



**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

**Southwest Region Office**

**PO Box 47775, Olympia, WA 98504-7775 • 360-407-6300**

June 2, 2023

Port of Tacoma  
ATTN: Kristin Evered  
PO Box 1837  
Tacoma, WA 98401-1837

Re: Amendment to 401 Water Quality Certification Order No. 15819 for U.S. Army Corps of Engineers Reference No. NWS-2017-32-WRD, Stormwater Infrastructure Maintenance, ditches that drain directly or indirectly to Blair Waterway, Hylebos Waterway, Hylebos Creek, Wapato Creek, DD23 Ditch, Erdahl Ditch, and Lincoln Avenue Ditch, Tacoma, Pierce County, Washington

Dear Kristin Evered:

Enclosed is an amendment to Water Quality Certification Order No. 15819, issued on May 18, 2018, 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 No. 15819 remain in effect.

The purpose of this amendment is to update the project description and extending the Water Quality Certification to coincide with the Corps individual permit.

If you have any questions, please contact Loree' Randall at (360) 485-2796. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

A handwritten signature in blue ink, reading "Maria Sandercock".

Maria Sandercock, Section Manager  
Southwest Region Office  
Shorelands and Environmental Assistance Program

Enclosures

By certified mail: 9489 0090 0027 6094 0258 26

Sent via e-mail: [Kevered@portoftacoma.com](mailto:Kevered@portoftacoma.com)

WQC Order No. 15819, Corps No. NWS-2017-32-WRD

Aquatics ID No. 135497

June 2, 2023

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e-cc: Jacalen Printz, U.S. Army Corps of Engineers

Justine Barton, EPA

Kristine Koch, EPA

Loree' Randall, Ecology

Zach Meyer, Ecology

Anne Baxter, Ecology

Angela Vincent, Ecology

Andrew Smith, Ecology

[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)

In The Matter of Granting a Water Quality  
Certification to Port of Tacoma  
pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW  
90.48.260 and Chapter 173-201A WAC

Port of Tacoma  
Attn: Kristin Evered  
PO Box 1837  
Tacoma, WA 98401-1837

<b>WQC Order No.</b>	15819, First Amendment
<b>Corps Reference No.</b>	NWS-2017-32-WRD
<b>Site Location</b>	Stormwater Infrastructure Maintenance project located within stormwater ditches that drain directly or indirectly to Blair Waterway, Hylebos Waterway, Hylebos Creek, Wapato Creek, DD23 Ditch, Erdahl Ditch, and Lincoln Avenue Ditch within the Port of Tacoma tide flats, Pierce County, Washington.

On May 18, 2018, the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to Port of Tacoma for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request March 24, 2023, to update the project description and on May 19, 2023, Ecology received another request to extend the Water Quality Certification to coincide with the Corps individual permit.

Order No. 15819 dated May 18, 2018, is hereby amended as follows:

01. Paragraph five which reads:

The purpose of the proposal is to restore and maintain the functionality of the existing stormwater infrastructure on Port of Tacoma property.

Is replaced with:

The purpose of the proposal is to restore and maintain the functionality of the existing stormwater infrastructure on Port of Tacoma property. The Port of Tacoma will perform approximately 400 ft of maintenance in Parcel 88 North Ditch in 2023. The maintenance activities include removal of approximately 50 cubic yards of sediment and vegetation to reestablish the drainage pattern of the ditch.

02. Condition C reads:

This Order shall remain in effect for a period of five (5) years from the date of issuance. Continuing this project beyond the five (5) year term of this Order will require the Applicant to submit a request for an extension at least 60 days prior to the expiration of this Order.

Is replaced with:

This Order shall remain in effect to May 2, 2029.

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 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 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.wa.gov/content/11>

## Address and Location Information

### Street Addresses:

**Department of Ecology**

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

**Pollution Control Hearings Board**

1111 Israel RD SW  
STE 301  
Tumwater, WA 98501

### Mailing Addresses:

**Department of Ecology**

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

**Pollution Control Hearings Board**

PO Box 40903  
Olympia, WA 98504-0903

### E-Mail Address:

**Department of Ecology**

Not currently available (see Chapter 371-08 WAC)

**Pollution Control Hearings Board**

[Pchb-shbappeals@eluhwa.gov](mailto:Pchb-shbappeals@eluhwa.gov)

## Contact Information

Please direct all questions about this WQC Order to:

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

## More Information

- **Pollution Control Hearings Board Website**  
<http://www.eluhwa.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

Dated this 2nd day of June 2023, at the Department of Ecology, Lacey, Washington.



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Maria Sandercock, Section Manager  
Southwest Region Office  
Shorelands and Environmental Assistance Program

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

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 15819, First Amendment</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2017-32-WRD</b>
<b>CERTIFICATION TO</b>	)	Stormwater Infrastructure Maintenance Project,
<b>Port of Tacoma</b>	)	in stormwater ditches that drain directly or
in accordance with 33 U.S.C. 1341	)	indirectly to Blair Waterway, Hylebos
(FWPCA § 401), RCW 90.48.120, RCW	)	Waterway, Hylebos Creek, Wapato Creek, DD23
90.48.260 and Chapter 173-201A WAC	)	Ditch, Erdahl Ditch, and Lincoln Avenue Ditch
	)	within the Port of Tacoma tide flats, Pierce
	)	County, Washington

TO: Port of Tacoma  
ATTN: Ms. Jennifer Stebbings  
PO Box 1837  
Tacoma, WA 98401-1837

On March 7, 2017 the Port of Tacoma submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification (WQC). A revised JARPA was submitted to Ecology on April 7, 2017. The U.S. Army Corps of Engineers issued a joint public notice for the project pursuant to the provisions Chapter 173-225 WAC on May 22, 2017.

A request to withdraw and re-apply for a WQC was submitted to Ecology on April 2, 2018. Ecology issued a second public notice for the above-referenced project on April 13, 2018.

The proposed project entails the removal of sediment, debris, and vegetation within stormwater features located throughout the Port of Tacoma. Removal will be conducted either by hand or with motorized equipment such as a backhoe, tractor, or brush hog. Removed material will be segregated and tested for disposal at an approved upland facility.

Actual sediment quantities removed to maintain design capacity for each ditch will vary based on deposition rates. Stormwater features will not be enlarged or deepened.

The purpose of the proposal is to restore and maintain the functionality of the existing stormwater infrastructure on Port of Tacoma property. **The Port of Tacoma will perform approximately 400 ft of maintenance in Parcel 88 North Ditch in 2023. The maintenance activities include removal of approximately 50 cubic yards of sediment and vegetation to reestablish the drainage pattern of the ditch.**

The stormwater ditches drain directly or indirectly to the Blair and Hylebos Waterways, Hylebos Creek, Wapato Creek, DD23 Ditch, Erdahl Ditch, and Lincoln Avenue Ditch within the Port of Tacoma property, Pierce County, WA. Sections 26, 34, 35, 36, of Township 21 North, Range 3 East, and Sections 01, 02, 03 of township 20 North, Range 3 East, WRIA 10, Puyallup-White Watershed

## **AUTHORITIES:**

In exercising authority under 33 U.S.C. §1341, RCW 43.21C.060, and RCW 90.48.260, Ecology has examined 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. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 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 the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

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



1. For purposes of this Order, the term “Applicant” shall mean the Port of Tacoma and its agents, assignees and contractors.
2. All submittals required by this Order shall be sent to Ecology’s Southwest Regional Office, Attn: Federal Permit Manager, SEA Program, P.O. Box 47775, Olympia, WA 98504-7775 or via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) with a copy to [Lori.kingsbury@ecy.wa.gov](mailto:Lori.kingsbury@ecy.wa.gov). All submittals shall reference Order No. **15819** and Corps No. **NWS-2017-32-WRD** and include the Applicant name, project name, 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 7, 2017 and the Port’s Memo with supplemental information dated May 4, 2018.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that may affect water quality and are not authorized by this Order.
5. Within 30 days of receipt of 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.
6. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue a Section 404 permit.
7. Copies of this Order shall be kept 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 appropriate project engineers and contractors at the project site 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 project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permit, plans, documents, and approvals. These statements shall be provided to Ecology before construction begins at the project site.

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

**B. Water Quality Conditions:**

1. This Order does not authorize temporary turbidity exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i) and WAC 173-201A-200(1)(e).
2. The Applicant shall submit a Water Quality Monitoring and Protection Plan (WQMPP) to Ecology's Federal Permit Manager (per Condition A2, above) for **review and approval** at least 30 days prior to any work within ditches with surface water present or designated as yellow or red per the Port of Tacoma Memo dated May 4, 2018. Work is not authorized to begin until approval is received. The WQMPP shall include at a minimum, the following information:
  - a. The name(s) and contact information of the person or firm responsible for on-site monitoring and reporting;
  - b. The Best Management Practices (BMPs) and procedures to be used to protect water quality during the specific segments of work activities;
  - c. A water sampling plan for turbidity that includes the sampling method and frequency; and,
  - d. A contingency plan that includes the steps to be taken if monitoring results indicate that an exceedance has occurred.
3. Ecology must approve, in writing, any changes or additions to the WQMPP.
4. Results of the water quality monitoring shall be documented in a report and submitted weekly to the Federal Permit Manager per condition A.2. (Refer to Attachment B for an example.) The Report must include the following monitoring information: Date, time, monitoring location, turbidity observations, name of personnel doing the monitoring, and the weather conditions at the time of the monitoring.
5. If water quality exceedances are observed outside the point of compliance, work shall cease immediately and the Applicant or the contractor shall assess the cause of the water quality problem and take immediate action to stop, contain, correct the problem and prevent further water quality turbidity exceedances. If an exceedance occurs, the Applicant shall follow the procedures below:
  - a. Notification of exceedances: Notification of exceedances shall be made to Ecology within **24 hours of occurrence**. Notification shall be made with reference to Order # 15189, Attn: Federal Permit Manager by telephone at (360) 407-6926 or by e-mail at

[fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) with a copy to [Lori.kingsbuty@ecy.wa.gov](mailto:Lori.kingsbuty@ecy.wa.gov). The Applicant shall, at a minimum, provide Ecology with the following information:

- i. A description of the nature, extent, and cause of the exceedance;
  - ii. The period of non-compliance, including exact dates, duration, and times and/or anticipated time when the project will return to compliance;
  - iii. The steps taken, or to be taken to reduce, eliminate, and prevent a recurrence of the non-compliance; and,
  - iv. In addition, within five (5) days after the notification of the exceedance, the Applicant shall submit a written report to Ecology (per conditions A.2.) that describes the nature of the exceedance(s), corrective action taken and/or planned, steps taken to prevent a recurrence, photographs, and any other pertinent information.
- b. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

**C. Timing Requirements:**

~~This Order shall remain in effect for a period of five (5) years from the date of issuance. Continuing this project beyond the five (5) year term of this Order will require the Applicant to submit a request for an extension at least 60 days prior to the expiration of this Order.~~

~~This Order shall remain in effect to May 2, 2029.~~

**D. Notification Requirements:**

1. The Applicant shall provide a copy of the final Corps Permit to Ecology's Southwest Regional Office Federal Permit Manager (in accordance with Condition A.2, above) within two weeks of receipt of the permit.
2. Written notification (e-mail is preferred) shall be made to Ecology's Southwest Regional Office Federal Permit Manager in accordance with condition A2, above for the following activities:
  - a. Immediately following a violation of the state water quality standards or any condition of this Order.
  - b. At least ten (10) days prior to the onset of in-water work in each construction season.
  - c. At the beginning of each year and by no later than March 31, the applicant shall submit a Work Plan with associated SWPP(s) and map(s) of the proposed monitoring locations.
  - d. The Applicant shall provide an Annual Report by January 31 of the following year of the work conducted the previous year as outlined in the Port's Memo dated May 4, 2018.

**E. Project Specific Conditions:**

**General Construction**

1. Maintenance activities shall be conducted "in the dry" to the extent practicable.

2. Excavated sediments shall not be side cast into wetlands or along the banks of the watercourse.
3. All work in and near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMP's) suitable to prevent exceedances of state water quality standards shall be in place at before starting maintenance work and shall be maintained throughout the duration of the maintenance activity.
4. Within the project limits, all environmentally sensitive areas that are to be protected from disturbance shall be fenced with high visibility construction (HVF) prior to commencing construction activities. All project staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries.
5. The project shall be clearly marked/staked prior to commencing project activities on site. Clearing limits, travel corridors, stockpile sites, and staging areas shall be clearly marked and maintained until all work is completed. Equipment shall enter and operate within the marked clearing limits, corridors, and stockpile areas.
6. Staging areas will be located a minimum of 50 feet from waters of the state, including wetlands. If a staging area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation (with additional BMPs) and obtain approval from Ecology's Federal Permit Manager before placing the staging area within the setback area.
7. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands a minimum of 50 feet, and where practical, 100 feet, from waters of the state including wetlands, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.
8. No petroleum products, fresh concrete, lime, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
9. All equipment that will operate over or within waters of the state shall be free of external petroleum-based products. Accumulation of soils or debris shall be removed from the drive mechanisms and the undercarriage of equipment prior to use. Equipment shall be inspected daily for leaks, accumulation of grease, etc. Any identified problems shall be fixed before operating over or within waters of the state.
10. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working area shall not be discharged into state waters. The Applicant shall establish a separate, contained area for washing down vehicles and equipment that does not have any possibility of draining to surface waters and/or wetlands.
11. All construction debris, concrete waste material, excess sediment, and other solid waste shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.

**Potentially Contaminated Soils**

12. Contaminants may be present at the proposed project site. Material removed from ditches shall be segregated and sampled for constituents of concern.
13. If contamination is discovered, it must be reported to Ecology (per Condition A2, above). Contaminated soils or water may require special handling and/or disposal to avoid escaping dust, soil erosion, and water pollution during maintenance activities.
14. If contamination is currently known or observed during maintenance activities, sampling of the potentially contaminated media must be conducted. Protective measures to isolate or remove contaminated soils shall be implemented. Contaminated soils detected during maintenance activities shall be managed and disposed of in accordance with state and local regulations.
15. If a Phase II site assessment is required and contamination of the soil or groundwater is readily visible, or is revealed by sampling, Ecology must be notified per condition A.2. above.

#### **Temporary Diversion Structure and Dewatering**

16. Temporary cofferdams to divert water around the work area shall be in place prior to initiation of work within the wetted perimeter and shall remain in place until in-water work is completed and disturbed areas are stabilized.
17. The temporary diversion shall be of sufficient size, constructed of non-erosive materials, and installed to divert the entire flow through the bypass or around the isolated work area for the duration of the maintenance activity.
18. The diversion system shall be designed and operated so as not to cause erosion in the channel or on the bank of the waterbody in which the work is being conducted.
19. Prior to returning water flow to the work area, all bank protection measures shall be in place.
20. Re-introduction of water into the isolated work area shall be done gradually, and at a rate not higher than the normal flow, in order to minimize the mobilization of sediments and fines.
21. Upon completion of the maintenance activities, all material used for the temporary cofferdam and diversion shall be removed from the site.

#### **G. Emergency/Contingency Measures:**

1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project and shall have spill cleanup materials and an emergency call list available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or Operator shall immediately take the following actions:

- a. Cease operations that are causing the compliance problem.
  - 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 finding distressed or dying fish, the Applicant or Operator shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until instructed by Ecology on what to do with them. Ecology may require analysis of these samples before allowing the work to resume.
  - d. 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.
  - e. Immediately notify Ecology's 24-Hour Spill Response Team at 1-800-258-5990 **and** within 24 hours of spills or other events to Ecology's Federal Permit Manager at (360) 407-6926 or (360) 407-6300.
  - f. 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 taken to prevent recurrence, results from any samples taken, and any other pertinent information.
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.
  4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.