



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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December 29, 2021

Warren Company  
ATTN: Dana Warren  
500 Union St. #900  
Seattle, WA 98101

**RE:** Water Quality Certification Order **No. 20943** for Corps Reference **No. NWS-2021-373**,  
Medina 1 LLC, King County, Washington

Dear Dana Warren:

On July 29, 2021, the Warren Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Medina 1 LLC project in King County, Washington. The proposed project will connect a new sewer line to an existing sewer line in Lake Washington and restore sections of an existing bulkhead.

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 Penny Kelley at (360) 280-8856. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

Brenden McFarland, Section Manager  
Environmental Review & Transportation Section, HQ  
Shorelands and Environmental Assistance Program

Medina 1 LLC  
Corps No. NWS-2021-373  
December 29, 2021  
Page 2 of 2

Enclosure

E-cc: Kelsey Rogers, Corps of Engineers  
Mark Kushino, Waterfront Construction  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)

**IN THE MATTER OF GRANTING A  
WATER QUALITY  
CERTIFICATION TO**  
Warren Company  
pursuant to 33 U.S.C. 1341 (FWPCA  
§ 401), RCW 90.48.120, RCW 90.48.260  
and Chapter 173-201A WAC

) **WQC ORDER No. 20943**  
) **Corps Reference No. NWS-2021-373**  
) Medina 1 LLC – removing and replacing a  
) portion of an existing bulkhead and connect the  
) lake sewer line on Lake Washington in the City  
) of Medina, King County Washington.  
)

Warren Company  
Attn: Dana Warren  
500 Union St. #900  
Seattle, WA 98101

On July 29, 2021, the Warren Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act to the Department of Ecology (Ecology) for the Medina 1 LLC project in King County, Washington. On August 19, 2021 Ecology issued a public notice for the project.

The project proposes to connect a new sewer line to the existing sewer line in Lake Washington and restore sections of an existing bulkhead. In order to connect the new sewer line, a portion of the existing bulkhead and a section of deck on a dock will be removed and the existing sewer clean out will be replaced. In addition to the sewer work, the sections of bulkhead that extend out on either side of a covered beach area will be replaced with new material consisting of basalt and crushed rock. As mitigation for the proposed work, the shoreline area will be planted with native species and spawning gravel will be placed along the base of the bulkhead.

The project site is located at 2841 76<sup>th</sup> Ave NE on the shore of Lake Washington in the City of Medina, King County, Washington, Section 24, Township 25 N., Range 04 E., within Water Resource Inventory Area (WRIA) 8 Cedar-Sammamish.

## **AUTHORITIES**

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has reviewed this 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
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; and
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.

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.
5. The project proponent of the project authorized is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, local or tribal authorities.

With this Water Quality Certification (WQC) Order, Ecology is granting with conditions, Warren Company's request for a Section 401 Water Quality Certification for the Medina 1 LLC on Lake Washington located in King County. Ecology has determined that the proposed discharge(s) will comply with all applicable state water quality requirements, provided the project is conducted in accordance with the Section 401 Water Quality Certification request that Ecology received on July 29, 2021, the supporting documents referenced in Table 1 below, **and the conditions of this WQC Order.**

**Table 1.** Supporting Documents

<b>Date Received</b>	<b>Document Type</b>	<b>Title &amp; Date</b>	<b>Author</b>
July 29, 2021	Joint Aquatic Resources Permit Application (JARPA) Form	JARPA dated April 7, 2021	Waterfront Construction, Mark Kushino
July 29, 2021	Drawings	Medina 1 LLC, April 30, 2020 and revised April 5, 2021	Waterfront Construction
July 29, 2021	Planting Plan	Tree Protection, Inventory, Mitigation, and Shoreline Planting Plan (Stephanus Residence), November 15, 2017	Land Morphology
November 16, 2021	Water Quality Monitoring Protection Plan	Water Quality Monitoring and Protection Plan, Medina 1 LLC, Bulkhead Replacement Project, dated November 15, 2021	Hart Crowser
October 8, 2021	HPA	Hydraulic Project Approval issued December 23, 2020	Washington Dept. of Fish & Wildlife,

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Warren Company 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 Warren Company from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

The following conditions will be incorporated into the Corps permit and strictly adhered to by the Warren Company.

**A. General Conditions**

1. In this WQC Order, the term “Project Proponent” shall mean the Warren Company and its agents, assignees, and contractors.
2. All submittals required by this WQC Order shall be sent to Ecology’s Headquarters Office, Attn: Federal Permit Manager, via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) and cc to [Penny.Kelley@ecy.wa.gov](mailto:Penny.Kelley@ecy.wa.gov). The submittals shall be identified with WQC Order #20943 and include the Project Proponent’s name, Corps permit number, project name, project contact, and the contact phone number.
3. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on July 29, 2021 and the supporting documentation identified in Table 1.
4. The Project Proponent shall keep copies of this WQC 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.
5. The Project Proponent 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 WQC Order are being met.
6. 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.
7. 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.
8. The Project Proponent 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 WQC Order and all permits, approvals, and documents referenced in this WQC

Order. The Project Proponent shall provide Ecology a signed statement (see Attachment A for an example) before construction begins.

9. This WQC 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 WQC Order.
10. Failure of any person or entity to comply with the WQC Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the state's water quality standards.
11. The Project Proponent shall provide Ecology documentation for review and approval before undertaking any major changes to the proposed project that could significantly and adversely affect water quality, other than those project changes required by this WQC Order.
12. The Project Proponent shall send (per A.2.) a copy of the final Corps permit to Ecology's Federal Permit Manager within two weeks of receiving it.
13. Nothing in this WQC Order waives Ecology's discretionary authority to issue additional Orders if Ecology determines that further actions are necessary to implement the water quality laws of the state.
14. 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 WQC 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 a new WQC Order is required to complete the transfer.

#### **B. Notification Requirements:**

1. The following notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Permit Manager via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) and cc to [Penny.Kelley@ecy.wa.gov](mailto:Penny.Kelley@ecy.wa.gov). Notifications shall be identified with WQC Order No. 20943, Corps Reference No. NWS-2021-373, and include the Project Proponent 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 WQC 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.

- d. Within seven (7) days of completing in-water work activities.
2. In addition to the phone or e-mail notification required under B.1.a. above, the Project Proponent 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 (thirteen) months of issuance of this WQC Order, the Project Proponent shall submit per Condition A2 a written construction status report and submit status reports every 12 (twelve) months until construction and mitigation are completed.

### **C. Timing**

1. This WQC Order is effective upon issuance of the U.S. Corps of Engineers (Corps) permit for this project and will remain valid for the duration of the associated permit for the project.
2. The following in-water work window applies to the project unless otherwise approved by Ecology. All activities within the wetted perimeter of the Lake Washington may be conducted between July 16<sup>th</sup> and September 30<sup>th</sup> of any year.
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.

### **CI. Water Quality Monitoring and Criteria**

1. This WQC Order does not authorize the Project Proponent to exceed applicable water quality standards beyond the limits established in WAC 173-201A.
2. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity, shall be considered an exceedance of the standard.
3. The Project Proponent shall implement the Water Quality Monitoring and Protection Plan, *Medina 1, LLC Bulkhead Replacement* dated November 15, 2021 and prepared for Waterfront Construction, Inc. by Hart Crowser, as proposed and approved by Ecology.
4. Monitoring results shall be submitted weekly to Ecology's Federal Permit Manager, per condition A.2.

5. Ecology may ask or could use its discretionary authority to require the Project Proponent to provide mitigation and/or additional monitoring if the monitoring results indicate that the water quality standards have not been met.

## **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. 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.
3. No stockpiling or staging of materials shall occur at or below the Ordinary High Water Mark (OHWM) of any waterbody.
4. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
5. 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.
6. All equipment being used below the OHWM shall utilize biodegradable hydraulic fluid.

### Equipment and Maintenance

7. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands.
8. 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.
9. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.



10. 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.
11. 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 Project Proponent shall set up a designated area for washing down equipment.
12. Turbidity curtains shall be properly deployed and maintained in order to minimize turbidity and re-suspension of sediment.
13. If barges or flexi float working platforms are utilized for in-water work, they shall not be allowed to ground-out during in-water construction.
14. Barge or flexi float surfaces shall be swept, as necessary, and kept free of material that could be blown into water.
15. All excavated sediment shall be disposed upland in an approved disposal site.

#### Dewatering

16. 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.
17. 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.

#### Bank Stabilization

35. Placement of basalt and crushed rock shall be conducted in a controlled manner, in compliance with water quality standards for turbidity.
36. Excavation activity both in-water and above the OHWM shall be conducted in a controlled manner, in compliance with water quality standards for turbidity.
37. Placement of spawning gravel shall be conducted in a controlled manner, in compliance with water quality standards for turbidity.
38. Planting and monitoring shall be done as described in the Tree Protection, Inventory, Mitigation and Shoreline Planting Plan dated November 15, 2017

## **H. Emergency and Contingency Measures**

1. The Project Proponent shall develop and implement a spill prevention and containment plan for this project.
2. The Project Proponent shall have adequate and appropriate spill response and cleanup materials available on site to respond to any release of petroleum products or any other material into waters of the state.
3. 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 Project Proponent shall notify Ecology's Federal Permit Manager per condition A2 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.
4. 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 WQC Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this WQC 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 WQC Order:

- File your appeal and a copy of this WQC 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 WQC 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 to 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 WQC Order to:

Penny Kelley  
Department of Ecology  
360-280-8856  
[penny.kelley@ecy.wa.gov](mailto:penny.kelley@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 29th day of December 2021 at the Department of Ecology, Olympia Washington



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Brenden McFarland, Section Manager  
Environmental Review and Transportation Section  
Shorelands and Environmental Assistance

## Attachment A

## Statement of Understanding

## Water Quality Certification Conditions

Medina 1 LLC

## Water Quality Certification WQC Order No. 20943

As the Project Proponent for Medina 1 LLC project, I have read and understand the conditions of Washington State Department of Ecology WQC Order No. 20943, and any permits, plans, documents, and approvals referenced in the WQC Order. I have and will continue to ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this WQC Order and any permits, plans, documents, and approvals referenced in the WQC Order.

Signature

Date \_\_\_\_\_

# Title

Phone

Company

Company