



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

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

December 21, 2022

John Peterson, P.E.  
Executive Director  
Discovery Clean Water Alliance  
8000 Northeast 52nd Court  
Vancouver, WA 98665

Re: Agreed Order

<b>Order Docket #</b>	21502
<b>Site Location</b>	8000 Northeast 52nd Court, Vancouver, WA 98665

Dear John Peterson:

Enclosed is a copy of the signed and effective Agreed Order (Order) Docket #21502. The enclosed Order may not be appealed. The Order is effective as of January 1, 2023.

If you have questions, please contact Eleanor Ott at [eleanor.ott@ecy.wa.gov](mailto:eleanor.ott@ecy.wa.gov) or 360-280-5624.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Kolosseus".

Andrew Kolosseus  
Southwest Region Section Manager  
Water Quality Program

Enclosure: Agreed Order Docket #21502

By Certified Mail 9489 0090 0027 6102 3093 68

cc: Michael Le, USEPA Region 10 Pretreatment Coordinator  
Kristen Thomas, Regulatory Compliance Manager, Clark Regional WW District  
Bolun Wang, Ecology SWRO Pretreatment Coordinator  
Ginger Reddig, Ecology SWRO Compliance Officer  
Maia Hoffman, P.E., Ecology Statewide Pretreatment lead  
Permit File, Salmon Creek WWTP

State of Washington  
Department of Ecology

In the Matter of an Administrative Order Against  
Discovery Clean Water Alliance  
Salmon Creek Wastewater Treatment Facility  
Agreed Order Docket #21502

To: John Peterson, P.E.  
Executive Director  
Discovery Clean Water Alliance  
8000 Northeast 52nd Court  
Vancouver, WA 98665

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## 1. Introduction

This is an Agreed Order between the Department of Ecology (Ecology) and the Discovery Clean Water Alliance (Alliance) delegating industrial wastewater pretreatment authority to the Alliance by requiring compliance with:

- Chapter 40 Code of Federal Regulations (CFR) Part 403 – General Pretreatment Standards and New Sources of Pollution
- Chapter 90.48 Revised Code of Washington (RCW) – Water Pollution Control
- Chapter 173-208 Washington Administrative Code (WAC) – Grant of Authority Sewerage Systems
- Chapter 173-216 WAC – State waste discharger permit program
- Chapter 173-240 WAC – Submission of plans and reports for construction of wastewater facilities
- Salmon Creek Wastewater Treatment Plant (WWTP) National Pollutant Discharge Elimination System (NPDES) Permit No. WA0023639

## 2. Recognition of Ecology's Jurisdiction

This Agreed Order is issued pursuant to the authority vested in Ecology by the Federal Pollution Control Act (FWPCA), 33 U.S.C. sec 1311, et seq. and Chapter 90.48 RCW.

RCW 90.48.030 provides that Ecology shall have the jurisdiction to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, watercourses, other surface and underground waters of the state of Washington.

RCW 90.48.120 authorizes Ecology to issue Administrative Orders requiring compliance whenever it determines that a person has violated, or created a substantial potential to violate, any provision of Chapter 90.48 RCW or fails to control the polluting content of waste to be discharged to waters of the State.

RCW 90.48.165 gives Ecology the authority to grant to any city, town, or municipal corporation operating a sewerage system including treatment facilities, the authority to issue permits for the discharge of wastes to such system.

Chapter 173-208 Washington Administrative Code (WAC) – Grant of Authority Sewerage Systems.

The Discovery Clean Water Alliance (Alliance) agrees to undertake all actions required of it by the terms and conditions of this Agreed Order and not to contest Ecology's jurisdiction and authority to administer this Agreed Order. The Alliance agrees not to appeal this Agreed Order.

Nothing in this Agreed Order shall, in any way, relieve the Alliance of its obligations to comply with the requirements of its Permit. Nor shall anything in this Agreed Order limit Ecology's authority to enforce the provisions of the aforementioned Permit.

### **3. Pretreatment Program Delegation of Authority**

The Department of Ecology (Ecology) issues this Agreed Order (No. 21502) to delegate industrial wastewater pretreatment authority to the Alliance as follows:

The Alliance submitted documents satisfying federal and state requirements for an industrial pretreatment program on April 15, 2022. Ecology reviewed the submittals, provided comment, and conducted a public participation process after completing the review of document revisions. The public comment period was held from August 26 to October 3, 2022, and Ecology received only one comment, which supported program delegation. Ecology received no objections to program approval from US Environmental Protection Agency Region 10.

Following the procedures outlined in 40 CFR 403.11, Ecology approved the Alliance's pretreatment program via letter dated October 10, 2022. The Alliance formally voted to adopt the industrial pretreatment program during the board meeting on December 16, 2022.

Therefore, effective January 1, 2023, Ecology hereby:

- A. Delegates pretreatment authority to the Discovery Clean Water Alliance in accordance with the delegation procedure outlined in WAC 173-208-060.
- B. Requires the Discovery Clean Water Alliance to implement its pretreatment program in accordance with the general requirements listed below in Section 4 of this Order.

The Alliance's legal authority to implement the program is codified in Resolution 2022-06.

The delegated authority to implement the pretreatment program shall be perpetual unless revoked pursuant to WAC 173-208-100. Pursuant to 40 CFR 403.18, either Ecology or the Alliance may initiate program modification at any time to reflect changing conditions at the Salmon Creek WWTP. A significant change in the operation of the pretreatment program approved by Ecology requires program modification.

The Alliance must comply with chapter 173-208 WAC, chapter 173-216 WAC, chapter 173-240 WAC, chapter 90.48 RCW, and 40 CFR Part 403.

#### **4. Pretreatment Program Requirements**

For the reasons detailed above, and in accordance with RCW 90.48.120, IT IS AGREED that the Discovery Clean Water Alliance (Alliance) shall take the following actions to implement its Industrial Pretreatment Program:

- A. Pretreatment General Requirements
  - 1. Beginning January 1, 2023, The Alliance must implement its Industrial Pretreatment Program in accordance with the legal authorities, policies, procedures, and financial provisions described in the Alliance's approved pretreatment program submittal entitled "Industrial Pretreatment Program" and dated April 15, 2022; any approved revisions thereto; and the General Pretreatment Regulations (40 CFR Part 403). At a minimum, the Alliance must undertake the following pretreatment implementation activities:
    - a. Enforce categorical pretreatment standards under Section 307(b) and (c) of the Federal Clean Water Act (hereinafter, the Act), prohibited discharge standards as set forth in 40 CFR 403.5, local limits specified in Section 2.4 of the Alliance Pretreatment Regulations, or state standards, whichever are most stringent or apply at the time of issuance or modification of a local industrial waste discharge permit. Locally derived limits are defined as

pretreatment standards under Section 307(d) of the Act and are not limited to categorical industrial facilities.

- b. Issue industrial waste discharge permits to all Significant Industrial Users [SIUs as defined in 40 CFR 403.3(v)(1)(ii)] contributing to the treatment system, including those from other jurisdictions. Industrial waste discharge permits must contain, as a minimum, all the requirements of 40 CFR 403.8(f)(1)(iii). The Alliance must coordinate the permitting process with Ecology regarding any industrial facility that may possess a State Waste Discharge Permit issued by Ecology. Once issued, an industrial waste discharge permit takes precedence over a state-issued waste discharge permit.
- c. Maintain and update, as necessary, records identifying the nature, character, and volume of pollutants contributed by industrial users to the POTW. The Alliance must maintain records for at least a three-year period.
- d. Perform inspections, surveillance, and monitoring activities on industrial users to determine or confirm compliance with pretreatment standards and requirements. The Alliance must conduct a thorough inspection of SIUs annually. The Alliance must conduct regular local monitoring of SIU wastewaters commensurate with the character and volume of the wastewater but not less than once per year. The Alliance must collect and analyze samples in accordance with 40 CFR Part 403.12(b)(5)(ii)-(v) and 40 CFR Part 136.
- e. Enforce and obtain remedies for noncompliance by any industrial users with applicable pretreatment standards and requirements. Once it identifies violations, the Alliance must take timely and appropriate enforcement action to address the noncompliance. The Alliance's action must follow its enforcement response procedures and any amendments, thereof.
- f. Publish, at least annually in the largest daily newspaper in the Alliance's service area, a list of all non-domestic users which, at any time in the previous 12 months, were in significant noncompliance as defined in 40 CFR 403.8(f)(2)(viii).
- g. If the Alliance elects to conduct sampling of an SIU's discharge in lieu of requiring user self-monitoring, it must satisfy all requirements of 40 CFR Part 403.12. This includes monitoring and

record keeping requirements of 40 CFR 403.12(g) and (o). For SIUs subject to categorical standards (CIUs), the Alliance may either complete baseline and initial compliance reports for the CIU [when required by 40 CFR 403.12(b) and (d)] or require these of the CIU. The Alliance must ensure that it provides SIUs the results of sampling in a timely manner, inform SIUs of their right to sample, their obligations to report any sampling they do, to respond to non-compliance, and to submit other notifications. These include a slug load report [403.12(f)], notice of changed discharge [403.12(j)], and hazardous waste notifications [403.12(p)]. If sampling for the SIU, the Alliance must not sample less than once in every six-month period unless the Alliance's approved program includes procedures for reduction of monitoring for Middle-Tier or Non-Significant Categorical Users per 403.12(e)(2) and (3) and those procedures have been followed.

- h. Develop and maintain a data management system designed to track the status of the Alliance's industrial user inventory, industrial user discharge characteristics, and compliance status.
  - i. Maintain adequate staff, funds, and equipment to implement its pretreatment program.
  - j. Establish, where necessary, contracts or legally binding agreements with contributing jurisdictions to ensure compliance with applicable pretreatment requirements by commercial or industrial users within these jurisdictions. These contracts or agreements must identify the agency responsible to perform the various implementation and enforcement activities in the contributing jurisdiction. In addition, the Alliance must develop a Memorandum of Understanding (or Inter-local Agreement) that outlines the specific roles, responsibilities, and pretreatment activities of each jurisdiction.
- 2. The Alliance must implement the Accidental Discharge/Slug Discharge Control Plan described in the approved Industrial Pretreatment Program dated April 15, 2022.
- 3. The Alliance must evaluate, at least once every two years, whether each Significant Industrial User needs a plan to control slug discharges. For purposes of this section, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or

non-customary batch discharge. The Alliance must make the results of this evaluation available to Ecology upon request. If the Alliance decides that a slug control plan is needed, the plan must contain, at a minimum, the following elements:

- a. Description of discharge practices, including non-routine batch discharges.
- b. Description of stored chemicals.
- c. Procedures for immediately notifying the Alliance of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five days.
- d. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment necessary for emergency response.

4. Whenever Ecology determines that any waste source contributes pollutants to the Alliance's treatment works in violation of Section (b), (c), or (d) of Section 307 of the Act, and the Alliance has not taken adequate corrective action, Ecology will notify the Alliance of this determination. If the Alliance fails to take appropriate enforcement action within 30 days of this notification, Ecology may take appropriate enforcement action against the source or the Alliance.

5. Pretreatment Report

The Alliance must provide to Ecology an annual report that briefly describes its program activities during the previous calendar year.

The Alliance must submit the annual report to Ecology by March 31, 2024, and annually thereafter. The report must include the following information:

- a. An updated non-domestic inventory.
- b. Results of wastewater sampling at the Salmon Creek wastewater treatment plant as specified below in Section B – Monitoring

Requirements. The Alliance must calculate removal rates for each pollutant and evaluate the adequacy of the existing local limits in Section 2.D of the Alliance Pretreatment Regulations in prevention of treatment plant interference, pass through of pollutants that could affect receiving water quality, and sludge contamination.

c. Status of program implementation, including:

- Any substantial modifications to the pretreatment program as originally approved by Ecology, including staffing and funding levels.
- Any interference, upset, or permit violations experienced at the Publicly Owned Treatment Works (POTW) that are directly attributable to wastes from industrial users.
- Listing of industrial users inspected and/or monitored, and a summary of the results.
- Listing of industrial users scheduled for inspection and/or monitoring for the next year and expected frequencies.
- Listing of industrial users notified of promulgated pretreatment standards and/or local standards as required in 40 CFR 403.8(f)(2)(iii). The list must indicate which industrial users are on compliance schedules and the final date of compliance for each.
- Listing of industrial users issued industrial waste discharge permits.
- Planned changes in the approved local pretreatment program. (See Subsection 6 below)

d. Status of compliance activities, including:

- Listing of industrial users that failed to submit baseline monitoring reports or any other reports required under 40 CFR 403.12 and in Section 6 of the Alliance's pretreatment program, dated April 15, 2022.
- Listing of industrial users that were at any time during the reporting period not complying with federal, state, or local pretreatment standards or with applicable compliance schedules for achieving those standards, and the duration of such noncompliance.



- Summary of enforcement activities and other corrective actions taken or planned against non-complying industrial users. The Alliance must supply to Ecology a copy of the public notice of facilities that were in significant noncompliance.

6. The Alliance must request and obtain approval from Ecology before making any significant changes to the approved local pretreatment program. The Alliance must follow the procedure in 40 CFR 403.18 (b) and (c).

B. Monitoring Requirements

At the Salmon Creek WWTP, the Alliance must:

1. Monitor its influent, effluent, and sludge for the priority pollutants identified in Tables II and III of Appendix D of 40 CFR Part 122 as amended, any compounds identified because of Condition B.4, and any other pollutants expected from non-domestic sources using U.S. EPA-approved procedures for collection, preservation, storage, and analysis.
2. Test influent, effluent, and sludge samples for the priority pollutant metals (Table III, 40 CFR 122, Appendix D) on a quarterly basis throughout the term of this permit.
3. Test influent, effluent, and sludge samples for the organic priority pollutants (Table II, 40 CFR 122, Appendix D) on an annual basis. The Alliance may use the data collected for application purposes using Appendix A test methods to meet this requirement.
4. Sample POTW influent and effluent on a day when industrial discharges are occurring at normal-to-maximum levels.
5. Obtain twenty-four (24)-hour composite samples for the analysis of acid and base/neutral extractable compounds and metals.
6. Collect grab samples at equal intervals for a total of four grab samples per day for the analysis of volatile organic compounds. The laboratory may run a single analysis for volatile pollutants (EPA Method 624) for each monitoring day by compositing equal volumes of each grab sample directly in the GC purge and trap apparatus in the laboratory, with no less than 1 ml of each grab included in the composite.

7. Ensure that all reported test data for metals represents the total amount of the constituents present in all phases, whether solid, suspended, or dissolved elemental or combined, including all oxidation states unless otherwise indicated.
8. Handle, prepare, and analyze all wastewater samples taken for GC/MS analysis in accordance with the U.S. EPA Method 624 and EPA Method 625 (October 26, 1984).
9. Collect a sludge sample concurrently with a wastewater sample as a single grab of residual sludge. Sludge organic priority pollutant sampling and analysis must conform to U.S. EPA Method 624 and EPA Method 625 unless the Alliance requests an alternate method and Ecology has approved. Sludge metals priority pollutant sampling and analysis must conform to U.S. EPA SW 846 6000 Series Methods and EPA SW 846 7000 Series Methods unless the Alliance requests an alternate method and Ecology has approved.
10. Collect grab samples for cyanide, phenols, and oils. Measure hexane soluble oils (or equivalent) only in the influent and effluent.
11. Make a reasonable attempt to identify all other substances and quantify all pollutants shown to be present by Gas Chromatograph/Mass Spectrometer (GC/MS) analysis per 40 CFR 136, Appendix A, EPA Method 624 and EPA Method 625, in addition to quantifying pH, oil and grease, and all priority pollutants. The Alliance should attempt to make determinations of pollutants for each fraction, which produces identifiable spectra on total ion plots (reconstructed gas chromatograms). The Alliance should attempt to make determinations from all peaks with responses five (5) percent or greater than the nearest internal standard. The five (5) percent value is based on internal standard concentrations of 30 µg/L and must be adjusted downward if higher internal standard concentrations are used or adjusted upward if lower internal standard concentrations are used. The Alliance may express results for non-substituted aliphatic compounds as total hydrocarbon content.
12. Use a laboratory whose computer data processing programs are capable of comparing sample mass spectra to a computerized library of mass spectra, with visual confirmation by an experienced analyst.
13. Conduct additional sampling and appropriate testing to determine concentration and variability, and to evaluate trends for all detected substances determined to be pollutants.

C. Reporting of Monitoring Results

The Alliance must submit data from each sampling event and also include a summary of monitoring results in the Annual Pretreatment Report.

D. Local Limit Development

As sufficient data become available, the Alliance, in consultation with Ecology, must reevaluate its local limits in order to prevent pass through or interference. If Ecology determines that any pollutant present causes pass through or interference, or exceeds established sludge standards, the Permittee must establish new local limits or revise existing local limits as required by 40 CFR 403.5. Ecology may also require the Alliance to revise or establish local limits for any pollutant discharged from the POTW that has a reasonable potential to exceed the Water Quality Standards, Sediment Standards, or established effluent limits, or causes whole effluent toxicity. Ecology will make this determination through an amendment to this Agreed Order.

Ecology may modify this order to incorporate additional requirements relating to the establishment and enforcement of local limits for pollutants of concern.

## **5. Amendments to the Agreed Order**

Upon Ecology's issuance of an updated NPDES permit for the Salmon Creek WWTP (WA00023639), which will include provisions identical to the pretreatment program requirements contained within Part 4 of this Agreed Order, this Agreed Order shall be amended to remove Part 4 in its entirety.

Amendments to the Agreed Order may also be requested for good cause.

To be effective, all proposed amendments must be signed by the person with signature authority for each party.

## **6. Effective Date**

This Agreed Order is effective on January 1, 2023, following signature by both parties.

## **7. Dispute Resolution**

If a dispute arises between Ecology and the Alliance regarding any noncompliance with this Agreed Order, the parties shall attempt to resolve the dispute by informal resolution. A dispute shall be considered to have arisen when one (1) party notifies another, in writing, that there is a dispute. If the parties cannot resolve the dispute informally within thirty (30) days, the Alliance shall serve on Ecology a written

Statement of Position. Within thirty (30) days after receipt of the Alliance's Statement of Position, Ecology shall provide the Alliance with a final administrative decision.

## **8. Enforcement**

Failure to comply with this Agreed Order may result in the issuance of civil penalties up to ten thousand dollars (\$10,000) per day, or other actions, whether administrative or judicial, to enforce the terms of this Agreed Order.

## **9. Third Party Right to Appeal**

By signing this Agreed Order, the Discovery Clean Water Alliance may not appeal this Agreed Order. However, a third party may appeal this Agreed Order.

A party other than the Discovery Clean Water Alliance has 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, a party must do all of the following within thirty (30) days of receipt of this Order:

- File the appeal and a copy of this Order with the PCHB (see address below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of the appeal and this Order on Ecology in paper form – by mail or in person (see addresses below). Email is not accepted.

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

An appeal alone will not stay the effectiveness of this Agreed Order. Stay requests must be submitted in accordance with RCW 43.21B.320.

## **Address and Location Information**

### **Street Addresses:**

#### **Department of Ecology**

Attn: Appeals Processing Desk  
300 Desmond Drive Southeast  
Lacey, WA 98503

#### **Pollution Control Hearings Board**

1111 Israel Road Southwest, Suite 301  
Tumwater, WA 98501

**Mailing Addresses:**

**Department of Ecology**

Attn: Appeals Processing Desk

PO Box 47608

Olympia, WA 98504-7608

**Pollution Control Hearings Board**

PO Box 40903

Olympia, WA 98504-0903

**Email Address:**

**Department of Ecology**

Not currently available

(see WAC 371-08)

**Pollution Control Hearings Board**

Pchb-shbappeals@elaho.wa.gov

## **10. Contact Information**

Please direct all questions about this Agreed Order to:

Eleanor Ott, P.E.

Department of Ecology

Southwest Regional Office

PO Box 47775

Olympia, WA 98504

Phone: 360-280-5624

Email: eleanor.ott@ecy.wa.gov

## **11. Americans with Disabilities Act Information**

### **Accommodation Requests**

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

## **12. More Information**

- **Pollution Control Hearings Board Website:**  
<https://www.elaho.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>

### 13. Signature



Andrew Kolosseus  
Southwest Region Section Manager  
Water Quality Program

December 21, 2022

Date

John M. Peterson, P.E. Digitally signed  
by John M.  
Peterson, P.E.  
Date: 2022.12.19  
10:37:33 -08'00'

John Peterson, P.E.  
Executive Director  
Discovery Clean Water Alliance

\_\_\_\_\_  
Date