upcoming dredging and disposal to allow them to remove crab gear from the disposal areas.
- *Justification - This condition allows for crab pots to be removed from the area, so that they are not abandoned or buried which could harm fish or other aquatic species.*
 - *Citation - Chapter 77.55 RCW, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300, WAC 173-201A-330, WAC 173-225-010, and Chapter 220-660 WAC.*
4. Prior to each dredging cycle, the Project Proponent shall contact the PSET agencies to determine whether additional sediment testing is required. If additional testing is required, no dredging or disposal shall be conducted until the material has been tested and a suitability determination has been issued. This area ranks “very low” in potential for contamination and the recency determination extends through June 2029. Contact the PSET for a possible extension on this suitability determination prior to June 2029.
- *Justification - The PSET process confirms that material is suitable for in-water disposal and that the project meets state anti-degradation regulations.*
 - *Citation - Chapter 173-201A WAC, Chapter 173-201A-230 WAC, WAC 173-201A-240(1), WAC 173-201A-240(2), Chapter 173-204 WAC, WAC 173-204-110-120, WAC 173-204-400(2), WAC 173-204-410(7), WAC 173-204-350(d), and Chapter 173-225 WAC.*
5. The Project Proponent shall convene a meeting with interested stakeholders to discuss material placement and monitoring at Benson Beach Placement Site and the cobble berm site at the root of the MCR Jetty at least 60 days prior to placement of any material at these locations. Interested stakeholders should include but are not limited to the Washington Department of Fish and Wildlife, State Parks and the Lower Columbia Solutions Group.
- *Justification - Ecology needs to meet with the Project Proponent and other interested parties to go over the work plan prior start of work to ensure that the plan reflects the project that has been reviewed and authorized by this WQC Order. This condition is intended to assure*

the Project Proponent remains in full compliance with state water quality requirements for the duration of the project.

- *Citation - Chapter 70A-200 RCW, Chapter 77.55 RCW, RCW 79.02.300, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, RCW 90.52-040, RCW 90.54.020(2)(b), Chapter 173-201A WAC, WAC 173-201A-240(5)(b), WAC 173-201A-300, WAC 173-201A-330, WAC 173-204-400(2), WAC 173-225-010, and Chapter 220-660 WAC.*
6. The Corps shall continue to cooperate with Ecology, and other Washington and Oregon state resource agencies to implement an integrated Regional Sediment Management plan. The plan shall optimize management and beneficial re-use of materials from the Columbia River system, with particular emphasis on avoiding loss of sand from the littoral system and resultant coastal erosion, and protection beneficial uses, including the Dungeness crab fishery.
- *Justification – The Regional Sediment Management plan is used to manage the dredged material to ensure that the material is use beneficially, the beneficial uses are protected and is conducted in compliance with state water quality requirements.*
 - *Citation - Chapter 70A-200 RCW, Chapter 77.55 RCW, RCW 79.02.300, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, RCW 90.52-040, RCW 90.54.020(2)(b), Chapter 173-201A WAC, WAC 173-201A-240(5)(b), WAC 173-201A-300, WAC 173-201A-330, WAC 173-204-400(2), WAC 173-225-010, and Chapter 220-660 WAC.*
7. The Corps shall submit a draft Annual Use Plan (AUP) to Ecology for review and comment at least 30 days prior to dredging and disposal. The Corps shall include for each proposed disposal site a section detailing proposed thresholds (e.g., maximum accumulation, weather conditions, coordination protocols, time of year, etc.) with anticipated management responses if any given threshold is likely to be or had been reached. If the draft plan is modified prior to starting dredging and disposal the Corps shall prepare and submit a final AUP to Ecology for its review.
- *Justification - This condition is necessary to ensure that the dredging and disposal are conducted to protect water quality and beneficial uses. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

C. Timing Requirements

1. This WQC Order will expire February 9, 2033.

- *Justification - Ecology needs to be able to specify how long the WQC Order will be in effect.*
 - *Citation - Chapter 90.48 RCW, Chapter 173-201A WAC, and WAC 173-225-010.*
2. Dredging and disposal shall occur from June 1st through November 30th of any year, unless otherwise identified within the water quality monitoring plan for the project.
- *Justification - This condition is reaffirming the project will take place during a time period that will not harm fish or other aquatic species.*
 - *Citation - Chapter 77.55 RCW, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300, WAC 173-201A-330, WAC 173-225-010, and Chapter 220-660 WAC.*

D. Water Quality Monitoring and Other Monitoring Requirements

1. The Project Proponent shall conduct water quality monitoring as described in the approved Water Quality Monitoring Plan Hopper Dredging and Placement Columbia River Federal Navigation Channel (RM -3 to 145), 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 prevent 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 WAC 173-225-010.*
2. The Project Proponent shall revise the Water Quality Monitoring Plan Hopper Dredging and Placement Columbia River Federal Navigation Channel (RM -3 to 145) (Plan), identified in Table 1, to be consistent with the conditions of this WQC Order. The revised Plan shall be submitted to Ecology's Federal Permit Manager (per Condition A.2 of this Order) **for review** at least 30 days prior to beginning any work covered by this WQC Order.
- *Justification - This condition is necessary to ensure that the monitoring and BMPs that are proposed by the Project Proponent and authorized by Ecology are conducted to protect water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*

3. Visible turbidity anywhere beyond the point of compliance 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 prevent exceedances of the water quality standards that protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
4. If water quality exceedances for turbidity are observed outside the point of compliance, the Project Proponent or the contractor shall assess the cause of the water quality problem and correct the problem and prevent further water quality turbidity exceedances. Additionally, the Project Proponent must implement the Section B - Compliance and Section C - Activity Modifications and Stopping activity requirements of the WQMP.
 - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and prevent exceedances of the water quality standards that protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
5. Water quality monitoring results shall be submitted to Ecology's Federal Permit Manager upon request, per condition A.2.
 - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and prevent exceedances of the water quality standards that protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
6. Bathymetric surveys at the Shallow Water Site, the North Jetty site, and the North Head Nearshore site shall be conducted (a) pre-disposal, (b) twice a month during the dredging season, (if weather and tides present safety problems, then a survey should be conducted at least monthly), and (c) once post-disposal. During the dredging season, the survey frequency may be increased, if necessary, to ensure the accumulation thresholds identified in the Annual Use Plan (AUP) are not exceeded. These surveys shall be submitted to Ecology upon request. If the Corps posts the information on a web site instead of sending hard copies, the Corps shall notify Ecology via email.

- *Justification - This condition is necessary to ensure that the dredging and disposal are conducted to protect water quality and beneficial uses. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
7. Daily records shall be generated detailing the amount of material dumped, the geographic locations given to the dredges for disposal areas and the GPS coordinates (or other approved location information) of actual dumps performed by the dredges. These reports shall be transmitted electronically to Ecology upon request.
- *Justification - Ecology must be aware of where and when dredge material is placed if there are any issues that comes up. This allows Ecology to evaluate compliance with the state water quality requirements and conditions of this WQC Order.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, Chapter 173-201A WAC, WAC 173-201A-300 - 330, Chapter 173-204 WAC, and WAC 173-225-010.*

E. Dredging and Disposal Conditions

1. Dredging operations shall be conducted in a manner that minimizes the disturbance or siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into waters of the State.
 - *Justification – Dredging operations 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. Hopper and pipeline dredges shall be operated with in the intake at or below the surface of the sediments being removed during all periods of operation. Reverse purging of the intake line shall be held to an absolute minimum. Should purging be necessary, the intake line shall be raised no more than three (3) feet above the bottom.

- *Justification – Dredging operations 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.*
3. The dragheads on a hopper dredge shall be lowered to at least twenty (2) feet below the surface of the river if water is pumped through the dragheads to flush out the hopper bins.
- *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. Re-dredging of materials is not authorized by this Order. Should mounding or other circumstances make it necessary to re-dredge materials from an approved in-water disposal site, the Corps shall request a separate Section 401 Certification from Ecology for that activity.
- *Justification - Ecology has reviewed the project specific type of dredging and disposal sites. Changes to the dredging method or disposal would require different BMPs and monitoring. 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, RCW 90.48.030, RCW 90.48.080, 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 WAC 173-225-010.*
5. In order to maximize retention of sand in the littoral system for beneficial uses, dredged materials shall be placed within the existing disposal sites (North Jetty and Shallow Water) and at other approved nearshore sites, which are considered dispersive in nature and have the ability to provide materials to the littoral system; unless the use of a site would result in an unacceptable risk to navigational safety.
- *Justification - Ecology has reviewed the project and disposal sites to ensure that the material would be used beneficially and will meet the state water quality standards.*

- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, 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 WAC 173-225-010.*
6. Disposal of materials in the Deepwater Site constitutes a wasting of the littoral sand resource. Therefore, the Corps shall only use the proposed Deepwater Site as a contingency site for the disposal of MCR dredged materials where a determination has been made that use of the other authorized sites would result in unacceptable risk to navigational safety.
- *Justification - Ecology has reviewed the project and disposal sites to ensure that the material would be used beneficially and will meet the state water quality standards.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, 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 WAC 173-225-010.*

F. Cobble Berm Construction 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 BMPs 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. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
 - *Justification - Ensures that the project proponent preserves sensitive areas from discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*

- *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
3. 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, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.*
4. Project Proponent shall ensure that the rock berm is built using angular material or clean, rounded cobble and does not contain toxic materials.
- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300-330, WAC 173-204-120, and WAC 173-225-010.*

G. 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, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.*
2. The Project Proponent shall have adequate and appropriate spill response and cleanup materials available on site to respond to any release of petroleum products or any other material into waters of the state.

- *Justification - Ecology must have assurance that the Project Proponent has the material readily available in WQC Order to address any spills that might occur to protect waters of the state. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.*
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.*
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 and Wildlife with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems.

- e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
 - *Justification - This condition is necessary to prevent oil and hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.*
5. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g., drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.
 - *Justification - Oil and hazardous materials spills cause environmental damage. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.*

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.

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>

Signature

Dated this 9th day of February 2023 at the Department of Ecology, Lacey, Washington



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