



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

February 27, 2024

Seattle Parks and Recreation
ATTN: David Graves
300 Elliott Avenue West, Suite 100
Seattle, WA 98119

Re: Amendment to 401 Water Quality Certification Order No. 20758 for U.S. Army Corps of Engineers Reference No. NWS-2018-1191-WRD, Don Armeni Boat Ramp Piling and Floating Dock Replacement project, Elliot Bay, Seattle, King, Washington

Dear David Graves:

Enclosed is an amendment to Water Quality Certification Order No. 20758, issued on February 24, 2022, 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. 20758 remain in effect.

The purpose of this amendment is to extend the in-water work window to complete the vibratory installation of two piles and the installation of prefabricated float structures.

If you have any questions, please contact Sonia Mendoza at (360) 9018-1342. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

Loree' Randall, Section Manager
Aquatic Permitting & Protection Section
Shorelands and Environmental Assistance Program

Enclosure (3)

First Amendment to Order No. 20758
Aquatics No. 136916, Corps No. NWS-2018-1191-WRD
February 27, 2024
Page 2 of 2

By certified mail: 9489 0090 0027 6383 2203 21

Sent via e-mail: David.Graves@seattle.gov

E-cc: Daniel Krenz, U.S. Army Corps of Engineers
Laura Arber, WDFW
Vivian Roach, WDNR
Sonia Mendoza, Ecology
Maria Sandercock, Ecology
Amy Jankowiak, Ecology
ecyrefedpermits@ecy.wa.gov

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

Seattle Parks and Recreation
Attn: David Graves
300 Elliott Avenue West, Suite 100
Seattle, WA 98119

WQC Order No.	20758 , First Amendment
Corps Reference No.	NWS-2018-1191-WRD
Site Location	Don Armeni Boat Ramp Piling and Floating Dock Replacement project, Elliot Bay, Seattle, King County, Washington.

On February 24, 2022 the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to Seattle Parks and Recreation for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request February 15, 2024, requesting to extend the in-water work window to complete the vibratory installation of two piles and the installation of prefabricated float structures.

WQC Order No. 20758 dated February 24, 2022, is hereby amended as follows:

I. Condition number C.2.a. which reads:

All activities below the Ordinary High Water Line of Elliott Bay may be conducted between August 1 and February 15 of any year.

Is replaced with:

All activities below the Ordinary High Water Line of Elliott Bay may be conducted through February 29, 2024.

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 mail, in person, or by email (see addresses below).

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

Filing an appeal

Filing with the PCHB

For the most current information regarding filing with the PCHB, visit: <https://elaho.wa.gov/> or call: 360-664-9160.

Service on Ecology

Street Addresses:

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

Mailing Addresses:

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

E-Mail Address:

ecologyappeals@ecy.wa.gov

Contact Information

Please direct all questions about this Order to:

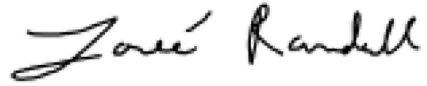
Sonia Mendoza
Department of Ecology
(360) 918-1342
sonia.mendoza@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
<https://elaho.wa.gov>
- **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 27th day of February 2024, at the Department of Ecology, Lacey, Washington.



Loree' Randall, Section Manager
Aquatic Permitting & Protection Section
Shorelands and Environmental Assistance Program

This document shows the 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.

IN THE MATTER OF GRANTING A)	WQC ORDER No. 20758, First Amendment
WATER QUALITY)	Corps Reference No. NWS-2018-1191-WRD
CERTIFICATION TO)	Don Armeni Boat Ramp Piling and Floating
City of Seattle Parks and Recreation)	Dock Replacement Project, Elliott Bay, located
pursuant to 33 U.S.C. 1341 (FWPCA)	in Seattle, King County, Washington.
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

City of Seattle Parks and Recreation
ATTN: David Graves
800 Maynard Avenue South, Third Floor
Seattle, WA 98134-1336

On April 13, 2021, City of Seattle Parks and Recreation submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act to the Washington State Department of Ecology (Ecology) for the Don Armeni Boat Ramp Piling and Floating Dock Replacement project, King County, Washington. On April 27, 2021, the U.S. Army Corps of Engineers (Corps) and Ecology issued a joint public notice.

The project proposes to replace two existing wood floating docks. The new docks will increase in width from 6 to 8 feet and extend out an additional 4.25 feet, increasing overwater coverage by 691 square feet, with light passage elements incorporated into the new concrete floats. In addition, two existing concrete anchors/abutments will be replaced.

Mitigation for the project includes removal of timber piles at Waterfront Park (Pier 58; a portion of the overall pier removal, covered under Order #18242).

The project site is located at the Don Armeni Boat Launch, 1222 Harbor Avenue SW, Elliott Bay, in Seattle, King County, Washington, Section 2, Township 24 N., Range 3 E., within Water Resource Inventory Area (WRIA) 9, Duwamish-Green Watershed. The mitigation site is located at 1401 Alaskan Way, in Seattle, King County, Washington, Section 31, Township 25 N., Range 4 E., within Water Resource Inventory Area (WRIA) 9.

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this WQC request pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §§1311, 1312, 1313, 1316, and 1317.

2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws.
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by Chapter 90.48.010 RCW.
4. Conformance with Washington’s prohibition on discharges that cause or tend to cause pollution of waters of the state of Washington as required by Chapter 90.48.080 RCW.
5. The Applicant of the project authorized is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, local or tribal authorities.

With this Water Quality Certification (WQC) Order, Ecology is granting with conditions, City of Seattle Parks and Recreation request for a Section 401 Water Quality Certification for the Don Armeni Boat Ramp Piling and Floating Dock Replacement project, Elliott Bay, located in King County. Ecology has determined that the proposed discharges will comply with all applicable state water quality requirements, provided the project is conducted in accordance with the Section 401 Water Quality Certification request that Ecology received on April 23, 2021, the supporting documents referenced in Table 1 below, **and the conditions of this WQC Order.**

Table 1. Supporting Documents

Date Received	Document Type	Title & Date	Author
3/30/21	Hydraulic Project Approval	Hydraulic Project Approval (June 28, 2019)	Washington Department of Fish and Wildlife
4/13/21	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA (dated December 14, 2018)	City of Seattle Parks and Recreation
4/13/21	State Environmental Policy Act	Determination of Non-Significance (signed October 17, 2018)	Seattle Parks and Recreation
4/23/21	Best Management Practices	Section 01 57 13 Construction Stormwater Control (undated)	unspecified

4/23/21	Temporary Erosion Control Plan	Section 01 57 19 Temporary Environmental Pollution Control (undated)	unspecified
8/9/21	Alternatives Analysis	Don Armeni Motorized Boat Ramp Floating Dock Replacement Alternatives Analysis, USACOE No.: NWS-2018-1191-WRD (dated August 5, 2021)	City of Seattle Parks and Recreation
9/13/21	Drawings	Revised drawings, Sheets 1 of 14 to 14 of 14 (dated July 2021)	City of Seattle Parks and Recreation
1/5/22	E-mail	E-mail from David Graves to Rebekah Padgett, Ecology, RE: Don Armeni Boat Ramp Project Comments (dated January 5, 2022)	City of Seattle Parks and Recreation
2/22/22	Mitigation Plan	<i>Don Armeni Motorized Boat Ramp Floating Dock Replacement Mitigation Plan, USACOE No.: NWS-2018-1191-WRD (dated February 22, 2022)</i>	City of Seattle Parks and Recreation
2/22/22	Water Quality Monitoring and Protection Plan	Water Quality Monitoring and Protection Plan (WQMPP), 136916 – NWS-2018-1191-WRD Don Armeni Boat Ramp repair 401 request (dated February 22, 2022)	City of Seattle Parks and Recreation

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize City of Seattle Parks and Recreation 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 City of Seattle Parks and Recreation from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

The following conditions will be incorporated into the Corps permit and strictly adhered to by City of Seattle Parks and Recreation.

A. General Conditions

1. In this WQC Order, the term “Applicant” shall mean the City of Seattle Parks and Recreation and its agents, assignees, and contractors.

2. All submittals required by this WQC Order shall be sent to Ecology's Headquarters Office, Attn: Federal Permit Manager, via e-mail to fednotification@ecy.wa.gov and cc to Rebekah.Padgett@ecy.wa.gov. The submittals shall be identified with WQC Order #20758 and include the Applicant's name, Corps permit number, project name, project contact, and the contact phone number.
3. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on April 23, 2021 and the supporting documentation identified in Table 1.
4. The Applicant shall keep copies of this WQC Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
5. 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 WQC Order are being met.
6. 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.
7. 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.
8. 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 WQC Order and all permits, approvals, and documents referenced in this WQC Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) before construction begins.
9. This WQC Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this WQC Order.
10. Failure of any person or entity to comply with the WQC Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the state's water quality standards.

11. The Applicant shall provide Ecology documentation for review before undertaking any major changes to the proposed project that could significantly and adversely affect water quality, other than those project changes required by this WQC Order.
12. The Applicant shall send (per A.2.) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.
13. Nothing in this WQC Order waives Ecology's discretionary authority to issue additional Orders if Ecology determines that further actions are necessary to implement the water quality laws of the state.
14. This Order will automatically transfer to a new owner or operator if:
 - a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the WQC Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
 - b. A copy of this Order is provided to the new owner or operator; and
 - c. Ecology does not notify the new Applicant that a new WQC Order is required to complete the transfer.

B. Notification Requirements:

1. The following notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Permit Manager via e-mail to fednotification@ecy.wa.gov and cc to Rebekah.Padgett@ecy.wa.gov. Notifications shall be identified with WQC Order #20758, Corps reference #NWS-2018-1191-WRD, and include the Applicant name, 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 WQC 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.
 - d. Within seven (7) days of each in-water work window.
2. In addition to the phone or e-mail notification required under B.1.a. 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 WQC 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 WQC Order is not effective until the U.S. Corps of Engineers (Corps) issues an individual permit for this project and will remain valid for the duration of the associated permit for the project.
2. The following in-water work window applies to the project:
 - a. All activities below the Ordinary High Water Line of Elliott Bay may be conducted **between August 1 and February 15 of any year through February 29, 2024.**
3. Any project change that requires a new or revised Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife should be sent to Ecology for review before the change is implemented. Proposed changes shall be implemented only with written approval from Ecology.

D. Water Quality Monitoring & Criteria

1. This WQC Order does not authorize the Applicant to exceed applicable water quality standards beyond the limits established in WAC 173-201A.
2. 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.
3. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity, shall be considered an exceedance of the standard.
4. The Applicant shall implement the *Water Quality Monitoring and Protection Plan (WQMPP), 136916 – NWS-2018-1191-WRD Don Armeni Boat Ramp repair 401 request (Plan)* prepared by City of Seattle Parks and Recreation, dated February 22, 2022, as proposed and approved by Ecology.
5. The Applicant shall submit any changes to the Plan in writing to Ecology (see A2) for review and approval prior to implementing the change.
6. Monitoring results shall be submitted monthly to Ecology's Federal Permit Manager, per condition A.2.
7. Ecology may require the Applicant to provide mitigation and/or additional monitoring if the monitoring results indicate that the water quality standards have not been met.

E. 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. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
3. No stockpiling or staging of materials shall occur at or below the OHWM of any waterbody.
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. 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.
6. 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.
7. Cutting or drilling holes in the concrete panels shall take place upland or in the dry at low tide, utilizing tarps or other containment method for debris, dust, and other materials.
8. 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.
9. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.
10. Clean Fill Criteria: Applicant shall ensure that fill (sand or other material) placed for the proposed project does not contain toxic materials in toxic amounts.

Equipment & Maintenance

11. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands.
12. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the state, including wetlands. 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, including wetlands.
13. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.

14. 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.
15. 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.
16. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash-out of concrete delivery trucks, pumping equipment, and tools.
17. Barges shall not be allowed to ground-out during in-water construction.
18. The Applicant shall operate the barge(s) and tug in deep water to the extent practicable so as to minimize nearshore propeller wash impacts such as suspension of nearshore sediments.
19. Barges shall be swept, as necessary, and kept free of material that could be blown into water.
20. No return water is allowed to discharge from the barge(s) into waters of the state.

Removal of Creosote Piles

21. Pile removal, handling, and disposal shall follow the Environmental Protection Agency (EPA) Region 10 Best Management Practices for Piling Removal and Placement in Washington State, dated February 18, 2016.
22. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.
23. 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 over waters of the state.
24. If pile removal fails, the pile stub must be cut at least 2 feet below mudline, and the location (latitude and longitude) of all cut piling shall be reported to Ecology within two months of removal of all piles.
25. 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 waters of the state.
26. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.
27. 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.

28. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris at an approved upland disposal site.
29. Water left in the containment on the barge shall not be discharged into waters of the state.

F. Project Mitigation Conditions

1. The Applicant shall implement the revised Mitigation Plan as described in the Don Armeni Motorized Boat Ramp Floating Dock Replacement Mitigation Plan, USACOE No.: NWS-2018-1191-WRD, dated February 22, 2022, prepared by Seattle Parks and Recreation, or as modified by this Order or revised and approved by Ecology:
2. The Applicant shall submit any changes to the Mitigation Plan in writing to Ecology (see A2) for review and approval prior to implementing the change.

G. Emergency/Contingency Measures

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 response and cleanup materials available on site to respond to any release of petroleum products or any other material into waters of the state.
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. 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 A2 and immediately take the following actions:
 - a. Cease operations at the location of the non-compliance.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and prevent further environmental damage.
 - c. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - d. Immediately notify Ecology's Regional Spill Response Office and the Washington State Department of Fish & 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.

First Amendment February 27, 2024

WQC Order #20758, Corps No. NWS-2018-1191-WRD,

February 24, 2022

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5. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.

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