



**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

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

March 2, 2023

Washington State Ferries
ATTN: Kevin Bartoy, Chief Sustainability Officer
2901 3rd Ave Suite 500
Seattle, WA 98121-1042

Re: Amendment to 401 Water Quality Certification Order No. 14047 for U.S. Army Corps of Engineers Reference No. NWS-2011-242-DOT, Seattle Multimodal at Colman Dock on Elliot Bay in Seattle, King County, Washington

Dear Kevin Bartoy:

Enclosed is an amendment to Water Quality Certification Order No. 14047, issued on March 6, 2017, for the above project. We have also included a strikeout version of the Water Quality Certification that reflects the changes made. All other conditions of Water Quality Certification Order No. 14047 remain in effect.

The purpose of this amendment is to provide more time allowing the contractor to finish building the vehicle transfer span for span 3 of the new Colman Dock terminal. The amendment will extend Condition C.1 and allow the work to continue until July 25, 2025.

If you have any questions, please contact Penny Kelley at 360-280-8856. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

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

By certified mail 9489 0090 0027 6383 9289 75

Sent via e-mail: BartoyK@wsdot.wa.gov

Enclosure

1st Amendment to WQC Order No. 14047
Aquatics ID No. 135315, Corps No. NWS-2011-242-DOT
March 2, 2023
Page 2 of 2

E-cc: Marsha Tolon, WSF
Laura Arber, WA DFW
Michael MacDonald, NMFS
Penny Kelley, Ecology
Loree' Randall, Ecology
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A WATER) WQC ORDER No. 14047, 1st Amendment
QUALITY CERTIFICATION TO) Corps Reference No. NWS-2011-242-DOT
Washington State Ferries)
In accordance with 33U.S.C. 1341)
(FWPCA §401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

Washington State Ferries
Attn: Kevin Bartoy, Chief Sustainability Officer
2901 3rd Ave Suite 500
Seattle, WA 98121-1042

On March 6, 2017, the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to Washington State Ferries (WSF) for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request on December 13, 2022, to extend the expiration date of Section 401 Certification to allow WSF to complete construction of the vehicle transfer span for Slip 3 of the new terminal.

WQC Order No. 14047 dated March 6, 2017, is hereby amended as follows:

I. Condition number C.1 which reads:

1. This Order will expire six (6) years from the date of issuance of the Corps permit.

Is replaced with:

1. This Order will expire eight (8) years from the date of issuance of the Corps permit.

No other conditions or requirements of the above referenced Order are affected by this amendment.

Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

Failure to comply with this amended Order may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this amended Order.

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://elaho.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 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 -355. “Notice of appeal” is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this Order on the Department of Ecology in paper form, by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in RCW 43.21B and WAC 371-08.

Filing an appeal with the PCHB:

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

Filing by mail

Mailing Address:

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

Filing in person (or by certified mail/courier)

Street Address:

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

Filing electronically

Email Address:

Pchb-shbappeals@eluhwa.gov

Serving a copy of the appeal on Ecology:

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

Filing by mail

Mailing Address:

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

Filing in person (or by certified mail/courier)

Street Address:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Contact Information


Please direct all questions about this WQC Order to:

Penny Kelley
Department of Ecology
Headquarters
PO Box 47600
Olympia, WA 98504-7600
360-280-8856
penny.kelley@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>

Signature



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

March 2, 2023

This document shows the conditions that have been amended since the original WQC Order was issued. Therefore, it is not the official certification and should be used for information purposes only.

IN THE MATTER OF GRANTING A)	ORDER # 14047, 1st Amendment
WATER QUALITY)	Corps Reference No. NWS-2011-242-DOT
CERTIFICATION TO)	Replace and reconfigure Coleman dock to
WA State Ferries)	improve passenger access and safety. The
in accordance with 33 U.S.C. 1341)	project is located in City of Seattle on Elliot Bay,
(FWPCA § 401), RCW 90.48.120, RCW)	Puget Sound in King County, Washington.
90.48.260 and Chapter 173-201A WAC)	

Washington State Ferries
Attn: Nicole McIntosh
2901 3rd Ave, Suite 500
Seattle, WA 98121-1042

On April 18, 2016, Ecology received a Joint Aquatic Resources Permit Application (JARPA) from Washington State Ferries requesting a 401 Water Quality Certification (WQC). The U.S. Army Corps of Engineers (Corps) issued a public notice for the project on June 10, 2016.

The Washington State Ferries (WSF) will be replacing and reconfiguring the Coleman Dock to improve passenger access and safety. The project will be constructed in phases. Portions of the existing dock will be removed or replaced on the north end while additional new area will be added to the south end. Pedestrian and car access will be reconfigured to improve loading and safety. Specific project elements include:

- Permanently remove part of the existing timber trestle and creosote piles on the north end of the dock.
- Remove a bulkhead and fill associated with the section of timber trestle being permanently removed.
- Replace the remaining timber trestle and creosote piles with a new concrete trestle using steel piles.
- Reconfigure the dock on the south end by adding on a section of new concrete trestle.
- Relocate the King County passenger only ferry which consists of float and gangway, also located on the south end of the dock.
- Demolish the existing terminal building and replace with a new building.
- Replace the vehicle transfer span and overhead loading structures of Slip 3 which includes installing new hydraulic systems.
- Remove the existing timber wingwalls and replace with two inner steel dolphins between Slips 2 and 3.
- Place a sediment cap to the north and south of the existing sediment cap to contain existing contamination.

The project will result in an increase in overwater coverage from the reconfiguration of the dock. As mitigation for this increase, WSF is proposing to remove an equivalent area of overwater coverage at Pier 48 which is located approximately 200 feet directly to the south.

The project is located in downtown City of Seattle, water ward of Alaskan Way between Madison Street and Yesler Avenue on Elliot Bay, Puget Sound.

Section 6 T24N R4E
WRIA 9 – Duwamish-Green

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this application 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 (FWPCA §§ 301, 302, 303, 306 and 307);
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.

WATER QUALITY CERTIFICATION CONDITIONS

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will comply with applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize WSDOT 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 certification absolves WSDOT from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments resulting from project construction or operations.

A. General Conditions

1. In this Order, the term “Applicant” shall mean the Washington State Ferries and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to Ecology’s Headquarters Office, Attn: Federal Project Coordinator, P.O. Box 47600, Olympia, WA 98504 or via e-mail

(preferred), if possible, to the Coordinator assigned to this project. The submittals shall be identified with Order No. 14047 and include the Applicant's name, project name, project location, the project contact and the contact's phone number.

3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on April 18, 2016. The Applicant will be out of compliance with this Order and must submit an updated JARPA if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
4. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
5. This Order shall be rescinded if the Corps does not issue an individual Section 404 permit.
6. The Applicant shall send (per A.2.) a copy of the final individual Section 404 permit to Ecology's Federal Project Coordinator within two weeks of receiving it.
7. The Applicant shall keep copies of this 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.
8. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
10. The Applicant 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 Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each signatory that s/he has read and understands the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins.
11. This 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 Order.

12. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

B. Notification Requirements

1. Notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Project Coordinator. Notifications shall be identified with Order No. 14047 and include the Applicants name, project name, project location, project contact and the contact's phone number.
 - a. Immediately following a violation of state water quality standards, spill to waters of the state or when the project is out of compliance with any of this Orders conditions.
 - i. In addition to the phone or e-mail notification, the Applicant 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.
 - 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 for each in-water work window established in the most current HPA.
 - d. At least seven (7) days within project completion.

C. Timing

- ~~1. This Order will expire six (6) years from the date of issuance of the Corps permit.~~
1. This Order will expire eight (8) years from the date of issuance of the Corps permit.
2. In-water work is subject to a fishery closure window starting August 1, 2017 through February 15, 2018 as determined by Washington Department of Fish & Wildlife's Hydraulic Project Approval (HPA). All in-water work shall be completed within the work window identified in the most current HPA issued for this project unless otherwise authorized by Ecology.

D. Water Quality Monitoring & Criteria

1. Elliot Bay is categorized as excellent and the criteria of the categorization apply as described in WAC 173-201A-210 (1), except as specifically modified by this Order.
2. This Order authorizes a temporary turbidity mixing zone of 300 radial feet when using a conveyor belt to place sediments for the purpose of capping contaminated areas within the project limits.

3. The Applicant shall submit a Water Quality Monitoring and Protection Plan (WQMPP) to the Federal Project Coordinator for review and approval at least 20 days prior to beginning work for each activity below the ordinary high water line (OHWL), in-water and over-water. **Work is not authorized to begin until approval is received.** At a minimum, the WQMPP shall include:
 - a. The names(s) and phone numbers (s) of the Pollution control inspector and the person responsible for on-site monitoring and report;
 - b. The BMPs and procedures to be used to protect water quality during specific proposed below the ordinary high water mark, in-water and over-water activities;
 - c. A water sampling plan for turbidity and pH, which include sample locations and frequency;
 - d. Sampling locations for turbidity shall include, but are not limited to; background, half the distance to the point of compliance and at the point of compliance, unless otherwise approved by Ecology.
 - e. A map with numbered or named sampling locations associated with the in-water work activities.
 - f. Contingencies during in-water work activities
4. Any changes or additions to the WQMPP must be approved, in writing by Ecology prior to implementing the changes.
5. Monitoring results shall be submitted monthly to the Ecology Federal Project Coordinator, per condition A.2.
6. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

E. Construction

General Conditions

1. 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.
2. The area of excavation behind the bulkhead within the project boundaries shall not be dewatered directly to Elliot Bay. Any dewatering water from excavation work in this location shall be contained and disposed of appropriately in an upland location.
3. Material for a sediment cap shall be placed in such a manner as to minimize turbidity.
4. Staging areas shall for each phase of construction shall clearly be marked and maintained until all work is completed for each phase.
5. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.

6. All equipment being used below the ordinary high water mark shall utilize bio-degradable hydraulic fluid.

Equipment & Maintenance

7. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the state. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state.
8. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order or allowed in the HPA.
9. Secondary containment and/or absorbent material shall be placed under any equipment staged over water, such as cranes, when equipment is not in use to prevent spills into state waters.
10. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
11. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.
12. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash-out of concrete delivery trucks, pumping equipment, and tools.

Barges

13. If barges are used to transport construction materials and/or demolition debris, temporarily store and stockpile materials, temporarily store and/or transport liquid or sediment removed behind the existing bulkhead, from drilled shafts construction or from removing piles, the work surface of the barge deck shall include containment to prevent any discharges to waters of the state.
14. Barges shall not be allowed to ground-out during in-water construction.
15. Barges shall be swept, as necessary, and kept free of material that could be blown into water.

Concrete Work & Drilled Shafts

16. All forms for concrete shall be completely sealed to prevent the possibility of fresh concrete entering waters of the state.
17. All concrete shall be completely cured prior to coming into contact with water.

18. Concrete process water shall not enter waters of the state. Any concrete process/contact water discharged from a confined area with curing concrete shall be routed to upland areas to be treated and disposed of appropriately with no possible entry to state waters.
19. Concrete Delivery systems situated over water shall be inspected daily to prevent any discharges of concrete and/or slurry water into waters of the state.
20. If synthetic or mineral slurries are used in the drilled shafts, the slurry water (process water) shall not be discharged to waters of the state or infiltrated in upland areas. The slurry shall be contained and disposed of at an approved site and the Applicant notify Ecology on the location of the disposal site.
21. Installation and removal of coffer dams shall be done in a manner that minimizes the disturbance of in place sediments.
22. All excavated sediment from drilled shaft work shall be disposed upland in an approved disposal site.

Ferry Terminal Demolition

23. No structural material may enter water of the state during ferry terminal demolition activities.
24. Incidental debris from demolition activities shall be removed from waters of the state.
25. The Applicant shall have a boat available on site to retrieve debris from the water.
26. When necessary, equipment may operate below the OHWL, provided the work is consistent with the project's most recent HPA.
27. If demolition activities require saw cutting of infrastructure to facilitate removal, all saw cut water and debris generated from cutting activities that occur above water shall be contained and disposed of appropriately with no possible entry to waters of the state.

Dolphin Removal or Removal of Creosote Piles

28. No hydraulic jetting devices shall be used to move sediment away from piles if they need to be cut below the mudline.
29. Piles shall be slowly removed to minimize turbidity to the extent practicable.
30. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.
31. 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.

32. During pile removal, containment booms and absorbent sausage booms shall be placed around the perimeter of the work area to capture wood debris, oil, and other materials from being released into marine waters.
33. Debris contained within the boom shall be removed at the end of each work day.
34. All excavated piles and debris that are collected shall be disposed upland in an approved disposal site.
35. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris at an approved upland disposal site.
36. Water left in the containment on the barge shall not be discharged into waters of the state.

F. Operations

37. The Applicant shall comply with the conditions of the current Washington State Department of Transportation, National Pollutant Discharge Elimination System Waste Discharge Municipal Stormwater general permit.

G. Emergency/Contingency Measures

1. The Applicant shall develop and implement a spill prevention and containment plan for this project and shall have spill cleanup material available on site at all times during construction.
2. Work that is out of compliance with the provisions of this Order, conditions causing distressed or dying fish, 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 Applicant shall comply with WSDOT's most current Environmental Compliance Assurance Procedure for Construction Project and Activities, notify the Ecology Project Coordinator per condition B.1.a. 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/or 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 at 425-649-7000 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.
3. Notify Ecology's Regional Spill Response Office immediately at 425-649-7000 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.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

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

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Penny Kelley
Department of Ecology
P.O. Box 47600
Olympia, WA 98503-7600

360-407-7298
pkel461@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
www.eho.wa.gov/Boards_PCHB.aspx
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 Washington Administrative Code (WAC) Sediment Management Standards**
<http://www.ecy.wa.gov/biblio/wac173204.html>
- **Chapter 173-200 WAC Water Quality Standards for Ground Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173200.html>
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**
<http://www.ecy.wa.gov/biblio/wac173201A.html>

SIGNATURE

Dated this 6th day of March 2017 at the Department of Ecology, Lacey Washington

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