



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*Northwest Regional Office • PO Box 330316 • Shoreline, Washington 98133-9716 • (206) 594-0000
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June 21, 2021

Thane Smith
NorthPoint Holdings, LLC
2265 East Murray Holladay Road
Holladay, UT 84117

RE: Water Quality Certification Order No. **20109** for Corps Reference No. **NWS-2020-0571**,
Cascade Business Park, Snohomish County, Washington

Dear Thane Smith:

On August 25, 2020, NorthPoint Holdings, LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Cascade Business Park project, located in Arlington and Marysville, Snohomish County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Joint Aquatic Resource Permit Application (JARPA) and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order and does not authorize impacts to non-federally regulated wetlands.

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

If you have any questions about this decision, please contact Neil Molstad at (425) 389-5549 or neil.molstad@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described within 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 via email to tsmith@northpointkc.com

NorthPoint Holdings, LLC

June 21, 2021

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e-cc: Amanda Nadjkovic, Corps of Engineers
Matt DeCaro and Ben Wright, Soundview Consultants LLC
Chris Holland, City of Marysville
Marc Hayes, City of Arlington
Kurt Nelson, Tulalip Tribes
Pat Stevenson, Stillaguamish Tribe
Ann Harrie, Snoqualmie Tribe
Ashley Kees, Department of Fish and Wildlife
Loree' Randall, Ecology
Rebekah Padgett, Ecology
ECY RE FEDPERMITS

IN THE MATTER OF GRANTING A)	ORDER # 20109
WATER QUALITY)	Corps Reference No. NWS-2020-0571
CERTIFICATION TO)	Cascade Business Park project, Edgecomb
NorthPoint Holdings, LLC)	Creek, Ditch X, and Associated Wetlands,
pursuant to 33 U.S.C. 1341 (FWPCA)	located in Arlington and Marysville, Snohomish
§ 401), RCW 90.48.120, RCW 90.48.260)	County, Washington.
and Chapter 173-201A WAC)	

Thane Smith
NorthPoint Holdings, LLC
2265 East Murray Holladay Road
Holladay, UT 84117

On August 25, 2020, the Department of Ecology (Ecology) received a request from NorthPoint Holdings, LLC for a Section 401 Water Quality Certification (WQC) for the Cascade Business Park project. The U.S. Army Corps of Engineers (Corps) and Ecology issued a joint public notice for the project on September 1, 2020.

The proposed project entails the construction of a regional industrial park to include multiple double-loaded and single-loaded buildings and associated infrastructure such as parking, access roads, frontage improvements, utilities, and stormwater management facilities utilizing enhanced water quality treatment for runoff from all impervious surfaces. The proposed project will result in approximately five acres of direct and indirect wetland impacts and involve the relocation of a portion of Edgecomb Creek and an unnamed tributary (Ditch X) to Edgecomb Creek. Two features in the project area (the 51st Avenue Ditch and Ditch U) are non-federally regulated waters but are considered waters of the state (both ditch features) and regulated wetland (51st Avenue Ditch only) under Washington state law. Impacts to these features will be authorized by Ecology under separate cover (see Ecology Administrative Order # 20160).

The project site is located in portions of Sections 27 and 34, Township 31.N, Range 6.E, within Water Resource Inventory Area (WRIA) 7 (Snohomish) .

AUTHORITIES

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed the 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 (FWPCA §§ 301, 302, 303, 306, and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws;

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; and,
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.

WATER QUALITY CERTIFICATION CONDITIONS

With this Water Quality Certification (WQC) and through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will comply with applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, this WQC is granted to NorthPoint Holdings, LLC (Applicant) subject to the conditions within this Order.

Issuance of this WQC for this proposal does not authorize the Applicant 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 WQC absolves the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

A. General Conditions

1. In this Order, the term "Applicant" shall mean NorthPoint Holdings, LLC and its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent via e-mail to fednotification@ecy.wa.gov and cc to neil.molstad@ecy.wa.gov. The submittals shall be identified with Order # 20109 and include the Applicant name, Corps reference number, project name, project contact, and the contact phone number. A mailing address for required submittals will be provided if requested.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Permit Application (JARPA) received by Ecology on August 25, 2020, the *Cascade Business Park Mitigation Plan* dated May 27, 2021, and the *Cascade Business Park Water Quality Monitoring Plan* dated May 27, 2021.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.

5. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new public notice and Water Quality Certification or if a modification to this Order is required.
6. This Order is not effective until the Corps issues a permit for this project.
7. The Applicant shall send (per condition A.2 above) a copy of the final Corps permit to Ecology within two weeks of receiving it.
8. The Applicant shall keep copies of this 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.
9. The Applicant 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 Order are being met.
10. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
11. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48) or the federal Clean Water Act, Ecology may issue an amendment to this Order to incorporate any such changes or amendments applicable to this project.
12. The Applicant 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 Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each signatory that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins.
13. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.

14. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.
15. This Order will automatically transfer to a new owner or operator if:
 - a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the 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 Applicant that this Order must be modified to complete the transfer.
16. Conditions in this Order apply to all planned phases of the construction and the mitigation for this project.

B. Notification Requirements

1. The following notification shall be made via phone (425) 389-5549) or e-mail (e-mail is preferred) to Ecology's Federal Permit Manager to fednotification@ecy.wa.gov and cc to: neil.molstad@ecy.wa.gov. Notifications shall be identified with Order No. 20109 and include the Applicant 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 Order.
 - b. At least ten (10) days prior to all pre-construction meetings.
 - c. At least ten (10) days prior to conducting initial in-water work activities for each in-water work window.
 - d. At least seven (7) days prior to the start of impacts to wetlands.
 - e. At least seven (7) days prior to completing each wetland mitigation site.
 - f. Within seven (7) days of completing in-water work activities for each in-water work window.
 - g. At least seven (7) days within project completion.
2. In addition to the phone or e-mail notification required under B.1.a. above, the Applicant 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.
3. If the project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction and mitigation are completed.

C. Timing

1. This Order will expire when all its conditions have been met and upon receipt of a mitigation closeout letter from Ecology.
2. In-water work shall be conducted in Edgecomb Creek and Ditch X between July 16 and September 15 of any year, unless otherwise approved by Ecology.
3. Any project change that requires a new or revised Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife should be sent to Ecology for review before the change is implemented. Proposed changes shall be implemented only with written approval from Ecology.

D. Water Quality Monitoring & Criteria

1. This Order does not authorize the Applicant to exceed applicable turbidity standards beyond the limits established in Chapter 173-201A-200(1)(e)(i) WAC.
2. Edgecomb Creek and Ditch X are categorized under the Water Quality Standards For Surface Waters of the State of Washington as habitat for salmonid spawning, rearing, and migration. The criteria of the categorization apply as described in Chapter 173-201A-200(1)(e)(i) WAC, except as specifically modified by this Order.
3. For in-water activities within fresh waters (including wetlands) turbidity shall not exceed 5 NTU over background when the background is 50 NTU or less; or a 10 percent increase in turbidity when the background turbidity is more than 50 NTU;
 - a. Temporary area of mixing for turbidity established within the state water quality standards for fresh waters (Chapter 173-201A-200(1)(e) WAC) is as follows:
 - i. For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from the activity causing the turbidity exceedance.
 - ii. For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of the activity causing the turbidity exceedance.
 - iii. For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of the activity causing the turbidity exceedance.

For projects working within or along lakes, ponds, wetlands, or other non-flowing waters, the point of compliance shall be at a radius of one hundred fifty feet from the activity causing the turbidity exceedance.

4. The Applicant shall conduct water quality monitoring as described in the approved Water Quality Monitoring Plan, *Cascade Business Park (NWS-2020-571)* (hereafter referred to as the WQMP) prepared by Soundview Consultants and dated May 27, 2021.
5. The Applicant must provide, in writing, any changes or additions to the WQMP and obtain approval from Ecology (email to fednotification@ecy.wa.gov and cc neil.molstad@ecy.wa.gov and rebekah.padgett@ecy.wa.gov) prior to implementation of the changes or additions.
6. Monitoring results shall be submitted weekly to Ecology (email to fednotification@ecy.wa.gov and cc neil.molstad@ecy.wa.gov and rebekah.padgett@ecy.wa.gov).
7. Mitigation and/or additional monitoring may be required if the monitoring results indicate that the water quality standards have not been met.
8. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity shall be considered an exceedance of the standard.
9. If water quality exceedances for turbidity are observed outside the point of compliance, work shall cease immediately and the Applicant or the contractor shall assess the cause of the water quality problem and take immediate action to stop, contain, and correct the problem and prevent further water quality turbidity exceedances.

E. 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.
2. No stockpiling or staging of materials shall occur at or below the OHWM of any waterbody.
3. The Applicant shall comply with the conditions of the current Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) issued for this project.

4. Within the project limits¹ all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, and mitigation areas shall be fenced with high visibility construction (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. If the project will be constructed in stages² a detailed description and drawings of the stages shall be sent to Ecology for review at least 20 days prior to placing HVF.
 - b. Condition 2 shall apply to each stage.
 - c. All field staff shall be trained to recognize HVF, understand its purpose and properly install it in the appropriate locations.
 - d. HVF shall be maintained until all work is completed for each project or each stage of a staged project.
5. 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.
6. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
7. 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.
8. Turbid de-watering water associated with in-water work shall not be discharged directly to waters of the state, including wetlands. Turbid de-watering water shall be routed to an upland area for on-site or off-site settling.
9. Clean de-watering water associated with in-water work that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state including wetlands. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.
10. In-water construction shall occur in the dry or in isolation from stream flow.
11. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.

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

² A stage is part of a project that has been separated into at least two distinct areas to be built during separate timeframes.

12. In addition to the above, all site specific construction BMP's as described in the WQMP for this project shall be followed.

Equipment & Maintenance

13. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands. If a staging area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation and obtain approval from Ecology before placing the staging area in the 50-foot setback area.
14. 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.
15. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order.
16. 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.
17. 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 Applicant shall set up a designated area for washing down equipment.

Dewatering, Culvert Work, and Stream Bypass

18. If necessary, dewatering activities within the stream relocation/wetland creation area, Edgecomb Creek and Ditch X shall be conducted as described in the WQMP.
19. Stream flow isolation work shall not scour the stream channel or banks of the water body in which the work is being done.
20. To minimize sediment releases into downstream water, water reintroduced to the channel shall be done gradually and at a rate not exceeding the normal stream flow.
21. Culverts shall be installed to avoid inlet scouring and prevent downstream bank erosion.
22. Fill associated with culvert installation shall be protected from erosion to the 100-year peak flow.

F. Wetland Compensatory Mitigation Conditions

1. The Applicant shall mitigate wetland impacts as described in the *Cascade Business Park Final Mitigation Plan* (hereafter called the “Mitigation Plan”) prepared by Soundview Consultants, and dated May 27, 2021, or as modified by this Order or revised and approved by Ecology.
2. The Applicant shall submit any proposed changes to the Mitigation Plan in writing to Ecology (see Condition A.2) for review and approval before implementing the changes.
3. The Applicant shall have a qualified wetland professional at the wetland mitigation site to supervise during construction and planting.
4. The Mitigation Plan contains more mitigation area than what is required to compensate for the wetland impacts proposed by this project. It is Ecology’s understanding that the Applicant may want to use this excess mitigation as advance mitigation for future unavoidable wetland impacts from other projects not authorized under this WQC. Requesting advance mitigation credit for excess wetland mitigation is done at the Applicant’s own risk, and Ecology is not under any obligation to accept this excess area as compensation for proposed future wetland impacts. Any excess mitigation credit generated by the current wetland mitigation site will be determined at the time the Applicant submits an advance mitigation use plan to Ecology.

Implementation

5. Unless otherwise approved by Ecology in writing, the Applicant shall begin the compensatory mitigation project before, or concurrently with, impacting wetlands, or Ecology may require additional compensation to account for additional temporal loss of wetland functions.
6. If the mitigation site cannot be completed within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of the Cascade Business Park project, with the:
 - a. Reason for the delay.
 - b. Expected date of completion.
 - c. The Applicant shall submit an updated written notification every 12 months thereafter until the Cascade Business Park project and the wetland mitigation/stream relocation area are complete.
7. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers and landward of the 100-year floodplain, unless otherwise provided for in the Mitigation Plan.

8. The Applicant shall ensure that no material is stockpiled within existing wetlands or their buffers at the wetland mitigation site at any time, unless otherwise provided for in the Mitigation Plan.
9. The Applicant shall ensure that no construction debris is deposited within existing wetlands or their buffers at the wetland mitigation site at any time, unless otherwise provided for in the Mitigation Plan.
10. The Applicant shall not use polyacrylamide at the mitigation site.
11. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site, unless otherwise approved by Ecology.
12. Aquatic herbicides can be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category.
 - a. Applicators are required to be permitted under Ecology's Noxious Weed Control Permit.
 - b. Applicators shall comply with all conditions of the Noxious Weed Control Permit.
13. If weed-barrier fabric is used on the site, the Applicant shall use only water-permeable, fully biodegradable, non-toxic weed-barrier fabric for the entire-site and/or individual plant weed control, unless otherwise approved by Ecology. If non-biodegradable plastic weed-barrier fabric is approved by Ecology, it shall be used only at the base of individual plants and shall be removed before it starts to break down, before it interferes with plant growth, or before the end of the monitoring period, whichever comes first.
14. If seeding is used for temporary erosion control, it must be a seed mix consisting of native, annual, non-invasive plant species, unless otherwise approved by Ecology.
15. The Applicant shall not use solid or mesh plant protector tubes at the mitigation site unless otherwise provided for in the Mitigation Plan.
16. The Applicant shall place signs at the mitigation area's boundaries, including buffers, every 100 feet to mark the area as a wetland mitigation site, as described in the Mitigation Plan.
17. Upon completion of site grading and prior to planting, the Applicant shall submit to Ecology written confirmation (email or signed letter) from a surveyor or project engineer that the finished grades are consistent with the approved Mitigation Plan or subsequent Ecology-approved plan changes and also indicate how final elevations were determined.

18. After completing construction and planting of the mitigation sites(s), the Applicant shall submit to Ecology (see Condition A.2) an as-built report, including plan sheets, documenting site conditions at Year Zero. The as-built report must:
 - a. Be submitted within 90 days of completing construction and planting. Include one hard copy and one electronic file.
 - b. Include the information listed in Attachment B (Information Required for As-built Reports).
 - c. Include documentation of the recorded legal site protection mechanism required in Condition F.19.
19. The Applicant shall provide Ecology with documentation of a recorded conservation easement for the Cascade Business Park stream relocation/wetland mitigation area. The Applicant shall:
 - a. Request a conservation easement template from Ecology or use an appropriate alternative to develop a draft conservation easement.
 - b. Send the draft conservation easement to Ecology for review and approval prior to recording.
 - c. Record the Ecology-approved conservation easement with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.
 - d. Record the conservation easement with a figure that corresponds with the legal description showing the area that is being protected, a copy of this Order, and a site map showing the location of wetlands and their buffers that are being protected.
 - e. Send a copy of the recorded conservation easement to Ecology with the As-Built Report (see Condition F.18), unless otherwise approved by Ecology.

Monitoring and Maintenance

20. The Applicant shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards. If an irrigation system is installed, it shall be removed by the end of year three unless Ecology authorizes in writing the system to remain for a longer period.
21. The Applicant shall monitor the mitigation site for a minimum of 10 years. The Applicant shall use the monitoring methods described in Section 2.8 of the Mitigation Plan.
22. The Applicant shall submit to Ecology (see Condition A.2) monitoring reports documenting mitigation site conditions for years 1, 2, 3, 5, 7, and 10. The monitoring reports must:

- a. Be submitted by December 31 of each monitoring year. Include one hard copy and one electronic file.
 - b. Include the information listed in Attachment C (Information Required for Monitoring Reports).
23. The Applicant shall implement the Mitigation Plan's contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.
24. Prior to implementing contingency measures not specified in the Mitigation Plan, the Applicant shall consult with and obtain written approval from Ecology for the contingency measures.
25. When necessary to meet the performance standards, the Applicant shall replace dead or dying plants with the same species, or an appropriate native plant alternative, during the current or upcoming planting season and note species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.
26. For monitoring years five (5) and ten (10), or prior to submitting an advance mitigation use plan for the site, the Applicant shall use the currently approved federal wetland delineation manual and appropriate regional supplement to delineate all compensatory wetlands and include delineation information (e.g., data sheets, maps, wetland size, etc.) in the monitoring reports or advance mitigation use plan.
27. At the end of the monitoring period or prior to submitting an advance mitigation use plan for the site, the Applicant shall use the October 2014 version of the "Washington State Wetlands Rating System for Western Washington" to rate all wetlands (except those that have been preserved) and include the information in the monitoring report or advance mitigation use plan. The wetlands must be rated no more than 12 months prior to the submittal of any advance mitigation use plan to Ecology.
28. If the Applicant has not met all compensatory mitigation conditions by the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both. Conditions include specifications in the approved Mitigation Plan, such as performance standards for the mitigation site.
29. The Applicant's obligation to compensate for wetland impacts under Condition F.1 is not met until the applicant has received written notice from Ecology that the obligation is met

G. Emergency/Contingency Measures

1. The Applicant shall develop and implement a spill prevention and containment plan for this project.
2. The Applicant shall have adequate and appropriate spill cleanup material available on site at all times during construction.
3. The Applicant shall have adequate and appropriate spill response materials available on site to respond to any release of petroleum products or any other material into waters of the state.
4. 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.
5. 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 Applicant shall notify fednotification@ecy.wa.gov and cc neil.molstad@ecy.wa.gov per condition B.1. 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.
6. 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.

YOUR RIGHT TO APPEAL

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

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

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

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

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
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 Road SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

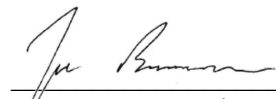
Neil Molstad
Department of Ecology
Northwest Regional Office
(425) 389-5549
neil.molstad@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
<http://www.eluho.wa.gov/Board/PCHB>
- **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

Dated this 21st day of June, 2021, at the Department of Ecology, Shoreline, Washington.



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

Attachment A
Statement of Understanding
Water Quality Certification Conditions

Cascade Business Park
NorthPoint Holdings, LLC
Water Quality Certification Order No. **20109**
and
Corps Reference No. **NWS-2020-0571**

I, _____, state that I will be involved as an agent or contractor for NorthPoint Holdings, LLC in the site preparation and/or construction of the Cascade Business Park located in Marysville and Arlington, Snohomish County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. 20109 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company

Attachment B

Information Required for As-built Reports

Cascade Business Park
Water Quality Certification Order # 20109
And
Corps Reference # NWS-2020-0571

Ecology requires the following information for as-built reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

Background Information

- 1) Project name.
- 2) Ecology Order number and the Corps reference number.
- 3) Name and contact information of the person preparing the as-built report. Also, if different from the person preparing the report, include the names of:
 - a) The applicant
 - b) The landowner
 - c) Wetland professional on site during construction of the mitigation site(s).
- 4) Date the report was produced.

Mitigation Project Information

- 5) Brief description of the **final** mitigation project with any changes from the approved plan made during construction. Include:
 - a) **Actual** acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
 - b) Important dates, including:
 - i. Start of project construction.
 - ii. When work on the mitigation site began and ended.
 - iii. When different activities such as grading, removal of invasive plants, installing plants, and installing habitat features began and ended.
- 6) Description of any problems encountered and solutions implemented (with reasons for changes) during construction of the mitigation site(s).
- 7) List of any follow-up actions needed, with a schedule.
- 8) Vicinity map showing the geographic location of the site(s) with landmarks.
- 9) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
 - a) Boundary of the site(s).
 - b) Topography (with a description of how elevations were determined).
 - c) Installed planting scheme (quantities, densities, sizes, and approximate locations of plants, as well as the source(s) of plant material).
 - d) Location of habitat features.
 - e) Location of permanent photo stations and any other photos taken.Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions after the site work is completed.
- 10) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction from which each photo was taken. Photo pans are recommended.

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- 11) A copy of any deed notifications, conservation easements, or other approved site protection mechanism.

Attachment C

Information Required for Monitoring Reports

Cascade Business Park
Ecology Order # 20109
And
Corps Reference # NWS-2020-0571

Ecology requires the following information for monitoring reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

Background Information

- 1) Project name.
- 2) Ecology Order number and the Corps reference number.
- 3) Name and contact information of the person preparing the monitoring report. Also, if different from the person preparing the report, include the names of:
 - a) The applicant
 - b) The landowner
 - c) The party responsible for the monitoring activities.
- 4) Dates the monitoring data were collected.
- 5) Date the report was produced.

Mitigation Project Information

- 6) Brief description of the mitigation project, including acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
- 7) Description of the monitoring approach and methods. For each performance standard being measured provide the following information:
 - a) Description of the sampling technique (e.g., monitoring point for soil or hydrology, line or point intercept method, ocular estimates in individually placed plots). If you are using a standardized technique, provide a reference for that method.
 - b) Size and shape of plots or transects.
 - c) Number of sampling locations and how you determined the number of sampling locations to use.
 - d) Percent of the mitigation area being sampled.
 - e) Locations of sampling (provide a map showing the locations), how you determined where to place the sampling locations (e.g., simple random sample), and whether they are permanent or temporary.
 - f) Schedule for sampling (how often and when).
 - g) Description of how the data was evaluated and analyzed.
- 8) Summary table(s) comparing performance standards with monitoring results and whether each standard has been met.

- 9) Discussion of how the monitoring data were used to determine whether the site(s) is meeting performance standards.
 - 10) Goals and objectives and a discussion of whether the project is progressing toward achieving them.
 - 11) Summary, including dates, of management actions implemented at the site(s), for example, maintenance and corrective actions.
 - 12) Summary of any difficulties or significant events that occurred on the site that may affect the success of the project.
 - 13) Specific recommendations for additional maintenance or corrective actions with a timetable.
 - 14) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction the camera is facing. Photo pans are recommended.
 - 15) Vicinity map showing the geographic location of the site(s) with landmarks.
 - 16) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
 - a) Boundary of the site(s).
 - b) Location of permanent photo stations and any other photos taken.
 - c) Data sampling locations, such as points, plots, or transects.
 - d) Approximate locations of any replanted vegetation.
 - e) Changes to site conditions since the last report, such as areas of regrading, a shift in the location of Cowardin classes or habitat features, or a change in water regime.
- Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions during the most recent monitoring year.