



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*Northwest Regional Office • PO Box 330316 • Shoreline, Washington 98133-9716 • (206) 594-0000
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June 14, 2021

Snohomish County Parks, Recreation and Tourism
ATTN: Carol Ohlfs
6705 Puget Park Drive, M/S 303
Snohomish, WA 98296

RE: Section 401 Water Quality Certification Denial without Prejudice, Order No. 20135,
U.S. Army Corps of Engineers (Corps) Reference No. NWS-2019-650, Kayak Point
County Park Day Use Area Improvements Project, Stanwood, Snohomish County,
Washington

Dear Carol Ohlfs:

On June 18, 2020, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification (JARPA) for the above-referenced project. Ecology has one year from the Section 401 Water Quality Certification request to issue its decision.

At this time Ecology has not received the necessary information to have reasonable assurance that the project will meet state water quality laws. Therefore, pursuant to Section 401 of the Clean Water Act, Chapter 90.48 RCW, and Chapter 173-201A WAC, Ecology is denying without prejudice Snohomish County Parks, Recreation and Tourism's request for a Section 401 Water Quality Certification. Receipt of a denial without prejudice does not preclude you from submitting a new request for a Section 401 Water Quality Certification at a later date.

If you have any questions, please contact Rebekah Padgett at (425) 365-6571. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar", is written over a horizontal line.

Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office

Enclosure

Sent by electronic mail: carol.ohlfs@snoco.org

e-cc: Andrew Shuckhart, US Army Corps of Engineers
Jim Brennan, J.A. Brennan Associates, PLLC
Paul Marczin, WA Dept of Fish and Wildlife
Chris Luerkens, Ecology
Amy Jankowiak, Ecology
Loree' Randall, Ecology
ecyrefedpermits@ecy.wa.gov

**IN THE MATTER OF DENYING
SECTION 401 WATER QUALITY
CERTIFICATION TO**
Snohomish County Parks, Recreation and
Tourism
in accordance with 33 U.S.C. 1341 (FWPCA
§ 401), RCW 90.48.260 and Chapter 173-
201A WAC

) **ORDER No. 20135**
) **Corps Reference No. NWS-2019-650**
) Kayak Point County Park Day Use Area
) Improvements Project, Stanwood, Snohomish
) County, Washington
)

Snohomish County Parks, Recreation and Tourism
ATTN: Carol Ohlfs
6705 Puget Park Drive, M/S 303
Snohomish, WA 98296

On June 18, 2020, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification (WQC) via a Joint Aquatic Resources Permit Application (JARPA) for the above-referenced project. Ecology has one year from the receipt of the request for a WQC to issue its decision.

On May 25, 2021, Ecology sent you an letter explaining that we needed the State Environmental Policy Act (SEPA) determination, a mitigation plan that adequately compensates for the aquatic habitat impacts, and a response to questions regarding in-water work and water quality monitoring sent to your attention by e-mail on May 19, 2021. On June 8, 2021, additional documentation was submitted to Ecology to address mitigation, in-water work, and water quality monitoring; however, the SEPA determination is not complete.

Without this information, there is not reasonable assurance that the project will meet state water quality laws. With the statutory deadline approaching, Ecology must deny the WQC at this time. Therefore, pursuant to Section 401 of the Clean Water Act, Chapter 90.48 RCW and Chapter 173-201A WAC, Snohomish County Parks, Recreation and Tourism's request for a WQC is denied without prejudice.

Receipt of a denial without prejudice does not preclude you from submitting the information identified above with a new request for a WQC at a later date.

YOUR RIGHT TO APPEAL

You have a right to appeal this Denial Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Denial Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

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

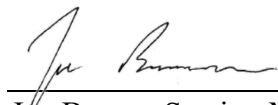
- File your appeal and a copy of this Denial Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Denial Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

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

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW, Suite 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

SIGNATURE



Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office
Department of Ecology

June 14, 2021

Date