



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

January 24, 2013

Port of Tacoma  
Attn: Mr. Mark Rettmann  
PO Box 1837  
Tacoma, WA 98401-1837

Re: Water Quality Certification Order No. **9651** for Corps Public Notice No. **NWS-2012-0256-WRD** for the Pier 3 (Terminal 3) Upgrade Project, Blair Waterway, Puget Sound, Pierce County, Washington

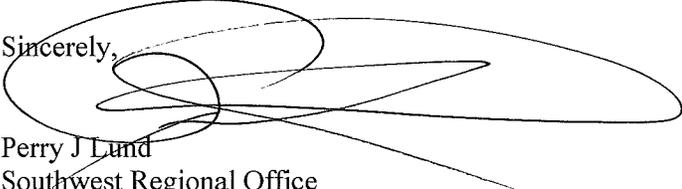
Dear Mr. Rettmann:

On April 17, 2012, 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 structural and electrical improvements to Pier 3 (Terminal 3) within the Husky Container Terminal at the Port of Tacoma. The U.S. Army Corps of Engineers issued a joint public notice on May 23, 2012 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 Ochoa at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Perry J Lund  
Southwest Regional Office  
Shorelands and Environmental Assistance Program

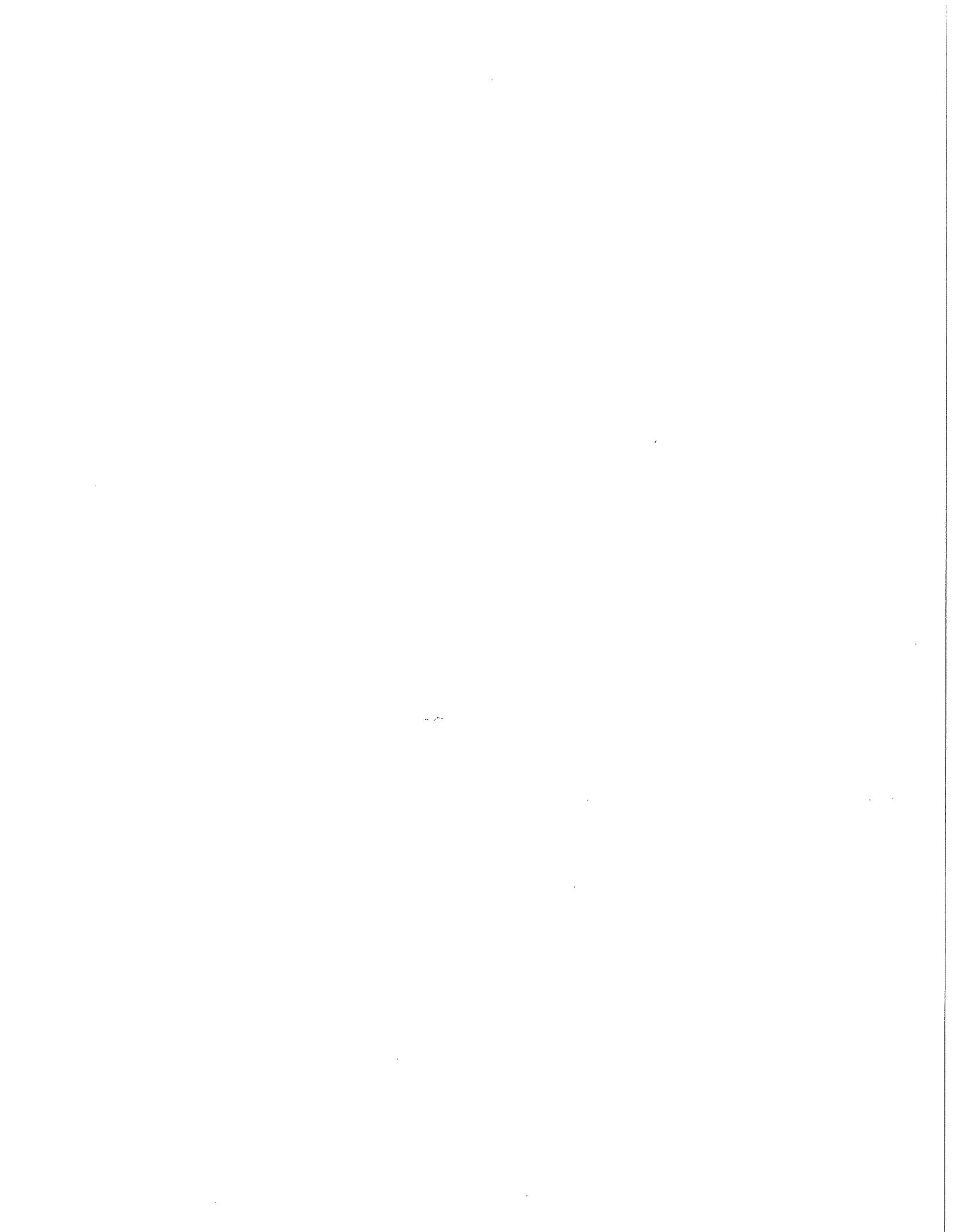
LO:th  
Enclosure

cc: Olivia Romano, Corps of Engineers  
Chris Waldbillig, WDFW

e-cc: [ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)  
Loree' Randall, HQ  
Alex Callender, SWRO/SEA  
Deb Cornett, SWRO/WQ  
Lori Ochoa, SWRO/SEA

CERTIFIED MAIL: 7010 2780 0000 2503 9862





**IN THE MATTER OF GRANTING A ) ORDER # 9651**  
**WATER QUALITY ) Corps Reference # NWS-2012-0256-WRD**  
**CERTIFICATION TO ) For improvements to Pier 3 (Terminal 3) within**  
**Port of Tacoma ) the Husky Container Terminal at the Port of**  
in accordance with 33 U.S.C. 1341 ) Tacoma, Blair Waterway, Puget Sound, Pierce  
(FWPCA § 401), RCW 90.48.120, RCW ) County, Washington  
90.48.260 and Chapter 173-201A WAC )

TO: Port of Tacoma  
Attn: Mr. Mark D. Rettmann  
PO Box 1837  
Tacoma, WA 98401-1837

On April 17, 2012 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 May 23, 2012.

The project is proposing structural and electrical improvements to Pier 3 (Terminal 3) within the Husky Container Terminal at the Port of Tacoma. The upgrade project will modify approximately 1190 feet of the existing wharf to support up to six 100-foot gauge cranes to be able to service 24-container-wide super post-Panamax container ships. The elements of the upgrade project include:

- Installation of approximately 94 24-inch octagonal precast concrete piles to support the waterside crane beam,
- Installation of approximately eight 24-inch octagonal precast 24-inch concrete piles and pile caps to support crane loads on the landside beam at the Pier 3 to Pier 4 transition.
- Removal of approximately 96 creosote-treated (16-inch) timber piles associated with an existing pile-supported fender system,
- Replacement of the existing fender system with a pre-fabricated hanging unit fender system with high-density polyethylene (HDPE) rub strips,
- Structural modifications to the waterside crane beam to support the 100-foot gauge cranes,
- Miscellaneous structural and electrical upgrades to over water pier facilities including replacement of the existing bollards and installation of new power vaults and other appurtenances to support the cranes,
- Associated upland structural and electrical improvements including installation of a landside 100-foot gauge crane rail pad and 64-foot gauge rail crossovers, construction of an electrical substation and upgrades to or replacement of electrical vaults and an existing

high mast light, demolition and replacement of a two-story marine building and an adjacent substation.

The project is located on an approximately 128-acre site on the southwest side of the mouth of the Blair Waterway within the Husky Container Terminal at the Port of Tacoma at 1101 Port of Tacoma Road, Tacoma, Pierce County, Washington; Southwest Quarter of Section 27, Township 21 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, 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. **9651** and Corps No. **NWS-2012-0256-WRD**.
3. Work authorized by this Order is limited to the work described in the initial JARPA received by Ecology on April 17, 2012 and as revised in the subsequent submittals received on: June 1, 2012; August 16, 2012; and September 20, 2012. 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-210(1)(e)(i).
  - a. The area of mixing established for marine waters is a 150-foot radius surrounding the in-water activity. Turbidity occurring outside that zone that is more than 5 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 10% increase in turbidity when the background turbidity is more than 50 NTU is a violation of the turbidity water quality standard.
  - b. Visible turbidity anywhere at or beyond the 150-foot point of compliance from the activity shall be considered to be an exceedance of the standard.
2. During and immediately after project construction, the Applicant or their contractor shall monitor for turbidity discharges at the point of compliance as specified in WAC 173-201A-210(1)(e)(i). A turbidimeter is recommended, however, visual gauging with photo documentation of turbidity is acceptable.
3. The Applicant shall submit a Water Quality Monitoring and Protection Plan (WQMPP) to Ecology's Federal Permit Manager (per Condition A2, above) for **review and approval** at least 30 days prior to beginning work activities below the ordinary high water mark (OHWM), in-water and over-water. At a minimum, the WQMPP shall include the following information:
  - a. The name(s) and contact information of the person or firm responsible for on-site monitoring and reporting;
  - b. The Best Management Practices (BMPs) and procedures to be used to protect water quality during the specific segments of in-water and over-water work;
  - c. A map with the monitoring locations that shall include, but are not limited to: background, half the distance to the point of compliance and at the point of compliance, unless otherwise approved by Ecology;
  - d. A contingency plan in the event of an exceedance;
4. Results of the water quality monitoring shall be documented in a report and submitted weekly to the Federal Permit Manager per condition A.2. (Refer to Attachment B for an

example.) The Report must include the following monitoring information: Date, time, monitoring location, turbidity observations, name of personnel doing the monitoring, and the weather conditions at the time of the monitoring.

5. Ecology must approve, in writing, any changes or additions to the WQMPP.
6. 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 # 9651, Attn: 401/CZM Federal Permit Manager by telephone at (360) 407-6926 or by e-mail at [loch461@ecy.wa.gov](mailto: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 as a result of the exceedance(s).

#### **D. Project Specific Conditions:**

1. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts.
2. 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 each boat ramp before starting maintenance activities and shall be maintained throughout the cleaning and maintenance of the boat ramp.
3. Sediment and erosion control measures shall be inspected and maintained throughout project construction.
4. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in order to prevent contamination to surface waters.
5. 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.

6. If a barge is used, it shall not be allowed to ground-out or rest on the substrate or be anchored over vegetated shallows.
7. 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 Federal Permit Manager before placing the staging area within the setback area.
8. No existing shoreline material (i.e., logs, rocks, gravel cobbles, woody debris or other bed material) shall be relocated or used as bulkhead armor, as fill, or for any other purpose.
9. Project activities shall be conducted to minimize siltation of the beach area and bed.
10. Turbid water generated from cleaning and maintenance activities, including turbid dewatering water, 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.
11. 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.

**Demolition and Piling Removal:**

12. The Applicant shall contain and appropriately dispose of all saw cut water and debris generated from cutting activities that occur over water so there is no possible entry to waters of the state.
13. Removal of the timber piles will be conducted with a vibratory hammer.
14. During removal of creosote-treated piles, and absorbent containment booms shall be placed around the perimeter of the work area to capture any material entering the water.
15. All pilings removed from the substrate shall be removed immediately from the water into a barge or onto uplands. The pile shall not be shaken, hosed-off, or left hanging to drip or any other action intended to clean or remove adhering material from the pile.
16. The work surface of the barge deck or the upland area shall include a containment basin for the piles and any sediment removed during extraction of the piling. Basins may be constructed of durable plastic sheeting with sidewalls supported by hay bales or support structure to contain all sediment.
17. The extracted piles and all construction debris, excess sediment, and other solid waste material shall be properly managed and disposed of in an approved upland disposal site so that it cannot cause water quality degradation to state waters.

18. Piling that break during extraction will be cut 3 feet below the mudline and capped with clean sand.
19. During construction, the Applicant shall have a boat available on site at all times to retrieve any debris that enters the water.
20. The Applicant shall operate the barge(s) and tug in deep water so as to minimize the near shore propeller wash impacts such as suspension of near shore sediments.

**Installation of Crane Beam, Deck, pilings and associated Features:**

21. Spill protection measures shall be in place prior to any concrete delivery over water.
22. Concrete delivery systems situated over water shall be inspected daily to prevent any discharges of concrete and/or slurry water into waters of the state.
23. Cast-in-place, wet concrete/grout shall be prevented from entering waters of the state. Forms for any concrete/grout structure shall be constructed to prevent leaching of wet concrete/grout. Impervious materials shall be placed over any exposed concrete/grout not lined with the forms.
24. Concrete process water shall not enter waters of the state. Any concrete process/contact water discharged from a confined area shall be routed to a contained area to be treated and disposed of appropriately with no possible entry to waters of the state.

**E. Timing Requirements:**

1. All in-water work shall be completed by the work window identified in the most current Hydraulic Project Approval (HPA) issued by Washington Department of Fish and Wildlife (WDFW) for this project. Any project change that requires a new or revised HPA should also be sent to Ecology (per condition A.2. above) for review.
2. This Order shall remain in effect for a period of five (5) years from the date of issuance.

**F. 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 A.2 above, within two (2) weeks of receipt of the permit.
2. Written notification (FAX, e-mail, or mail) shall be made to Ecology's Southwest Regional Office Federal Permit Manager in accordance with condition A.2 above for the following activities:
  - a. At least ten (10) days prior to the onset of in-water work in each construction season.
  - b. Within ten (10) days after completion of construction for each project season.
  - c. Immediately following a violation of the state water quality standards or any condition of this Order.
  - d. 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.

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

#### CONTACT INFORMATION

Please direct all questions about this Order to:

Lori Ochoa  
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](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 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](http://www.ecy.wa.gov/biblio/wac173204.html)

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

[www.ecy.wa.gov/biblio/wac173200.html](http://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](http://www.ecy.wa.gov/biblio/wac173201A.html)

**SIGNATURE**



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

1-23-2013

Date

**Attachment # A**

Port of Tacoma  
Pier 3 (Terminal 3) Upgrade Project  
Ecology Order # **9651**  
**Corps Reference # NWS-2012-0256-WRD**  
Statement of Understanding  
Water Quality Certification Conditions

I, \_\_\_\_\_, state that, I will be involved as an agent or contractor for the Port of Tacoma for the Pier 3 (Terminal 3) Upgrade project within the Blair Waterway of Puget Sound at 1101 Port of Tacoma Road, Port of Tacoma, Pierce County, Washington. I further state that I have read and understand the relevant conditions of the Washington Department of Ecology Water Quality Certification Order #**9651** 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

