



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT  
4735 EAST MARGINAL WAY SOUTH, BLDG 1202  
SEATTLE, WA 98134-2388

Regulatory Branch

September 15, 2023

Port of Tacoma  
Post Office Box 1837  
Tacoma, Washington 98401

Reference: NWS-2020-557-WRD  
Tacoma, Port of

Enclosed is a Department of the Army permit which authorizes performance of the work described in your referenced application. You are cautioned that any change in the location, plans, or timing of the approved activities will require submittal of revised plans to this office for approval prior to accomplishment. Deviation from the approved plans may result in imposition of criminal or civil penalties.

Your attention is drawn to General Condition 1 of the permit which specifies the expiration date for completion of the work. Upon completing the authorized work, please fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form.

We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey form. This form and information about our program is available on our website at: [www.nws.usace.army.mil](http://www.nws.usace.army.mil) select "Regulatory Branch, Permit Information" and then "Contact Us."

If you have any questions please contact Jacalen Printz by email at [jacalen.m.printz@usace.army.mil](mailto:jacalen.m.printz@usace.army.mil) or by telephone at (206) 764-6901.

Sincerely,

Todd N. Tillinger, P.E.  
Chief, Regulatory Branch

Enclosures

## DEPARTMENT OF THE ARMY PERMIT

**Permittee:** Tacoma, Port of

PO Box 1837

**Permit No:** NWS-2020-557-WRD

Tacoma, Washington 98401

**Issuing Office:** Seattle District

**NOTE:** The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**Project Description:** Place fill in 4.42 acres of wetland to construct a container support facility in wetland near the Blair Waterway in Tacoma, Washington (in accordance with the plans and drawings dated October 22, 2022 attached hereto which are incorporated in and made a part of this permit). The purpose of the project is to provide additional areas for container storage and processing in support of the marine cargo shipping at the Port of Tacoma.

**Project Location:** In wetland near the Blair Waterway at Tacoma, Pierce County, Washington.

### Permit Conditions:

#### *General Conditions:*

1. The time limit for completing the work authorized ends on September 15, 2028. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least 1 month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in accordance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification to this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification (Order Number: 21410, dated October 7, 2022) is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
7. After a detailed and careful review of all the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps, nonetheless the permittee agreed to

those conditions voluntarily to facilitate issuance of the permit; the permittee will comply fully with all the terms of all the permit conditions.

*Special Conditions:*

- a. You must provide a copy of the permit transmittal letter, the permit form, and drawings to all contractors performing any of the authorized work.
- b. You must implement and abide by the Endangered Species Act (ESA) requirements and/or agreements set forth in the No Effect Technical Memo, dated January 24, 2022, in its entirety. The U.S. Army Corps of Engineers (Corps) made a determination of No Effect for all species and critical habitat based on this document. Failure to comply with the commitments made in this document constitutes non-compliance with the ESA and your Corps permit.
- c. Permittees must clearly mark all construction area boundaries within waters of the United States before beginning work on projects that involve grading or placement of fill. Boundary markers and/or construction fencing must be maintained and clearly visible for the duration of construction. In cases where wetland vegetation is high, a demarcation of the edge should be at height level visible to construction and/or grading and clearing crews.
- d. The Port will include standard language in their contractor specifications for identifying, segregating, testing, and disposing of suspected contaminated materials. Any encountered contaminated material will be disposed off-site at an approved location based on state requirements and Tacoma-Pierce County Health Department guidelines with a waste disposal authorization, as necessary. If contaminated materials are uncovered on site, this information, including final disposition of the materials, will be provided to RPM Kristine Koch at koch.kristine@epa.gov
- e. By accepting this permit, the permittee agrees to accept such potential liability for response costs, response activity and natural resource damages as the permittee would have under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. (CERCLA) or the Model Toxics Control Act, R.C.W. 70.105 (MTCA) absent the issuance of this permit. Further, the permittee agrees that this permit does not provide the permittee with any defense from liability under the CERCLA or the MTCA. Additionally, the permittee shall be financially responsible for any incremental response costs attributable under CERCLA or MTCA to the permittee's activities under this permit
- f. You shall implement and abide by the Advanced Mitigation Site Use Plan dated June 16, 2022 in its entirety.

**Further Information:**

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:
  - Section 10 of the Rivers and Harbor Act of 1899 (33 United States Code (U.S.C.) 403).
  - Section 404 of the Clean Water Act (33 U.S.C. 1344).
  - Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C 1413).
2. Limits of this authorization.
  - a. This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.

- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of the permit.
- b. The information provided by you in support of your application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 Code of Federal Regulations (CFR), Part 325.7 or enforcement procedures such as those contained in 33 CFR, Parts 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR, Part 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

*Mark Rettmann*

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Port of Tacoma

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September 8, 2023

(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

*Mark Rettmann*

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For Kathryn P. Sanborn, PhD, PE, PMP  
Colonel, Corps of Engineers  
District Commander

---

September 15, 2023

(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

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(TRANSFeree)

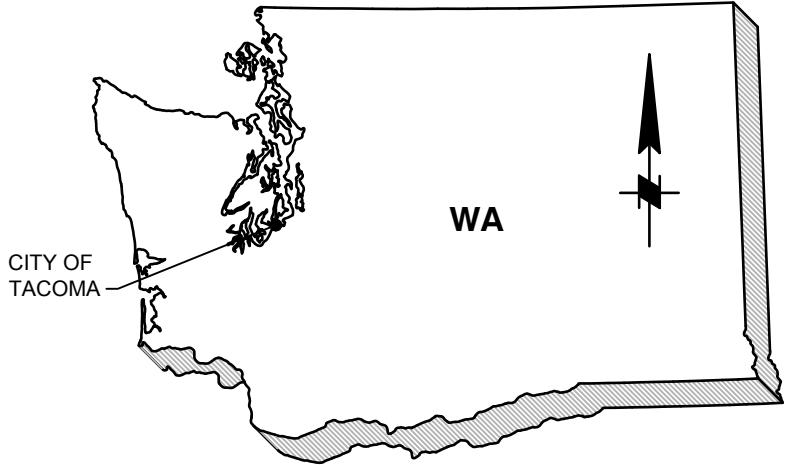
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(DATE)

HORIZONTAL DATUM:  
WASHINGTON STATE PLANE COORDINATE  
SYSTEM, SOUTH ZONE, NAD 83/2011 (PER PORT  
OF TACOMA SURVEY CONTROL MAP - 2016)

VERTICAL DATUM:  
MLLW (PER PORT OF TACOMA 2016 SURVEY  
CONTROL MAP)  
TIDE 22 1935 BENCHMARK: LOCATED AT NE  
CORNER OF 11TH STREET BRIDGE AT THE  
INTERSECTION OF 11TH STREET AND  
MILWAUKEE WAY  
ELEVATION = +19.18  
(BASED ON 1983-2001 TIDAL EPOCH)

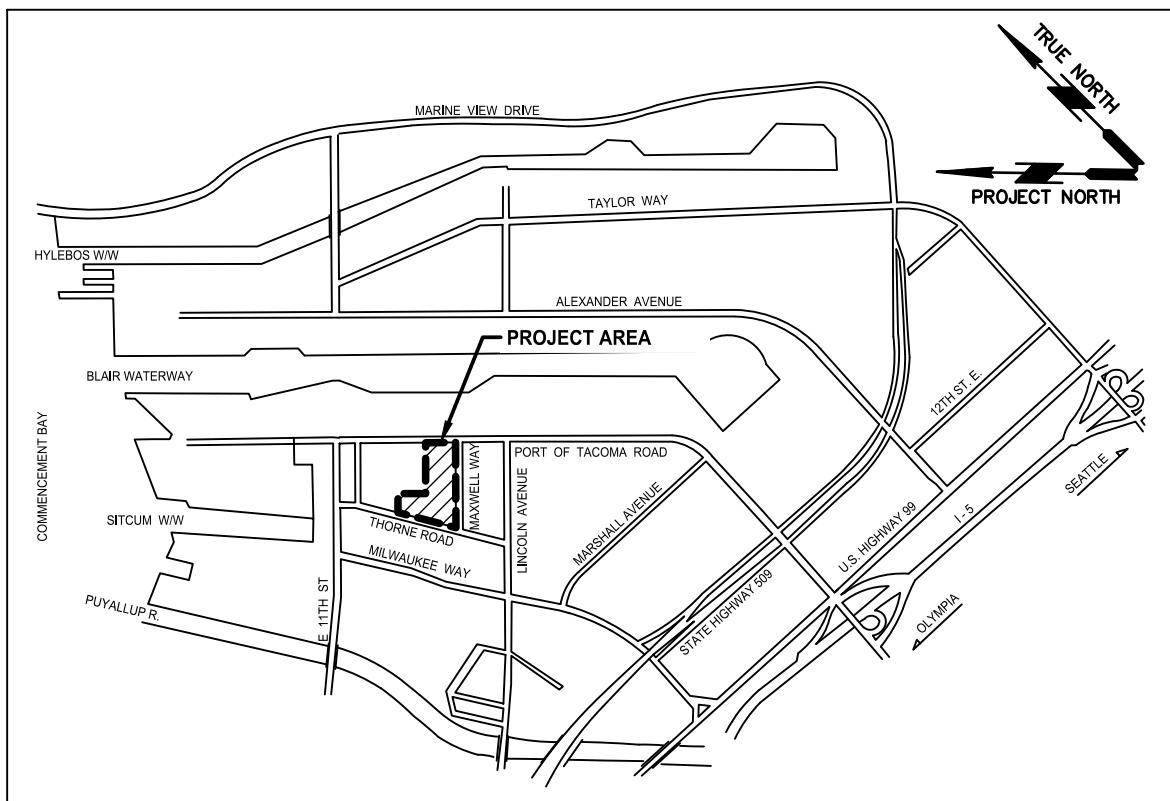
SITE TEMPORARY BENCHMARK:  
PORT OF TACOMA MONUMENT #104 AT  
INTERSECTION OF PORT OF TACOMA ROAD  
AND MAXWELL WAY  
ELEVATION = +17.59  
0.00 FT MLLW + 2.67 FT = 0.00 NAVD88



DIRECTIONS TO SITE FROM SEATTLE:

1. I-5 S TO EXIT #136	<u>MILES</u>	~30
2. TURN RIGHT ON PORT OF TACOMA RD	~0.5	
3. ARRIVE AT PROJECT SITE	~1.8	

VICINITY MAP  
SCALE: NTS



LOCATION MAP

SCALE: NTS

USACE REFERENCE: NWS-2020-557-WRD

APPLICANT: PORT OF TACOMA

ADJACENT PROPERTY OWNERS:

SEE THE JOINT AQUATIC RESOURCES  
PERMIT APPLICATION (JARPA)

LOCATION: 1451 & 1721 THORNE ROAD AND  
1702 PORT OF TACOMA ROAD  
TACOMA, WA

LAT/LONG: 47.264 N

-122.401 W

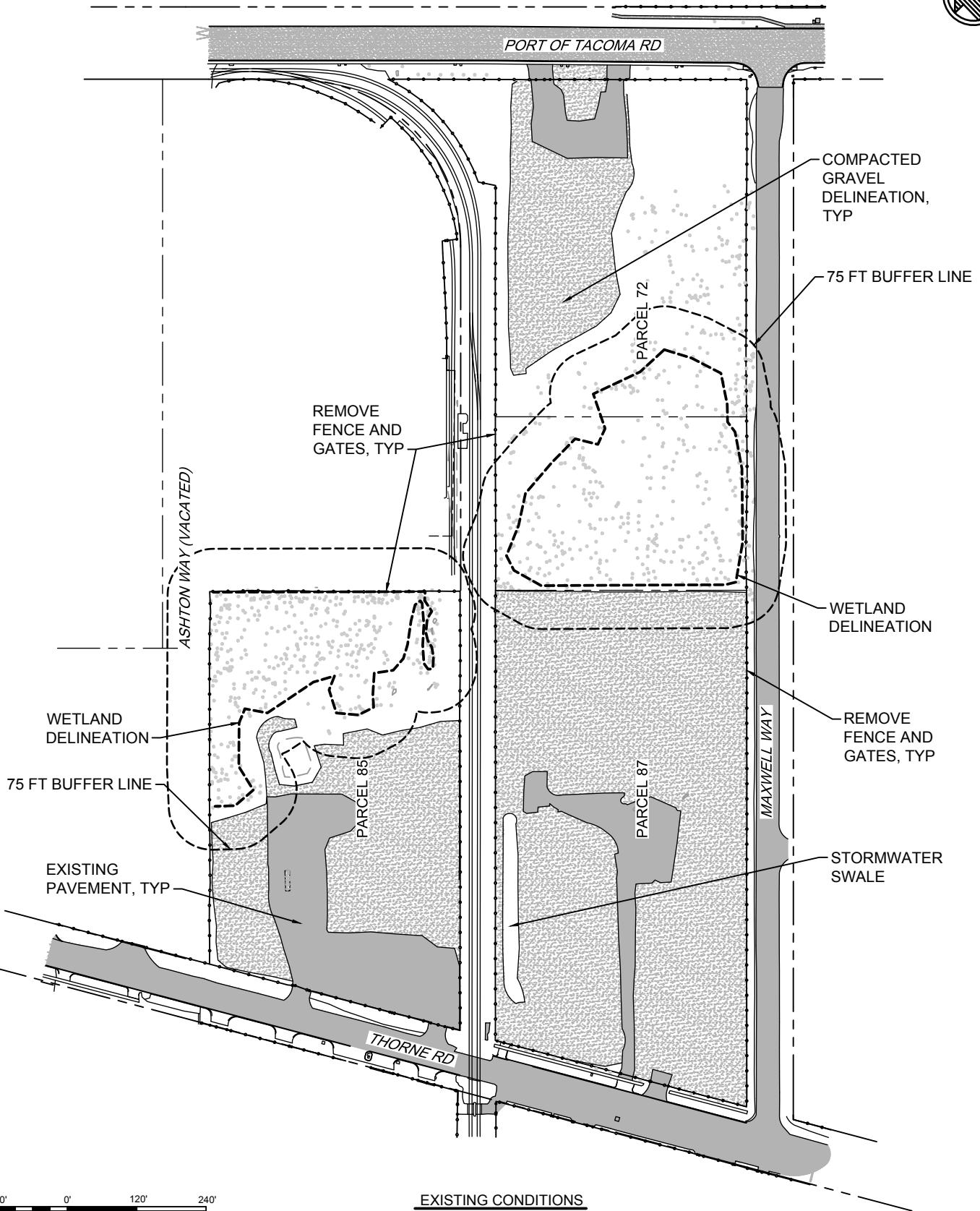
DATUM: MLLW=19.39' TIDE 22 1935 BENCHMARK  
SHEET: 1 OF 7 DATE: OCTOBER 22, 2022

PROPOSED PROJECT: OFF-DOCK CONTAINER  
SUPPORT FACILITY

IN: NOT LOCATED IN A WATERBODY

NEAR/AT: CITY OF TACOMA

COUNTY: PIERCE STATE: WA  
SEC: 34 T: 21 N R: 3 E



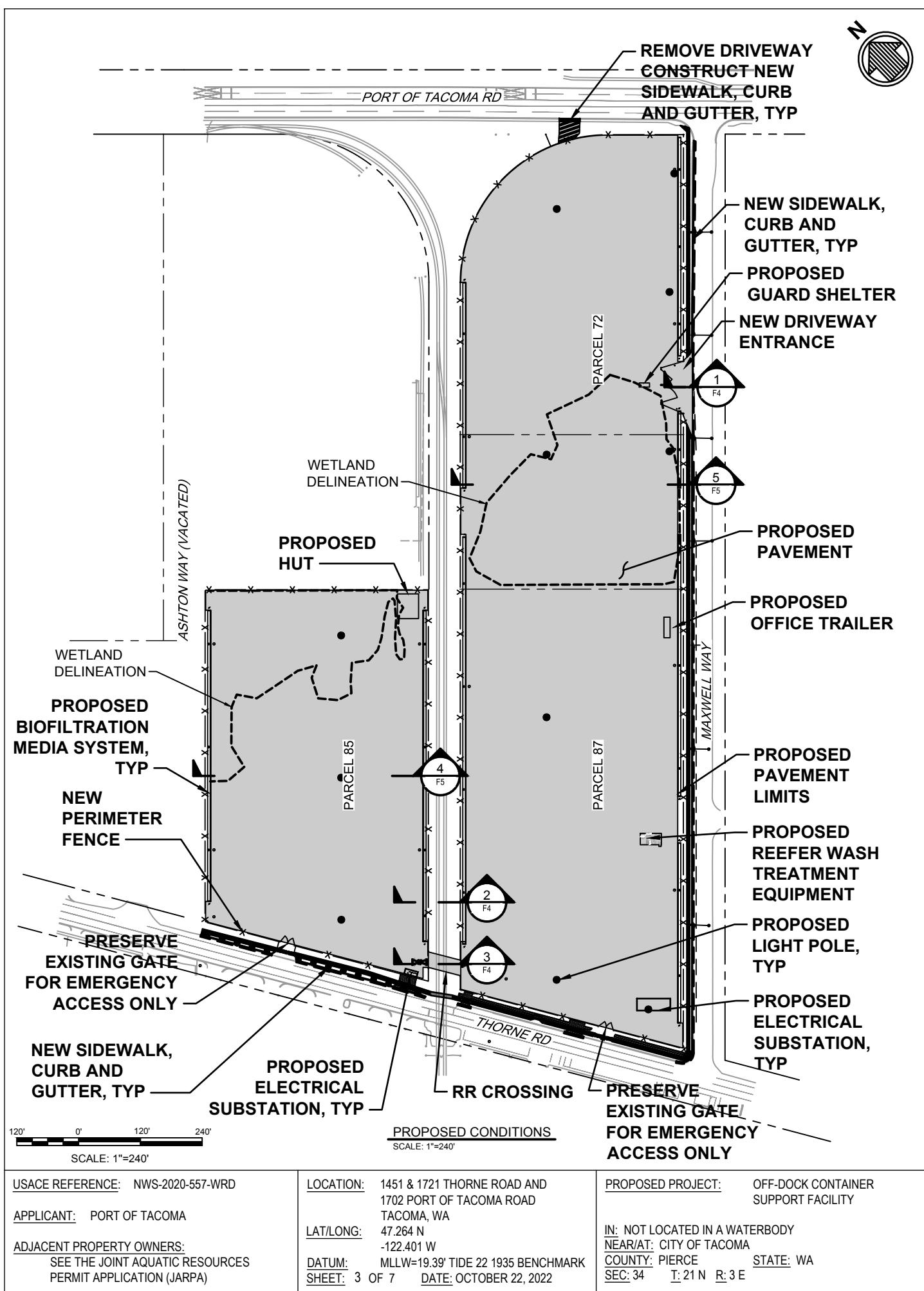
120' 0' 120' 240'  
SCALE: 1"=240'

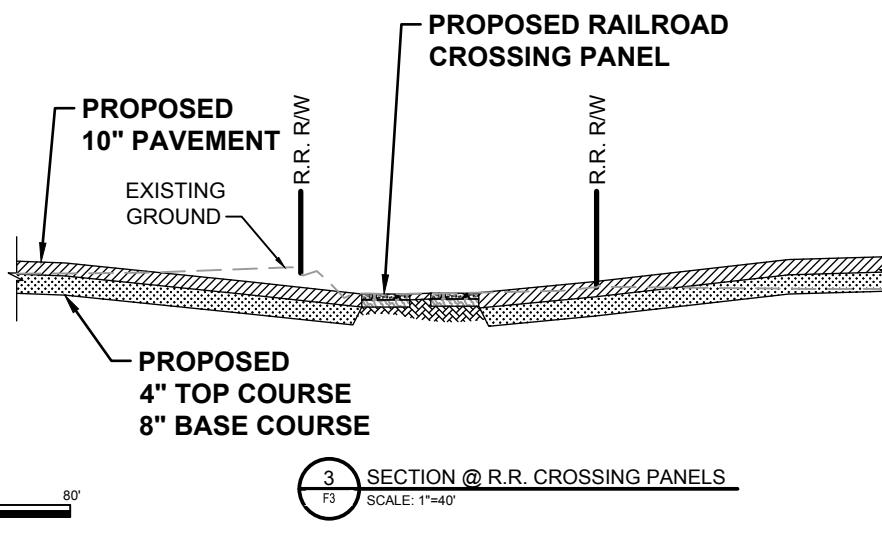
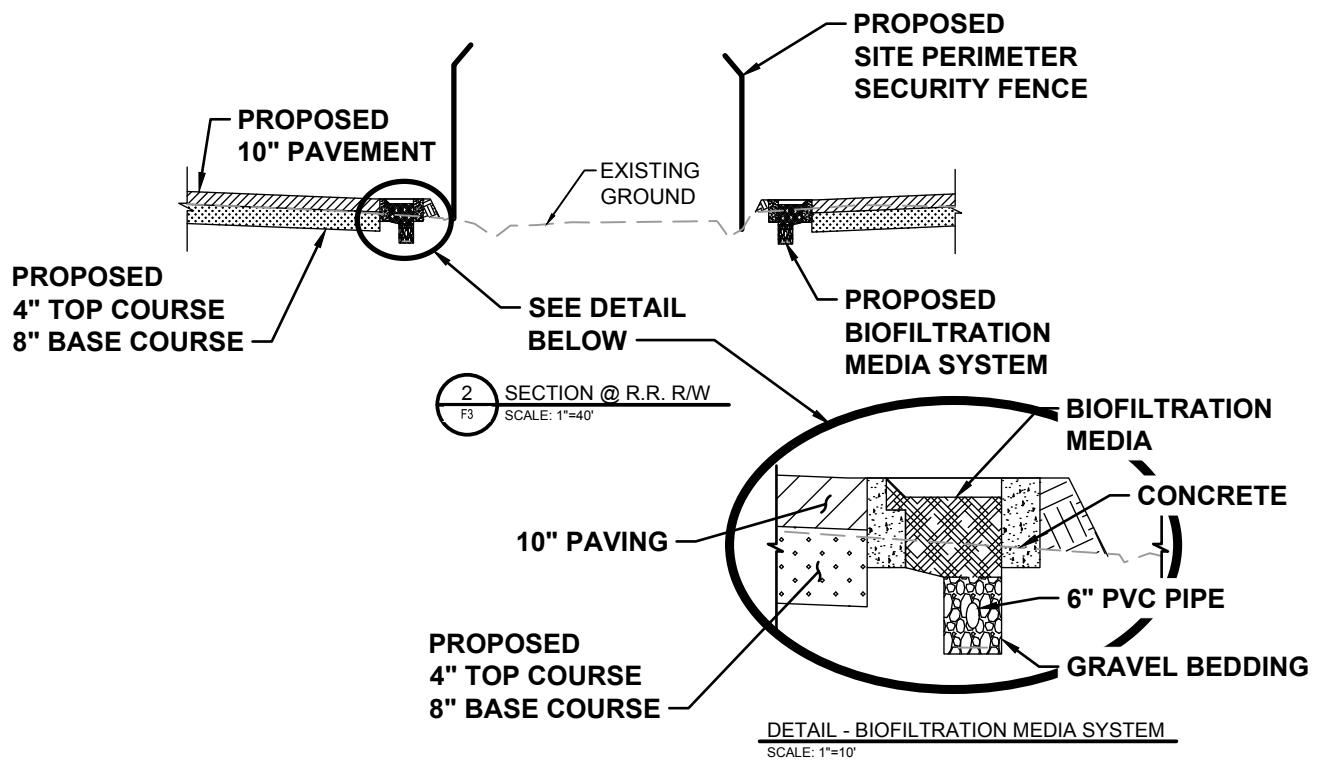
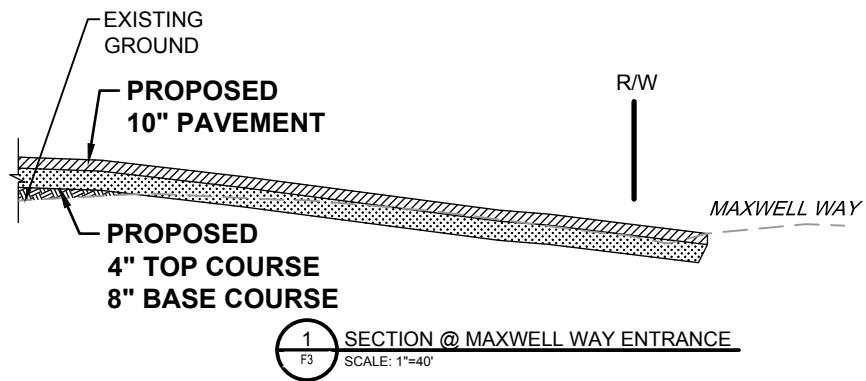
EXISTING CONDITIONS  
SCALE: 1"=240'

USACE REFERENCE: NWS-2020-557-WRD  
APPLICANT: PORT OF TACOMA  
ADJACENT PROPERTY OWNERS:  
SEE THE JOINT AQUATIC RESOURCES  
PERMIT APPLICATION (JARPA)

LOCATION: 1451 & 1721 THORNE ROAD AND  
1702 PORT OF TACOMA ROAD  
TACOMA, WA  
LAT/LONG: 47.264 N  
-122.401 W  
DATUM: MLLW=19.39' TIDE 22 1935 BENCHMARK  
SHEET: 2 OF 7 DATE: OCTOBER 22, 2022

PROPOSED PROJECT: OFF-DOCK CONTAINER  
SUPPORT FACILITY  
IN: NOT LOCATED IN A WATERBODY  
NEAR/AT: CITY OF TACOMA  
COUNTY: PIERCE STATE: WA  
SEC: 34 T: 21 N R: 3 E





USACE REFERENCE: NWS-2020-557-WRD

APPLICANT: PORT OF TACOMA

ADJACENT PROPERTY OWNERS:

SEE THE JOINT AQUATIC RESOURCES  
PERMIT APPLICATION (JARPA)

LOCATION: 1451 & 1721 THORNE ROAD AND  
1702 PORT OF TACOMA ROAD  
TACOMA, WA

LAT/LONG: 47.264 N

-122.401 W

DATUM: MLLW=19.39' TIDE 22 1935 BENCHMARK

SHEET: 4 OF 7 DATE: OCTOBER 22, 2022

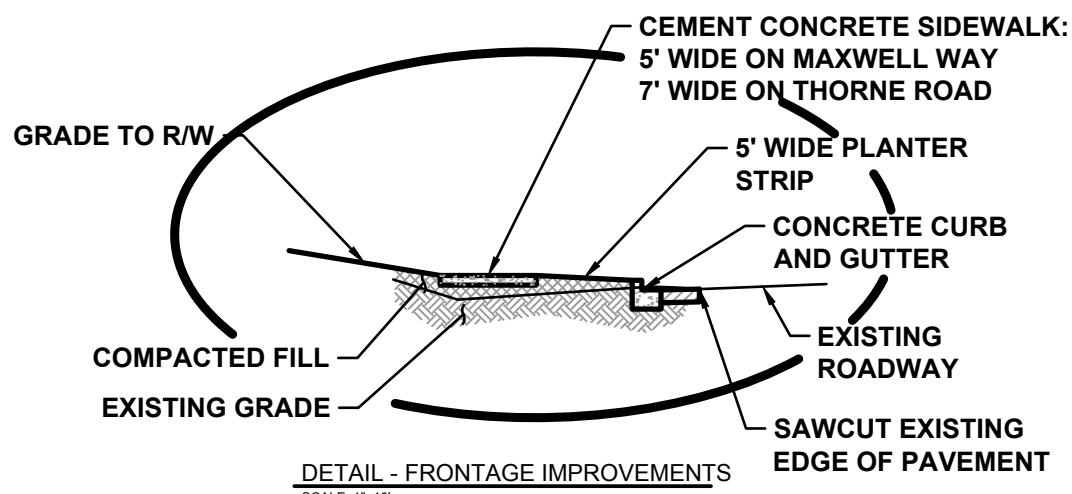
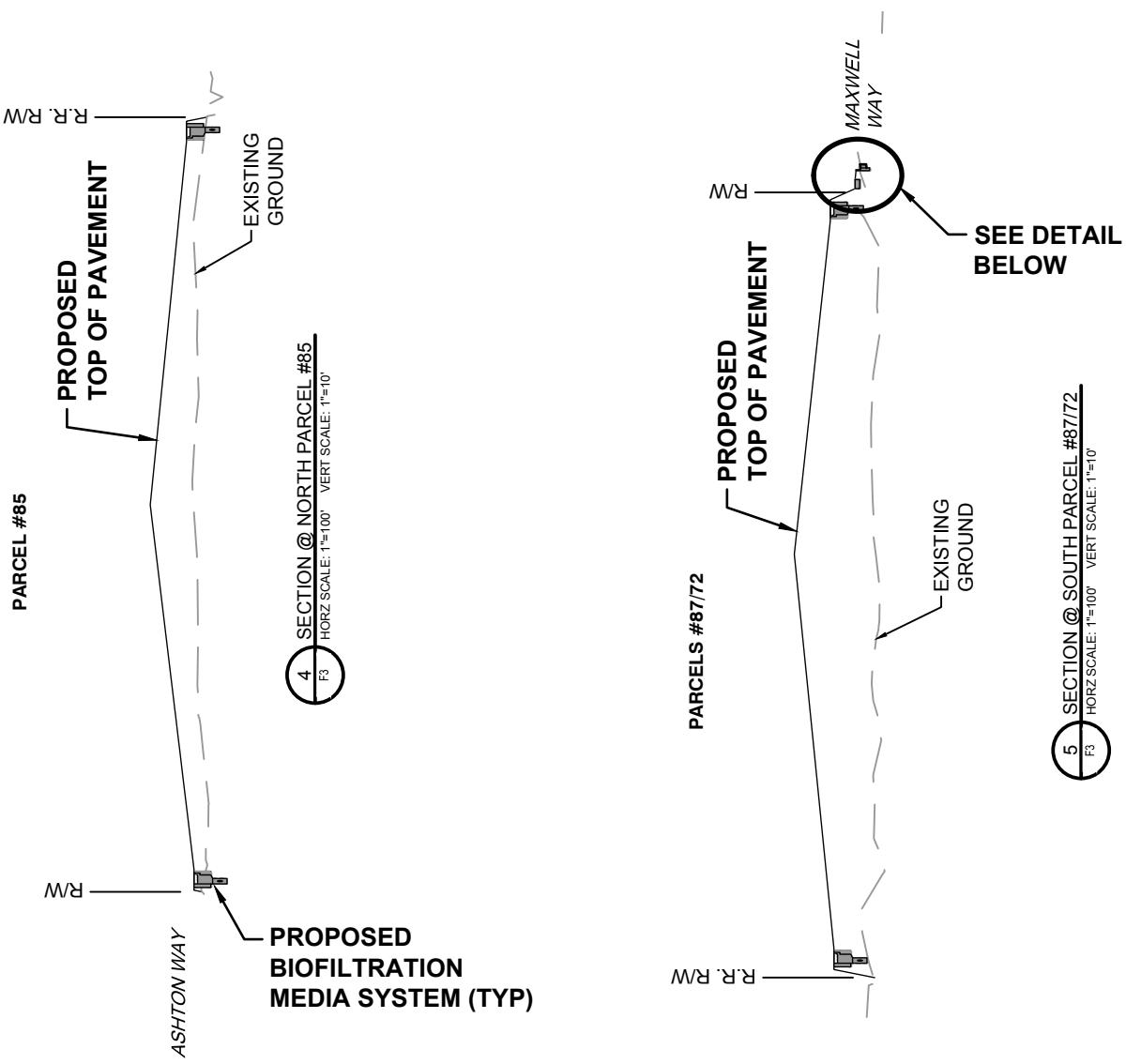
PROPOSED PROJECT: OFF-DOCK CONTAINER  
SUPPORT FACILITY

IN: NOT LOCATED IN A WATERBODY

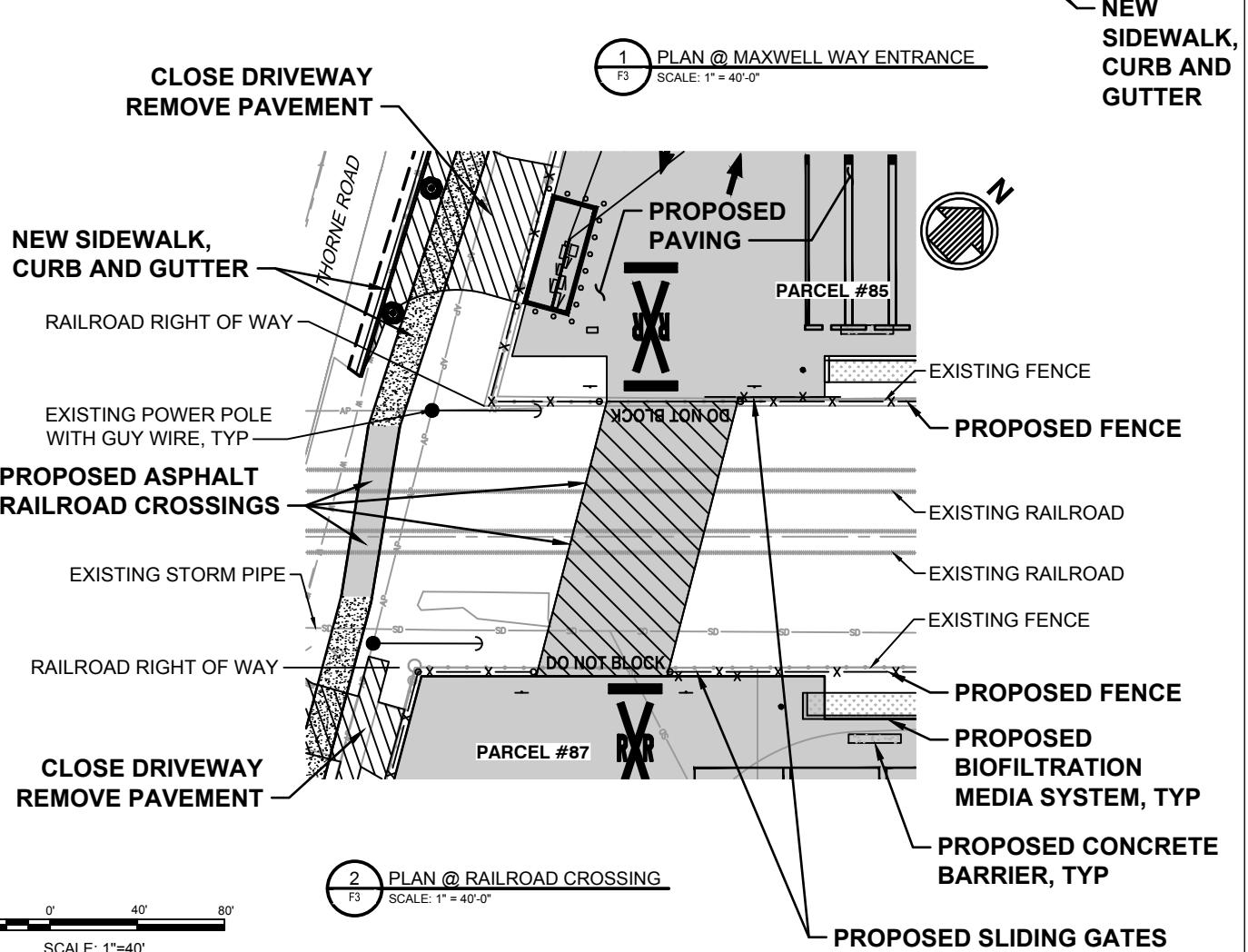
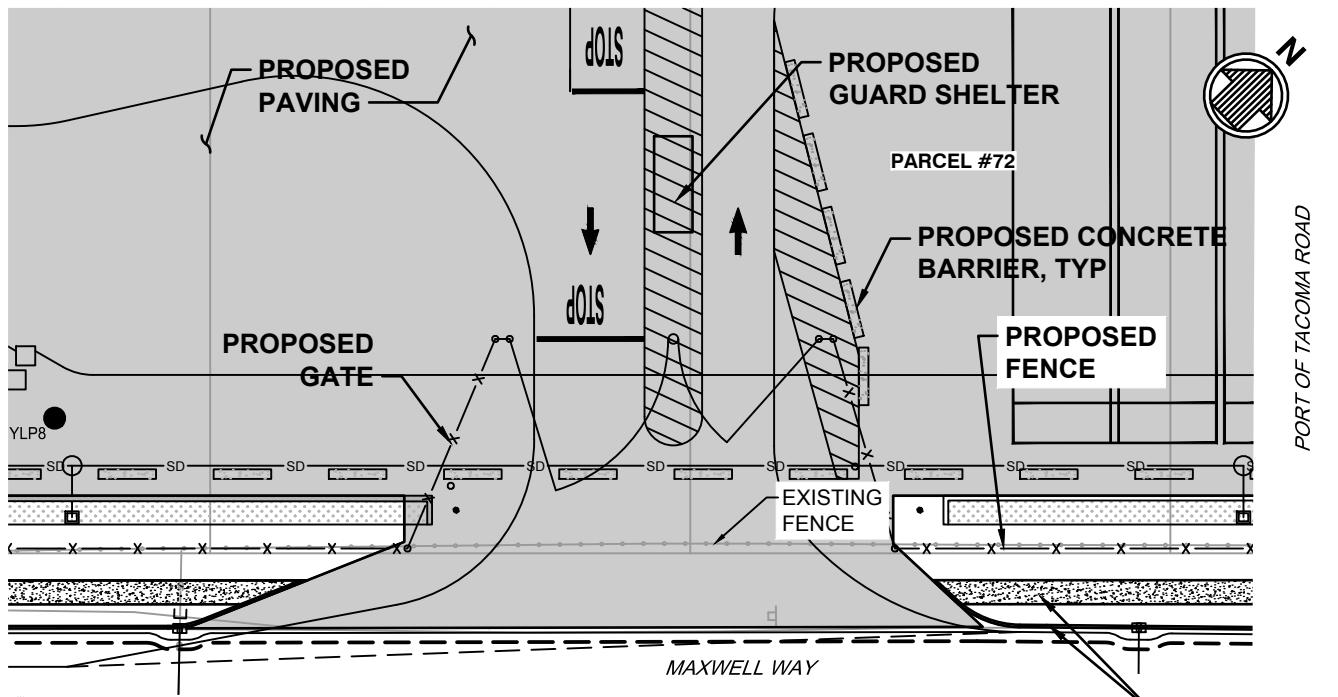
NEAR/AT: CITY OF TACOMA

COUNTY: PIERCE STATE: WA

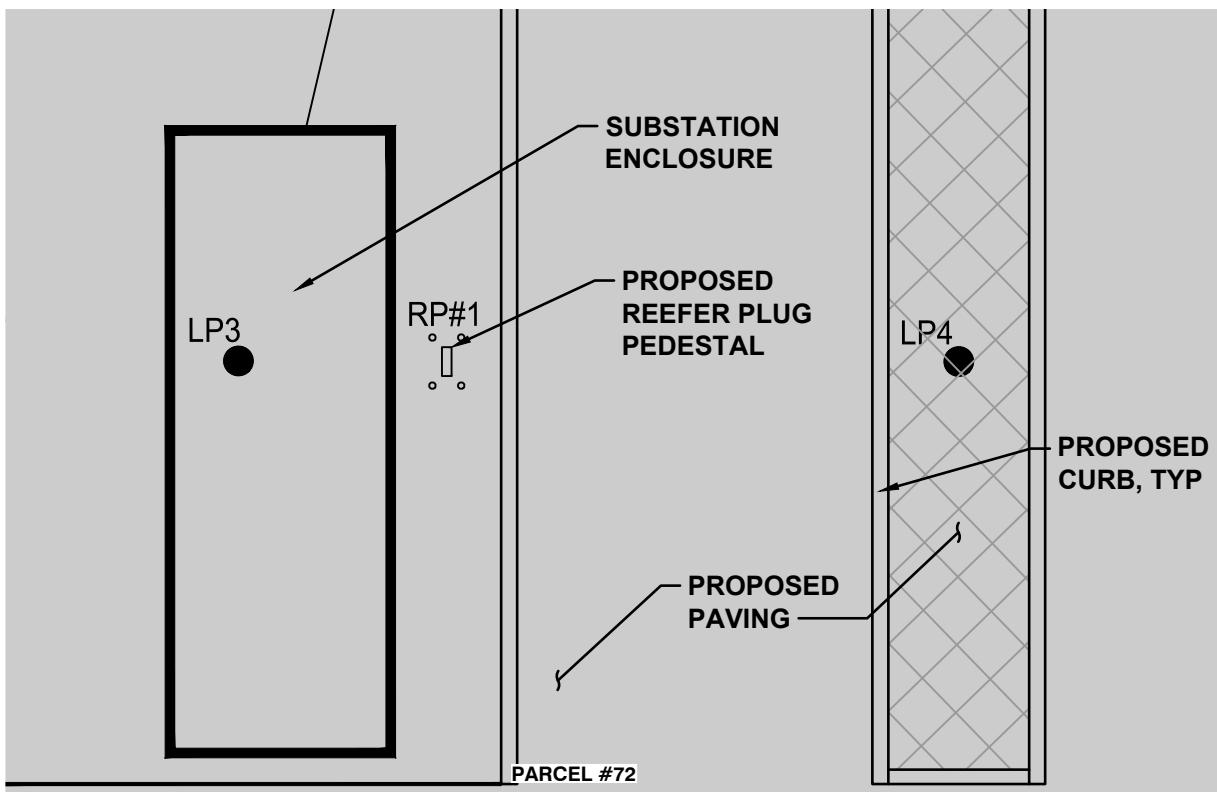
SEC: 34 T: 21 N R: 3 E



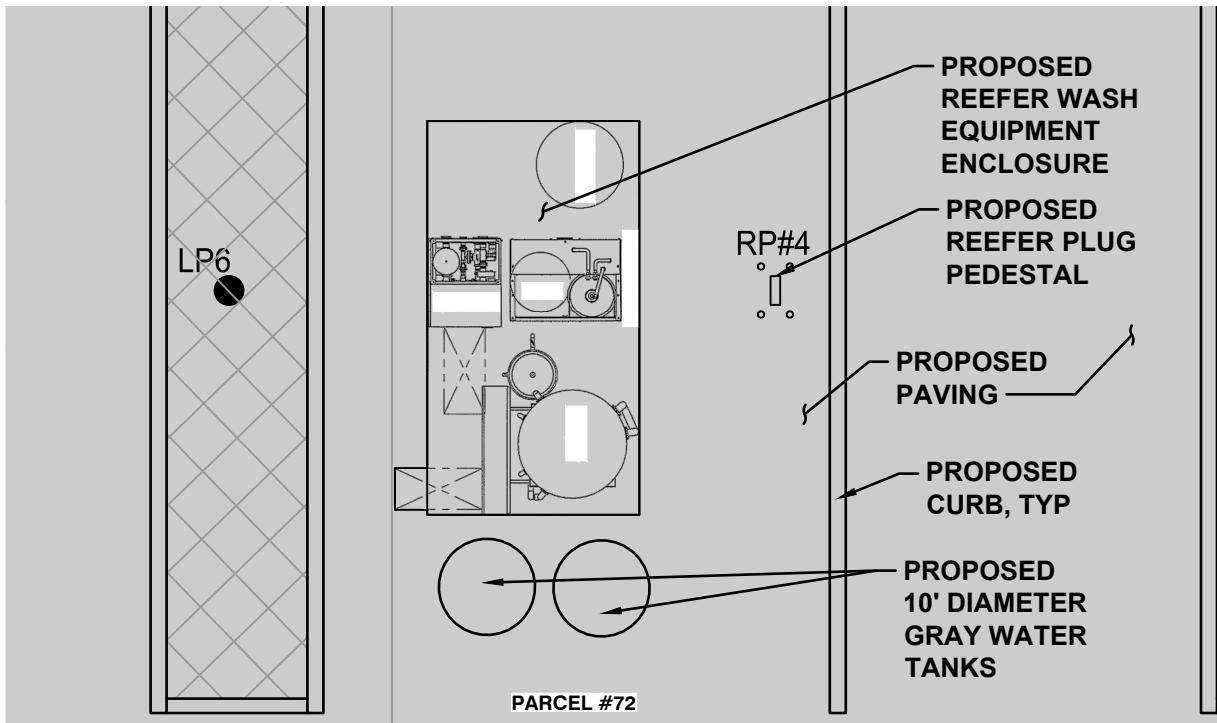
USACE REFERENCE: NWS-2020-557-WRD	LOCATION: 1451 & 1721 THORNE ROAD AND 1702 PORT OF TACOMA ROAD TACOMA, WA LAT/LONG: 47.264 N -122.401 W DATUM: MLLW=19.39' TIDE 22 1935 BENCHMARK SHEET: 5 OF 7 DATE: OCTOBER 22, 2022	PROPOSED PROJECT: OFF-DOCK CONTAINER SUPPORT FACILITY IN: NOT LOCATED IN A WATERBODY NEAR/AT: CITY OF TACOMA COUNTY: PIERCE STATE: WA SEC: 34 T: 21 N R: 3 E
APPLICANT: PORT OF TACOMA		
ADJACENT PROPERTY OWNERS: SEE THE JOINT AQUATIC RESOURCES PERMIT APPLICATION (JARPA)		



USACE REFERENCE: NWS-2020-557-WRD	LOCATION: 1451 & 1721 THORNE ROAD AND 1702 PORT OF TACOMA ROAD TACOMA, WA LAT/LONG: 47.264 N -122.401 W DATUM: MLLW=19.39' TIDE 22 1935 BENCHMARK SHEET: 6 OF 7	PROPOSED PROJECT: OFF-DOCK CONTAINER SUPPORT FACILITY IN: NOT LOCATED IN A WATERBODY NEAR/AT: CITY OF TACOMA COUNTY: PIERCE STATE: WA SEC: 34 T: 21 N R: 3 E DATE: OCTOBER 22, 2022
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1 PLAN AT ELECTRICAL SUBSTATION AREA  
F3 SCALE: 1"=20'



2 PLAN AT WASH ENCLOSURE  
F3 SCALE: 1"=20'

20' 0' 20' 40'

SCALE: 1"=20'

USACE REFERENCE: NWS-2020-557-WRD

APPLICANT: PORT OF TACOMA

ADJACENT PROPERTY OWNERS:

SEE THE JOINT AQUATIC RESOURCES  
PERMIT APPLICATION (JARPA)

LOCATION: 1451 & 1721 THORNE ROAD AND  
1702 PORT OF TACOMA ROAD  
TACOMA, WA

LAT/LONG:

47.264 N

-122.401 W

DATUM:

MLLW=19.39' TIDE 22 1935 BENCHMARK

SHEET:

7 OF 7

DATE: OCTOBER 22, 2022

PROPOSED PROJECT:

OFF-DOCK CONTAINER  
SUPPORT FACILITY

IN: NOT LOCATED IN A WATERBODY

NEAR/AT: CITY OF TACOMA

COUNTY: PIERCE

STATE: WA

SEC: 34

T: 21 N

R: 3 E



US Army Corps  
of Engineers®  
Seattle District

## CERTIFICATE OF COMPLIANCE WITH DEPARTMENT OF THE ARMY PERMIT



Permit Number: NWS-2020-557-WRD

Name of Permittee: Port of Tacoma

Date of Issuance: September 15, 2023

Upon completion of the activity authorized by this permit, please check the applicable boxes below, date and sign this certification, and return it to the following email or mailing address:

NWS.Compliance@usace.army.mil

OR

Department of the Army  
U.S. Army Corps of Engineers Seattle  
District, Regulatory Branch  
4735 E. Marginal Way S, Bldg 1202  
Seattle, Washington 98134-2388

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of your authorization, your permit may be subject to suspension, modification, or revocation.

<input type="checkbox"/>	<p>The work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of this permit.</p> <p>Date work complete: _____</p> <p><input type="checkbox"/> Photographs and as-built drawings of the authorized work (OPTIONAL, unless required as a Special Condition of the permit).</p>
<input type="checkbox"/>	<p>If applicable, the mitigation required (e.g., construction and plantings) in the above-referenced permit has been completed in accordance with the terms and conditions of this permit (not including future monitoring).</p> <p>Date work complete: _____ <input type="checkbox"/> N/A</p> <p><input type="checkbox"/> Photographs and as-built drawings of the mitigation (OPTIONAL, unless required as a Special Condition of the permit).</p>
<input type="checkbox"/>	<p>Provide phone number/email for scheduling site visits (must have legal authority to grant property access).</p> <p>Printed Name: _____</p> <p>Phone Number: _____ Email: _____</p>

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Southwest Region Office  
PO Box 47775, Olympia, WA 98504-7775 • 360-407-6300

October 7, 2022

Port of Tacoma  
ATTN: Mark Rettmann  
PO Box 1837  
Tacoma, WA 98401

Re: Water Quality Certification Order No. 21410 for Corps No. NWS-2020-557, Off-Dock Container Support Facility, Pierce County, Washington

Dear Mark Rettmann:

On October 11, 2021, the Port of Tacoma submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Off-Dock Container Support Facility located in Tacoma, Pierce County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Water Quality Certification Request and supplemental documents 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 enclosed Water Quality Certification Order (WQC Order).

Please ensure that anyone doing work under this WQC Order has read, is familiar with, and is able to follow all of the provisions within the attached WQC Order.

If you have any questions about this decision, please contact Lori Kingsbury at [Lori.kingsbury@ecy.wa.gov](mailto:Lori.kingsbury@ecy.wa.gov). The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

  
Joe Burcar, Section Manager  
Shorelands and Environmental Assistance Program

Enclosure

*WQ Order No. 21410*

*Corps No. NWS-2020-557*

*Aquatics ID No. 140546*

*October 7, 2022*

*Page 2 of 2*

ec: Dan Krenz, U.S. Army Corps of Engineers  
Linda Storm, EPA  
Loree' Randall, Ecology, HQ-SEA  
Rick Mraz, Ecology, HQ-SEA  
Patricia Johnson, HQ-SEA  
Lori Kingsbury, Ecology, SWRO-SEA  
[ECYREFEDPERMITS@ecy.wa.gov](mailto:ECYREFEDPERMITS@ecy.wa.gov)



**IN THE MATTER OF GRANTING A  
WATER QUALITY CERTIFICATION TO**  
Port of Tacoma  
pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260  
and Chapter 173-201A WAC

) **WQC ORDER No. 21410**  
) **Corps Reference No. NWS-2020-557-WRD**  
) Off-Dock Container Support Facility, Wetlands  
) Adjacent to Blair Waterway, Pierce County,  
) Washington.  
)

Port of Tacoma  
ATTN: Mark Rettmann  
PO Box 1837  
Tacoma, WA 98401

On October 11, 2021, the Port of Tacoma submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Off-Dock Container Support Facility, located in Tacoma, Pierce County, Washington. The following required processing dates are referenced below:

- On May 10, 2021, the Port of Tacoma submitted a pre-filing meeting request.
- On November 22, 2021, the Port of Tacoma submitted additional information, and the Department of Ecology (Ecology) considered the request valid on this date.
- On January 26, 2022, the U.S. Army Corps of Engineers (Corps) and Ecology issued a joint public notice.

The project proposes to construct a container support facility for empty container and chassis storage, a single-high reefer pre-trip wash facility, and a wheeled reefer valet drop-off location. Other site features will include truck entry and exit gates on Thorne Road and Maxwell Way, a guard shelter, an office trailer, perimeter security fencing, site lighting and power, security cameras, a railroad crossing, and stormwater improvements.

The project purpose is to provide additional areas for storage, staging, preparing, and processing of containers and chassis in support of marine cargo shipping at the Port of Tacoma.

The proposed project will fill in 4.42 acres of palustrine forested wetland on two parcels. To compensate for the wetland impacts, the Port will use credits generated from the Port's Lower Wapato Creek Advance Mitigation site.

The project site is located at 1451 Thorne Road, 1721 Thorne Road, and 1702 Port of Tacoma Road, Tacoma, Pierce County, Washington, Section 34, Township 21 North, Range 3 East; within Water Resource Inventory Area (WRIA) 10, Puyallup-White Watershed.

## **AUTHORITIES**

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this WQC request 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.
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.
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.
4. Conformance with Washington's prohibition on discharges that cause or tend to cause pollution of waters of the state of Washington. RCW 90.48.080.
5. The project proponent of the project authorized is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, local or tribal authorities.

With this Water Quality Certification (WQC) Order, Ecology is granting with conditions, the Port of Tacoma's request for a Section 401 Water Quality Certification for the Off-Dock Container Support Facility, within wetlands adjacent to the Blair Waterway, located in Tacoma, Pierce County. Ecology has determined that the proposed discharges will comply with all applicable state water quality requirements, provided the project is conducted in accordance with the Section 401 Water Quality Certification request that Ecology received on October 11, 2021, the supporting documents referenced in Table 1 below, **and the conditions of this WQC Order**.

**Table 1.** Supporting Documents

Date Received	Document Type	Title & Date	Author
October 11, 2021	Joint Aquatic Resources Permit Application (JARPA) Form and Drawings	JARPA signed and dated October 8, 2021	Mark Rettmann
October 8, 2021	State Environmental Policy Act	SEPA DNS, Port of Tacoma General Central Improvement Program dated June 18, 2018	Port of Tacoma, Dakota Chamberlain
November 22, 2021	Project BMPs	Off-Dock Container Storage Yard, Proposed Construction Best Management Practices	Northwest Seaport Alliance, Anita Fichthor
January 7, 2022	Final Advance Mitigation Plan, Revised March 2021	Final Advance Mitigation Plan Lower Wapato Creek Habitat Project, dated June 1, 2020, Revised March 2021	Port of Tacoma

June 7, 2022	E-mail from Corps PM	Corrected AJD, May 25, 2022	Jason Sweeney, USACE
June 16, 2022	Advance Mitigation Site Use Plan, Revised	Lower Wapato Creek Advance Mitigation Site Use Plan for Port of Tacoma's Off Dock Container Support Facility, dated June 16, 2022	Port of Tacoma
July 11, 2022	404b(1) Alternatives Analysis	Port of Tacoma. Off-Dock Container Support Facility Alternatives Analysis dated July 8, 2022	Grette Associates

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize the Port of Tacoma 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 Section 401 Water Quality Certification absolves the Port of Tacoma from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

#### Water Quality Certification Conditions

The following conditions will be incorporated into the Corps permit and strictly adhered to by the Port of Tacoma. Specific condition justifications and citations required by 40 CFR 121.7(d)(1) are provided below each condition in *italic text*.

#### **A. General Conditions**

1. In this WQC Order, the term “Project Proponent” shall mean the Port of Tacoma and its agents, assignees, and contractors.
  - *Justification - Ecology needs to identify that conditions of this WQC Order apply to anyone conducting work on behalf of the Project Proponent to ensure compliance with the water quality standards and other applicable state laws.*
  - *Citation - 40 CFR 121.1(j), Chapter 90.48 RCW, Chapter 90.48.080 RCW, Chapter 90.48.120 RCW, Chapter 90.48.260 RCW, Chapter 173-200 WAC, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
2. All submittals required by this WQC Order shall be sent to Ecology’s Headquarters Office, Attn: Federal Permit Manager, via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) with a copy to Lori.kingsbury@ecy.wa.gov. The submittals shall be identified with WQC Order No. 21410 and include the Project Proponent’s name, Corps permit number, project name, project contact, and the contact phone number.

- *Justification - Ecology needs to identify where information and submittals are to be submitted to be in compliance with the requirements of this WQC Order.*
- *Citation - 40 CFR 121, Chapter 90.48 RCW, Chapter 90.48.120 RCW, Chapter 90.48.260 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*

3. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on October 11, 2021, and the supporting documentation identified in Table 1.
  - *Justification - Ecology has the authority to prevent and control pollution of state waters. By authorizing a discharge into a water of the state, through a WQC, Ecology is certifying the project as proposed will not negatively impact our state's water quality. Therefore, it is imperative the project is conducted as it was presented during the review process. Any deviations from information within the WQC Request package and this WQC Order must be disclosed prior to the initiation of the planned work.*
  - *Citation - 40 CFR 121.5, Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.120 RCW, Chapter 90.48.260 RCW, Chapter 173-200 WAC, Chapter 173-201A WAC, Chapter 173-204 WAC, and Chapter 173-225-010 WAC.*
4. The Project Proponent shall keep copies of this WQC 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.
  - *Justification - All parties (including on-site contractors) must be aware of and comply with the WQC Order for the protection of water quality.*
  - *Citation - 40 CFR 121.3, Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
5. The Project Proponent shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, and/or necessary data collection, to ensure that conditions of this WQC Order are being met.
  - *Justification - Ecology must be able to investigate and inspect construction sites and facilities for compliance with all state rules and laws.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.090 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
6. The Project Proponent 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 WQC Order and all permits, approvals, and documents referenced in this WQC Order. The Project Proponent shall provide Ecology a signed statement (see Attachment A for an example) before construction begins.
  - *Justification - Ecology needs to ensure that anyone conducting work at the project, on behalf of the Project Proponent, are aware of and understand the required conditions of this WQC*

*Order to ensure compliance with the water quality standards and other applicable state laws.*

- *Citation - 40 CFR 121.1(j), Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*

7. This WQC 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 WQC Order.

- *Justification - Ecology has the authority to prevent and control pollution of state waters, and to protect designated uses. By authorizing a discharge into a water of the state, through a water quality certification, we are certifying the project as proposed will not negatively impact our state's water quality and will comply with the state's water quality requirements. Therefore, it is imperative the project is conducted as it was presented during the review process, and as conditioned herein.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 173-200 WAC, Chapter 173-201A WAC, Chapter 173-201A-300(2)(e)(i) WAC, Chapter 173-201A-310 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

8. Failure of any person or entity to comply with the WQC Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the state's water quality standards.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses. Civil penalties and other enforcement actions are the primary means of securing compliance with water quality requirements.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.037 RCW, Chapter 90.48.080 RCW, Chapter 90.48.120 RCW, Chapter 90.48.142 RCW, Chapter 90.48.144 RCW, and Chapter 173-225-010 WAC.*

9. The Project Proponent shall provide Ecology documentation for review before undertaking any major changes to the proposed project that could significantly and adversely affect water quality, other than those project changes required by this WQC Order.

- *Justification- Ecology has independent authority to enforce our 401 certification conditions issued through this WQC Order pursuant to RCW 90.48. In order to ensure the project will comply with water quality standards in the event of any major changes, Ecology must be able to review the scope of work involved in the construction and operation of the project, otherwise all work must stop and a new 401 certification pre-filing meeting, followed by a new 401 request (after requisite 30-days) is required.*
- *Citation- 40 CFR 121.1(k) & (n), 40 CFR 121.3, Chapter 90.48 RCW, and Chapter 173-201 WAC.*

10. The Project Proponent shall send (per A.2.) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.
  - *Justification - This conditions is needed to ensure that all the conditions of the WQC Order have been incorporated into the federal permit.*
  - *Citation- 40 CFR 121.10.*
11. Nothing in this WQC Order waives Ecology's discretionary authority to issue additional Orders if Ecology determines that further actions are necessary to implement the water quality laws of the state.
  - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
  - *Citation - Chapter 90.48.120 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
12. This Order will automatically transfer to a new owner or operator if:
  - a. A written agreement between the Project Proponent and new owner or operator with the specific transfer date of the WQC Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
  - b. A copy of this Order is provided to the new owner or operator; and,
  - c. Ecology does not notify the new Project Proponent that a new WQC Order is required to complete the transfer.
    - *Justification – Ecology needs to ensure that anyone conducting work at the project, including any new owners or operators, are aware of and understand the required conditions of this WQC Order to ensure compliance with the water quality standards and other applicable state laws.*
    - *Citation – 40 CFR 121.3, Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*

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

1. The following notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Permit Manager via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) with a copy to [Lori.kingsbury@ecy.wa.gov](mailto:Lori.kingsbury@ecy.wa.gov). Notifications shall be identified with WQC Order No. 21410 Corps Reference No. 2020-557, and include the Project Proponent name, project name, project location, project contact and the contact phone number.
  - a. Immediately following a violation of state water quality standards or when the project is out of compliance with any conditions of this WQC Order.
  - b. At least ten (10) days prior to conducting initial in-water work activities.
  - c. Within seven (7) days of completing in-water work activities.

- *Justification - Ecology must be aware of when a project starts and ends and whether there are any issues. This allows Ecology to evaluate compliance with the state water quality requirements.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204 WAC, and Chapter 173-225-010 WAC.*

2. In addition to the phone or e-mail notification required under Condition B.1.a. above, the Project Proponent 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.
  - *Justification - Ensure the Project Proponent remains in full compliance with state water quality requirements for the duration of the project.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.120 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
3. If the project construction is not completed within 13 months of issuance of this WQC Order, the Project Proponent shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction and mitigation are completed.
  - *Justification - Ecology must be aware of when a project starts and ends and whether there are any issues. This allows Ecology to evaluate compliance with the state water quality requirements.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204 WAC, and Chapter 173-225-010 WAC.*

### C. Timing

This WQC Order is effective upon issuance of the U.S. Corps of Engineers (Corps) individual permit for this project and will remain valid until the Project Proponent meets all its requirements and conditions.

- *Justification – Certifications are required for any license or permit that authorizes an activity that may result in a discharge or fill material into waters. This WQC Order is not valid until the Federal agency issues a permit. Additionally, Ecology needs to be able to specify how long the WQC Order will be in effect.*
- *Citation –Chapter 90.48 RCW, Chapter 173-201A, and Chapter 173-225-010 WAC.*

### D. Construction

#### General Conditions

1. All work in and near waters of the state shall be conducted to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMPs) suitable to prevent exceedances of state water quality standards shall be in place before starting maintenance and shall be maintained throughout the duration of the activity.

- *Justification - Disturbed areas without appropriate BMP's and construction methods can discharge excess sediment to waters of the state and degrade water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

2. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
  - *Justification - Ensures that the project proponent preserves sensitive areas from discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
3. No stockpiling or staging of materials shall occur at or below the OHWM of any waterbody, including wetlands.
  - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
4. The Project Proponent shall obtain and comply with the conditions of the Construction Stormwater General Permit (National Pollutant Discharge Elimination System - NPDES) issued for this project.
  - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
5. Within the project limits<sup>1</sup> all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, and mitigation areas shall be fenced with high visibility construction

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<sup>1</sup> Project limits include mitigation sites, staging areas, borrow sources, and other sites developed or used to support project construction.

fencing (HVF), prior to commencing construction activities. Construction activities include equipment staging, materials storage, and work vehicle parking. Note: This condition does not apply to activities such as pre-construction surveying and installing HVF and construction zone signage.

- a. All field staff shall be trained to recognize HVF, understand its purpose and properly install it in the appropriate locations.
- b. HVF shall be maintained until all work is completed for each project or each stage of a staged project.
- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

6. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
  - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
7. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
  - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
8. 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.

- *Justification - Ecology must be assured that the Project Proponent is managing and disposing of material to protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation- Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

9. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

#### Equipment & Maintenance

10. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands.

- *Justification - Requiring a minimum setback ensures that material will not end up in waters of the state. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

11. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the state, including wetlands. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state, including wetlands.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

12. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.
  - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
13. 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.
  - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 173-200, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
14. Wash water containing oils, grease, or other hazardous materials resulting from washing of equipment or working areas shall not be discharged into state waters. The Project Proponent shall set up a designated area for washing down equipment.
  - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*
15. 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.
  - *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.*

#### **E. Wetland Mitigation Conditions**

1. The Project Proponent shall mitigate wetland impacts as described in the *Lower Wapato Creek Advance Mitigation Site Use Plan for Port of Tacoma's Off-Dock Container Support Facility*,

dated June 16, 2022 (hereafter called the “Mitigation Plan”) as identified in Table 1 or as required by this Order.

- *Justification - Alteration of water quality necessitates the use of mitigation as a method of controlling pollution. When adequate mitigation is provided, the impacts are not considered significant enough to water quality, at least in the long-term. The water quality standards, along with mitigation, protect wetlands as well as permitting some level of degradation where unavoidable or necessary.*
- *Citation – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, Chapter 173-201A-300, and Chapter 173-225-010.*

2. The Project Proponent shall submit any proposed changes to the Mitigation Plan in writing to Ecology (per Condition A.2.) for review before implementing the changes.
  - *Justification –When adequate mitigation is provided, the water quality impacts are offset and not considered significant, at least in the long-term. Changes in impact warrant review to ensure adequate mitigation is provided.*
  - *Citation –33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, Chapter 173-201A-300 WAC, and Chapter 173-225-010 WAC.*
3. Prior to impacting wetlands, the Project Proponent shall submit to Ecology the following as proof of advance mitigation credit withdrawal:
  - a. A ledger showing that the required amount of credits has been deducted from the advance wetland mitigation site.
  - b. The ledger must include the Order number, Order issuance date, impact acreage, the amount of credits required by the Order, and the date the credit was deducted.
  - *Justification - This condition is necessary to ensure the compensatory mitigation was actually provided by the advance mitigation site.*
  - *Citation – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, WAC 173-201A-260 (3)(i-ii) and WAC 173-201A-300.*
4. If the Off-Dock Container Support Facility Project has not occurred within 13 months of the date of this Order, the Project Proponent shall inform Ecology, in writing, of the status of:
  - a. Off-Dock Container Support Facility

- b. Reason for delay
- c. Expected date of completion

The Project Proponent shall submit an updated written notification every 12 months thereafter until the Off-Dock Container Support Facility is complete and the required ledger has been submitted.

- *Justification - Mitigation that is not emplaced concurrent with impacts will result in degradation of existing beneficial uses of the wetlands affected by the proposed action through temporal of functions.*
- *Citation – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, Chapter 173-201A-300 WAC, and Chapter 173-225-010 WAC.*

5. The Project Proponent's obligation to compensate for wetland impacts under Condition E.1 is not met until the Project Proponent has received written notice from Ecology that the obligation is met.

- *Justification - If the mitigation site is not meeting all compensatory mitigation conditions then the water quality impacts will not be offset by the mitigation.*
- *Citation – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, Chapter 173-201A-300 WAC, and Chapter 173-225-010 WAC.*

## H. Emergency/Contingency Measures

1. The Project Proponent shall develop and implement a spill prevention and containment plan for this project.
  - *Justification - Ecology must ensure that the Project Proponent has a plan to prevent pollution from entering waterways. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
  - *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, and Chapter 173-303-145 WAC.*
2. The Project Proponent shall have adequate and appropriate spill response and cleanup materials available on site to respond to any release of petroleum products or any other material into waters of the state.
  - *Justification - Ecology must have assurance that the Project Proponent has the material readily available in WQC Order to address any spills that might occur to protect waters of the state. Ecology must protect waters of the state from all discharges and potential*

*discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*

- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, and Chapter 173-303-145 WAC.*

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.

- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, and Chapter 173-303-145 WAC.*

4. Work causing distressed or dying fish and 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 Project Proponent shall notify Ecology's Federal Permit Manager per condition A2 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 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 with 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.

- *Justification - This condition is necessary to prevent oil and hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, and Chapter 173-303-145 WAC.*

5. 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.

- *Justification - Oil and hazardous materials spills cause environmental damage. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 90.56 RCW, Chapter 90.56.280 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, Chapter 173-225-010 WAC, and Chapter 173-303-145 WAC.*

### **Your right to appeal**

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt. The appeal process is governed by RCW 43.21B and WAC 371-08. "Date of receipt" is defined in RCW 43.21B.001(2). More information is available at <https://eluho.wa.gov/content/11>.

To appeal, you must do all of the following within 30 days of the date of receipt of this Order:

- File your notice of appeal and a copy of this Order with the PCHB (see filing options below). "Filing" means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. "Notice of appeal" is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this Order on the Department of 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 RCW 43.21B and WAC 371-08.

### **Filing an appeal with the PCHB:**

For the most current information regarding filing with the PCHB, visit:

<https://eluho.wa.gov/content/11>

#### **Filing by mail**

##### **Mailing Address:**

Pollution Control Hearings Board  
PO Box 40903  
Olympia, WA 98504-0903

#### **Filing in person (or by certified mail/courier)**

##### **Street Address:**

Pollution Control Hearings Board  
1111 Israel RD SW  
STE 301  
Tumwater, WA 98501

#### **Filing electronically**

##### **E-mail Address:**

[pchb-shbappeals@eluho.wa.gov](mailto:pchb-shbappeals@eluho.wa.gov)

### **Serving a copy of the appeal on Ecology:**

Electronic copies of appeals are not accepted at the Department of Ecology per WAC 371-08-305(10).

#### **Filing by mail**

##### **Mailing Address:**

Department of Ecology  
Attn: Appeals Processing Desk  
PO Box 47608  
Olympia, WA 98504-7608

#### **Filing in person (or by certified mail/courier)**

##### **Street Address:**

Department of Ecology  
Attn: Appeals Processing Desk  
300 Desmond Drive SE  
Lacey, WA 98503

### **Contact Information**

Please direct all questions about this WQC Order to:

Lori Kingsbury  
Department of Ecology  
PO Box 47775  
Olympia, WA 98504-47775  
[Lori.kingsbury@ecy.wa.gov](mailto:Lori.kingsbury@ecy.wa.gov)

### **More Information**

- **Pollution Control Hearings Board Website**  
<https://eluho.wa.gov/content/11>
- **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>
- **Chapter 90.48 RCW – Water Pollution Control**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 WAC – Sediment Management Standards**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

**Signature**

  
\_\_\_\_\_  
Joe Burcar, Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology

October 7, 2022  
Date

**Attachment A**

**Statement of Understanding  
Water Quality Certification Conditions**

Off-Dock Container Support Facility

Water Quality Certification WQC Order No. 21410

As the Project Proponent for the Off-Dock Container Support Facility project, I have read and understand the conditions of Washington State Department of Ecology WQC Order No. 21410, and any permits, plans, documents, and approvals referenced in the WQC Order. I have and will continue to ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this WQC Order and any permits, plans, documents, and approvals referenced in the WQC Order.

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Signature

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Date

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Title

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Phone

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Company