



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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November 13, 2020

Martin Penhallegon
P&GE, LLC
11255 Kirkland Way, Suite 300
Kirkland, WA 98033-3417

Re: Administrative Order

Order Docket #	18193
Site Location	Bakerview Everett 4330 108th Street SE, and all of the project area depicted in the project site plan (figures 1 and 2 of the Order), Everett, WA 98208

Dear Martin Penhallegon:

The Department of Ecology (Ecology) has issued the enclosed Administrative Order (Order) requiring P&GE, LLC 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, Number WAR306901.

If you have questions, please contact Mathew Kwartin at 425-649-4484 or by email at mkwa461@ecy.wa.gov.

Sincerely,

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

Enclosures: Administrative Order Docket #18193

Sent by Certified Mail: 9171 9690 0935 0232 6492 03

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF AN) ADMINISTRATIVE ORDER
ADMINISTRATIVE ORDER) DOCKET #18193
AGAINST)
Martin Penhallegon)
P&GE, LLC)

To: Martin Penhallegon
P&GE, LLC
11255 Kirkland Way, Suite 300
Kirkland, WA 98033-3417

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The Department of Ecology (Ecology) has issued this Administrative Order (Order) requiring P&GE, LLC to comply with:

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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) authorizes Ecology to issue Administrative Orders to accomplish the purposes of Chapter 90.48 RCW.

ORDER TO COMPLY

Background and associated corrective actions:

P&GE, LLC has received coverage under the Construction Stormwater General Permit (CSWGP) No. WAR306901 for construction activities associated with the construction site known as the Bakerview Everett project. Phase 1 of the project consists of the excavation and relocation of landfill soils and relocation of those materials beneath an engineered capping system as required by the Go East Landfill Closure Plan (LFCP) (January 2018). Phase 2 of the project consists of grading, utility work and development of a large 97-unit housing development on newly uncovered soils from the landfill. There is a complex series of 4 existing streams on the property which may all be impacted by runoff and erosion during this project and are areas of potential discharge (see Figure 2). The outfall from the stormwater facility (i.e. sedimentation pond) is also a location for potential discharge. The receiving water bodies after treatment will

be: Stream 1 (new stream C alignment in SWPPP), Stream 2 (stream B and Stream E in SWPPP) and Stream 3 (Site Discharge location in SWPPP), and the wetland to the west of the landfill (See Figure 1 and Figure 2 below). These streams eventually feed into the Snohomish River. P&GE, LLC reported that part of the construction site contains contaminated soil 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 P&GE, LLC 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.

For these reasons and in accordance with RCW 90.48.120(2) it is ordered that P&GE, LLC take the following actions. These actions are required at the location known as the Bakerview Everett project located at 4330 108th Street SE, and the project area depicted in the project site plan from the *Go East Corp Landfill Interim Action Work Plan* document and the *Stormwater Pollution Prevention Plan (SWPPP) for Bakerview Subdivision* document (figures 1 and 2 below), Everett, WA, 98208. In the event of a permit transfer to another Permittee, compliance with this Administrative Order and the actions listed below is required.

Figure 1:

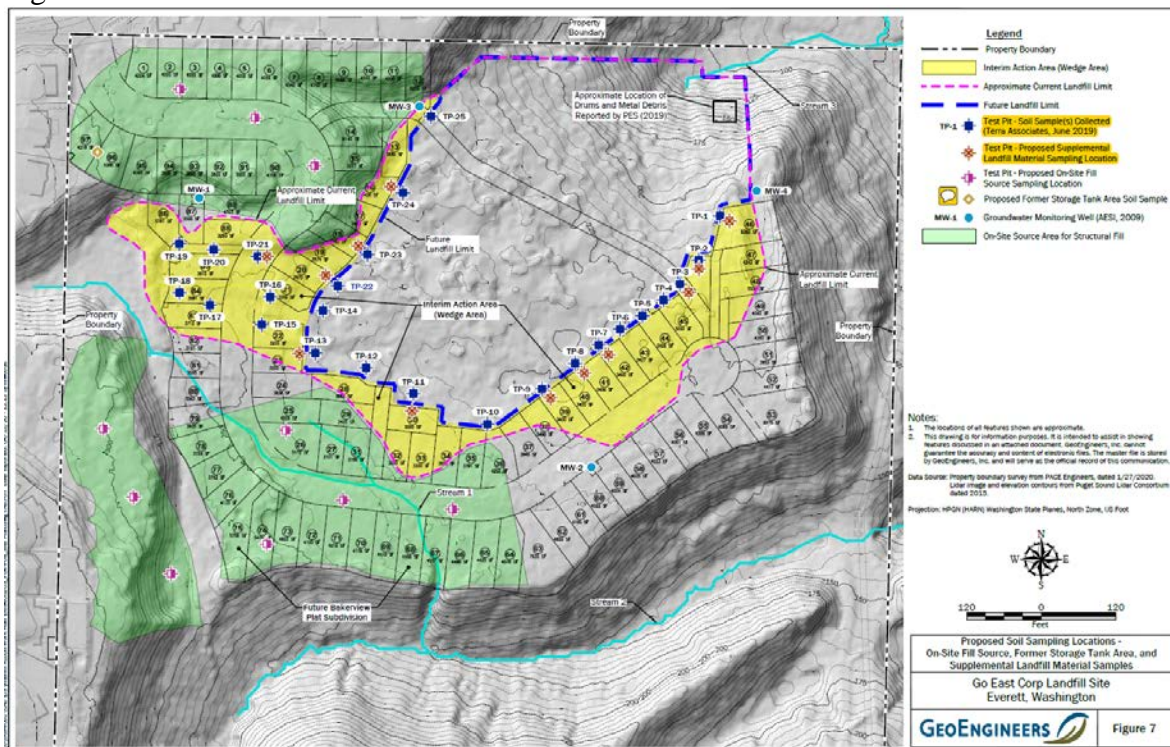


Figure 2:

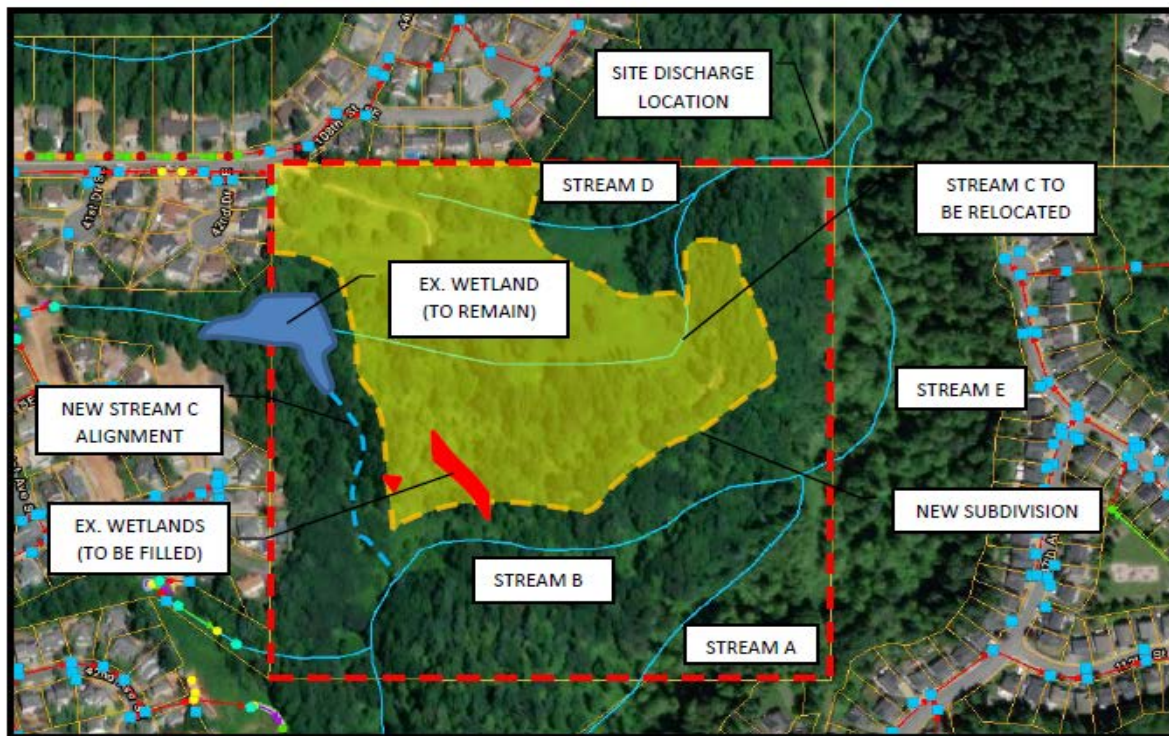


Figure 2 – Drainage Condition Revisions (Subdivision, stream, and wetland locations are approximate, land cover to be revised to single family residential)

Immediately upon receipt of this Order and continuously thereafter P&GE, LLC must:

- Install all pre-treatment and treatment systems prior to any discharge of contaminated dewatering water or contaminated construction stormwater to a receiving water body.
- Capture, contain, and treat all contaminated dewatering or contaminated stormwater prior to discharge to a 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, P&GE, LLC shall truck the contaminated storm or groundwater off-site for disposal in an approved manner. P&GE, LLC 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, P&GE, LLC 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, P&GE, LLC 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, P&GE, LLC 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 P&G East, LLC 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 and landfill material collected during excavation will be disposed of in accordance with appropriate contamination disposal requirements as described in *Go East Corp Landfill Interim Action Work Plan* document and the *Stormwater Pollution Prevention Plan (SWPPP) for Bakerview Subdivision* document. 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.
- Nothing in this Order exempts P&GE, LLC from requirements of landfill regulations in WAC 173-350-400, landfill permits, or associated legal requirements.

Ecology retains the right to make modifications to this Order through a supplemental Order, or amendment to this Order, if it appears necessary to further protect the public interest. This Order may be amended if additional contaminants of concern are detected.

This Order does not exempt P&GE, LLC from any Construction Stormwater General Permit requirement.

Table 1.

P&GE, LLC 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 P&GE, LLC 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 (or equivalent)	Detection Level, µg/L	Quantitation Level, µg/L
Petroleum Hydrocarbons						
Diesel and Oil-Range Hydrocarbons (NWTPH-Dx) ^b	Batch/Weekly*	Grab	250 ^a	NWTPH-Dx	250	250
Gasoline- Range Hydrocarbons (NWTPH-Gx) ^c	Batch/Weekly*	Grab	250 ^a	NWTPH-Gx	250	250
METALS						
Arsenic, Total (7440-38-2)	Batch/Weekly*	Grab	360 ^d	200.8	0.1	0.5
Cadmium, Total (7440-43-9)	Batch/Weekly*	Grab	1.6 ^d	200.8	0.05	0.25
Chromium, Total (7440-47-3)	Batch/Weekly*	Grab	15 ^e	200.8	0.2	1.0
Copper, Total (7440-50-8)	Batch/Weekly*	Grab	8.2 ^d	200.8	0.4	2.0
Lead, Total (7439-94-6)	Batch/Weekly*	Grab	27.47 ^d	200.8	0.1	0.5
Mercury, Total (7439-97-6)	Batch/Weekly*	Grab	2.1 ^d	1631E	0.0002	0.0005
Nickel, Total (7440-02-0)	Batch/Weekly*	Grab	733.79 ^d	200.8	0.1	0.5

Pollutant & CAS No. (if available)	Sampling Frequency*	Sample Type	Indicator Level, µg/L unless otherwise noted	Required Analytical Protocol (or equivalent)	Detection Level, µg/L	Quantitation Level, µg/L
Zinc, Total (7440-66-6)	Batch/Weekly*	Grab	59.3 ^d	200.8	0.5	2.5
Polycyclic Aromatic Hydrocarbons (PAHs)						
1-Methylnaphthalene (90-12-0)	Batch/Weekly*	Grab	10 ^a	8270	10	10
2-Methylnaphthalene (91-57-6)	Batch/Weekly*	Grab	10 ^a	8270	10	10
Naphthalene (91-20-3)	Batch/Weekly*	Grab	4.8 ^a	625.1	1.6	4.8
Acenaphthylene (208-96-8)	Batch/Weekly*	Grab	10.5 ^a	625.1	3.5	10.5
Acenaphthene (83-32-9)	Batch/Weekly*	Grab	5.7 ^a	625.1	1.9	5.7
Anthracene (120-12-7)	Batch/Weekly*	Grab	5.7 ^a	625.1	1.9	5.7
Benzo(g,h,i)perylene (191-24-2)	Batch/Weekly*	Grab	12.3 ^a	610/625.1	4.1	12.3
Benzo(a)anthracene (56-55-3)	Batch/Weekly*	Grab	23.4 ^a	625.1	7.8	23.4
Benzo(b)fluoranthene (205-99-2)	Batch/Weekly*	Grab	14.4 ^a	610/625.1	4.8	14.4
Benzo(k)fluoranthene (207-08-9)	Batch/Weekly*	Grab	7.5 ^a	610/625.1	2.5	7.5
Benzo(j)fluoranthene (205-82-3)	Batch/Weekly*	Grab	1.0 ^a	625	0.5	1.0
Dibenzo(a,h)anthracene (53-70-3)	Batch/Weekly*	Grab	7.5 ^a	625.1	2.5	7.5
Fluoranthene (206-44-0)	Batch/Weekly*	Grab	6.6 ^a	625.1	2.2	6.6
Fluorene (86-73-7)	Batch/Weekly*	Grab	5.7 ^a	625.1	1.9	5.7
Phenanthrene (85-01-8)	Batch/Weekly*	Grab	16.2 ^a	625.1	5.4	16.2
Indeno(1,2,3-cd)pyrene (193-39-5)	Batch/Weekly*	Grab	11.1 ^a	610/625.1	3.7	11.1
Chrysene (218-01-9)	Batch/Weekly*	Grab	7.5 ^a	625.1	2.5	7.5
Pyrene (129-00-0)	Batch/Weekly*	Grab	5.7 ^a	625.1	1.9	5.7
CONSTRUCTION STORMWATER GENERAL PERMIT BENCHMARKS/LIMIT						
Parameter	Sampling Frequency*	Sample Type	Benchmark		Analytical Method	
Turbidity	Batch/Weekly*	Grab	25 NTU		SM2130 ^f	
pH	Batch/Weekly*	Grab	6.5 - 8.5 SU		SM4500-H ⁺ B	
NOTES						
a	No applicable surface water criterion; value is laboratory quantitation level.					
b	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).					
c	NWTPH-Gx = Northwest Total Petroleum Hydrocarbons - Volatile petroleum products including aviation and automotive gasolines, mineral spirits, Stoddard solvent, & naphtha.					
d	Acute – Freshwater Toxic Substances Criteria (WAC 173-201A-240). Based on Hardness of 46.0 mg/L for Hardness Dependent Metals. The Indicator Level for hardness dependent metals is expressed as a dissolved metal value. Meeting the Indicator Level using analytical protocol for total or dissolved metal values meets the intent of this Order.					
e	Indicator Level for total chromium is actually for hexavalent chromium using Acute-Freshwater Toxic Substances Criteria (WAC 173-201A-240) because there is no water quality standard for total chromium.					
f	Or equivalent.					
*	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

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:

Mathew Kwartin
Department of Ecology
Northwest Regional Office
3190 160th Ave SE
Bellevue, WA 98008
Phone: 425-649-4484
Email: Mkwa461@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>
- **Ecology's Laws, rules, & rulemaking website**
<https://ecology.wa.gov/About-us/How-we-operate/Laws-rules-rulemaking>

SIGNATURE



11/13/2020

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

Date