



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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May 24, 2012

Washington State Department of Transportation, Ferries Division  
Attn: Kojo Fordjour  
2901 3<sup>rd</sup> Avenue, Suite 500  
Seattle, WA 98121-3014

RE: Water Quality Certification Order 9163 for Corps Public Notice No. NWS-2010-37 to replace the Slip 1 transfer span at the Ferry Terminal in Port Townsend, Jefferson County, Washington

Dear Mr. Fordjour:

On May 3, 2012 Washington State Department of Transportation, submitted a Joint Aquatic Resources 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 proposed Port Townsend Ferry Terminal Slip 1 Transfer Span Replacement 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 Kerry Carroll at 360-407-7503. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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



WQC #9163, Corps Public Notice #NWS-2010-37  
May 24, 2012  
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by Certified Mail 7009 0820 0001 9056 0809

Enclosures

e-cc: Rebecca McAndrew - Corps  
Margie Schirato - WDFW  
Loree' Randall - HQ  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)

**IN THE MATTER OF GRANTING A ) ORDER # 9163**  
**WATER QUALITY ) Corps Reference No. NWS-2010-37**  
**CERTIFICATION TO )** Replace the existing vehicle transfer span with a  
 Washington State Department of ) new hydraulic transfer span at Slip 1 in  
 Transportation ) Admiralty Inlet located in Jefferson County,  
 in accordance with 33 U.S.C. 1341 ) Washington.  
 (FWPCA § 401), RCW 90.48.120, RCW )  
 90.48.260 and Chapter 173-201A WAC )

TO: Washington State Department of Transportation  
 Attn: Kojo Fordjour  
 2901 3<sup>rd</sup> Avenue, Suite 500  
 Seattle, WA 98121-3014

On May 3, 2012, Ecology received a Joint Aquatic Resources Permit Application (JARPA) from Washington State Department of Transportation (WSDOT) requesting a 401 Water Quality Certification (WQC). Ecology issued a public notice for the project on May 9, 2012.

The proposed project entails removal of the existing transfer span, lift towers, tower foundations and a portion of the bridge seat and replacing them with a new transfer span, bridge seat and lift cylinder shafts. A hydraulic power unit for the lift cylinders will be installed adjacent to the trestle in Section 11, Township 36N, Range 01W, WRIA No. 17 and Quilcene-Snow Watershed.

**AUTHORITIES**

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed 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. §§1311, 1312, 1313, 1316, and 1317 (FWPCA §§ 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 comply with 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 WSDOT 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 certification absolves WSDOT from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments resulting from project construction or operations.

**A. General Conditions**

1. In this Order, the term "Applicant" shall mean the Washington State Department of Transportation and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to Ecology's Headquarters Office, Attn: Federal Project Coordinator, P.O. Box 47600, Olympia, WA 98504 or via e-mail (preferred), if possible, to the Coordinator assigned to this project. The submittals shall be identified with Order No. 9163 and include the Applicant's name, project name, project location, the project contact and the contact's phone number.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on May 3, 2012, unless otherwise authorized by Ecology.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
5. Within 30 days of receipt of any updated information, 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.
6. The Applicant shall keep copies of this 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.
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 project engineers, contractors, and other workers at the project site with authority to direct work 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 signatory that s/he has read and understands the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins.
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 the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

#### **B. Notification Requirements**

1. Notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Project Coordinator. Notifications shall be identified with Order No. 9163 and include the Applicants name, project name, project location, project contact and the contact's phone number.
  - a. Immediately following a violation of state water quality standards, spill to waters of the state or when the project is out of compliance with any of this Orders conditions.
    - i. In addition to the phone or e-mail notification, the Applicant 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.
  - 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
  - d. At least seven (7) days within project completion.

#### **C. Timing**

1. This Order will expire five (5) years from the date of issuance of the Corps permit.

2. In-water work is subject to a fishery closure window determined by Washington Department of Fish & Wildlife's Hydraulic Project Approval (HPA). All in-water work shall be completed within the work window identified in the most current HPA issued for this project.

#### **D. Water Quality Monitoring & Criteria**

1. This Order does not authorize the Applicant to exceed applicable state water quality standards for turbidity as described in WAC 173-201A-210 (1)(e). Admiralty Inlet is classified as "Excellent" and the criteria of that class applies.
2. The point of compliance shall be 150 feet from the activity causing the disturbance.
3. The Applicant shall develop a Water Quality Monitoring and Protection Plan (WQMPP) prior to beginning work activities below the ordinary high water line (OHWL), in-water and over-water and then implement the plan. At a minimum, the WQMPP shall include:
  - a. The names(s) and phone numbers (s) of the Pollution control inspector and the person responsible for on-site monitoring and reporting;
  - b. The BMPs and procedures to be used to protect water quality during all proposed activities below the ordinary high water mark, in-water and over-water;
  - c. A water quality monitoring plan for turbidity for all in-water work activities;
    - i. Pile removal activities shall include at least one (1) instrumental sample taken after several piles have been pulled in a row.
    - ii. Background samples shall be collected outside the area of influence of the project work. Background samples shall be collected at the same frequency as the point of compliance samples.
  - d. Turbidity sampling for pile removal activities and visual documentation for all other activities below ordinary high water, in-water and over water shall occur 150 feet down current from the project activity.
  - e. Contingencies during in-water work activities
4. The WQMPP shall be submitted to the Federal Project Coordinator for review and comment at least seven (7) days prior to beginning construction activities on the project.
5. Monitoring results and routine photos shall be documented on a form and submitted monthly to the Ecology Federal Project Coordinator, per condition A.2.
6. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.

#### **E. Construction**

General Conditions

1. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
2. All construction debris, excess sediment, and other solid waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
3. Turbid de-watering water associated with in-water work shall not be discharged directly to waters of the state, including wetlands. Turbid de-watering water shall be routed to an upland area for on-site or off-site settling.
4. Clean de-watering water associated with in-water work that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state including wetlands. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.
5. All equipment being used below the ordinary high water mark shall utilize bio-degradable hydraulic fluid.

#### Equipment & Maintenance

6. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the state, including wetlands.
7. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked daily for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
8. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.
9. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash-out of concrete delivery trucks, pumping equipment, and tools.
10. Barges shall not be allowed to ground-out during in-water construction.
11. Barges shall be swept, as necessary, and kept free of material that could be blown into water.

#### Construction and Demolition

12. No structural material may enter water of the state during demolition activities.

13. Spill protection measures shall be in place prior to any concrete delivery over water.
14. All forms for concrete shall be completely sealed to prevent the possibility of fresh concrete entering waters of the state.
15. All concrete shall be completely cured prior to coming into contact with water.
16. Concrete process water shall not enter waters of the state. Any concrete process/contact water shall be taken off site and disposed of appropriately with no possible entry to state waters.
17. All saw cut water and debris generated from saw cutting activities that occur above water shall be contained and disposed of appropriately with no possible entry to waters of the state.
18. All excavated sediment shall be disposed upland in an approved disposal site.

#### Pile Removal

19. Piles removed from the substrate shall be moved immediately from the water onto a barge or onto upland. 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. All excavated piles shall be disposed of at an approved upland disposal site.
20. During pile removal, containment booms and absorbent sausage booms shall be placed around the perimeter of the work area to capture wood debris, oil, and other materials from being released into marine waters. All debris that is collected shall be disposed upland in an approved disposal site.
21. 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.
22. Water left in the containment on the barge shall not be discharged into waters of the state.

#### **F. Emergency/Contingency Measures**

1. The Applicant shall develop and implement a spill prevention and containment plan for this project and shall have spill cleanup material available on site at all times during construction.
2. Work that is out of compliance with the provision of this Order, conditions causing distressed or dying fish, 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 Applicant shall comply with WSDOT's most current Environmental Compliance Assurance Procedure for Construction Project and Activities, notify the Ecology Project Coordinator per condition B.1.a. 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/or 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 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.
3. 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.

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

**CONTACT INFORMATION**

Please direct all questions about this Order to:

Kerry Carroll  
Department of Ecology  
P.O. Box 47600  
Olympia, WA 98503-7600  
360-407-7503  
Kstr461@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 and Land Use 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>
- **Chapter 90.48 RCW – Water Pollution Control**  
<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

- **Chapter 173.204 Washington Administrative Code (WAC) Sediment Management Standards**  
<http://www.ecy.wa.gov/biblio/wac173204.html>
- **Chapter 173-201A WAC Water Quality Standards for Surface Waters of the State of Washington**  
<http://www.ecy.wa.gov/biblio/wac173201A.html>

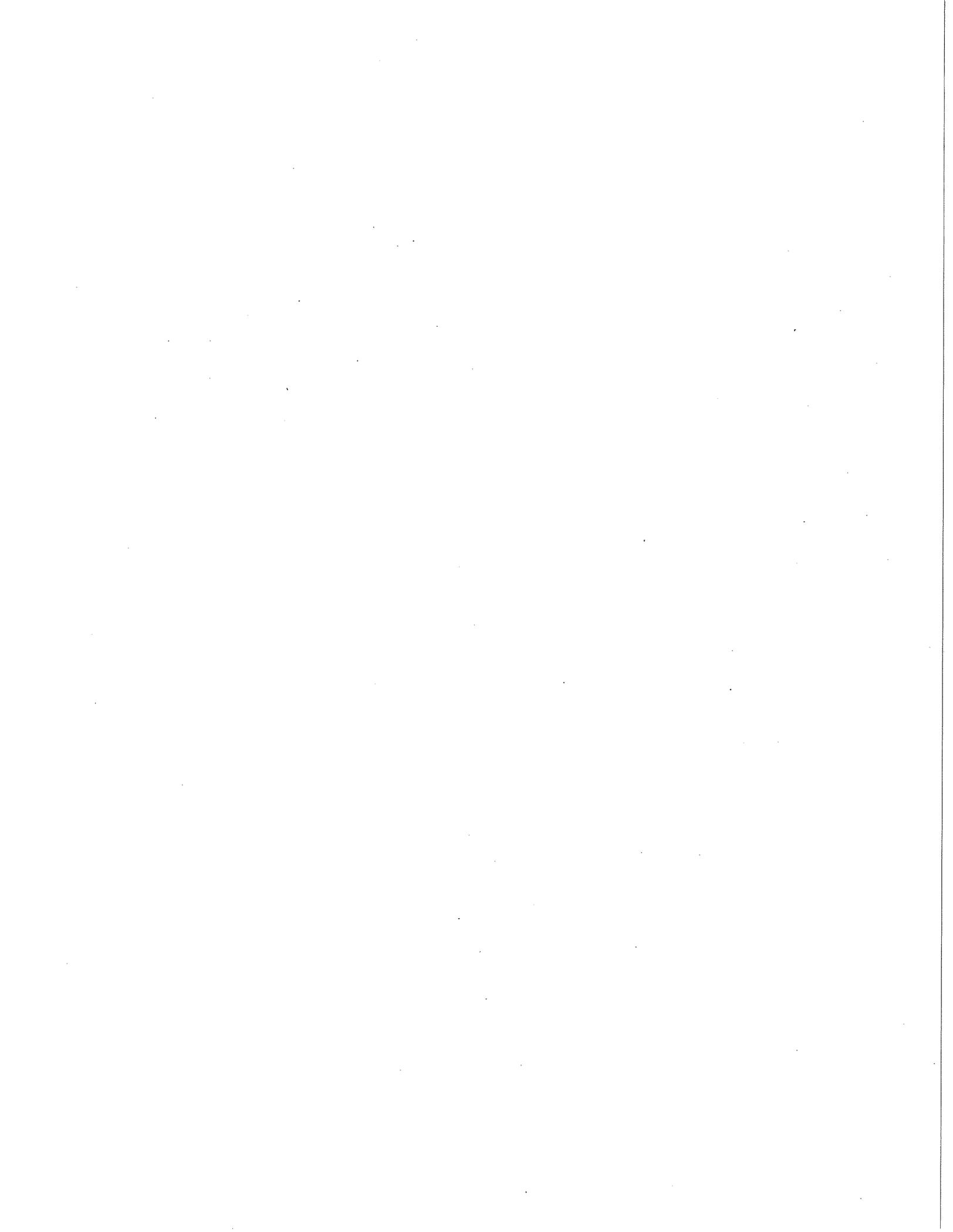
**Dated May 24, 2012 at Olympia, Washington**

**SIGNATURE**



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



Water Quality Certification Order #9163  
Statement of Understanding

I, \_\_\_\_\_, state that, I will be involved as a WSDOT employee or an agent or contractor for Washington State Department of Transportation in Port Townsend Ferry Terminal Slip 1 Transfer Span Replacement Project in Jefferson County, WA. I further state that I have read and understand the relevant conditions of Washington Department of Ecology **Water Quality Certification Order # 9163** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company

\_\_\_\_\_  
Phone number

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, and Zip Code