

**RECOMMENDATION FOR ENFORCEMENT ACTION
WATER QUALITY PROGRAM**

Northwest Regional Office
Date: May 5, 2020

RFE for Order Docket No. 18142

From: Mathew Kwartin

Mathew Kwartin
Enforcement Specialist

RECOMMEND ENFORCEMENT ACTION BE TAKEN:

I. Against:

Mt. Baker Housing Association
(Company)

Mike Rooney
(Responsible Official)

II. Location:

Site location:
2800 Martin Luther King Jr. Way S.
Seattle, WA 98144

Mailing address:
2916 S. McClellan Street
Seattle, WA 98144-5502

III. Type of Action:

- ☐ A. Penalty, RCW 90.48.144
- ☐ B. Notice of Violation, RCW 90.48.120 (1)
- ☐ C. Follow-up Order, RCW 90.48.120(1)
- ☐ D. Immediate Action Order, RCW 90.48.120(2)
- ☐ E. Amendment of Action
- ☒ F. Other (specify authority) Administrative Order

IV. Nature of Violation:

- ☐ 1) Unlawful Discharge of Polluting Matter into Waters of the State, RCW 90.48.080.
- ☐ 2) Violation of the Terms of a Waste Discharge Permit Issued under RCW 90.48.160, 90.48.180 or 90.48.260 through 90.48.262.
- ☐ 3) Discharging Pollutants Without a Permit Authorized under RCW 90.48.160, 90.48.180, or 90.48.260 through 90.48.262.
- ☐ 4) Violation of the Terms of a Regulatory Order or other provisions of RCW 90.48.
- ☐ 5) Agricultural Discharges, RCW 90.48.450. Has consideration been given to the effect of the action on conversion of agricultural to nonagricultural uses? _____. If yes, what attempts have been made to minimize the possibility of such conversion?
(Water Quality Program Policy #1-05)
- ☒ 6) Other: CSWGP contaminated site Order

V. Name of Watercourse Involved:

City of Seattle storm system with discharge to the Duwamish River

VI. Background:

Mt. Baker Housing Association has received coverage under the Construction Stormwater General Permit (CSWGP) No. WAR309090 for construction activities associated with the construction site known as the Maddux South project. The project consists of removal of existing structures and construction of new mixed-use residential and commercial properties including affordable housing. The receiving water body after treatment will be the City of Seattle's storm system with eventual discharge into the Duwamish River. Mt. Baker Housing Association reported that part of the construction site contains contaminated soil and/or 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 Mt. Baker Housing Association 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.

Table 1.

Mt. Baker Housing Association 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 Mt. Baker Housing Association 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
BTEX (benzene, toluene, ethylbenzene and O,M,P xylenes)	Batch/Weekly *	Grab	2.0 ^a	EPA SW 846 8012/8260	1.0	2.0
Metals						
Lead, Total (7439-94-6)	Batch/Weekly *	Grab	210 ^d	EPA 200.8	0.1	0.5
VOCs						
Tetrachloroethene (127-18-4)	Batch/Weekly *	Grab	12.3 ^a	624/8260	4.1	12.3


Trichloroethylene (79-01-6)	Batch/Weekly *	Grab	5.7 ^a	624.1	1.9	5.7
1,1 Dichloroethene (75-35-4)	Batch/Weekly *	Grab	8.4 ^a	624.1	2.8	8.4
Trans 1,2 Dichloroethene (156-60-5)	Batch/Weekly *	Grab	4.8 ^a	EPA 624.1	1.6	4.8
Cis-1,2 Dichloroethene (156-159-2)	Batch/Weekly *	Grab	4.8 ^a	624.1	1.6	4.8
Vinyl chloride (75-01-4)	Batch/Weekly *	Grab	2.0 ^a	624/SM6200B	1.0	2.0
			(PAHs)			
1-Methylnapthalene (90-12-0)	Batch/Weekly *	Grab	0.01 ^a	EPA 8270	0.01	0.01
2-Methylnapthalene (91-57-6)	Batch/Weekly *	Grab	0.01 ^a	EPA 8270	0.01	0.01
Benzo(g,h,i)perylene (191-24-2)	Batch/Weekly *	Grab	12.3 ^a	610/625.1	4.1	12.3
Fluoranthene (206-44-0)	Batch/Weekly *	Grab	6.6 ^a	625.1	2.2	6.6
Napthalene (91-20-3)	Batch/Weekly *	Grab	4.8 ^a	625.1	1.6	4.8
Phenanthrene (85-01-8)	Batch/Weekly *	Grab	16.2 ^a	625.1	5.4	16.2
Pyrene (129-00-0)	Batch/Weekly *	Grab	5.7 ^a	625.1	1.9	5.7
			(cPAHs)			
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(a)pyrene (50-32-8)	Batch/Weekly *	Grab	7.5 ^a	610/625.1	2.5	7.5
Chrysene (218-01-9)	Batch/Weekly *	Grab	7.5 ^a	610/625.1	2.5	7.5
Benzo(k)fluoranthene (207-08-9)	Batch/Weekly *	Grab	7.5 ^a	610/625.1	2.5	7.5
CONSTRUCTION STORMWATER GENERAL PERMIT BENCHMARKS						
Parameter	Sampling Frequency	Samp le Type	Benchmark	Analytical Method		
Turbidity	Batch/Weekly*	Grab	25 NTU	SM2130 ^e		
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, and naphtha.					
d	Acute – Marine Water Toxic Substances Criteria (WAC 173-201A-240).					
e	Or equivalent.					
*	If permission is granted for flow through, sampling will then be weekly					

ENDORSEMENTS

The following actions are recommended to resolve this matter:

Amy Jankowiak  Date 5/20/20
Compliance and Technical Assistance Unit Supervisor

Concurrence with recommended action:

Rachel McCrea  Date 5/20/20
Water Quality Section Manager
Northwest Regional Office
Washington State Department of Ecology