



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

February 26, 2016

Port of Tacoma
ATTN: Mr. Tony Warfield
PO Box 1837
Tacoma, WA 98401-1837

RE: Water Quality Certification Order No. **13156** for Corps Public Notice No. **NWS-2015-0489-WRD** for the North Lead Rail Improvements Project, within the Erdahl Drainage Ditch associated with the Blair Waterway, within the Tacoma Rail Yard, Tacoma, Pierce County, Washington

Dear Mr. Warfield:

On July 6, 2015, the Port of Tacoma submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the North Lead rail Improvements Project that will occur within the Tacoma Rail Yard, in the city of Tacoma, Pierce County. The U.S. Army Corps of Engineers issued a joint public notice on August 7, 2015, for the proposed project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice 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 conditions contained in the enclosed Order.

If you have any questions, please contact Lori Kingsbury at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Perry J Lund", written over a circular stamp or seal.

Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enclosure

By Certified Mail 7012 2920 0000 1182 2489

cc: Olivia Romano, Corps of Engineers



e-cc: ecyrefedpermits@ecy.wa.gov
Loree' Randall, HQ
Alex Callender, SWRO SEA
Dana Mock, HQ SEA
Carol Serdar, SWRO WQ
Lori Kingsbury, SWRO SEA

IN THE MATTER OF GRANTING A) ORDER No. 13156
WATER QUALITY) Corps Reference No. NWS-2015-0489-WRD
CERTIFICATION TO) For the North Lead Rail Improvements Project
Port of Tacoma) within the Tacoma Railyard in the Erdahl Ditch
in accordance with 33 U.S.C. 1341) associated with the Blair Waterway, Tacoma,
(FWPCA § 401), RCW 90.48.120, RCW) Pierce County, Washington
90.48.260 and Chapter 173-201A WAC)

TO: Port of Tacoma
ATTN: Mr. Tony Warfield
PO Box 1837
Tacoma, WA 98401-1837

On July 6, 2015, the Port of Tacoma submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A joint public notice for a proposed water quality certification from Ecology was distributed by the U.S. Army Corps of Engineers for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on August 7, 2015.

The North Lead Rail project proposes to construct rail corridor improvements to increase the capacity and efficiency of the Port of Tacoma Rail System. The project is intended to allow for the simultaneous arrival and departure of trains in and out of the corridor.

Project elements include:

- Demolition and removal of approximately 17,980 feet of existing rail, and grading of the area to achieve suitable finish grades;
- Constructing approximately 20,000 track feet of new track and reconfiguration of existing tracks to create five long tracks within the corridor;
- Removal or relocation of existing infrastructure (electrical, telecommunications, sanitary, and water) to allow for the placement of new track.
- Installation of underdrains for stormwater conveyance, and
- Installation of a culvert and backfill of the open channel portion of the Erdahl Ditch.

The project is located within the Tacoma Rail Yard at SR 509 N. Frontage Road, Tacoma Pierce County, Washington; NE Quarter of Section 01, Township 20 North, Range 3 East, WRIA 10, Puyallup-White Watershed.

AUTHORITIES:

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application 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. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 302, 303, 306 and 307);
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.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will meet the applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. § 1341, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. For purposes of this Order, the term "Applicant" shall mean the Port of Tacoma and its agents, assignees, and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent either by regular mail to Ecology's Southwest Regional Office, Attn: Federal Permit Manager, SEA Program, P.O. Box 47775, Olympia, WA 98504-7775 or via e-mail to loch461@ecy.wa.gov. Any submittals shall reference Order No. **13156** and Corps No. **NWS-2015-0489-WRD**.
3. Work authorized by this Order is limited to the work described in the initial JARPA received by Ecology on July 6, 2015. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.

4. Within 30 days of receipt of an updated JARPA Ecology will determine if the revised project requires a new Water Quality Certification and Public Notice or if a modification to this Order is required.
5. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue a Section 404 permit.
6. Copies of this Order shall be kept 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.
7. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
9. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permit, plans, documents, and approvals. These statements shall be provided to Ecology before construction begins at the project site.
10. 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.
11. Failure of any person or entity 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.

B. Water Quality Conditions:

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-200(1)(e)(i).
2. The Applicant shall visually monitor for turbidity at the point of compliance as specified in WAC 173-201A-200(1)(e)(i).
3. If water quality exceedances are observed outside the point of compliance, work shall cease immediately and the Applicant or the contractor shall assess the cause of the water quality problem and take immediate action to stop, contain, correct the problem and

prevent further water quality turbidity exceedances. If an exceedance occurs, the Applicant shall follow the procedures below:

- a. Notification of exceedances: Notification of exceedances shall be made to Ecology within **24 hours of occurrence**. Notification shall be made with reference to Order No. 13156, to the Federal Permit Manager by telephone at (360) 407-6926 or by e-mail at loch461@ecy.wa.gov. The Applicant shall, at a minimum, provide Ecology with the following information:
 - i. A description of the nature, extent, and cause of the exceedance.
 - ii. The period of non-compliance, including exact dates, duration, and times and/or anticipated time when the project will return to compliance.
 - iii. The steps taken, or to be taken to reduce, eliminate, and prevent a recurrence of the non-compliance.
 - iv. In addition, within five (5) days after the notification of the exceedance, the Applicant shall submit a written report to Ecology (per conditions A.2.) that describes the nature of the exceedance(s), corrective action taken and/or planned, steps taken to prevent a recurrence, photographs, and any other pertinent information;
- b. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

C. Timing Requirements:

This Order shall remain in effect for a period of five (5) years from the date of issuance.

D. Notification Requirements:

1. The Applicant shall provide a copy of the final Corps Permit to Ecology's Southwest Regional Office Federal Permit Manager in accordance with condition A2 above within two (2) weeks of receipt of the permit.
2. Written notification (e-mail is preferred) shall be made to Ecology's Southwest Regional Office Federal Permit Manager in accordance with condition A2, above for the following activities:
 - a. At least ten (10) days prior to the onset of in-water work.
 - b. Within ten (10) days after completion of in-water work.
 - c. Immediately following a violation of any condition of this Order.
3. If project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit a written construction status report. Status reports shall be submitted every 12 months thereafter until project construction is complete.

E. Project Specific Conditions:

General Construction

1. The Applicant shall comply with the conditions of (National Pollutant Discharge Elimination System - NPDES) Construction Stormwater General Permit No. WAR303701 issued for this project.
2. All work in and near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMP's) suitable to prevent exceedances of state water quality standards shall be in place at before starting clearing, filling, and grading work and shall be maintained throughout construction.
3. Within the project limits, all environmentally sensitive areas that are to be protected from disturbance shall be fenced with high visibility construction (HVF) prior to commencing construction activities. All project staff shall be trained to recognize construction fencing or flagging that identifies sensitive area boundaries.
4. The project shall be clearly marked/staked prior to commencing project activities on site. Clearing limits, travel corridors, stockpile sites, and staging areas shall be clearly marked and maintained until all work is completed. Equipment shall enter and operate within the marked clearing limits, corridors, and stockpile areas.
5. Staging areas will be located a minimum of 50 feet from waters of the state, including wetlands. If a staging area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation (with additional BMPs) and obtain approval from Ecology's Federal Permit Manager before placing the staging area within the setback area.
6. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands a minimum of 50 feet, and where practical, 100 feet, from waters of the state including wetlands, unless otherwise approved by Ecology, in order to prevent contamination to any surface water.
7. No petroleum products, fresh concrete, lime, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
8. All equipment that will operate over or within waters of the state shall be free of external petroleum-based products. Accumulation of soils or debris shall be removed from the drive mechanisms and the undercarriage of equipment prior to use. Equipment shall be inspected daily for leaks, accumulation of grease, etc. Any identified problems shall be fixed before operating over or within waters of the state.
9. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working area shall not be discharged into state waters. The Applicant shall establish a separate, contained area for washing down vehicles and equipment that does not have any possibility of draining to surface waters and/or wetlands.

10. All construction debris, concrete waste material, excess sediment, and other solid waste shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
11. Appropriate BMPs shall be implemented to minimize track-out during construction.
12. Clean Fill Criteria: The Applicant shall ensure that fill (soil) placed for the proposed project does not contain toxic materials in toxic amounts.

Potentially Contaminated Soils

13. Contaminants may be present at the proposed project site. If contamination is discovered, it must be reported to Ecology (per Condition A2, above). Contaminated soils or water may require special handling and/or disposal to avoid escaping dust, soil erosion, and water pollution during grading and construction activities.
14. If contamination is observed during construction, sampling of the potentially contaminated media must be conducted. Protective measures to isolate or remove contaminated soils shall be implemented. Contaminated soils generated during site construction shall be managed and disposed of in accordance with state and local regulations.

Temporary Diversion Structure and Dewatering

15. The temporary cofferdam to divert water around the work area shall be in place prior to initiation of other work in the wetted perimeter of that area.
16. The temporary diversion shall be of sufficient size, constructed of non-erosive materials, and installed to divert the entire flow through the bypass or around the isolated work area for the duration of the project.
17. The diversion system shall be designed and operated so as not to cause erosion in the channel or on the bank of the waterbody in which the work is being conducted.
18. Prior to returning water flow to the work area, all bank protection measures shall be in place.
19. Re-introduction of water into the isolated work area shall be done gradually, and at a rate not higher than the normal flow, in order to minimize the mobilization of sediments and fines.
20. Upon completion of the project, all material used for the temporary diversion shall be removed from the site.
21. Turbid dewatering water (including turbid water generated from cleaning and maintenance activities) shall not be discharged directly into waters of the state. Turbid water shall be pumped to an upland area to allow the turbid water to settle. The discharge from the upland areas shall meet water quality criteria at the point of discharge into surface waters and/or wetlands.

22. Dewatering water that is not turbid may be discharged directly to surface waters and/or wetland provided that: a) waste water containing raw concrete or other harmful material has not been in contact with the water to be discharged, and b) the water will meet **all of the water quality standards at the point of discharge.**

F. Mitigation

1. The Applicant shall mitigate for 1,190 square feet of impacts to the Erdahl Ditch as described in the *Port of Tacoma-Place of Circling Waters Advance Permittee-Responsible Mitigation Use Plan: North Lead Rail Project dated October 13, 2015* and associated e-mail communication submitted to Ecology on November 18, 2015. The Applicant will use 595 square feet of advance mitigation credit from the Place of Circling Waters Advance Mitigation Site at a ratio of 0.5:1.
2. Prior to impacting the Erdahl Ditch, the Applicant shall submit to Ecology (in accordance with Condition A.2.) an updated Ledger for the Place of Circling Waters Advance Mitigation Site documenting the amount of advance mitigation credits (credits) and area used for the North Lead Rail Improvements Project. This documentation must include the permit number, permit issuance date, impact acreage, the amount of credits required by the permit, and date the credits were debited and remaining credit balance at the site.
3. The Applicant shall notify Ecology of any changes to the amount of impacts, or revisions to the mitigation plan.
5. If the credits are not debited within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of
 - a. Port of Tacoma, North Lead Rail Improvements Project;
 - b. When the credits will be debited;

With the:

- a. Reason for the delay; and,
- b. Expected date of completion.

The Applicant shall submit an updated written notification every 12 months thereafter until The North Lead Rail Improvements Project is complete and the required credits are debited/recorded in the Ledger.

G. Emergency/Contingency Measures:

1. The Applicant shall develop and implement a Spill Prevention and Containment Plan for all aspects of this project and shall have spill cleanup materials and an emergency call list available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or Operator shall immediately take the following actions:

- a. Cease operations that are causing the compliance problem.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the Applicant or Operator shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until instructed by Ecology on what to do with them. Ecology may require analysis of these samples before allowing the work to resume.
 - d. 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.
 - e. Immediately notify Ecology's 24-Hour Spill Response Team at 1-800-258-5990 **and** within 24 hours of spills or other events to Ecology's Federal Permit Manager at (360) 407-6926 or (360) 407-6300.
 - f. 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 taken to prevent recurrence, results from any samples taken, and any other pertinent information.
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.
 4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.

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

CONTACT INFORMATION

Please direct all questions about this Order to:

Lori Kingsbury
Department of Ecology
Southwest Regional Office
P.O. Box 47775
Olympia, WA 98504-7775
loch461@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website
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 90.48 RCW – Water Pollution Control
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

Chapter 173.204 WAC – Sediment Management Standards
www.ecy.wa.gov/biblio/wac173204.html

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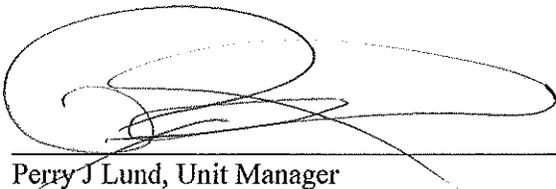
Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173200.html

Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE



Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Date

2/26/2016

Attachment A
Statement of Understanding
Water Quality Certification Conditions

North Lead Rail Improvements Project
Port of Tacoma
Water Quality Certification Order No. **13156**
and
Corps Reference No. **NWS-2015-0489-WRD**

I, _____, state that I will be involved as an agent or contractor for Port of Tacoma in the site preparation and/or construction of the North Lead Rail Improvements Project located within the Erdahl Ditch associated with the Blair Waterway at SR 509 N. Frontage Road, Tacoma, Pierce County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. **13156** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company

