STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

September 18, 2024

City of Bellingham
Attn: Craig Mueller
210 Lottie Street
Bellingham, WA 98225

Re: Water Quality Certification Order No. **22585** (Corps No. **NWS-2023-684**) RG Haley Cleanup, Cornwall Avenue Landfill Cleanup, and Salish Landing Park Redevelopment, located within Bellingham Bay, Bellingham, Whatcom County, Washington.

Dear Craig Mueller:

On November 28, 2023, the City of Bellingham submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the RG Haley Cleanup, Cornwall Avenue Landfill Cleanup, and Salish Landing Park Redevelopment, located within Bellingham Bay, Bellingham, Whatcom County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Water Quality Certification Request and supplemental documents complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. **This certification is subject to the enclosed Water Quality Certification Order (WQC Order).**

Please ensure that anyone doing work under this WQC Order has read, is familiar with, and is able to follow all of the provisions within the attached WQC Order.

If you have any questions about this decision, please contact Laura Inouye at (360) 515-8213. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Loree' Randall

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

Enclosure (2)

By certified mail: 9489 0090 0027 6391 8521 87

Sent via e-mail: camueller@cob.org

E-cc: Randall Perry, U.S. Army Corps of Engineers
Brian Gouran, Port of Bellingham
Iain Wingard, GeoEngineers, Inc.
Steven Quarterman, Landau Associates
Gisele Sassen, Waterfront Environmental
Julia Schwarz, Ecology
Laura Inouye, Ecology
ECYREFEDPERMITS@ecy.wa.gov

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

City of Bellingham
Attn: Craig Mueller
210 Lottie Street
Bellingham, WA 98225

WQC Order No.	22585
Corps Reference No.	NWS-2023-684
Site Location	RG Haley Cleanup, Cornwall Avenue Landfill Cleanup, and Salish Landing Park Redevelopment, located within Bellingham Bay, Bellingham, Whatcom County, Washington.

The City of Bellingham submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act to the Department of Ecology (Ecology) for the RG Haley Cleanup, Cornwall Avenue Landfill Cleanup, and Salish Landing Park Redevelopment, located within the Bellingham Bay, Whatcom County, Washington. The following processing dates are listed below:

- On 10/25/2023, the City of Bellingham submitted a pre-filing meeting request.
- On 11/28/2023, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 12/14/2023, City of Bellingham submitted additional information, and the Department of Ecology (Ecology) considered the Request valid on this date.
- On 12/1/2023, the U.S. Army Corps of Engineers (Corps) and Ecology issued a joint public notice for the project.

The project proposes to undertake Washington State Model Toxic Cleanup Act (MTCA) work for the R.G. Haley and Cornwall Avenue Landfill MTCA sites, and to construct recreational facilities for the Salish Landing Park project.

R.G. Haley International MTCA Site: The cleanup consists of the following primary elements:

1) Place fill to construct cap cover systems over the upland area to prevent direct contact with contaminated soil, debris and buried waste, prevent stormwater infiltration, and provide for controlled release of subsurface gases.
2) Construct in situ soil stabilization (ISS) to reduce mobility of light non-aqueous phase liquid (LNAPL) and eliminate contaminant leaching from soil to groundwater.

3) Excavate 4,900 cubic yards of contaminated sediment from 1.15 acres waterward of the HTL.

4) Place 16,300 cubic yards of amended sand fill in 6.21 acres waterward of the HTL to cap contaminated sediment.

5) Place 9,300 cubic yards of rock in 2.52 acres underlain by 2,000 cubic yards of gravel bedding material below the armor rock waterward of the HTL to provide shoreline protection to prevent erosion of cap materials.

6) Place 5,400 cubic yards of gravel/cobble in 2.32 acres and place 8,200 cubic yards of gravelly sand material in 4.55 acres waterward of the HTL to provide shoreline protection to prevent erosion of cap materials and as a thin layer cap.

7) Place fill on top of the cap erosion protection materials including armor rock to enhance habitat conditions. 9,600 cubic yards of substrate material would be placed in 3.03 acres waterward of the HTL to enhance subtidal and eelgrass habitat. 4,500 cubic yards of enhanced intertidal/forage fish spawning habitat material would be placed in 2.10 acres waterward of the HTL to fill voids and cover armor rock erosion protection material to enhance forage fish spawning habitat. 1,600 cubic yards of gravelly sand and sand overlay would be placed in 0.69 of an acre waterward of the HTL to fill voids and cover armor rock erosion protection material to enhance foreshore habitat and 100 cubic yards of topsoil placed in 0.04 of an acre waterward of the HTL to enhance backshore habitat.

Cornwall Avenue Landfill MTCA Site: The cleanup consists of the following primary elements:

1) Place fill to construct a landfill cover system over the upland area to prevent direct contact with buried solid waste, prevent stormwater infiltration, and provide for treatment and controlled release of subsurface gases.

2) Excavate and place fill (liners, riprap, etc.) waterward of the high tide line (HTL) to construct a shoreline armoring to prevent shoreline erosion from exposing buried waste. The work would involve excavation of 2,500 cubic yards from 0.97 of an acre, placement of 5,300 cubic yards of filtering sand in 3.23 acres, placement of 13,200 cubic yards of rock in 3.26 acres, and placement of 250 cubic yards of coarse sand on the armor rock to fill voids in 1.71 acres as a temporary surface; the final surface is described in the Salish Landing Park description below.

3) Place 5,600 cubic yards of total material (bedding layer and armoring stone) in 0.40 of an acre to construct a groin.

4) Place 28,400 cubic yards of gravel/cobble in 4.89 acres to construct a thin-layer sediment cap beyond the reach of the shoreline protection system.

5) Place 200 cubic yards of “fish mix” gravels in 0.05 of an acre for shoreline enhancement and place 37,200 cubic yards of sand with gravel in 3.14 acres to support eelgrass establishment in nearshore waters.

Salish Landing Park: The project consists of the following primary elements:

1) Place 780 cubic yards of fill (rock) in 0.01 of an acre waterward of the HTL to construct a drift sill and extension of the MTCA cleanup rock sill toe.
2) 1,590 cubic yards of concrete rubble and 176 cubic yards of mixed quarry rock would be placed in 0.53 of an acre waterward of the HTL to extend the cleanup rock cap surface southward to the Burlington Northern Santa Fe (BNSF) railroad revetement.
3) Place 366 cubic yards of cobble in 1.53 acres waterward of the HTL to fill/seal voids in the post cleanup riprap surface, the beach side of the drift sill and the rock sill toe. Mixed gravel will be placed over the concrete rubble fill (volume and area accounted for under item 5 below).
4) Place 119 cubic yards of cobble fill in 0.03 of an acre waterward of the HTL for construction of the cobble berm.
5) Place 4,780 cubic yards of mixed gravel in 1.5 acres waterward of the HTL for construction of the lower beach and 3,950 cubic yards of gravelly sand/sand would be placed in 1.25 acres waterward of the HTL for construction of the upper beach for habitat creation and public access.
6) Construct public recreational facilities in uplands to include multi-use trails, artwork, seats, athletic facilities (volleyball court), parking, trees; excavate and place to install utilities (watermain, sewer, storm, and electrical). Future phase will include buildings (restrooms, etc.), drinking fountains, secondary trails, added parking, playground, and picnic shelter.

The project site is located at RG Haley International MTCA cleanup site, Cornwall Avenue Landfill, and Salish Landing Park, in Bellingham Bay, Whatcom County, Washington, Quarter Section NE, Section S36, Township T38 N., Range R2E, within Water Resource Inventory Area (WRIA) 1 (Nooksack).

Authorities

In exercising authority under 33 U.S.C. §1341, 40 CFR Part 121, RCW 90.48.120, RCW 90.48.260, and Chapter 173-201A, 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; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

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.
5. The Project Proponent 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 Order (WQC Order), Ecology is granting with conditions City of Bellingham's request for a Section 401 Water Quality Certification for the RG Haley Cleanup, Cornwall Avenue Landfill Cleanup, and Salish Landing Park Redevelopment, located in Bellingham Bay, Whatcom County. Ecology has determined that the proposed discharges will comply with all applicable state water quality and other appropriate requirements of State law, provided the project is conducted in accordance with the WQC request that Ecology received on 11/28/2023 the supporting documents referenced in Table 1 below, **and the conditions of this WQC Order.**

Table 1 Supporting Documents

Date Received	Document Type	Title and Date	Author
11/28/2023	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA, signed 09/13/2023	Craig Mueller, City of Bellingham
11/28/2023	State Environmental Policy Act	State Environmental Policy Act Determination of Non-Significance (RG Haley), dated 2/20/2018	Robert Warren, Ecology
11/28/2023	State Environmental Policy Act	WAC 197-11-970 Determination of Non-Significance (Cornwall), dated 5/22/2014	Robert Warren, Ecology
11/28/2023	Biological Assessment	Biological Assessment and Essential Fish Habitat Assessment, RG Haley, dated 9/8/2023	GeoEngineers
11/28/2023	Biological Assessment	Biological Assessment and Essential Fish Habitat Evaluation, Cornwall	Landau Associates

		Avenue Landfill Cleanup, dated 9/8/2023	
11/28/2023	Biological Assessment	City of Bellingham Salish Landings Park Phase 1 Biological Assessment, dated August 2023	Waterfront Environmental
11/28/2023	Engineering Design Report (EDR)	Final Engineering Design Report, RG Haley International Corporation Site, May 13, 2022	City of Bellingham
03/08/2024	Engineering Design Report (EDR)	MU1 and MU2 Engineering Design Report, Cornwall Avenue Landfill Site, dated April 30, 2018	Landau Associates
3/13/2024	State Environmental Policy Act	Planned Action Ordinance Determination of Consistency, issued 1/24/2024	Kurt Nabbefeld, City of Bellingham
3/21/2024	Letter	Transmission letter for 90% design plans and specification dated 3/21/2024	City of Bellingham
3/21/2024	Drawings	Appendix B: RG Haley contract drawings, dated 1/22/2024	GeoEngineers
3/21/2024	Drawings	Appendix B: Cornwall contract drawings, dated 1/22/2024	Landau Associates
3/21/2024	Drawings	Appendix B: Salish Landing Park contract drawings, dated 1/22/2024	SiteWorkshop/Wilson Engineering

6/3/2024	Water Quality Monitoring Plan	Water Quality Monitoring Plan, RG Haley International Cleanup Site, Bellingham, Washington. Dated 6/3/2024	GeoEngineers
6/4/2024	Water Quality Monitoring Plan	Water Quality Monitoring Plan, Cornwall Avenue Landfill Cleanup and Salish Landing Park, Bellingham, Washington. Dated 5/24/2024	Landau Associates
6/19/2024	Mitigation Plan	Mitigation Plan, RG Haley International Corporation Site Bellingham, Washington, dated 6/19/2024	GeoEngineers
7/26/2024	Mitigation Plan	Preliminary Eelgrass Mitigation Plan, Cornwall Avenue Landfill Cleanup Site Bellingham, Washington dated 7/19/2024	Landau Associates

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize City of Bellingham 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) or other appropriate requirements of State law. Furthermore, nothing in this Section 401 Water Quality Certification absolves the City of Bellingham from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Water Quality Certification Conditions

The following conditions will be incorporated into the Corps permit and strictly adhered to by the City of Bellingham. Specific condition justifications and citations are provided below.

A. General Conditions

1. In this WQC Order, the term "Project Proponent" shall mean the City of Bellingham and its agents, assignees, and contractors.

    - Justification - Ecology needs to identify that conditions of this WQC Order apply to anyone conducting work on behalf of the Project Proponent to ensure compliance with the water quality standards and other applicable state laws.

    - Citation - 40 CFR 121.1(j), Chapter 90.48 RCW, RCW 90.48.080, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, Chapter 173-201A WAC, and WAC 173-225-010.

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 Laura.Inouye@ecy.wa.gov. The submittals shall be identified with WQC Order No. 22585 and include the Project Proponent's name, Corps permit number, project name, project contact, and the contact phone number.

    - Justification - Ecology needs to identify where information and submittals are to be submitted to be in compliance with the requirements of this WQC Order.

    - Citation - Chapter 90.48 RCW, RCW 90.48.120, RCW 90.48.260, Chapter 173-201A WAC, and WAC 173-225-010.

3. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on 11/28/2023 and the supporting documentation identified in Table 1.

    - Justification - Ecology has the authority to prevent and control pollution of state waters. By authorizing a discharge into a water of the state, through a WQC, Ecology is certifying the project as proposed will not negatively impact water quality. Therefore, it is imperative the project is conducted as it was presented during the review process. Any deviations from information within the WQC Request package and this WQC Order must be disclosed prior to the initiation of the planned work, and may require a new WQC request.

    - Citation - 40 CFR 121.5, 40 CFR 121.10, 40 CFR 121.11, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, Chapter 173-201A WAC, Chapter 173-204 WAC, and WAC 173-225-010.

4. The Project Proponent 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.

- Justification - All parties (including on-site contractors) must be aware of and comply with the WQC Order for the protection of water quality.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.

5. The Project Proponent 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.

- Justification - Ecology must be able to investigate and inspect construction sites and facilities for compliance with all state rules and laws.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.090, RCW 90.48.120, Chapter 173-201A WAC, and WAC 173-225-010.

6. The Project Proponent 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 Project Proponent shall provide Ecology a signed statement (see Attachment A for an example) before construction begins.

- Justification - Ecology needs to ensure that anyone conducting work at the project, on behalf of the Project Proponent, are aware of and understand the required conditions of this WQC Order to ensure compliance with the water quality standards and other applicable state laws.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.

7. 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.

- Justification - Ecology has the authority to prevent and control pollution of state waters, and to protect designated uses. By authorizing a discharge into a water of the state, through a water quality certification, Ecology is certifying the project as proposed will not negatively impact state water quality and will comply with the state's water quality requirements. Therefore, it is imperative the project is conducted as it was presented during the review process, and as conditioned herein.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300(2)(e)(i), WAC 173-201A-310, WAC 173-204-120, and WAC 173-225-010.

8. 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 and the conditions of this WQC Order.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses. Ecology has independent state authority to ensure protection of state water quality. Civil penalties and other enforcement actions are the primary means of securing compliance with water quality requirements.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.037, RCW 90.48.080, RCW 90.48.120, RCW 90.48.140, RCW 90.48.142, RCW 90.48.144, and WAC 173-225-010.

9. The Project Proponent 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.

- Justification - Ecology has independent authority to enforce our 401 certification conditions issued through this WQC Order pursuant to RCW 90.48, and has independent state authority to ensure protection of state water quality. In order to ensure the project will comply with water quality standards in the event of any major changes, Ecology must be able to review the scope of work involved in the construction and operation of the project, otherwise all work must stop and a new 401 certification pre-filing meeting, followed by a new WQC request (after requisite 30-days) is required.

- Citation - 40 CFR 121.1(k) and (n), 40 CFR 121.3, 40 CFR 121.5, 40 CFR 121.11, Chapter 90.48 RCW, and Chapter 173-201 WAC.

10. The Project Proponent shall send (per A.2.) a copy of the final Federal permit to Ecology's Federal Permit Manager within two weeks of receiving it.

- Justification - This condition is needed to ensure that all the conditions of the WQC Order have been incorporated into the federal permit.

- Citation - 40 CFR 121.10, 40 CFR 121.11, and Chapter 90.48 RCW.

11. To transfer this WQC Order to a new owner or operator the Project Proponent shall:

a. Complete a Request for Transfer of Order with a specific transfer date of the WQC Order's obligations, coverage, and liability and submit it to Ecology per condition A.2. Link to form: https://apps.ecology.wa.gov/publications/SummaryPages/ECY070695.html;

b. Provide a copy of this WQC Order to the new owner or operator; and

c. The transfer is not considered valid until the Project Proponent receives written notification from Ecology that the transfer has been approved.

- Justification – Ecology has independent state authority to ensure protection of state water quality. Ecology needs to ensure that anyone conducting work at the project, including any new owners or operators, are aware of and understand the required conditions of this WQC Order to ensure compliance with the water quality standards and other applicable state laws.

- Citation – 40 CFR 121.5, Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.

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 and cc to Laura.Inouye@ecy.wa.gov. Notifications shall be identified with WQC Order No. 22585, Corps Reference No. NWS-2023-684, and include the Project Proponent name, project name, project location, project contact and the 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 in-water work activities for each in-water work window; and

d. Within seven (7) days of completion of activities for each in-water work window.

- Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must be aware of when a project starts and ends and whether there are any issues. This allows Ecology to evaluate compliance with the state water quality requirements.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, Chapter 173-201A WAC, WAC 173-201A-300 - 330, Chapter 173-204 WAC, and WAC 173-225-010.

2. In addition to the phone or e-mail notification required under B.1.a. above, the Project Proponent 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.

- Justification - Ecology has independent state authority to ensure protection of state water quality. This condition is intended to assure the Project Proponent remains in full compliance with state water quality requirements for the duration of the project.

- Citation - Chapter 90.48 RCW, RCW 90.48.120, Chapter 173-201A WAC, and WAC 173-225-010.

C. Timing

1. This WQC Order is effective upon issuance of the U.S. Corps of Engineers (Corps) permit for this project and will remain valid until the Project Proponent meets all its requirements and conditions and upon receipt of a closeout letter from Ecology.

- Justification – Certifications are required for any license or permit that authorizes an activity that may result in a discharge or fill material into waters. This WQC Order is not valid until the Federal agency issues a permit. Additionally, Ecology needs to be able to specify how long the WQC Order will be in effect.

- Citation – Chapter 90.48 RCW, Chapter 173-201A WAC, and WAC 173-225-010.

2. The following in-water work windows apply to the project:

a. All activities within the wetted perimeter of the Bellingham Bay may be conducted between August 1 and February 15 of any year or in approved work windows in the Water Quality Monitoring Plans (table 1).

- Justification - This condition is reaffirming the project will take place during a time period that will not harm fish or other aquatic species.

- Citation - Chapter 77.55 RCW, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300, WAC 173-201A-330, WAC 173-225-010, and Chapter 220-660 WAC.

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.

- Justification - This condition is reaffirming the project will take place during a time period that will not harm fish or other aquatic species.

- Citation - Chapter 77.55 RCW, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300, WAC 173-201A-330, WAC 173-225-010, and Chapter 220-660 WAC.

D. Water Quality Monitoring and Criteria

1. This WQC Order does not authorize the Project Proponent to exceed applicable water quality standards beyond the limits established in Chapter 173-201A WAC, except as authorized by this WQC Order.

- Justification - This condition ensures compliance with water quality standards to protect surface waters of the state. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

2. For in-water activities within marine waters turbidity shall not exceed 5 NTU over background when the background is 50 NTU or less; or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and prevent exceedances of the water quality standards that protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

3. This WQC Order does not authorize the Project Proponent to exceed applicable turbidity standards beyond the limits established in Chapter 173-201A WAC as set forth below, unless otherwise authorized in this WQC Order. Temporary area of mixing for turbidity established within the state water quality standards for marine waters (WAC 173-201A-210) is as follows:

01. For estuaries or marine waters, the point of compliance for a temporary area of mixing shall be at a radius of one hundred fifty feet from the activity causing the turbidity exceedance.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and prevent exceedances of the water quality standards that protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

4. The Project Proponent shall conduct water quality monitoring as described in the approved Water Quality Monitoring Plans, identified in Table 1 (hereafter referred to as the WQMPs).

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and prevent exceedances of the water quality standards that protect aquatic life and beneficial uses.

- Citation - RCW 90.48, RCW 90.48.030, Chapter 173-201A WAC, 173-201A-300-330 and WAC 173-225-010.

5. If water quality exceedances for turbidity are observed outside the point of compliance, work shall cease immediately and the Project Proponent 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.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and prevent exceedances of the water quality standards that protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

6. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity, shall be considered an exceedance of the standard.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and prevent exceedances of the water quality standards that protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

7. Monitoring results shall be submitted as per the WQMPs (Table 1) to Ecology's Federal Permit Manager, per condition A.2.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and prevent exceedances of the water quality standards that protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

8. Ecology may ask or could use its discretionary authority to require the Project Proponent to provide mitigation and/or additional monitoring if the monitoring results indicate that the water quality standards have not been met.6n

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and ensure that aquatic life and beneficial uses are protected.

- Citation - RCW 90.48, RCW 90.48.010, RCW 90.48.030, RCW 90.48.080, RCW 90.48.120, Chapter 173-201A WAC, 173-201A-300-330 WAC, and Chapter 173-204 WAC.

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.

- Justification - Disturbed areas without appropriate BMPs and construction methods can discharge excess sediment to waters of the state and degrade water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.

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.

- Justification -Ensures that the project proponent preserves sensitive areas from discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

3. No stockpiling or staging of materials shall occur at or below the OHWM of any waterbody.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

4. The Project Proponent shall obtain and comply with the conditions of the Construction Stormwater General Permit (National Pollutant Discharge Elimination System - NPDES) issued for this project.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation – Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, RCW 90.48.260, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

5. Within the project limits[1] all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, shoreline riparian buffers and mitigation areas shall be fenced with high visibility construction fencing (HVF), prior to commencing construction activities. Construction activities include equipment staging, materials storage, and work vehicle parking. Note: This condition does not apply to activities such as pre-construction surveying and installing HVF and construction zone signage.

   a. If the project will be constructed in stages[2] a detailed description and drawings of the stages shall be sent to Ecology for review at least 20 days prior to placing HVF.

   b. Condition 5.a. shall apply to each stage.

[1] Project limits include mitigation sites, staging areas, borrow sources, and other sites developed or used to support project construction.
[2] A stage is part of a project that has been separated into at least two distinct areas to be built during separate timeframes.

c. All field staff shall be trained to recognize HVF, understand its purpose and properly install it in the appropriate locations.

d. HVF shall be maintained until all work is completed for each project or each stage of a staged project.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

6. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

7. 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.

- Justification - Ecology must be assured that the Project Proponent is managing and disposing of material to protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

8. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

9. Applicant shall ensure that fill (soil, gravel, or other material) placed for the proposed project does not contain toxic materials in toxic amounts.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300-330, WAC 173-204-120, and WAC 173-225-010.

10. Temporary cofferdams, bladder dams, super sack dams, floating turbidity curtains, and bypasses used to divert water around the work area shall be in place prior to initiation of work below the OHWM. These shall be properly deployed and maintained in order to minimize turbidity and re-suspension of sediment, as described in the approved Engineer and Design Reports (EDRs) in Table 1.

- Justification - This condition ensures containment and limits movement of sediment that could cause water quality exceedances. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300-330, WAC 173-204-120, and WAC 173-225-010.

11. To minimize sediment releases, re-introduction of water into the isolated work area shall be done gradually, and at a rate not higher than the normal flow.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300-330, WAC 173-204-120, and WAC 173-225-010.

12. Soil/sediment contamination is known to be present within the project site. Contaminated soil/sediment shall be managed as outlined in the approved EDRs identified in Table 1.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation – Chapter 70.105D RCW, Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300 - 330, Chapter 173-204 WAC, and WAC 173-225-010.

13. Protective measures to isolate and remove contaminated soils/sediment shall be implemented per the EDRs identified in Table 1. Contaminated soils shall be managed and disposed of in accordance with state and local regulations.

- Justification - Ecology must be assured that the Project Proponent is managing and disposing of sediment to protect water quality and beneficial uses.

- Citation - Chapter 70.105D RCW, Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300 - 330, Chapter 173-204 WAC and WAC 173-225-010.

14. Post-removal soil sampling shall be conducted per Section 6.3.5.6 of the RG Haley EDR, and Section 7.1.1 of the Cornwall Avenue Landfill EDR, identified in Table 1.

- Justification - This condition is necessary to ensure all contaminated soils have been removed or mitigated to protect water quality and beneficial uses.

- Citation - Chapter 70.105D RCW, Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300 - 330, Chapter 173-204 WAC and WAC 173-225-010.

15. If further contamination is discovered on site, it must be reported to Ecology (per Condition A.2.). Protective measures shall be implemented to isolate and remove the contaminated media and avoid escaping dust, soil erosion, and water pollution during construction activities.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 70.105D RCW, RCW 90.48, 90.48, RCW 90.48.030, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300-330, Chapter 173-204 WAC, and WAC 173-225-010.

16. The Project Proponent shall verify that existing groundwater contamination does not impact surface waters in the project area by providing the results from sufficient confirmatory water samples as identified in the RG Haley and Cornwall Avenue EDRs identified in Table 1.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation – Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300-330, Chapter 173-204 WAC, and WAC 173-225-010.

17. A pre-construction meeting is required to be convened prior to the start of each in-water work window. A **Work Plan,** consistent with the EDRs and construction plans listed in Table 1, shall be submitted to Ecology per Condition A2 two weeks prior to the pre-construction meeting. The Work Plan shall include the following:

    a. General information including schedule, primary contact, and hours of operation.

    b. Description of activities occurring in the in-water work window

    c. Methods of construction.

    d. Disposal location for sediments, debris, or other materials being removed from the site.

    e. Schedule and sequence.

    f. Equipment list.

    g. A description of the BMPs to be used for all activities.

        - Justification - Ecology needs to meet with the Project Proponent and contractor to go over the work plan prior start of work to ensure that the plan reflects the project that has been authorized by this WQC Order. This condition is intended to assure the Project Proponent remains in full compliance with state water quality requirements for the duration of the project.

        - Citation - Chapter 70A.200 RCW, Chapter 77.55 RCW, RCW 79.02.300, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.52-040 RCW, RCW 90.54.020(2)(b), Chapter 173-201A WAC, WAC 173-201A-240(5)(b), WAC 173-201A-300, WAC 173-201A-330, WAC 173-204-400(2), WAC 173-225-010, and Chapter 220-660 WAC.

18. A post-construction report must be submitted to Ecology per Condition A2 within 60 days of the completion of the project.

        - Justification - Ecology needs to confirm that all work conducted complies with the project descriptions authorized by this WQC Order. This condition is intended to assure

the Project Proponent remains in full compliance with state water quality requirements for the duration of the project.

- Citation - Chapter 70A.200 RCW, Chapter 77.55 RCW, RCW 79.02.300, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.52-040 RCW, RCW 90.54.020(2)(b), Chapter 173-201A WAC, WAC 173-201A-240(5)(b), WAC 173-201A-300, WAC 173-201A-330, WAC 173-204-400(2), WAC 173-225-010, and Chapter 220-660 WAC.

Equipment and Maintenance

19. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state, including wetlands, unless otherwise requested by the project proponent and authorized by Ecology.

- Justification - Requiring a minimum setback ensures that material will not end up in waters of the state. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

20. 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.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

21. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

22. 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.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 173-200, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

23. 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 Project Proponent shall set up a designated area for washing down equipment.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

24. Turbidity curtains shall be properly deployed and maintained in order to minimize turbidity and re-suspension of sediment as per the approved EDRs (Table 1).

- Justification - This condition ensures containment and limits movement of sediment that could cause water quality exceedances. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

25. 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.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

26. Barges shall not be allowed to ground-out during in-water construction.

- Justification - This condition is necessary to protect shallow water habitat and prevent suspension of sediment. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, 173-201A-300-330 WAC, and Chapter 173-204 WAC.

27. Barges shall be kept free of material that could be blown into water.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

Dredging

28. All dredging is to be done using a land-based excavator. Ecology must approve any other dredging method prior to its use.

- Justification - Ecology has reviewed the project and the BMPs for a specific type of dredging. Changes to the dredging method would require different BMPs. If new dredging methods are proposed, a new WQC pre-filing meeting request, followed by a new WQC request (after requisite 30-days) is required.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.52-040 RCW, Chapter 90.54.020(2)(b) RCW, Chapter 173-201A WAC, Chapter 173-201A-240(5)(b) WAC, and Chapter 173-204-400(2) WAC, and WAC 173-225-010.

29. Dredging operations shall be conducted in a manner that minimizes the disturbance and siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into state waters.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

30. Dredged material shall not be temporarily or permanently stockpiled below the OHWM.

- Justification - Stockpiles below the OHWM can discharge excess sediment to waters of the state and degrade water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

Bank Stabilization

31. Placement of rip-rap shall be conducted in compliance with water quality standards for turbidity.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

Dolphin Removal or Removal of Creosote Piles

32. Pile removal, handling, and disposal shall follow the EPA Region 10 Best Management Practices for Piling Removal and Placement in Washington State, dated February 18, 2016.

- Justification- Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citations- Chapter 77.55 RCW, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300, WAC 173-201A-330, WAC 173-225-010, and Chapter 220-660 WAC.

33. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

34. 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.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

35. If pile removal fails, the pile stub must be cut at least 2 ft. below mudline, and the location (latitude and longitude) of all cut piling shall be reported to Ecology within 2 months of removal of all piles.

- Justification- This condition is necessary because pile stubs can release associated creosote if exposed, and stubs at the surface can result in localized erosion that leads to further exposure of the stubs. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citations- Chapter 77.55 RCW, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300, WAC 173-201A-330, WAC 173-225-010, and Chapter 220-660 WAC.

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 waters of the state.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

37. All excavated piles and debris that is collected shall be disposed upland in an approved disposal site.

- Justification - Ecology must be assured that the Project Proponent is managing and disposing of piles and debris to protect water quality and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

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.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

39. Sediments spilled on work surfaces shall be contained and disposed of with the pile debris at an approved upland disposal site.

- Justification - Ecology must be assured that the Project Proponent is managing and disposing of sediment to protect water quality and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

40. Water left in the containment on the barge shall not be discharged into waters of the state.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

F. Aquatic Resources Mitigation Conditions

1. The Project Proponent shall mitigate aquatic resources impacts as described in the Mitigation Plans as identified in Table 1 or as required by this Order.

- Justification - Alteration of water quality necessitates the use of mitigation as a method of controlling pollution. When adequate mitigation is provided, the impacts are not considered significant enough to water quality, at least in the long-term. The water quality standards, along with mitigation, protect wetlands as well as permitting some level of degradation where unavoidable or necessary.

- Citation – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300, and WAC 173-225-010.

2. The Project Proponent shall submit any proposed changes to the Mitigation Plans in writing to Ecology (see A.2) for review, as described in the Mitigation Plans (Table 1), before implementing the changes.

- Justification – When adequate mitigation is provided, the water quality impacts are offset and not considered significant, at least in the long-term. Changes to impacts or mitigation must be considered when evaluating mitigation adequacy.

- Citation – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, RCW 47.85.040, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300, and WAC 173-225-010.

3. All mitigation cannot be completed prior to impacts due to the project sequencing. Mitigation will follow sequencing as presented in the plans in Table 1. In this case, additional eelgrass mitigation was added for temporal losses.

- Justification - Mitigation that is not emplaced concurrent with impacts will result in degradation of existing aquatic resources affected by the proposed action through temporal loss of functions.

- Citation – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, RCW 47.85.040, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300 and WAC 173-225-010.

4. The Project Proponent's obligation to compensate for aquatic resources under F.1 is not met until the Project Proponent has received written notice from Ecology that the obligation is met.

- Justification - If the mitigation site is not meeting all compensatory mitigation conditions then the water quality impacts will not be offset by the mitigation.

- Citation – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, RCW 47.85.040, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300, and WAC173-225-010.

- (3)(i-ii), WAC 173-201A-300, and WAC 173-225-010.

5. The Project Proponent shall monitor the mitigation sites for a minimum of 10 years. The Project Proponent shall use the monitoring methods described in Section 6 of the RG Haley mitigation plan, and in Section 6 of the Cornwall Mitigation Plan.

- Justification - A monitoring plan describes the methods used to collect and analyze data needed to show that performance standards are being met. Monitoring plans are necessary to track environmental changes at mitigation sites to ensure success of the mitigation site.

- Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300 and WAC 173-225-010.

6. The Project Proponent shall submit to Ecology (per Condition A.2) monitoring reports documenting mitigation site conditions for years consistent with the Mitigation Plans.

   a. Be submitted by December 31 of each monitoring year.

   b. Include the information listed in the mitigation plans (Table 1).

      - Justification- Monitoring reports track the environmental progress of the mitigation site and are necessary to track environmental changes at mitigation sites to ensure success of the mitigation site.

      - Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300 and WAC 173-225-010.

7. The Project Proponent shall implement the Mitigation Plans' contingency measures if the Mitigation Plans' goals, objectives, or performance standards are not being met.

   - Justification - A contingency plan is necessary in case the actions undertaken for the mitigation fail or only partially succeed. A contingency plan contains corrective measures that will be taken if monitoring indicates that performance standards are not being met. The contingency plan outlines the steps that will be taken for each performance standard if it is not met.

   - Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300 and WAC 173-225-010.

8. Prior to implementing contingency measures not specified in the Mitigation Plans, the Project Proponent shall consult with Ecology regarding the contingency measures.

   - Justification - A contingency plan is necessary in case the actions undertaken for the mitigation fail or only partially succeed. A contingency plan contains corrective measures that will be taken if monitoring indicates that performance standards are not being met. The contingency plan should outline the steps that will be taken for each performance standard if it is not met.

- Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300 and WAC 173-225-010.

9. If the Project Proponent has not met all compensatory mitigation conditions by the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both. Conditions include specifications in the approved Mitigation Plans, such as performance standards for the mitigation sites.

- Justification - If the mitigation site is not meeting all compensatory mitigation conditions then the water quality impacts will not be offset by the mitigation.

- Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300 and WAC 173-225-010.

F. Emergency/Contingency Measures

1. The Project Proponent shall develop and implement a spill prevention and containment plan for all aspects of this project.

- Justification - Ecology must ensure that the Project Proponent has a plan to prevent pollution from entering waterways. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.

2. The Project Proponent 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.

- Justification - Ecology must have assurance that the Project Proponent has the material readily available in WQC Order to address any spills that might occur to protect waters of the state. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.

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.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.

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 Project Proponent 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 and 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.

- Justification - This condition is necessary to prevent oil and hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.

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.

- Justification - Oil and hazardous materials spills cause environmental damage. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.

Your right to appeal

You have a right to appeal this WQC 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 WQC Order:

- File your notice of appeal and a copy of this WQC Order with the PCHB (see filing information 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 WQC 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://eluho.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

Americans with Disabilities Act Information

Accommodation Requests

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-6831 or visit https://ecology.wa.gov/accessibility. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

Contact Information

Please direct all questions about this WQC Order to:

Laura Inouye
Department of Ecology
360-515-8213
Laura.Inouye@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
  https://eluho.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

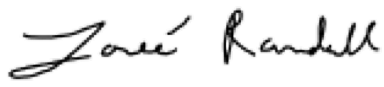
- **Chapter 173.204 WAC – Sediment Management Standards**
  http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204

- **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 18th day of September 2024 at the Department of Ecology, Lacey, Washington.



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

Attachment A

Statement of Understanding
Water Quality Certification Conditions

RG Haley Cleanup and Cornwall Avenue Landfill Cleanup and Salish Landing Park Redevelopment

Water Quality Certification WQC Order No. 22585

As the Project Proponent for RG Haley Cleanup and Cornwall Avenue Landfill Cleanup and Salish Landing Park Redevelopment project, I have read and understand the conditions of Washington State Department of Ecology WQC Order No.22585, and any permits, plans, documents, and approvals referenced in the WQC Order. I have and will continue to ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this WQC Order and any permits, plans, documents, and approvals referenced in the WQC Order.

_____ _____
Signature Date

_____ _____
Title Phone

_____
Company