



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Region Office
PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

March 5, 2026

Sarah Bluvas, CIP Project Manager
City of Mercer Island
9611 SE 36th St
Mercer Island, WA 98040-3732

Re: Administrative Order

Administrative Order Docket #	24547
Site Location	Luther Burbank Park 2048 84th Ave SE Mercer Island, WA 98040

Dear Sarah Bluvas:

The Department of Ecology (Ecology) is issuing the enclosed Administrative Order (Order) requiring the City of Mercer Island to comply with:

- Chapter 90.48 Revised Code of Washington (RCW) - State of Washington Water Pollution Control Act.
- Chapter 173-201A Washington Administrative Code (WAC) - Water Quality Standards for Surface Waters of the State of Washington.
- Construction Stormwater General Permit WAR315326: National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Stormwater Discharges Associated with Construction Activity.

If you have questions, please contact Kelly Baker at kelly.baker@ecy.wa.gov or (425) 961-5012.

Sincerely,

A handwritten signature in black ink that reads "Rachel McCrea".

Rachel McCrea
Water Quality Section Manager
Northwest Region Office

Enclosure: Administrative Order Docket #24547

By Certified Mail #9171 9690 0935 0233 1873 84

cc: Jason Kintner, City of Mercer Island
Shelby Perrault, City of Mercer Island
Jessi Bon, City of Mercer Island
PARIS Permit No. WAR315326

State of Washington
Department of Ecology

In the Matter of an Administrative Order Against
City of Mercer Island
Administrative Order Docket #24547

To: Sarah Bluvas, CIP Project Manager
City of Mercer Island
9611 SE 36th St
Mercer Island, WA 98040-3732

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The Department of Ecology (Ecology) has issued this Administrative Order (Order) requiring the City of Mercer Island to comply with:

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This is an Administrative Order in accordance with General Condition G12 (Additional Monitoring) as set forth in the Construction Stormwater General Permit. Chapter 90.48.120(2) RCW authorizes Ecology to issue Administrative Orders to accomplish the purposes of Chapter 90.48 RCW. All requirements described below are in addition to the requirements in the Construction Stormwater General Permit.

1. Order to Comply

The City of Mercer Island is subject to coverage under NPDES Construction Stormwater General Permit (CSGP) WAR315326 for construction activities associated with the construction site known as Luther Burbank Park (2048 84th Ave SE, Mercer Island, WA 98040). The project consists of 0.39 disturbed acres. The proposed project comprises of improving the waterfront by expanding pedestrian accessibility, repairing the dock, improving utilities, and updating accessibility for emergency vehicles. The permittee will create temporary low points within excavation to collect stormwater before pumping to a filtration system for treatment and discharge. If groundwater is encountered, the

permittee will collect dewatering water in Baker tanks prior to treatment and discharge. Alternatively, the permittee may transport dewatering water to an approved off-site disposal facility. Excavated soils will be stockpiled, covered, and disposed of offsite.

The receiving waterbody following treatment is Lake Washington. Ecology was notified of the presence of onsite groundwater and/or soil contamination, which has the potential to discharge in stormwater and dewatering water due to the proposed construction activity. The Construction Stormwater General Permit does not have water quality sampling or benchmarks for the known contaminants of concern, listed in Table 1, below. However, the permit requires compliance with the Water Quality Standards for Surface Waters of the State of Washington (Water Quality Standards – 173-201A WAC) and prohibits any discharges of pollutants.

The Order establishes Indicator Levels for the Luther Burbank Park project. Indicator Levels express a pollutant concentration used as a threshold, below which a pollutant is considered unlikely to cause a water quality violation, and above which it may. Indicator Levels in this Administrative Order were derived from Chapter 173-201A WAC and the analytical method's minimum quantitation level.

For these reasons and in accordance with RCW 90.48.120(2) it is ordered that the City of Mercer Island take the following actions. These actions are required at the location known as Luther Burbank Park, located at 2048 84th Ave SE, Mercer Island, WA 98040. In the event of a permit transfer to another Permittee, compliance with this Administrative Order and the actions listed below are required.

The City of Mercer Island must take the following actions to remain in compliance with NPDES Permit WAR315326:

A. Treatment Required:

1. A site must capture and contain all potentially contaminated stormwater or dewatering water on site, including preventing discharges at a site entrance (track-out).
2. Treat all contaminated dewatering water or contaminated construction stormwater prior to discharge to the receiving waterbody.
3. Install all pre-treatment and treatment systems prior to any discharge of contaminated dewatering water or contaminated construction stormwater to the receiving waterbody.
4. Use an Ecology-approved treatment system and media filtration to treat any contaminated dewatering water or contaminated construction stormwater. Ecology must be notified in advance if any changes in the treatment are made, with the exception of routine maintenance. If the treatment system

includes chemicals, submit for approval a [“Request for Chemical Treatment” form](#)¹ prior to use.

5. All captured sediment from the treatment of the contaminated dewatering water or contaminated construction stormwater must be transported to an approved disposal facility based on the level of contamination.
6. Contaminated soils excavated during construction will be immediately hauled offsite without stockpiling to an approved disposal facility based on the level of contamination. When it is not feasible to immediately haul soils offsite, the soil must be placed in a covered area to minimize contact with stormwater.

B. Batch Treatment:

The treatment system must have enough capacity to hold treated contaminated dewatering water or contaminated construction stormwater until the batch has been tested to determine if any of the Indicator Levels listed in Table 1 have been met. No contaminated dewatering water or contaminated construction stormwater may be discharged before it has been tested for the parameters listed in Table 1. If any of the Indicator Levels listed in Table 1 are exceeded, the treated contaminated dewatering water or contaminated construction stormwater must not be discharged to the receiving waterbody until it has been retested to determine that all parameters are equal to or below the Indicator Levels in Table 1. If any of the Indicator Levels are exceeded after being retested, the City of Mercer Island must modify the existing treatment to increase effectiveness, install an additional Ecology-approved treatment system, or truck the contaminated construction stormwater or groundwater off-site for disposal in an approved manner. The City of Mercer Island may also discharge to sanitary sewer with the approval of the proper sewer authority.

C. Treatment System Flow-Through Approval:

The City of Mercer Island must submit a minimum of two distinct sampling and testing events laboratory reports to Ecology (see contact information below) including all pollutants listed in Table 1. No flow-through treatment may be used without prior written approval from Ecology. Upon approval, the flow-through treatment system must be accompanied by weekly testing. The flow-through treatment system design and batch sampling results must be submitted to Ecology for review prior to use as flow-through, and Ecology reserves the right to require additional sampling or system modifications at any time and may reject submitted data if found unsatisfactory.

¹ <https://apps.ecology.wa.gov/publications/SummaryPages/ecy070258.html>

1. If a flow-through treatment system is adopted, all contaminated dewatering water or contaminated construction stormwater must be sampled weekly while discharging and tested for the parameters listed in Table 1.
2. When using a flow-through treatment system, if any of the Indicator Levels listed in Table 1 are exceeded, the City of Mercer Island must stop the discharge of treated contaminated dewatering water or contaminated construction stormwater to the receiving waterbody until it has been retested to determine that all parameters are equal to or below the Indicator Levels in Table 1. If any of the Indicator Levels are exceeded after being retested, the City of Mercer Island must modify the existing flow-through treatment system to increase its effectiveness, install an additional Ecology-approved treatment system, or truck the contaminated construction stormwater or contaminated dewatering water off-site for disposal in an approved manner. The City of Mercer Island may also discharge the treated water to sanitary sewer in accordance with the conditions of the discharge authorization from the proper sewer authority.

D. Sampling and Reporting:

1. Sampling for the contaminants listed in Table 1 must be reported on the required Discharge Monitoring Report (DMR) according to permit Special Condition (S5.B Discharge Monitoring Reports).
2. If sampling is conducted more frequently than required by this Order, the results of this monitoring must be included in the calculation and reporting of the data that is submitted in the DMR.
3. Any discharge to Waters of the State in exceedance of the contaminant Indicator Levels in Table 1 must be reported to the Department of Ecology according to permit Special Condition S5.F, Noncompliance Notification as follows:
 - a. Immediately notify Ecology of noncompliance by calling the regional 24-hour Environmental Report Tracking System (ERTS) phone number (206) 594-0000
 - b. Cease the discharge until Indicator Levels can be met.
 - c. Submit a detailed, written report to Ecology within five (5) days, unless requested earlier by Ecology. See permit Special Condition S5.F.3 for the full written report requirements.
 - d. For exceedances of the numeric benchmark for pH, refer to Special Condition S4.D.4 of the CSGP.

4. All monitoring data must be prepared by a laboratory registered or accredited under the provisions of Accreditation of Environmental Laboratories, Chapter 137-50 WAC.
5. All sampling data must be reported monthly on DMRs electronically using Ecology's secure online system WQWebDMR, in accordance with permit Special Condition S5.B. If the measured concentration is below the detection level then the City of Mercer Island must report single analytical values below detection as "less than the detection level (DL)" by entering "<" followed by the numeric value of the detection level (e.g. "<0.1"). All other values above DL must be reported as the numeric value.
6. Noncompliance with permit requirements or the provisions of this Order (such as exceedances of indicator levels) must be immediately reported to the Northwest Region Office of the Department of Ecology in accordance with permit Special Condition S5.F, Noncompliance Notification.
7. The Stormwater Pollution Prevention Plan (SWPPP) prepared for Luther Burbank Park must be fully implemented and amended as needed for the duration of the project.

If a modification of the Order is desired, a written request must be submitted to Ecology and if approved, Ecology will issue an amendment to this Order.

Ecology retains the right to make modifications to this Order through supplemental Order, or amendment to this Order, if it appears necessary to further protect the public interest.

This Order does not exempt the City of Mercer Island from any Construction Stormwater General Permit requirement. In the event of a permit transfer to another Permittee, this Order transfers to the new Permittee. This Order automatically terminates when NPDES Construction Stormwater General Permit WAR315326 is terminated.

Table 1. Fresh Water Parameters

The City of Mercer Island must use the specified analytical methods, detection limits (DLs) and quantitation levels (QLs) in the following table for monitoring unless the alternative method used produces measurable results in the sample and EPA has listed it as an EPA-approved method in 40 CFR Part 136. If the City of Mercer Island uses an alternative method, not specified in the order and as allowed above, it must report the test method, DL, and QL on the discharge monitoring report.

Pollutant & CAS No. (if available)	Sampling Frequency*	Sample Type	Indicator Level, µg/L unless otherwise noted	Required Analytical Protocol	Detection Level ≤ value stated in, µg/L, unless otherwise noted	Quantitation Level ≤ value stated in µg/L, unless otherwise noted
PETROLEUM HYDROCARBONS						
Diesel and Oil-Range Hydrocarbons (NWTPH-Dx) ^b	Batch/Weekly	Grab	250 ^a	NWTPH-Dx	250	250
METALS						
Arsenic, Total (7440-38-2)	Batch/Weekly	Grab	360 ^c	200.8	0.1	0.5
Chromium, Total (7440-47-3)	Batch/Weekly	Grab	15 ^d	200.8	0.2	1.0
Lead, Total (7439-92-1)	Batch/Weekly	Grab	27.5 ^c	200.8	0.1	0.5
Silver, Total (7440-22-4)	Batch/Weekly	Grab	0.91 ^c	200.8	0.04	0.2
POLYCYCLIC AROMATIC HYDROCARBONS (PAH) AND CARCINOGENIC PAHs						
Acenaphthene (83-32-9)	Batch/Weekly	Grab	5.7 ^a	625.1	1.9	5.7
Acenaphthylene (208-96-8)	Batch/Weekly	Grab	10.5 ^a	625.1	3.5	10.5
Anthracene (120-12-7)	Batch/Weekly	Grab	5.7 ^a	625.1	1.9	5.7
Benzo(a)anthracene (56-55-3)	Batch/Weekly	Grab	23.4 ^a	625.1	7.8	23.4
Benzo(a)pyrene (50-32-8)	Batch/Weekly	Grab	7.5 ^a	610/625.1	2.5	7.5
Benzo(b)fluoranthene (205-99-2)	Batch/Weekly	Grab	14.4 ^a	610/625.1	4.8	14.4
Benzo(g,h,i)perylene (191-24-2)	Batch/Weekly	Grab	12.3 ^a	610/625.1	4.1	12.3

Pollutant & CAS No. (if available)	Sampling Frequency*	Sample Type	Indicator Level, µg/L unless otherwise noted	Required Analytical Protocol	Detection Level ≤ value stated in, µg/L, unless otherwise noted	Quantitation Level ≤ value stated in µg/L, unless otherwise noted
Benzo(j)fluoranthene (205-82-3)	Batch/Weekly	Grab	1.0 ^a	625	0.5	1.0
Benzo(k)fluoranthene (207-08-9)	Batch/Weekly	Grab	7.5 ^a	610/625.1	2.5	7.5
Chrysene (218-01-9)	Batch/Weekly	Grab	7.5 ^a	610/625.1	2.5	7.5
Dibenzo(a-h)anthracene (53-70-3)	Batch/Weekly	Grab	7.5 ^a	625.1	2.5	7.5
Fluoranthene (206-44-0)	Batch/Weekly	Grab	6.6 ^a	625.1	2.2	6.6
Fluorene (86-73-7)	Batch/Weekly	Grab	5.7 ^a	625.1	1.9	5.7
Indeno(1,2,3-cd)pyrene (193-39-5)	Batch/Weekly	Grab	11.1 ^a	610/625.1	3.7	11.1
1-Methylnaphthalene (90-12-0)	Batch/Weekly	Grab	1.0 ^a	625.1	0.5	1
2-Methylnaphthalene (91-57-6)	Batch/Weekly	Grab	1.0 ^a	625.1	0.5	1
Naphthalene (91-20-3)	Batch/Weekly	Grab	4.8 ^a	625.1	1.6	4.8
Phenanthrene (85-01-8)	Batch/Weekly	Grab	16.2 ^a	625.1	5.4	16.2
Pyrene (129-00-0)	Batch/Weekly	Grab	5.7 ^a	625.1	1.9	5.7
CONSTRUCTION STORMWATER GENERAL PERMIT BENCHMARKS						
Parameter	Sampling Frequency*	Sample Type	Benchmark	Analytical Method		
Turbidity	Batch/Weekly	Grab	25 NTU	SM2130 ^e		
pH	Batch/Weekly	Grab	6.5 - 8.5 SU	SM4500-H ⁺ B		

NOTES	
a	No applicable surface water criterion; value is laboratory quantitation level.
b	NWTPH-Dx = Northwest Total Petroleum Hydrocarbons – Semi-volatile (“diesel”) for diesel range organics and heavy oils (includes jet fuels, kerosene, diesel-oils, hydraulic fluids, mineral oils, lubricating oils, and fuel oils).
c	Acute – Freshwater Toxic Substances Criteria (WAC 173-201A-240). Based on Hardness of 46.0 mg/L for Hardness Dependent Metals. The Indicator Level for hardness dependent metals is expressed as a dissolved metal value. Meeting the Indicator Level using analytical protocol for total or dissolved metal values meets the intent of this order.
d	Indicator Level total chromium is actually for hexavalent chromium using Acute – Freshwater Toxic Substances Criteria (WAC 173-201A-240) because there is no water quality standard for total chromium.
e	Or equivalent.
*	If granted permission for flow-through, sampling will then be weekly.

2. Failure to Comply With This Order

Failure 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.

3. Your Right to Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within thirty (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 both of the following within thirty (30) days of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see website address below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology by mail, in person or by email (see addresses below).

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Filing with the PCHB

For the most current information regarding filing with the PCHB, visit:
<https://eluhho.wa.gov/> or call: 360-664-9160.

Service on Ecology

Street Address:

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

Mailing Address:

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

E-Mail Address:

ecologyappeals@ecy.wa.gov

4. Contact Information

Please direct all questions about this Administrative Order to:

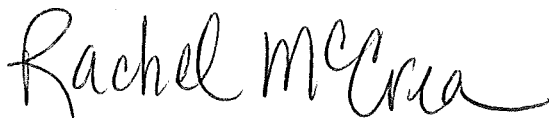
Kelly Baker
Department of Ecology
Northwest Region Office
P.O. Box 330316
Shoreline, WA 98133-9716

Phone: (425) 961-5012
Email: kelly.baker@ecy.wa.gov

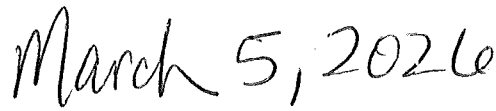
5. More Information

- Pollution Control Hearings Board Website:
<https://www.eluho.wa.gov>
- Chapter 43.21B RCW – Environmental and Land Use Hearings Office – Pollution Control Hearings Board:
<https://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- Chapter 371-08 WAC – Practice and Procedure
<https://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- Chapter 34.05 RCW – Administrative Procedure Act
<https://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- Ecology's Laws, Rules, & Rulemaking Website
<https://ecology.wa.gov/Footer/rulemaking>

6. Signature



Rachel McCrea
Water Quality Section Manager
Northwest Region Office



Date