



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341*

November 22, 2021

9421 Graham, LLC
ATTN: Mike Avila
PO Box 1927
Eatonville, WA 98328

RE: Water Quality Certification Order No. 20876 for Corps Reference No. NWS-2021-0143,
Amber House Apartments and Kimberly Estates Development, Wetlands, Graham, Pierce
County, Washington

Dear Mike Avila:

On February 10, 2021, 9421 Graham, LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Amber House Apartments and Kimberly Estates Development in Graham, Pierce County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Water Quality Certification Request and supplemental documents complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

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 Lori Kingsbury at Lori.kingsbury@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

A handwritten signature in blue ink, appearing to read "Perry J Lund", is written over a circular blue stamp.

Perry J Lund, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enclosure

e-cc: Jenae Churchill, Corps of Engineers
Kerrie McArthur, Confluence Environmental Company
Cheryl and Clark Roosa
Loree' Randall, Ecology
Zach Meyer, Ecology
Lori Kingsbury, Ecology
ECY RE FEDPERMITS

IN THE MATTER OF GRANTING A)	ORDER No. 20876
WATER QUALITY)	Corps Reference No. NWS-2021-0143
CERTIFICATION TO)	Amber House Apartments and Kimberly Estates
Mike Avila, 9421 Graham LLC)	Development located within Wetlands, Graham,
pursuant to 33 U.S.C. 1341 (FWPCA)	Pierce County, Washington
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

9421 Graham LLC
Attn: Mike Avila
PO Box 1927
Eatonville, WA 98328

On February 10, 2021, 9421 Graham LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Amber House Apartments and Kimberly Estates Development in Graham, Pierce County, Washington. The following required processing dates are referenced below:

- On June 24, 2021, the U.S. Army Corps of Engineers (Corps) sent an email notification to Ecology that they are reviewing the project for authorization under Nationwide Permit No. 29, Residential Developments that requires an individual Section 401.
- On September 27, 2021, Ecology issued a public notice for the project.

This project proposes to construct a 42 to 45-unit garden-style apartment complex with associated carports and detached garages (identified as the Amber House Apartments) along with twenty to thirty single family residences (identified as Kimberly Estates).

The project will impact 12, 480 square feet of a Category III wetland. The proposed mitigation will preserve 0.415 acres of Cat II wetland and 3.785 acres of forested upland (preservation areas are connected to large offsite wetland complex), and the purchase of 4.19 In Lieu Fee (ILF) credits from the Pierce County ILF program as outlined in the *204th Residential Properties, IN LIEU FEE MITIGATION PLAN, Prepared for: 9421 Graham, LLC*, dated July 2021, prepared by Confluence Environmental Company.

The project site is located at 9708 204th Street East, Graham, Pierce County, Washington, 98338; Section 4, Township 18 N, Range 4 E; within Water Resource Inventory Area (WRIA) 12, Chambers-Clover Watershed.

With this Order, Ecology is granting 9421 Graham LLC's request for a Section 401 Water Quality Certification for the Amber House Apartments and Kimberly Estates Development project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on February 10, 2021, and the following supporting documentation:

1. Revised Mitigation Plan received by Ecology on August 3, 2021: *204th Residential Properties, IN LIEU FEE MITIGATION PLAN, Prepared for: 9421 Graham, LLC*, dated July 2021 prepared by Confluence Environmental Company.
2. E-mail from Agent received September 23, 2021, referencing project BMPs.

Based on the information submitted, Ecology has determined that the discharge from the project will comply with state water quality requirements. Prior to undertaking any changes that materially alter the project, 9421 Graham LLC must contact Ecology to determine whether a new Section 401 Water Quality Certification is required.

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize 9421 Graham LLC to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC), or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this Section 401 Water Quality Certification absolves the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

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 the 9421 Graham LLC for the Amber House Apartments and Kimberly Estates Development project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues a Department of the Army (DA) permit for this project. Order No.20876 will remain valid for the duration of the associated DA permit. 9421 Graham LLC should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt 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 all 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.

Filing an appeal with the PCHB:

Mailing Address:

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

Street Address:

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

Serving a copy of the appeal on Ecology:

Mailing Address:

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

Street Address:

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

CONTACT INFORMATION

Please direct all questions about this Order to:


Lori Kingsbury
Department of Ecology
PO Box 47775
Olympia, WA 98504-7775
Lori.kingsbury@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



Perry J Lund, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office
Department of Ecology

November 22, 2021