



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

April 3, 2025

Zittel's Marina, Inc.
ATTN: Michael Zittel
9144 Gallea St NE
Olympia, WA 98516

Re: Termination of Section 401 Water Quality Certification Order No. 20829

Dear Michael Zittel:

For the reasons stated below, the Department of Ecology (Ecology) hereby terminates Section 401 Water Quality Certification Order No. 20829, pursuant to RCW 90.48.120.

Project Background

Order #20829 was issued on 11/21/2021 and covered dredging and disposal of approximately 26,060 cubic yards (cy) from Zittle's Marina, with disposal at Anderson Ketron open water disposal site, in Pierce County, Washington. Condition C1 tied the duration of the order to the duration of the Corps permit. As the Corps permit was not issued for this project because the federal permit application was withdrawn, Ecology is terminating Order #20829.

Your right to appeal

You have a right to appeal this Termination letter 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 Termination letter:

- File your notice of appeal and a copy of this Termination letter 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 Termination letter on the Department of Ecology by 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.

Address and Location Information

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:

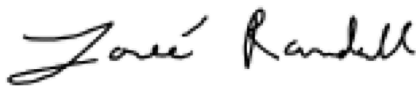
Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

E-Mail Address:

ecologyappeals@ecy.wa.gov

If you have questions, please contact Laura Inouye at 360-515-8213 or Laura.Inouye@ecy.wa.gov.

Sincerely,



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

Enclosures: Section 401 Water Quality Certification Order 20829



Termination of Section 401 Water Quality Certification Order No. 20829
Aquatics No. 103317, Corps No. NWS-2009-1188
April 3, 2025
Page 3 of 3

By Certified Mail: 91 7199 9991 7036 8715 4744

Sent via email: zittelsmarina@gmail.com

E-cc: Brandon Clinton, USACE
Alex Hammond, USACE
Robert Smith, K&L Gates LPP
Laura Inouye, Ecology
Erin Hanlon Brown, Ecology
Ecyrefedpermits@ecy.wa.gov



IN THE MATTER OF GRANTING A)	ORDER No. 20829
WATER QUALITY)	Corps Reference No. NWS-2009-01188
CERTIFICATION TO)	Zittel's Marina Maintenance Dredging,
Zittel's Marina, Inc.)	Thurston County, Washington.
pursuant to 33 U.S.C. 1341 (FWPCA)	
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

Zittel's Marina, Inc.
ATTN: Michael Zittel
9144 Gallea St NE
Olympia, WA 98516

On October 21, 2020, Zittel's Marina, Inc. submitted a pre-filing meeting request to the Department of Ecology (Ecology). Zittel's Marina then on December 15, 2020, submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Zittel's Marina Maintenance Dredging, Baird Cove, Nisqually Reach, Thurston County, Washington. On October 28, 2021, Zittel's Marina submitted additional information and Ecology considered the Request valid on this date. The U.S. Army Corps of Engineers (Corps) issued a joint public notice with Ecology on February 4, 2021.

The proposed work consists of subtidal dredging within the marina basin area, of up to 26,060 cubic yards (CY) of sediment over 3.28 acres to a maximum dredge depth of -11 ft. MLLW (includes 1 foot over depth). Up to 17,060 CY of sediment is proposed for removal in 2021 or 2022, with two potential subsequent maintenance dredge cycles of up to 4,500 CY. Dredging would be performed using a barge-mounted boom with clamshell dredge bucket. Dredged material would be loaded onto a split-hull, bottom-dump barge for transport and disposal. Dredged material is proposed for disposal at the Anderson-Ketron open-water disposal site in Pierce County, Washington. The proposed work also includes removal of piles within the marina as mitigation.

The project is located within Baird Cove, Nisqually Reach in section SE/NE 04, Township 19N, range 1W, in WRIA No. 11 (Nisqually).

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 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 (WQC) Order, Ecology is granting with conditions, Zittel's Marina, Inc.'s request for a Section 401 Water Quality Certification for the Zittel's Marina maintenance dredging, Baird Cove, Nisqually Reach located in Thurston 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 December 15, 2020, the supporting documents referenced in Table 1 below, **and the conditions of this WQC Order.**

Table #1 – Supporting Documentation Received

Date Received	Document Type	Title & Date	Author
December 15, 2020	Joint Aquatic Resource Permit Application (JARPA)	<i>Washington State Joint Aquatic Resources Permit Application (JARPA) Form, signed October 22, 2020</i>	Chris Cziesla, Confluence Environmental Company
December 15, 2020, revised November 9, 2021	Water Quality Monitoring and Protection Plan	<i>Zittel's Marina Maintenance Dredging. Water Quality Monitoring and Protection Plan</i>	Confluence Environmental Company
January 20, 2021	Suitability Determination	<i>Suitability Determination Memorandum and Antidegradation Assessment for Maintenance Dredging of the Zittel's Marina in Olympia, Washington (NWS-2009-1188), January 20, 2021</i>	DMMP
June 22, 2021	Biological Assessment	<i>Zittel's Marina Maintenance Dredging Biological Assessment, dated October 2020</i>	Confluence Environmental Company
October 28, 2021	SEPA: MNDS	<i>Mitigated Determination of Nonsignificance, Permit # 2020105811</i>	Sharon Lumbantobing, Thurston County

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize the Zittel's Marina, Inc. to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this Section 401 Water Quality Certification absolves the Zittel's Marina, Inc. 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

- A. The following conditions shall be incorporated into the Corps permit and strictly adhered to by the Zittel's Marina, Inc. 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.

General Conditions

1. In this WQC Order, the term "Project Proponent" shall mean the Zittel's Marina, Inc. 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 –Chapter 90.48 RCW, Chapter 90.48.080 RCW, Chapter 90.48.120 RCW, Chapter 90.48.260 RCW, Chapter 173-200 WAC, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
2. All submittals required by this WQC Order shall be sent to Ecology 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 Order No. 20829 and include the Project Proponent's name, Corps reference 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, Chapter 90.48.120 RCW, Chapter 90.48.260 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
3. Work authorized by this WQC Order is limited to the work described in the WQC Request package received by Ecology on December 15, 2020, and the supporting documentation identified in Table 1 above.
 - *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 our state's 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.*
- *Citation –Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.120 RCW, Chapter 90.48.260 RCW, Chapter 173-200 WAC, Chapter 173-201A WAC, Chapter 173-204 WAC, and Chapter 173-225-010 WAC.*
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, Chapter 90.48.030 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
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 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, Chapter 90.48.030 RCW, Chapter 90.48.090 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
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, Chapter 90.48.030 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
7. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
- *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, we are certifying the project as proposed will not negatively impact our state's 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, Chapter 90.48.030 RCW, Chapter 173-201A WAC, Chapter 173-201A-300(2) (e) (i) WAC, Chapter 173-201A-310 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
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 terms of this 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; civil penalties and other enforcement actions are the primary means of securing compliance with water quality requirements.*
 - *Citation – Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.037 RCW, Chapter 90.48.080 RCW, Chapter 90.48.120 RCW, Chapter 90.48.142 RCW, Chapter 90.48.144 RCW, and Chapter 173-225-010 WAC.*
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. 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 401 request (after requisite 30-days) is required.*
 - *Citation- Chapter 90.48 RCW, and Chapter 173-201 WAC.*
10. The Project Proponent shall send (per A.2.) a copy of the final Corps 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.*
11. 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.
- *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 90.48.120 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*

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 Laura.Inouye@ecy.wa.gov. Notifications shall be identified with Order No. 20829 and include the Project Proponent's name, Corps reference #, project name, project location, project contact and the contact's phone number.
 - a. Immediately following a violation of state water quality standards or when the project is out of compliance with any of this Orders conditions.
 - b. At least ten (10) days prior to all pre-construction meetings
 - c. At least ten (10) days prior to conducting initial in-water work activities for each in-water work window.
 - d. Within seven (7) days of completing in-water work activities for each in-water work window.
 - *Justification - 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, Chapter 90.48.030 RCW, Chapter 173-201A WAC, Chapter 173-201A-300–330 WAC, Chapter 173-204 WAC, and Chapter 173-225-010 WAC.*
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 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, Chapter 90.48.030 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204 WAC, and Chapter 173-225-010 WAC.*

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
 - *Justification – Certifications are required for any license or permit that authorizes an activity that may result in a discharge. Ecology needs to be able to specify how long the WQC Order will be in effect.*
 - *Citation –Chapter 173-225-010 WAC.*

2. The following in-water work windows apply to the project:
 - a. All activities within the wetted perimeter of the Nisqually Reach may be conducted between July 16 through September 30 of any year. Activities may be conducted between October 1 and February 15 if surf smelt eggs are not present.
 - *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300 WAC, Chapter 173-201A-330 WAC, Chapter 173-225-010 WAC, 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.
 - *Justification - This condition is requiring notification of any project changes to ensure the project meets the state's Water Quality Standards. Additionally, an HPA may include additional BMPs that Ecology needs to be aware of.*
 - *Citation – Chapter 77.55 RCW, Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300 WAC, Chapter 173-201A-330 WAC, Chapter 173-225-010 WAC, and Chapter 220-660 WAC.*

D. Water Quality Monitoring & Criteria

1. This Order does not authorize the Project Proponent to exceed applicable turbidity standards beyond the limits established in WAC 173-201A-210(1) (e) (i).
 - *Justification – This condition provides citation to the appropriate water quality standard criteria 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, 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. Dewatering water may not be discharged to Baird Cove or the Nisqually Reach, or conveyed to surface waters unless it meets Surface Water Quality Standards (Chapter 173-201A WAC) at the point of discharge, unless otherwise authorized by 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC.*

3. The Project Proponent shall conduct water quality monitoring as described in the approved Zittel's Marina Maintenance Dredging Water Quality Monitoring and Protection Plan-Corps Reference #NWS-2009-1188 (hereafter referred to as the WQMPP) prepared by Confluence Environmental Company, as identified in Table 1.
 - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and know if there are 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 Chapter 173-225-010 WAC.*
4. Monitoring results shall be submitted weekly to the Ecology Federal Permit Manager, per condition A.2.
 - *Justification – This information is necessary for Ecology to determine if the project was implemented as approved by the WQC Order and that no adverse impacts to water quality or beneficial uses occurred.*
 - *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.*
5. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity shall be considered an exceedance of the standard.
 - *Justification – This condition specifically informs the Project Proponent of when they would be out of compliance with the water quality standards and an obvious sign of water quality degradation. 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.*
6. If water quality exceedances for turbidity are observed outside the point of compliance, the Project Proponent or the contractor shall assess the cause of the water quality problem and take immediate action to modify or 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 know if there are exceedances of the water quality standards that 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.*

7. 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.
 - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and know if there are exceedances of the water quality standards that protect aquatic life and beneficial uses.*
 - *Citation - RCW 90.48, 90.48, RCW 90.48.030 Chapter 173-201A WAC, 173-201A-300-330 WAC, Chapter 173-204 WAC.*

E. Dredging and Disposal

1. All dredging is to be done using a mechanical (clamshell) dredge.
 - *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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, 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 Chapter 173-225-010 WAC).*
2. All suitable dredged material will be disposed of by bottom dump barge at the Anderson-Ketron open-water disposal site in Pierce County, Washington.
 - *Justification – Ecology has reviewed the project and the BMPs for a specific type of disposal technique and disposal location. If different in-water disposal sites 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, 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).*
3. 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 173-201A WAC, Chapter 173-201A-300–330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC.*

4. 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, 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.*
5. All debris larger than two (2) feet in any dimension shall be removed from the dredged sediment using a debris grid (grizzly) prior to disposal at the open water site. Similar-sized debris floating in the dredging or disposal area shall be removed.
 - *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, 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.*
6. The *Dredging and Disposal Work Plan* (Work Plan) shall include the following:
 - a. General information including schedule, primary contact, and hours of operation
 - b. Dredged quantities and disposal location.
 - c. Dredging procedures and sequence
 - d. Equipment list
 - e. A description of the BMPs to be used for dredging, dewatering, and disposal.
 - *Justification - Ecology has reviewed the project and the BMP prior to the contractor being brought on board, therefore we need to obtain specific information regarding dredging and disposal plan to ensure that the specific type of dredging, disposal technique and disposal location within the Work Plan. This information will allow Ecology to ensure the project will comply with water quality standards. Also if there have been major changes to the original proposed dredging and disposal, work must not proceed and a new WQC pre-filing meeting request, followed by a new WQC request (after requisite 30-days) is required.*
 - *Citation –Chapter 70A-200 RCW, Chapter 77.55 RCW, Chapter 79.02.30040 RCW, Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.52-040 RCW, Chapter 90.54.020(2)(b) RCW, Chapter 173-201A WAC, Chapter 173-201A-240(5)(b)WAC, Chapter 173-201A-300 WAC, Chapter 173-201A-330 WAC, Chapter 173-204-400(2) WAC, Chapter 173-225-010 WAC, and Chapter 220-660 WAC.*

7. A pre-dredge meeting is required to be convened prior to the start of dredging. A **Dredging and Disposal Work Plan** (Work Plan) shall be submitted to Ecology to the address shown in Condition A2 two weeks prior to the pre-dredge meeting.
 - *Justification – Ecology would like 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. If there has been major changes work must not proceed and a new WQC pre-filing meeting request, followed by a new WQC request (after requisite 30-days) is required.*
 - *Citation –Chapter 70A-200 RCW, Chapter 77.55 RCW, Chapter 79.02.30040 RCW, Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.52-040 RCW, Chapter 90.54.020(2)(b) RCW, Chapter 173-201A WAC, Chapter 173-201A-240(5)(b) WAC, Chapter 173-201A-300 WAC, Chapter 173-201A-330 WAC, Chapter 173-204-400(2) WAC, Chapter 173-225-010 WAC, and Chapter 220-660 WAC.*
8. All dredging and disposal shall have a valid suitability determination prior to in-water work. This area ranks moderate in potential for contamination and the recency determination extends through June 2025. Contact the DMMO for a possible extension on this suitability determination.
 - *Justification – The DMMP process confirms that material is suitable for in-water disposal and that the project meets state antidegradation regulations.*
 - *Citation – Chapter 173-201A WAC, Chapter 173-201A-230 WAC, Chapter 173-201A-240(1) WAC, Chapter 173-201A-240(2) WAC, Chapter 173-204 WAC, Chapter 173-204-110–120 WAC, Chapter 173-204-400(2) WAC, Chapter 173-204-410(7) WAC, Chapter 173-204-350(d), and Chapter 173-225 WAC.*
9. The initial dredging is allowed up to 17,060 CY of dredged material, with two additional maintenance cycles of up to 4,500 CY for a total maximum of 26,060 CY over the life of the certification. Note: If additional material needs to dredging and dispose of, a new WQC pre-filing meeting request, followed by a new WQC request (after requisite 30-days) is required.
 - *Justification – The volume of material is limited to what was characterized under the DMMP process.*
 - *Citation – Chapter 173-201A WAC, Chapter 173-201A-230 WAC, Chapter 173-201A-240(1) WAC, Chapter 173-201A-240(2) WAC, Chapter 173-204 WAC, Chapter 173-204-110–120 WAC, Chapter 173-204-400(2) WAC, Chapter 173-204-410(7) WAC, Chapter 173-204-350(d), and Chapter 173-225 WAC.*
10. Barges shall not be allowed to groundout 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 173-201A-300(2) (e) (i) WAC, Chapter 173-201A-310 WAC, and Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

11. Barges shall be kept free of material that could be blown into the 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 70A-200 RCW, Chapter 79.02-300 RCW, and Chapter 90.48 RCW, and Chapter 173-225-010 WAC.*

F. Piling Removal

1. 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- The EPA BMPs were developed to protect water, sediment, and habitat quality by minimizing turbidity, sediment disturbance and debris re-entry to the water column and benthic zone during pile removal/placement activities.*
- *Citations- Chapter 77.55 RCW, Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300 WAC, Chapter 173-201A-330 WAC, Chapter 173-225-010 WAC, and Chapter 220-660 WAC.*

2. 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, 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.*

3. 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, 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.*

4. 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- 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.*
 - *Citations- Chapter 77.55 RCW, Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300 WAC, Chapter 173-201A-330 WAC, Chapter 173-225-010 WAC, and Chapter 220-660 WAC.*
5. 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, 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.*
6. 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, 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.*
7. 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, 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.*
8. 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, 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.*

9. 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, 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.*

G. Emergency/Contingency Measures

1. The Project Proponent shall develop and implement a spill prevention and containment plan for 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter 173-201A-300–330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, and Chapter 173-303-145 WAC.*
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 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter 173-201A-300–330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, and Chapter 173-303-145 WAC.*
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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter 173-201A-300–330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, and Chapter 173-303-145 WAC.*

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

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001 (2).

To appeal you must do both of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

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

ADDRESS AND LOCATION INFORMATION

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

CONTACT INFORMATION

Please direct all questions about this Order to:

Laura Inouye
Department of Ecology
Headquarters Office
PO Box 67600
Olympia, WA 98504-7600
(360) 407-6165
Laura.Inouye@ecy.wa.gov

MORE INFORMATION

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

SIGNATURE

Dated this 12th day of November, 2021 at the Department of Ecology, Olympia, Washington



Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program