



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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April 27, 2020

Darren Peugh  
JR Hayes & Sons  
22430 SE 231st St.  
Maple Valley, WA 98038-8272

<b>Order Docket No.</b>	18101
<b>Site Location</b>	Prologis Emerald Gateway Sec S Norfolk St and E Marginal Way S Seattle, WA 98168

Re: Administrative Order

Dear Darren Peugh:

The Department of Ecology (Ecology) has issued the enclosed Administrative Order (Order) requiring JR Hayes & Sons to comply with:

- Chapter 90.48 Revised Code of Washington (RCW) – State of Washington Water Pollution Control Act.
- Chapter 173-201A Washington Administrative Code (WAC) – Water Quality Standards for Surface Waters of the State of Washington.
- National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit, Permit Number WAR308823.

If you have questions please contact Mathew Kwartin at 425-649-4484 or [mkwa461@ecy.wa.gov](mailto:mkwa461@ecy.wa.gov).

Sincerely,

Handwritten signature of Rachel McCrea in cursive.

Rachel McCrea  
Water Quality Section Manager  
Northwest Regional Office

Sent by Certified Mail: 9171 9690 0935 0232 6490 98

Enclosures: Administrative Order Docket No.18101

**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

IN THE MATTER OF AN )  
ADMINISTRATIVE ORDER )  
AGAINST )  
JR Hayes & Sons )  
)

ADMINISTRATIVE ORDER  
DOCKET NO. 18101

To: Darren Peugh  
JR Hayes & Sons  
22430 SE 231st St  
Maple Valley, WA 98038-8272

<b>Order Docket No.</b>	18101
<b>Site Location</b>	Prologis Emerald Gateway Sec S Norfolk St and E. Marginal Way S Seattle, WA 98168

The Washington State Department of Ecology (Ecology) has issued this Administrative Order (Order) requiring JR Hayes & Sons to comply with:

- Chapter 90.48 Revised Code of Washington (RCW) – State of Washington Water Pollution Control Act.
- Chapter 173-201A Washington Administrative Code (WAC) – Water Quality Standards for Surface Waters of the State of Washington.
- Permit: National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit WAR 308823.

This is an Administrative Order in accordance with General Condition G13 (Additional Monitoring) as set forth in the Construction Stormwater General Permit. RCW 90.48.120(2) RCW authorizes Ecology to issue Administrative Orders to accomplish the purposes of Chapter 90.48 RCW.

**ORDER TO COMPLY**

**Background and associated corrective actions:**

JR Hayes & Sons has received coverage under the Construction Stormwater General Permit (CSWGP) No. WAR308823, for construction activities associated with the construction site known as Prologis Emerald Gateway. The project consists of the demolition and removal of several existing structures, excavation and extensive grading including several feet of additional fill material raising grade by up to 10 feet in areas, and construction of new buildings and new utilities. The receiving water bodies will be the existing storm system on East Marginal Way, with discharge into the Duwamish River. JR Hayes & Sons reported that part of the construction site contains contaminated soil/groundwater which contains pollutants that may be discharged due to the proposed construction activity. The CSWGP does not have water quality sampling or benchmarks for the known constituents of concern listed in Table 1; however, the permit requires compliance with the Chapter 173-201A Washington Administrative Code (WAC) – Water Quality Standards for Surface Waters of the State of Washington (WAC 173-201A).

The Order establishes Indicator Levels for the JR Hayes & Sons project. Indicator Levels express a pollutant concentration used as a threshold, below which a pollutant is considered unlikely to cause a water quality violation, and above which it may. Indicator Levels in this Administrative Order were derived from WAC 173-201A and the analytical method's minimum quantitation level, as well as an additional consideration for the Duwamish River's water quality impairments for PCBs and the associated ongoing superfund site source control program..

For these reasons and in accordance with RCW 90.48.120(2) it is ordered that JR Hayes & Sons take the following actions. These actions are required at the location known as the Prologis Emerald Gateway located at Sec S Norfolk St and E Marginal Way S, Seattle, WA 98168. In the event of a permit transfer to another Permittee, compliance with this Administrative Order and the actions listed below is required.

Immediately upon receipt of this Order and continuously thereafter JR Hayes & Sons must:

- Install all pre-treatment and treatment systems prior to any discharge of contaminated dewatering water or contaminated construction stormwater to the receiving water body.
- Capture, contain, and treat all contaminated dewatering or contaminated stormwater prior to discharge to the receiving water body.
- Use an Ecology-approved treatment system and media filtration to treat any contaminated dewatering water or contaminated stormwater. Ecology must be notified in advance if any changes in the treatment are made, with the exception of routine maintenance.
- All captured sediment from the treatment of the dewatering water or contaminated stormwater must be transported to an approved disposal facility based on the level of contamination.

The treatment system must have enough capacity to hold the treated dewatering water or stormwater until it has been tested to determine if any of the Indicator Levels listed in Table 1 have been exceeded. No dewatering water or stormwater may be discharged before it has been tested for the parameters listed in Table 1. If any of the Indicator Levels listed in Table 1 are exceeded, the treated dewatering water or stormwater must not be discharged to the receiving water body. The treated dewatering water or stormwater may be discharged to the receiving water body if it has been treated and retested to determine that all parameters are equal to or below the Indicator Levels listed in Table 1. If any of the Indicator Levels are exceeded after being retested, JR Hayes & Sons shall truck the contaminated storm or groundwater off-site for disposal in an approved manner. JR Hayes & Sons may also discharge to sanitary sewer if authorization from the proper sewer authority has been obtained and Ecology is notified of the change.

Once the effectiveness of the treatment system has been determined, JR Hayes & Sons may revert to a flow-through treatment system after the minimum two sampling and testing events and upon written approval from Ecology. The flow-through treatment system design must be submitted to Ecology for review prior to use.

- If a flow-through treatment system is adopted, all dewatering water or contaminated stormwater must be sampled weekly while discharging and tested for the parameters listed in Table 1.
- When using a flow-through treatment system, if any of the Indicator Levels listed in Table 1 are exceeded, JR Hayes & Sons must stop the discharge of treated dewatering

water or stormwater to the receiving water body until it has been retested to determine that all parameters are equal to or below the Indicator Levels in Table 1. If any of the Indicator Levels are exceeded after being retested, JR Hayes & Sons shall modify the existing flow-through treatment system to increase its effectiveness or install an Ecology-approved treatment system or truck the contaminated stormwater or groundwater off-site for disposal in an approved manner.

- Sampling for the contaminants listed in Table 1 must be reported on the required Discharge Monitoring Report (DMR) according to Permit Conditions (S5.B Discharge Monitoring Reports).
- If sampling is conducted more frequently than required by this Order, the results of this monitoring must be included in the calculation and reporting of the data that is submitted in the Discharge Monitoring Reports (DMRs).
- Any discharge to waters of the state in exceedance of the contaminant Indicator Levels in Table 1 except for pH criteria shall be reported according to Permit Condition S5.F, Noncompliance Notification as follows:
  - Immediately notify Ecology of noncompliance by calling the regional 24-hour Environmental Report Tracking System (ERTS) phone number (425) 649-7000.
  - Cease the discharge until indicator levels can be met.
  - Submit a detailed, written report to Ecology within five (5) days, unless requested earlier by Ecology. See Permit condition S5.F.3 for Noncompliance Notification requirements.
- All samples must be analyzed by a laboratory registered or accredited under the provisions of Accreditation of Environmental Laboratories, Chapter 137-50 WAC.
- All sampling data must be reported monthly on Discharge Monitoring Reports (DMRs) electronically using Ecology's secure online system WQWebDMR, in accordance to Permit Condition S5.B. If the measured concentration is below the detection level, then JR Hayes & Sons shall report single analytical values below detection as "less than the detection level (DL)" by entering "<" followed by the numeric value of the detection level (e.g. "<0.1" ). All other values above DL must be reported as the numeric value.
- Contaminated soils excavated during construction will be hauled off-site without stockpiling to an approved disposal facility based on the level of contamination. When it is not feasible to haul soils off-site, the soils must be covered or placed in a covered area to minimize contact with stormwater.
- Noncompliance with permit requirements or the provisions of this Order must be immediately reported to the Northwest Regional Office of the Department of Ecology in accordance with Permit Condition S5.F, Noncompliance Notification.
- If a modification of the Order is desired, a written request shall be submitted to Ecology and if approved, Ecology will issue an amendment to this Order.

Ecology retains the right to make modifications to this Order through supplemental Order, or amendment to this Order, if it appears necessary to further protect the public interest.

This Order does not exempt JR Hayes & Sons from any Construction Stormwater General Permit requirement.

**Table 1.**

JR Hayes & Sons must use the specified analytical methods, detection limits (DLs) and quantitation levels (QLs) in the following table for monitoring unless the method used produces measurable results in the sample and EPA has listed it as an EPA-approved method in 40 CFR Part 136. If JR Hayes & Sons uses an alternative method, not specified in the order and as allowed above, it must report the test method, DL, and QL on the discharge monitoring report.

Pollutant (CAS No. if available)	Sampling Frequency	Sample Type	Indicator Level, µg/L unless otherwise noted	Required Analytical Protocol	Detection Level, µg/L	Quantitation Level, µg/L
<b>PETROLEUM HYDROCARBONS</b>						
Diesel and Oil-Range Hydrocarbons (NWTPH-Dx) <sup>e</sup>	Batch/Weekly*	Grab	250 <sup>a</sup>	NWTPH-Dx	250	250
Gasoline-Range Hydrocarbons (NWTPH-Gx) <sup>i</sup>	Batch/Weekly*	Grab	250 <sup>a</sup>	NWTPH-Gx	250	250
BTEX (benzene, toluene, ethylbenzene and O,M,P xylenes)	Batch/Weekly*	Grab	2.0 <sup>a</sup>	EPA SW 846 8021/8260	1.0	2.0
<b>METALS</b>						
Arsenic, Total (7440-38-2)	Batch/Weekly*	Grab	69 <sup>c</sup>	200.8	0.1	0.5
Cadmium, Total (7440-43-9)	Batch/Weekly*	Grab	42 <sup>c</sup>	200.8	0.05	0.25
Chromium, Total (7440-47-3)	Batch/Weekly*	Grab	1100 <sup>d</sup>	200.8	0.2	1.0
Copper, Total (7440-50-8)	Batch/Weekly*	Grab	4.8 <sup>c</sup>	200.8	0.4	2.0
Lead, Total (7439-94-6)	Batch/Weekly*	Grab	210 <sup>c</sup>	200.8	0.1	0.5
Mercury, Total (7439-97-6)	Batch/Weekly*	Grab	1.8 <sup>c</sup>	1631E	0.2 ng/L	0.5 ng/L
Manganese, Total (7439-96-5)	Batch/Weekly*	Grab	0.5 <sup>a</sup>	200.8	0.1	0.5
Zinc, Total (7440-66-6)	Batch/Weekly*	Grab	90 <sup>c</sup>	200.8	0.5	2.5
<b>POLYCYCLIC AROMATIC HYDROCARBONS (PAHs)</b>						
1-Methylnaphthalene (90-12-0)	Batch/Weekly*	Grab	0.01 <sup>a</sup>	8270	0.01	0.01
2-Methylnaphthalene (91-57-6)	Batch/Weekly*	Grab	0.01 <sup>a</sup>	8270	0.01	0.01
Benzo(g,h,i)perylene (191-24-2)	Batch/Weekly*	Grab	12.3 <sup>a</sup>	610/625.1	4.1	12.3
Benzo(a)anthracene (56-55-3)	Batch/Weekly*	Grab	23.4 <sup>a</sup>	625.1	7.8	23.4
Dibenzo(a-h)anthracene (53-70-3)	Batch/Weekly*	Grab	7.5 <sup>a</sup>	625.1	2.5	7.5
Fluoranthene (206-44-0)	Batch/Weekly*	Grab	6.6 <sup>a</sup>	625.1	2.2	6.6
Fluorene (86-73-7)	Batch/Weekly*	Grab	5.7 <sup>a</sup>	625.1	1.9	5.7

Pollutant (CAS No. if available)	Sampling Frequency	Sample Type	Indicator Level, µg/L unless otherwise noted	Required Analytical Protocol	Detection Level, µg/L	Quantitation Level, µg/L
Napthalene (91-20-3)	Batch/Weekly*	Grab	4.8 <sup>a</sup>	625.1	1.6	4.8
Phenanthrene (85-01-8)	Batch/Weekly*	Grab	16.2 <sup>a</sup>	625.1	5.4	16.2
Indeno(1,2,3-cd)pyrene (193-39-5)	Batch/Weekly*	Grab	11.1 <sup>a</sup>	610/625.1	3.7	11.1
Chrysene (218-01-9)	Batch/Weekly*	Grab	7.5 <sup>a</sup>	610/625.1	2.5	7.5
<b>POLYCHLORINATED BIPHENYLS (PCBs)</b>						
PCBs, Total <sup>f</sup>	Batch/Weekly*	Grab	0.016 <sup>b</sup>	8082A (Update V)	0.016 <sup>b</sup>	0.016 <sup>b</sup>
<b>VOLATILE ORGANIC COMPOUNDS (VOCs)</b>						
bis(2-ethylhexyl)phthalate (117-81-7)	Batch/Weekly*	Grab	7.5 <sup>a</sup>	625.1	2.5	7.5
Butylbenzylphthalate (85-68-7)	Batch/Weekly*	Grab	7.5 <sup>a</sup>	625.1	2.5	7.5
Diethyl phthalate (84-66-2)	Batch/Weekly*	Grab	5.7 <sup>a</sup>	625.1	1.9	5.7
Dimethyl phthalate (131-11-3)	Batch/Weekly*	Grab	4.8 <sup>a</sup>	625.1	1.6	4.8
N-nitrosodiphenylamine (86-30-6)	Batch/Weekly*	Grab	2.0 <sup>a</sup>	625.1	1.0	2.0
Chloroform (67-66-3)	Batch/Weekly*	Grab	4.8 <sup>a</sup>	624.1	1.6	4.8
1,2 Dichlorobenzene (95-50-1)	Batch/Weekly*	Grab	7.6 <sup>a</sup>	625.1	1.9	7.6
1,4 Dichlorobenzene (106-46-7)	Batch/Weekly*	Grab	17.6 <sup>a</sup>	624.1	4.4	17.6
1,2,4-Trimethylbenzene (95-63-6)	Batch/Weekly*	Grab	1.0 <sup>a</sup>	EPA 624/8260	1.0	1.0
<b>Construction Stormwater General Permit Benchmarks</b>						
Parameter	Sampling Frequency	Sample Type	Benchmark	Analytical Method		
Turbidity	Batch/Weekly*	Grab	25 NTU	SM2130 <sup>g</sup>		
pH	Batch/Weekly*	Grab	6.5 - 8.5 SU	SM4500-H <sup>+</sup> B		

<b>NOTES</b>	
<sup>a</sup>	No applicable surface water criterion; value is laboratory quantitation level.
<sup>b</sup>	Value is the Lowest Level of Quantitation (LLOQ) for water samples for PCBs by EPA Method 8082A, Update V.
<sup>c</sup>	Acute – Marine Water Toxic Substances Criteria (WAC 173-201A-240).
<sup>d</sup>	Indicator Level total chromium is actually for hexavalent chromium using Acute – Marine Water Toxic Substances Criteria (WAC 173-201A-240) because there is no water quality standard for total chromium.
<sup>e</sup>	NWTPH-Dx = Northwest Total Petroleum Hydrocarbons – Semi-volatile (“diesel”) for diesel range organics and heavy oils (includes jet fuels, kerosene, diesel-oils, hydraulic fluids, mineral oils, lubricating oils, and fuel oils).

f	Total PCBs are the sum of all congener or all isomer or homolog or Aroclor analyses.
g	Or equivalent.
j	NWTPH-Gx = Northwest Total Petroleum Hydrocarbons – Volatile petroleum products including aviation and automotive gasolines, mineral spirits, Stoddard solvent, and naphtha.
*	If permission is granted for flow through, sampling will then be weekly

**FAILURE TO COMPLY WITH THIS ORDER**

Failure to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

**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). Email is not accepted.

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

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320.

**ADDRESS AND LOCATION INFORMATION**

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

**CONTACT INFORMATION**

Please direct all questions about this Order to:

Mathew Kwartin  
Department of Ecology  
Northwest Regional Office  
3190 160th Avenue SE  
Bellevue, WA 98008-5452  
  
Phone: (425) 649 - 4484  
Email: [mkwa461@ecy.wa.gov](mailto:mkwa461@ecy.wa.gov)

**MORE INFORMATION**

- **Pollution Control Hearings Board Website:** [www.eho.wa.gov/Boards\\_PCHB.aspx](http://www.eho.wa.gov/Boards_PCHB.aspx)
- **Chapter 43.21B RCW – Environmental Hearings Office – Pollution Control Hearings Board:** <http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice and Procedure:** <http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act:** <http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Laws:** [www.ecy.wa.gov/laws-rules/ecyrcw.html](http://www.ecy.wa.gov/laws-rules/ecyrcw.html)
- **Rules:** [www.ecy.wa.gov/laws-rules/ecywac.html](http://www.ecy.wa.gov/laws-rules/ecywac.html)

**SIGNATURE**



\_\_\_\_\_  
Rachel McCrea  
Water Quality Section Manager  
Northwest Regional Office  
Washington State Department of Ecology

4/27/2020

\_\_\_\_\_  
Date