



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

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

June 29, 2023

Richard G. Rhinehart, Captain U.S. Navy  
Naval Base Kitsap  
120 South Dewey Street, Building 443  
Bremerton, WA 98314

Re: Termination of Section 401 Water Quality Certification Order No. 19727 and First Amendment

Dear Richard G. Rhinehart:

For the reasons stated below, the Department of Ecology (Ecology) hereby terminates Section 401 Water Quality Certification (WQC) Order No. 19727 and First Amendment, pursuant to RCW 90.48.120.

### **Project Background**

On June 16, 2021, Ecology issued a Section 401 WQC, and a First Amendment issued on July 16, 2021, to Naval Base Kitsap for the Transit Protection Program Pier and Support Facilities project.

The U.S. Army Corps of Engineers canceled your permit application (Reference No. NWS-2020-551) on May 18, 2023. Ecology is terminating both Section 401 WQC Order No. 19727 and First Amendment because there is no longer a federal permit requiring a WQC.

### **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.gov>

### **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

Termination of WQC Order No. 19727  
Aquatics ID No. 138960, Corps No. NWS-2020-551  
June 29, 2023  
Page 2 of 2

If you have questions, please contact Sonia Mendoza at (360) 918-1342 or [sonia.mendoza@ecy.wa.gov](mailto:sonia.mendoza@ecy.wa.gov).

Sincerely,



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

Enclosures: WQC Order No. 19727

By Certified Mail: 9489 0090 0027 6383 6850 45

Sent via e-mail: [richard.g.rhinehart@navy.mil](mailto:richard.g.rhinehart@navy.mil)

E-cc: Jason Sweeney, U.S. Army Corps of Engineers  
Jason McKinney, Naval Facilities Engineering Command Northwest  
Thomas Nichols, Naval Facilities Engineering Command Northwest  
Richard Chong, Naval Facilities Engineering Command Northwest  
Scott Horwitz, Naval Facilities Engineering Command Northwest  
Roma Call, Port Gamble S'Klallam Tribe  
Sissi Bruch, Jamestown S'Klallam Tribe  
Nam Siu, WA Department of Fish and Wildlife  
Cyrilla Cook, WA Department of Natural Resources  
Joe Burcar, Ecology  
Maria Sandercock, Ecology  
Amy Jankowiak, Ecology  
Bonnie Brooks, Ecology  
Mahbub Alam, Ecology  
Grant Yang, Ecology  
Sonia Mendoza, Ecology  
[Ecymfedpermits@ecy.wa.gov](mailto:Ecymfedpermits@ecy.wa.gov)

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER #19727</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2020-551</b>
<b>CERTIFICATION TO</b>	)	Transit Protection Program Pier and Support
<b>Naval Base Kitsap</b>	)	Facilities, Hood Canal, located near Silverdale,
in accordance with 33 U.S.C. 1341	)	Kitsap County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	

Naval Base Kitsap  
ATTN: Richard G. Rhinehart, Captain U.S. Navy  
120 South Dewey Street, Building 443  
Bremerton, WA 98314

On June 17, 2020, the Department of Ecology (Ecology) received a request from Naval Base Kitsap for a Section 401 Water Quality Certification (WQC) for the Transit Protection Program Pier and Support Facilities project. The U.S. Army Corps of Engineers (Corps) issued a joint public notice for the project on March 31, 2021.

The proposed project entails building a pier and support facilities for berthing and maintaining Transit Protection Program (TPP) blocking vessels and supporting the TPP mission, including the following: construction of an approximately 20,824-square-foot pier, 5,250-square-foot trestle, 288-square-foot dolphins, as well as floating camels, fender systems, and utility lines. A temporary, approximately 2,800-square-foot trestle will also be constructed.

Upland construction includes construction of a vessel maintenance facility for smaller TPP vessels with a wash rack, storage area, bio-retention cells, and parking, as well as installation of a fueling facility on the east side of Sea Lion Road with service lines to the K/B dock. Additionally, facilities to be constructed on K/B Spit include a parking area, oil-water separator, sanitary sewer underground storage tank, guard station, and up to a 100-foot-long shoreline abutment.

Aquatic impacts include: approximately 1,966 square feet of temporary vegetated aquatic habitat impacts, 800 square feet of temporary non-vegetated aquatic habitat, 23,900 square feet of permanent vegetated aquatic habitat impacts, and 2,813 square feet of permanent non-vegetated aquatic habitat impacts. A portion of the temporary impacts will be mitigated through removal of up to 5,031 square feet of steel and concrete debris and wood piles from the intertidal and subtidal habitats in the vicinity of the proposed pier. Remaining unavoidable impacts to aquatic habitat will be mitigated through purchase of in-lieu fee credits from the Hood Canal Coordinating Council.

The project site is located at Wahoo Road, Naval Base Kitsap-Bangor, Hood Canal, near Silverdale, Kitsap County, Section 24, Township 26 N., Range 1 W., within Water Resource Inventory Area (WRIA) 15.

## **AUTHORITIES**

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed the 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 (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;
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; and,
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.

## **WATER QUALITY CERTIFICATION CONDITIONS**

With this WQC and 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, this WQC is granted to Naval Base Kitsap (Applicant) subject to the conditions within this Order.

Issuance of the WQC for this proposal does not authorize Naval Base Kitsap 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 WQC absolves the Applicant 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 Naval Base Kitsap and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to Northwest Regional Office, Attn: Federal Permit Manager, via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) and cc: to [Rebekah.Padgett@ecy.wa.gov](mailto:Rebekah.Padgett@ecy.wa.gov). The submittals shall be identified with Order #19727 and

include the Applicant name, Corps reference number, project name, project contact, and the contact phone number.

3. Work authorized by this Order is limited to the work described in the following documents:
  - a. Joint Aquatic Resource Permit Application (JARPA) received by Ecology on June 17, 2020;
  - b. Revised drawings (Sheets 1 of 10 to 10 of 10), dated October 14, 2020, and received by Ecology on November 5, 2020; and,
  - c. Response to Ecology Questions/Request from June 3, 2021, received by Ecology on June 10, 2021.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly or adversely affect water quality, other than those project changes required by this Order.
5. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new public notice and Water Quality Certification or if a modification to this Order is required.
6. This Order is not effective until the U.S. Army Corps of Engineers (Corps) issues a permit for this project.
7. The Applicant shall send (per condition A.2 above) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.
8. 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.
9. The Applicant 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 Order are being met.
10. 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.
11. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control

Act (RCW 90.48) or the federal Clean Water Act, Ecology may issue an amendment to this Order to incorporate any such changes or amendments applicable to this project.

12. 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.
13. 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.
14. 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.
15. Conditions in this Order apply to all planned phases of the construction and the mitigation for this project.

## **B. Notification 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](mailto:fednotification@ecy.wa.gov) and cc to [Rebekah.Padgett@ecy.wa.gov](mailto:Rebekah.Padgett@ecy.wa.gov). Notifications shall be identified with Order No. 19727 and include the Applicant name, Corps reference number, project name, project location, project contact and the contact phone number.
  - a. Immediately following a violation of state water quality standards or when the project is out of compliance with any conditions of this Order.
  - b. At least ten (10) days prior to all pre-construction meetings.
  - c. At least ten (10) days prior to conducting initial in-water work activities for each in-water work window.
  - d. Within seven (7) days of completing in-water work activities for each in-water work window.
  - e. Within seven (7) days of project completion.
2. In addition to the phone or e-mail notification above, 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.

3. If the project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction and mitigation are completed.

### **C. Timing**

1. This Order will expire five (5) years from the date of issuance of the Corps permit, unless otherwise approved by Ecology.

#### In-Water Work Window Timing

2. In-water work shall be conducted between July 16 and January 15 of any year, unless otherwise approved by Ecology
3. Intertidal work shall be conducted between July 16 and October 15 of any year, unless monitoring and reporting of forage fish eggs is conducted and reported to Ecology per A2, unless otherwise approved by Ecology.

### **D. Project Mitigation Conditions:**

#### Shoreline Debris Removal for Temporary Impacts

1. Temporary impacts to aquatic resources shall be mitigated through removal of steel and concrete debris and wood piles from intertidal and subtidal habitats in the vicinity of the proposed pier. Any proposed changes to the amount of aquatic habitat impacts or mitigation area shall be submitted to Ecology per Condition A2 for review and approval.
2. The Applicant shall submit a summary report describing removed debris to Ecology per Condition A2 within 90 days of completion of debris removal.

#### In-Lieu Fee Program for Permanent Impacts

3. The Applicant shall mitigate permanent impacts to aquatic resources as described in the *Hood Canal Coordinating Council In Lieu Fee (ILF) Program Draft Use Plan, Mitigation for Navy Transit Protection Program Pier and Support Facilities, Naval Base Kitsap Bangor* (hereafter called the "Draft ILF Use Plan"), prepared by Naval Facilities Engineering System Command Northwest, dated January 2021, or as revised and approved by Ecology.
4. The Applicant shall revise the Draft ILF Use Plan prepared by Naval Facilities Engineering System Command Northwest, dated January 2021, to include the number of

credits to be purchased, any changes to the amount of aquatic habitat impacts, and to be consistent with the conditions of this Order. A final Plan shall be submitted to Ecology's Federal Permit Manager (per Condition A.2 of this Order) **for review and approval** at least 30 days prior to beginning any work covered by this Order.

5. The Applicant shall obtain a Statement of Sale from the Sponsor as documentation of purchase of credits for this impact project, unless otherwise approved by Ecology. The Applicant shall submit a copy of the Statement of Sale to Ecology (see A2) within 60 days of receipt, or before impacting aquatic habitat, whichever is sooner for the debit project.
6. The Applicant shall notify and submit in writing to Ecology (see A2) any proposed changes to the amount of aquatic habitat impacts, revision to the ILF Use Plan, and/or submittal of new information (See D2) for review and approval.
7. If the Applicant does not purchase credits prior to impacts to aquatic habitat, Ecology may require additional compensation to account for additional temporal loss.
8. If the Applicant has not purchased credits or completed the Transit Protection Program Pier and Support Facilities Project within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of the following:
  - a) Transit Protection Program Pier and Support Facilities Project; and,
  - b) When ILF credits will be purchased.

With the:

- c) Reason for the delay; and,
- d) Expected date of completion.

The Applicant shall submit an updated written notification every 12 months thereafter until Transit Protection Program Pier and Support Facilities Project is complete and the required credits are purchased.

#### **E. Water Quality Monitoring & Criteria**

1. This Order does not authorize the Applicant to exceed applicable turbidity or pH standards beyond the limits established in Chapter 173-201A-210(1)(e)(i) WAC and Chapter 173-201A-210(1)(f) WAC.
2. The Applicant shall conduct water quality monitoring as described in the approved *Draft Water Quality Protection and Monitoring Plan, P907 Transit Protection Program (TPP) Pier and Support Facilities Project, Naval Base Kitsap-Bangor, Silverdale, Washington* (hereafter referred to as the WQPMP) prepared by Naval Base Kitsap, revised June 4, 2021.

3. The Applicant must provide, in writing, any changes or additions to the WQPMP and obtain approval from Ecology's Federal Permit Manager prior to implementation of the changes or additions.
4. Physical sampling for pH shall be conducted during in-water construction activities involving placement of concrete and if there is any spill of concrete to water.
5. Intensive physical sampling for turbidity shall be conducted at a minimum during the first five (5) days of any new in-water construction activity (e.g., debris removal, piling removal, piling driving).
6. Monitoring results shall be submitted monthly to Ecology's Federal Permit Manager, per condition A.2.
7. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.
8. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity shall be considered an exceedance of the standard.
9. If water quality exceedances for turbidity 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, and correct the problem and prevent further water quality turbidity exceedances. Additionally, the Applicant shall determine the area and extent of the plume as well as the turbidity levels.

## **F. Construction**

### General 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.
2. No stockpiling or staging of materials shall occur at or below the Ordinary High Water Mark (OHWM) of any waterbody.
3. The Project Proponent shall obtain the Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) from the Environmental Protection Agency for this project.

4. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
5. 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.
6. All equipment being used below the OHWM shall utilize biodegradable hydraulic fluid.
7. All manmade debris that has been deposited below the Ordinary High Water Line (OHWL) within the construction work area shall be removed and disposed of upland such that it does not enter waters of the state. Concrete rubble, metal debris, and other debris in the construction work corridor that have washed into marine areas shall be removed from the project area.
8. All barge scupper holes shall be plugged and be water tight, with no ability for release to surface water. Barges shall have adequately high sidewalls to prevent spillage to waters of the state and shall not be overfilled to the point where piles or debris could overtop the sidewalls. Any sediment and water collected during pile or debris removal shall not be drained to waters of the state and shall be contained and disposed of at an approved offsite location.
9. If cast in place, wet concrete/grout shall be prevented from entering waters of the state. Forms for any concrete/grout structure shall be constructed to prevent leaching of wet concrete/grout. Impervious materials shall be placed over any exposed concrete/grout not lined with the forms that will come in contact with state waters. Forms and impervious materials shall remain in place until the concrete/grout is fully cured.
10. 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.
11. Concrete process water shall not be allowed to enter waters of the state. Any process water/contact water shall be routed to a contained area for treatment and shall be disposed of at an upland location.
12. The Applicant shall conduct upland construction work in accordance with the *Draft Erosion and Sediment Control Plan, P907 Transit Protection Program (TPP) Pier and Support Facilities Project, Naval Base Kitsap-Bangor, Silverdale, Washington*, prepared by Naval Base Kitsap, dated June 10, 2021 (hereafter referred to as the ESC Plan), unless otherwise approved by Ecology.
13. Project activities shall be conducted to minimize siltation of the beach area and bed.

14. Use tarps or other methods to prevent treated wood, sawdust, trimmings, drill shavings and other debris from contacting the bed or waters of the state.
15. In-water construction shall occur in the dry when the work area is not inundated by tidal waters, to the extent practicable.
16. The Applicant shall avoid leaving depressions on the beach during construction that could entrain fish by establishing a positive return/drain channel prior to tidal inundation.

Equipment & Maintenance

17. Staging areas will be located a minimum of 50 feet and, where practical, 200 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 and obtain approval from Ecology's Federal Permit Manager before placing the staging area in the 50-foot setback area.
18. 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.
19. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order.
20. 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.
21. Wash water containing oils, grease, or other hazardous materials resulting from washing of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.
22. Turbidity curtains shall be properly deployed and maintained in order to minimize turbidity and re-suspension. Additionally, deploy and maintain turbidity curtains to avoid entrainment of fish at low tides.
23. During construction, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
24. The Applicant shall operate the barge(s) and tug in deep water so as to minimize nearshore propeller wash impacts such as suspension of nearshore sediments.

25. No construction barges or other floating equipment is allowed on the east side (nearshore) of the pier with the exception of small skiffs in order to minimize impacts to vegetated marine habitat.
26. Eelgrass beds near the in-water work areas shall be marked with buoys prior to start of in-water construction in order to minimize impacts to eelgrass from barges and other work vessels. If buoys cannot be utilized to mark eelgrass beds, then the Navy shall:
  - a. Prepare a plan for post-construction eelgrass and submerged aquatic vegetation (SAV) monitoring in order to determine whether any additional impacts occurred. The Post-Construction Eelgrass and SAV Monitoring Plan shall be submitted to Ecology per Condition A2 at least 30 days prior to start of in-water construction;
  - b. Conduct monitoring within the first survey season after completion of in-water construction; and,
  - c. Submit post-construction eelgrass and SAV monitoring results to Ecology per Condition A2 by December 31 following the survey season.
27. Spudding shall not be allowed in eelgrass areas or special aquatic sites.
28. Barges shall not be allowed to ground-out during in-water construction.
29. Barges shall be swept, as necessary, and kept free of material that could be blown into water.
30. No return water is allowed to discharge from the barge(s) into waters of the state.
31. The Applicant shall conduct in-water work in accordance with the *Draft Debris Management Plan, P907 Transit Protection Program (TPP) Pier and Support Facilities Project, Naval Base Kitsap-Bangor, Silverdale, Washington*, prepared by Naval Base Kitsap, dated June 10, 2021 (hereafter referred to as the ESC Plan), unless otherwise approved by Ecology.
32. The Applicant shall conduct mooring and anchoring of construction vessels and equipment during in-water work in accordance with the *Draft Mooring and Anchoring Plan, P907 Transit Protection Program (TPP) Pier and Support Facilities Project, Naval Base Kitsap-Bangor, Silverdale, Washington*, prepared by Naval Base Kitsap, dated June 10, 2021 (hereafter referred to as the Mooring and Anchoring Plan), unless otherwise approved by Ecology.
33. The temporary trestle and pilings shall be removed as soon as practicable after completion of in-water construction.

#### Removal of Piles

34. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.
35. 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.
36. During pile removal, containment booms and absorbent sausage booms shall be placed around the perimeter of the in-water work area and upland storage area, if used, to capture wood debris, oil, and other materials from being released into marine waters.
37. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.
38. If a barge is used to remove piles, the work surface on the barge deck shall include containment for piles and any liquid or sediment removed during pulling of the piling.
39. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris at an approved upland disposal site.
40. Water left in the containment on the barge shall not be discharged into waters of the state.
41. Falsework pilings shall be removed using a vibratory hammer whenever possible.

#### Pile Driving

42. Steel pilings and sheetpile shall be installed using a vibratory hammer whenever possible.
43. When driving or proofing steel piling with an impact hammer, the Applicant shall utilize a bubble curtain or other noise attenuating device that distributes air bubbles around 100 percent of the perimeter of the piles over the full depth of the water column.

### **G. Operations**

1. The Applicant shall obtain coverage under the Environmental Protection Agency's Multi-Sector General Permit for this project in order to address industrial stormwater discharges and stormwater runoff discharges for protection of water quality.

### **H. Emergency/Contingency Measures for Construction and Operations**

1. The Applicant shall develop and implement a spill prevention and containment plan for this project.

2. The Applicant shall have adequate and appropriate spill cleanup material available on site at all times during construction.
3. The Applicant shall have adequate and appropriate spill response materials available on site to respond to any release of petroleum products or any other material into waters of the state.
4. 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.
5. 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 Applicant shall notify Ecology's Federal Permit Manager per condition B.1. and immediately take the following actions:
  - a. Cease operations at the location of the non-compliance.
  - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and prevent further environmental damage.
  - c. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
  - d. Immediately notify Ecology's Regional Spill Response Office and the Washington State Department of Fish & Wildlife with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems.
  - e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
6. 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.

## **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 both 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
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Road SW STE 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

#### CONTACT INFORMATION

Please direct all questions about this Order to:

Rebekah Padgett  
Department of Ecology  
Northwest Regional Office  
(425) 365-6571  
Rebekah.Padgett@ecy.wa.gov

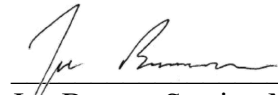
#### MORE INFORMATION

- **Pollution Control Hearings Board Website**  
<http://www.eluho.wa.gov/Board/PCHB>
- **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 16th day of June, 2021 at the Department of Ecology, Shoreline, Washington.



---

Joe Burcar, Section Manager  
Northwest Regional Office  
Shorelands and Environmental Assistance Program

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER #19727 First Amendment</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2020-551</b>
<b>CERTIFICATION TO</b>	)	Transit Protection Program Pier and Support
<b>Naval Base Kitsap</b>	)	Facilities, Hood Canal, located near Silverdale,
in accordance with 33 U.S.C. 1341	)	Kitsap County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	

Naval Base Kitsap  
ATTN: Richard G. Rhinehart, Captain U.S. Navy  
120 South Dewey Street, Building 443  
Bremerton, WA 98314

On July 14, 2021, the Department of Ecology (Ecology) received a request from Naval Base Kitsap to modify Condition C.3 within Order #19727, issued June 16, 2021, for the Transit Protection Program Pier and Support Facilities project. After reviewing the request, Ecology determined that an amendment to the above-referenced Administrative Order was appropriate.

This amendment is issued under the authority of Chapter 90.48 Revised Code of Washington (RCW) and Chapter 173-201A Washington Administrative Code (WAC).

Administrative Order #19727 is hereby amended as follows:

**1. Condition C.3 that reads:**

3. Intertidal work shall be conducted between July 16 and October 15 of any year, unless monitoring and reporting of forage fish eggs is conducted and reported to Ecology per A2, unless otherwise approved by Ecology.

**Is replaced with:**

3. If work is conducted in the intertidal area above +5 Mean Lower Low Water (MLLW) between October 16 and January 14 utilizing tracked heavy equipment operated from the beach, then monitoring and reporting of forage fish spawning per Washington Department of Fish and Wildlife protocol is required. If eggs are found indicating the presence of spawning adults in the area then the Applicant shall contact Ecology per A2 and implement adaptive management strategies to avoid damage to forage fish from disturbance.

No other conditions or requirements of the above-mentioned Order are affected by this Amendment. The Department of 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 amendment may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this amendment.

## 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 both 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
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Road SW STE 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

## CONTACT INFORMATION

Please direct all questions about this Order to:

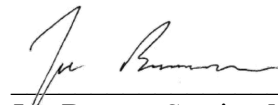
Rebekah Padgett  
Department of Ecology  
Northwest Regional Office  
(425) 365-6571  
Rebekah.Padgett@ecy.wa.gov

## MORE INFORMATION

- **Pollution Control Hearings Board Website**  
<http://www.eluho.wa.gov/Board/PCHB>
- **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 16th day of July, 2021 at the Department of Ecology, Shoreline, Washington.



Joe Burcar, Section Manager  
Northwest Regional Office  
Shorelands and Environmental Assistance Program

This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.

**July 16, 2021 First Amendment changes are reflected in Red**

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER #19727</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2020-551</b>
<b>CERTIFICATION TO</b>	)	Transit Protection Program Pier and Support
<b>Naval Base Kitsap</b>	)	Facilities, Hood Canal, located near Silverdale,
in accordance with 33 U.S.C. 1341	)	Kitsap County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	

Naval Base Kitsap  
ATTN: Richard G. Rhinehart, Captain U.S. Navy  
120 South Dewey Street, Building 443  
Bremerton, WA 98314

On June 17, 2020, the Department of Ecology (Ecology) received a request from Naval Base Kitsap for a Section 401 Water Quality Certification (WQC) for the Transit Protection Program Pier and Support Facilities project. The U.S. Army Corps of Engineers (Corps) issued a joint public notice for the project on March 31, 2021.

The proposed project entails building a pier and support facilities for berthing and maintaining Transit Protection Program (TPP) blocking vessels and supporting the TPP mission, including the following: construction of an approximately 20,824-square-foot pier, 5,250-square-foot trestle, 288-square-foot dolphins, as well as floating camels, fender systems, and utility lines. A temporary, approximately 2,800-square-foot trestle will also be constructed.

Upland construction includes construction of a vessel maintenance facility for smaller TPP vessels with a wash rack, storage area, bio-retention cells, and parking, as well as installation of a fueling facility on the east side of Sea Lion Road with service lines to the K/B dock. Additionally, facilities to be constructed on K/B Spit include a parking area, oil-water separator, sanitary sewer underground storage tank, guard station, and up to a 100-foot-long shoreline abutment.

Aquatic impacts include: approximately 1,966 square feet of temporary vegetated aquatic habitat impacts, 800 square feet of temporary non-vegetated aquatic habitat, 23,900 square feet of permanent vegetated aquatic habitat impacts, and 2,813 square feet of permanent non-vegetated aquatic habitat impacts. A portion of the temporary impacts will be mitigated through removal of up to 5,031 square feet of steel and concrete debris and wood piles from the intertidal and subtidal habitats in the vicinity of the proposed pier. Remaining unavoidable impacts to aquatic habitat will be mitigated through purchase of in-lieu fee credits from the Hood Canal Coordinating Council.

**This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.**

**July 16, 2021 First Amendment changes are reflected in Red**

*Order #19727, Corps No. NWS-2020-551*

*June 16, 2021*

*Page 2 of 14*

The project site is located at Wahoo Road, Naval Base Kitsap-Bangor, Hood Canal, near Silverdale, Kitsap County, Section 24, Township 26 N., Range 1 W., within Water Resource Inventory Area (WRIA) 15.

## **AUTHORITIES**

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed the 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 (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;
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; and,
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.

## **WATER QUALITY CERTIFICATION CONDITIONS**

With this WQC and 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, this WQC is granted to Naval Base Kitsap (Applicant) subject to the conditions within this Order.

Issuance of the WQC for this proposal does not authorize Naval Base Kitsap 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 WQC absolves the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

**This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.**

**July 16, 2021 First Amendment changes are reflected in Red**

*Order #19727, Corps No. NWS-2020-551*

*June 16, 2021*

*Page 3 of 14*

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

1. In this Order, the term “Applicant” shall mean the Naval Base Kitsap and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to Northwest Regional Office, Attn: Federal Permit Manager, via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) and cc: to [Rebekah.Padgett@ecy.wa.gov](mailto:Rebekah.Padgett@ecy.wa.gov). The submittals shall be identified with Order #19727 and include the Applicant name, Corps reference number, project name, project contact, and the contact phone number.
3. Work authorized by this Order is limited to the work described in the following documents:
  - a. Joint Aquatic Resource Permit Application (JARPA) received by Ecology on June 17, 2020;
  - b. Revised drawings (Sheets 1 of 10 to 10 of 10), dated October 14, 2020, and received by Ecology on November 5, 2020; and,
  - c. Response to Ecology Questions/Request from June 3, 2021, received by Ecology on June 10, 2021.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly or adversely affect water quality, other than those project changes required by this Order.
5. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new public notice and Water Quality Certification or if a modification to this Order is required.
6. This Order is not effective until the U.S. Army Corps of Engineers (Corps) issues a permit for this project.
7. The Applicant shall send (per condition A.2 above) a copy of the final Corps permit to Ecology’s Federal Permit Manager within two weeks of receiving it.
8. 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.

**This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.**

**July 16, 2021 First Amendment changes are reflected in Red**

*Order #19727, Corps No. NWS-2020-551*

*June 16, 2021*

*Page 4 of 14*

9. The Applicant 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 Order are being met.
10. 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.
11. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48) or the federal Clean Water Act, Ecology may issue an amendment to this Order to incorporate any such changes or amendments applicable to this project.
12. 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.
13. 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.
14. 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.
15. Conditions in this Order apply to all planned phases of the construction and the mitigation for this project.

## **B. Notification Requirements**

This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.

**July 16, 2021 First Amendment changes are reflected in Red**

Order #19727, Corps No. NWS-2020-551

June 16, 2021

Page 5 of 14

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](mailto:fednotification@ecy.wa.gov) and cc to [Rebekah.Padgett@ecy.wa.gov](mailto:Rebekah.Padgett@ecy.wa.gov). Notifications shall be identified with Order No. 19727 and include the Applicant name, Corps reference number, project name, project location, project contact and the contact phone number.
  - a. Immediately following a violation of state water quality standards or when the project is out of compliance with any conditions of this Order.
  - b. At least ten (10) days prior to all pre-construction meetings.
  - c. At least ten (10) days prior to conducting initial in-water work activities for each in-water work window.
  - d. Within seven (7) days of completing in-water work activities for each in-water work window.
  - e. Within seven (7) days of project completion.
2. In addition to the phone or e-mail notification above, 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.
3. If the project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction and mitigation are completed.

### **C. Timing**

1. This Order will expire five (5) years from the date of issuance of the Corps permit, unless otherwise approved by Ecology.

#### In-Water Work Window Timing

2. In-water work shall be conducted between July 16 and January 15 of any year, unless otherwise approved by Ecology
3. **If work is conducted in the Intertidal area above +5 Mean Lower Low Water (MLLW) between October 16 and January 14 utilizing tracked heavy equipment operated from the beach, then work shall be conducted between July 16 and October 15 of any year, unless monitoring and reporting of forage fish spawning per Washington Department of Fish**

This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.

**July 16, 2021 First Amendment changes are reflected in Red**

Order #19727, Corps No. NWS-2020-551

June 16, 2021

Page 6 of 14

and Wildlife protocol is required. If eggs are found indicating the presence of spawning adults in the area then the Applicant shall contact Ecology ~~is conducted and reported to Ecology~~ per A2 and implement adaptive management strategies to avoid damage to forage fish from disturbance, ~~unless otherwise approved by Ecology.~~

#### **D. Project Mitigation Conditions:**

##### Shoreline Debris Removal for Temporary Impacts

1. Temporary impacts to aquatic resources shall be mitigated through removal of steel and concrete debris and wood piles from intertidal and subtidal habitats in the vicinity of the proposed pier. Any proposed changes to the amount of aquatic habitat impacts or mitigation area shall be submitted to Ecology per Condition A2 for review and approval.
2. The Applicant shall submit a summary report describing removed debris to Ecology per Condition A2 within 90 days of completion of debris removal.

##### In-Lieu Fee Program for Permanent Impacts

3. The Applicant shall mitigate permanent impacts to aquatic resources as described in the *Hood Canal Coordinating Council In Lieu Fee (ILF) Program Draft Use Plan, Mitigation for Navy Transit Protection Program Pier and Support Facilities, Naval Base Kitsap Bangor* (hereafter called the "Draft ILF Use Plan"), prepared by Naval Facilities Engineering System Command Northwest, dated January 2021, or as revised and approved by Ecology.
4. The Applicant shall revise the Draft ILF Use Plan prepared by Naval Facilities Engineering System Command Northwest, dated January 2021, to include the number of credits to be purchased, any changes to the amount of aquatic habitat impacts, and to be consistent with the conditions of this Order. A final Plan shall be submitted to Ecology's Federal Permit Manager (per Condition A.2 of this Order) **for review and approval** at least 30 days prior to beginning any work covered by this Order.
5. The Applicant shall obtain a Statement of Sale from the Sponsor as documentation of purchase of credits for this impact project, unless otherwise approved by Ecology. The Applicant shall submit a copy of the Statement of Sale to Ecology (see A2) within 60 days of receipt, or before impacting aquatic habitat, whichever is sooner for the debit project.

**This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.**

**July 16, 2021 First Amendment changes are reflected in Red**

*Order #19727, Corps No. NWS-2020-551*

*June 16, 2021*

*Page 7 of 14*

6. The Applicant shall notify and submit in writing to Ecology (see A2) any proposed changes to the amount of aquatic habitat impacts, revision to the ILF Use Plan, and/or submittal of new information (See D2) for review and approval.
7. If the Applicant does not purchase credits prior to impacts to aquatic habitat, Ecology may require additional compensation to account for additional temporal loss.
8. If the Applicant has not purchased credits or completed the Transit Protection Program Pier and Support Facilities Project within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of the following:
  - a) Transit Protection Program Pier and Support Facilities Project; and,
  - b) When ILF credits will be purchased.

With the:

- c) Reason for the delay; and,
- d) Expected date of completion.

The Applicant shall submit an updated written notification every 12 months thereafter until Transit Protection Program Pier and Support Facilities Project is complete and the required credits are purchased.

#### **E. Water Quality Monitoring & Criteria**

1. This Order does not authorize the Applicant to exceed applicable turbidity or pH standards beyond the limits established in Chapter 173-201A-210(1)(e)(i) WAC and Chapter 173-201A-210(1)(f) WAC.
2. The Applicant shall conduct water quality monitoring as described in the approved *Draft Water Quality Protection and Monitoring Plan, P907 Transit Protection Program (TPP) Pier and Support Facilities Project, Naval Base Kitsap-Bangor, Silverdale, Washington* (hereafter referred to as the WQPMP) prepared by Naval Base Kitsap, revised June 4, 2021.
3. The Applicant must provide, in writing, any changes or additions to the WQPMP and obtain approval from Ecology's Federal Permit Manager prior to implementation of the changes or additions.
4. Physical sampling for pH shall be conducted during in-water construction activities involving placement of concrete and if there is any spill of concrete to water.

**This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.**

**July 16, 2021 First Amendment changes are reflected in Red**

*Order #19727, Corps No. NWS-2020-551*

*June 16, 2021*

*Page 8 of 14*

5. Intensive physical sampling for turbidity shall be conducted at a minimum during the first five (5) days of any new in-water construction activity (e.g., debris removal, piling removal, piling driving).
6. Monitoring results shall be submitted monthly to Ecology's Federal Permit Manager, per condition A.2.
7. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.
8. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity shall be considered an exceedance of the standard.
9. If water quality exceedances for turbidity 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, and correct the problem and prevent further water quality turbidity exceedances. Additionally, the Applicant shall determine the area and extent of the plume as well as the turbidity levels.

## **F. Construction**

### General 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.
2. No stockpiling or staging of materials shall occur at or below the Ordinary High Water Mark (OHWM) of any waterbody.
3. The Project Proponent shall obtain the Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) from the Environmental Protection Agency for this project.
4. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.

**This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.**

**July 16, 2021 First Amendment changes are reflected in Red**

*Order #19727, Corps No. NWS-2020-551*

*June 16, 2021*

*Page 9 of 14*

5. 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.
6. All equipment being used below the OHWM shall utilize biodegradable hydraulic fluid.
7. All manmade debris that has been deposited below the Ordinary High Water Line (OHWL) within the construction work area shall be removed and disposed of upland such that it does not enter waters of the state. Concrete rubble, metal debris, and other debris in the construction work corridor that have washed into marine areas shall be removed from the project area.
8. All barge scupper holes shall be plugged and be water tight, with no ability for release to surface water. Barges shall have adequately high sidewalls to prevent spillage to waters of the state and shall not be overfilled to the point where piles or debris could overtop the sidewalls. Any sediment and water collected during pile or debris removal shall not be drained to waters of the state and shall be contained and disposed of at an approved offsite location.
9. If cast in place, wet concrete/grout shall be prevented from entering waters of the state. Forms for any concrete/grout structure shall be constructed to prevent leaching of wet concrete/grout. Impervious materials shall be placed over any exposed concrete/grout not lined with the forms that will come in contact with state waters. Forms and impervious materials shall remain in place until the concrete/grout is fully cured.
10. 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.
11. Concrete process water shall not be allowed to enter waters of the state. Any process water/contact water shall be routed to a contained area for treatment and shall be disposed of at an upland location.
12. The Applicant shall conduct upland construction work in accordance with the *Draft Erosion and Sediment Control Plan, P907 Transit Protection Program (TPP) Pier and Support Facilities Project, Naval Base Kitsap-Bangor, Silverdale, Washington*, prepared by Naval Base Kitsap, dated June 10, 2021 (hereafter referred to as the ESC Plan), unless otherwise approved by Ecology.

**This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.**

**July 16, 2021 First Amendment changes are reflected in Red**

*Order #19727, Corps No. NWS-2020-551*

*June 16, 2021*

*Page 10 of 14*

13. Project activities shall be conducted to minimize siltation of the beach area and bed.
14. Use tarps or other methods to prevent treated wood, sawdust, trimmings, drill shavings and other debris from contacting the bed or waters of the state.
15. In-water construction shall occur in the dry when the work area is not inundated by tidal waters, to the extent practicable.
16. The Applicant shall avoid leaving depressions on the beach during construction that could entrain fish by establishing a positive return/drain channel prior to tidal inundation.

#### Equipment & Maintenance

17. Staging areas will be located a minimum of 50 feet and, where practical, 200 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 and obtain approval from Ecology's Federal Permit Manager before placing the staging area in the 50-foot setback area.
18. 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.
19. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order.
20. 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.
21. Wash water containing oils, grease, or other hazardous materials resulting from washing of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.
22. Turbidity curtains shall be properly deployed and maintained in order to minimize turbidity and re-suspension. Additionally, deploy and maintain turbidity curtains to avoid entrainment of fish at low tides.

**This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.**

**July 16, 2021 First Amendment changes are reflected in Red**

*Order #19727, Corps No. NWS-2020-551*

*June 16, 2021*

*Page 11 of 14*

23. During construction, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
24. The Applicant shall operate the barge(s) and tug in deep water so as to minimize nearshore propeller wash impacts such as suspension of nearshore sediments.
25. No construction barges or other floating equipment is allowed on the east side (nearshore) of the pier with the exception of small skiffs in order to minimize impacts to vegetated marine habitat.
26. Eelgrass beds near the in-water work areas shall be marked with buoys prior to start of in-water construction in order to minimize impacts to eelgrass from barges and other work vessels. If buoys cannot be utilized to mark eelgrass beds, then the Navy shall:
  - a. Prepare a plan for post-construction eelgrass and submerged aquatic vegetation (SAV) monitoring in order to determine whether any additional impacts occurred. The Post-Construction Eelgrass and SAV Monitoring Plan shall be submitted to Ecology per Condition A2 at least 30 days prior to start of in-water construction;
  - b. Conduct monitoring within the first survey season after completion of in-water construction; and,
  - c. Submit post-construction eelgrass and SAV monitoring results to Ecology per Condition A2 by December 31 following the survey season.
27. Spudding shall not be allowed in eelgrass areas or special aquatic sites.
28. Barges shall not be allowed to ground-out during in-water construction.
29. Barges shall be swept, as necessary, and kept free of material that could be blown into water.
30. No return water is allowed to discharge from the barge(s) into waters of the state.
31. The Applicant shall conduct in-water work in accordance with the *Draft Debris Management Plan, P907 Transit Protection Program (TPP) Pier and Support Facilities Project, Naval Base Kitsap-Bangor, Silverdale, Washington*, prepared by Naval Base Kitsap, dated June 10, 2021 (hereafter referred to as the ESC Plan), unless otherwise approved by Ecology.

This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.

**July 16, 2021 First Amendment changes are reflected in Red**

Order #19727, Corps No. NWS-2020-551

June 16, 2021

Page 12 of 14

32. The Applicant shall conduct mooring and anchoring of construction vessels and equipment during in-water work in accordance with the *Draft Mooring and Anchoring Plan, P907 Transit Protection Program (TPP) Pier and Support Facilities Project, Naval Base Kitsap-Bangor, Silverdale, Washington*, prepared by Naval Base Kitsap, dated June 10, 2021 (hereafter referred to as the Mooring and Anchoring Plan), unless otherwise approved by Ecology.
33. The temporary trestle and pilings shall be removed as soon as practicable after completion of in-water construction.

#### Removal of Piles

34. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.
35. 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.
36. During pile removal, containment booms and absorbent sausage booms shall be placed around the perimeter of the in-water work area and upland storage area, if used, to capture wood debris, oil, and other materials from being released into marine waters.
37. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.
38. If a barge is used to remove piles, the work surface on the barge deck shall include containment for piles and any liquid or sediment removed during pulling of the piling.
39. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris at an approved upland disposal site.
40. Water left in the containment on the barge shall not be discharged into waters of the state.
41. Falsework pilings shall be removed using a vibratory hammer whenever possible.

#### Pile Driving

42. Steel pilings and sheetpile shall be installed using a vibratory hammer whenever possible.

This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.

**July 16, 2021 First Amendment changes are reflected in Red**

*Order #19727, Corps No. NWS-2020-551*

*June 16, 2021*

*Page 13 of 14*

43. When driving or proofing steel piling with an impact hammer, the Applicant shall utilize a bubble curtain or other noise attenuating device that distributes air bubbles around 100 percent of the perimeter of the piles over the full depth of the water column.

#### **G. Operations**

1. The Applicant shall obtain coverage under the Environmental Protection Agency's Multi-Sector General Permit for this project in order to address industrial stormwater discharges and stormwater runoff discharges for protection of water quality.

#### **H. Emergency/Contingency Measures for Construction and Operations**

1. The Applicant shall develop and implement a spill prevention and containment plan for this project.
2. The Applicant shall have adequate and appropriate spill cleanup material available on site at all times during construction.
3. The Applicant shall have adequate and appropriate spill response materials available on site to respond to any release of petroleum products or any other material into waters of the state.
4. 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.
5. 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 Applicant shall notify Ecology's Federal Permit Manager per condition B.1. 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.

**This document shows the conditions that have been amended since the original Order was issued on June 16, 2021. Therefore it is not the official certification and should only be used for informational purposes.**

**July 16, 2021 First Amendment changes are reflected in Red**

*Order #19727, Corps No. NWS-2020-551*

*June 16, 2021*

*Page 14 of 14*

- c. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
  - d. Immediately notify Ecology's Regional Spill Response Office and the Washington State Department of Fish & Wildlife with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems.
  - e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
6. 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.