



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

June 5, 2023

Port of Grays Harbor
ATTN: Gary Nelson
111 S. Wooding Street
Aberdeen, WA 98520

Re: Water Quality Certification Order No. **21752** (Corps No. **202200379**), Haul Road
Emergency Bank Stabilization – Phase 2, Grays Harbor County, Washington

Dear Gary Nelson:

On February 6, 2023, the Port of Grays Harbor submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Haul Road Emergency Bank Stabilization-Phase 2, Grays Harbor County, 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 Lori White at (564) 669-1396. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Loree' Randall, Section Manager
Federal Permitting Section, HQ
Shorelands and Environmental Assistance Program

Enclosure (2)

By certified mail: 9489 0090 0027 6383 9286 30

WQC Order No. 21752, Corps No. 202200379

Aquatics ID No. 142205

June 5, 2023

Page 2 of 2

Sent via e-mail: gnelson@portgrays.org

E-cc: Brad Johnson, U.S. Army Corps of Engineers

Taya MacLean, Parametrix

Loree' Randall, Ecology

Lori White, Ecology

ECYREFEDPERMITS@ecy.wa.gov

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

Port of Grays Harbor
Attn: Gary Nelson
111 S. Wooding Street
Aberdeen, WA 98520

WQC Order No.	21752
Corps Reference No.	202200379
Site Location	Haul Road Emergency Bank Stabilization – Phase 2 is located within the Chehalis River, Montesano, Grays Harbor County, Washington.

The Port of Grays Harbor submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Haul Road Emergency Bank Stabilization – Phase 2 project, Grays Harbor County, Washington. The following required processing dates are listed below:

- On 11/23/2022, the Port of Grays Harbor submitted a pre-filing meeting request.
- On 2/6/2023, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 3/1/2023, the U.S. Army Corps of Engineers (Corps) issued a joint public notice.

This project proposes to conduct Phase 2 of an emergency bank stabilization project. Bio-engineered techniques are to be used on the left bank of the Chehalis River at river mile 17.5. Work is to include bank reshaping; the placement of log jacks, brush mattresses, boulder ballasted log triangles; and the re-establishment of the riparian buffer.

The project site is located along Haul Road, near the City of Montesano, on the left bank at river mile 17.5 of the Chehalis River, Gray Harbor County, Washington, Section 15, Township 17 N., Range 07 W., within Water Resource Inventory Area (WRIA) 22 - Lower Chehalis River.

With this WQC Order, Ecology is granting with conditions the Port of Grays Harbor request for a Section 401 Water Quality Certification for the Haul Road Bank Stabilization, Phase 2 project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 2/6/2023, and the following supporting documentation:

1. Haul Road Bank Stabilization Project, Phase 2 – In-Water work Water Quality Monitoring & Protection Plan, May 9, 2023.

Based on the information submitted, Ecology has determined that the discharge from the project will comply with state water quality requirements. Prior to undertaking any changes that materially alter the project, The Port of Grays Harbor must contact Ecology to determine whether a new Section 401 Water Quality Certification is required.

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize the Port of Grays Harbor to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC), or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this Section 401 Water Quality Certification absolves the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

1. This WQC Order does not authorize the Project Proponent to exceed applicable water quality standards beyond the limits established in Chapter 173-201A WAC, except as authorized by this WQC Order.
 - Justification - This condition ensures compliance with water quality standards to protect surface waters of the state. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.
 - Citation - Chapter 90.48 RCW, 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.
2. The Project Proponent shall implement the Water Quality Monitoring and Protection Plan (WQMPP) and conduct water quality monitoring as described in the approved Haul Road Bank Stabilization Project, Phase 2 – In-Water Work Water Quality Monitoring & Protection Plan, (hereafter referred to as the WQMPP).
 - 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. Excavation activity both in-water and above the OHWM shall be conducted in a controlled manner, in compliance with water quality standards for turbidity.
 - 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. Placement of riprap and embankment materials shall be conducted in a controlled manner, in compliance with water quality standards for turbidity.
 - 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.
5. Prior to returning stream flow to the de-watered work area, all proposed bank protection measures shall be in place.
 - Justification - Unprotected banks could erode, causing bank instability and contribute to water quality impacts. 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.
6. The Project Proponent shall mitigate wetland impacts as described in the Haul Road Bank Protection Project, Phases 1 and 2 – Shoreline and Critical Areas Report and Mitigation Plan (hereafter called the “Mitigation Plan”) or as required by this Order.
 - Justification - Alteration of water quality necessitates the use of mitigation as a method of controlling pollution. When adequate mitigation is provided, the impacts are not considered significant enough to water quality, at least in the

long-term. The water quality standards, along with mitigation, protect wetlands as well as permitting some level of degradation where unavoidable or necessary.

- Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300, and WAC 173-225-010.

7. The Project Proponent shall not use solid or mesh plant protector tubes at the mitigation site(s) unless otherwise provided for in the Mitigation Plan.

- Justification - This requirement provides assurance that the mitigation site has the best chance at being successful in achieving wetland conditions. 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 - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), and WAC 173-201A-300.

8. The Project Proponent shall monitor the mitigation site for a minimum of 5 years. The Project Proponent shall use the monitoring methods described on page(s) 21 and 22 of the Mitigation Plan.

- Justification - A monitoring plan describes the methods used to collect and analyze data needed to show that performance standards are being met. Monitoring plans are necessary to track environmental changes at mitigation sites to ensure success of the mitigation site.
- Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300 and WAC 173-225-010.

9. The Project Proponent shall submit to Ecology monitoring reports documenting mitigation site conditions for years 1, 2, 3, and 5. The monitoring reports must:

- a. Be submitted by December 31 of each monitoring year.
- b. Include the information listed in Attachment A (Information Required for Monitoring Reports).

- Justification - Monitoring reports track the environmental progress of the mitigation site and are necessary to track environmental changes at mitigation sites to ensure success of the mitigation site.
- Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300 and WAC 173-225-010.

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, this WQC is granted with conditions to the Port of Grays Harbor for the Haul Road Bank Stabilization – Phase 2 project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues a Department of the Army (DA) permit for this project. WQC Order No. **21752** will remain valid for the duration of the associated DA permit. The Port of Grays Harbor should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

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://elaho.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@elaho.wa.gov

Americans with Disabilities Act Information

Accommodation Requests

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

Contact Information

Please direct all questions about this WQC Order to:

Lori White

Department of Ecology

(564) 669-1396

lori.white@ecy.wa.gov

More Information

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

WQC Order No. 21752, Corps No. 202200379

Aquatics ID No. 142205

June 5, 2023

Page 8 of 10

Signature

Dated this 5 day of June, 2023 at the Department of Ecology, Lacey, Washington.

A handwritten signature in black ink, appearing to read "Loree' Randall". The signature is written in a cursive, flowing style.

Loree' Randall, Section Manager

Federal Permitting Section, HQ

Shorelands and Environmental Assistance Program

Attachment A

Information Required for Monitoring Reports

Haul Road Bank Stabilization Project, Phase 2

Ecology Order No. 21752

And

Corps Reference No. 202200379

Ecology requires the following information for monitoring reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

Background Information

1. Project name.
2. Ecology Order number and the Corps reference number.
3. Name and contact information of the person preparing the monitoring report. Also, if different from the person preparing the report, include the names of:
 - a) The applicant
 - b) The landowner
 - c) The party responsible for the monitoring activities
4. Dates the monitoring data were collected.
5. Date the report was produced.

Mitigation Project Information

6. Brief description of the mitigation project, including acreage or square footage of mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
7. Description of the monitoring approach and methods. For each performance standard being measured provide the following information:
 - a) Description of the sampling technique (e.g., monitoring point for soil or hydrology, line or point intercept method, ocular estimates in individually placed plots). If you are using a standardized technique, provide a reference for that method.
 - b) Size and shape of plots or transects.

- c) Number of sampling locations and how you determined the number of sampling locations to use.
 - d) Percent of the mitigation area being sampled.
 - e) Locations of sampling (provide a map showing the locations), how you determined where to place the sampling locations (e.g., simple random sample), and whether they are permanent or temporary.
 - f) Schedule for sampling (how often and when).
 - g) Description of how the data was evaluated and analyzed.
8. Summary table(s) comparing performance standards with monitoring results and whether each standard has been met.
 9. Discussion of how the monitoring data were used to determine whether the site(s) is meeting performance standards.
 10. Goals and objectives and a discussion of whether the project is progressing toward achieving them.
 11. Summary, including dates, of management actions implemented at the site(s), for example, maintenance and corrective actions.
 12. Summary of any difficulties or significant events that occurred on the site that may affect the success of the project.
 13. Specific recommendations for additional maintenance or corrective actions with a timetable.
 14. Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction the camera is facing. Photo pans are recommended.
 15. Vicinity map showing the geographic location of the site(s) with landmarks.
 16. Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
 - a) Boundary of the site(s).
 - b) Location of permanent photo stations and any other photos taken.
 - c) Data sampling locations, such as points, plots, or transects.
 - d) Approximate locations of any replanted vegetation.

Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions during the most recent monitoring year.