



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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March 21, 2022

City of Lynnwood Parks, Recreation & Cultural Arts Department
Attn: Monica Thompson
19100 44th Avenue W.
Lynnwood, WA 98036

**RE: Water Quality Certification Order No. 21047 for Corps Reference No. NWS-2019-245,
Scriber Creek Trail Improvements Phase 2, Snohomish County, Washington**

Dear Monica Thompson:

On February 1, 2022, the City of Lynnwood Parks, Recreation & Cultural Arts Department submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Scriber Creek Trail Improvements Phase 2, Snohomish County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the WQC 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 Doug Gresham at (425) 429-1846 or via e-mail at Doug.Gresham@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

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

Enclosure

Ecc: Monica Thompson
ECY RE FEDPERMITS
Kelly Werdick, Corps of Engineers
Adam Merrill, Parametrix
Todd Gray, Tulalip Tribe
Martin Fox, Muckleshoot Tribe
Ecology: Cleo Neculae, Stephanie Barney, Grant Yang, Amy Jankowiak

IN THE MATTER OF GRANTING A) ORDER No. 21047
WATER QUALITY) Corps Reference No. NWS-2019-245
CERTIFICATION TO) Scriber Creek Trail Improvements Phase 2,
City of Lynnwood Parks, Recreation &) Snohomish County, Washington
Cultural Arts Department)
pursuant to 33 U.S.C. 1341 (FWPCA)
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)

City of Lynnwood Parks, Recreation & Cultural Arts Department
ATTN: Monica Thompson
19100 44th Avenue W
Lynnwood, WA 98036

On February 1, 2022, the City of Lynnwood Parks, Recreation & Cultural Arts Department submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Scriber Creek Trail Improvements Phase 2 project, Snohomish County, Washington. The following processing dates are referenced below:

- On January 26, 2022, the U.S. Army Corps of Engineers (Corps) notified Ecology that they would be reviewing the project for authorization under Nationwide Permit #42, and an individual Section 401 is required.
- On February 22, 2022, Ecology issued a public notice for the project.

This project proposes to make critical upgrades to an existing shared-use path from the Lynnwood Transit Center to Wilcox Park. The project will increase the width of the trail to 10-12 feet with 2-foot shoulders, elevate the trail along boardwalk to alleviate trail flooding, and re-align the trail to allow for a wider turn radius. When crossing Scriber Creek and the associated wetland complex, boardwalk decking will be constructed using pervious fiberglass grating, which will allow filtered sunlight and precipitation to reach the ground. The project is anticipated to improve public access by providing a non-motorized transportation alternative for accessing the Lynnwood Transit Center and the future light rail station. The trail will cause 7,801 ft² of vegetation conversion in Wetland B, which will be mitigated on-site through 1,789 ft² of re-establishment and 7,801 ft² of restoration.

The project site extends from the intersection of 52nd Place W and 200th Street SW to the Lynnwood Transit Center and the trail crosses Scriber Creek, Snohomish County, Washington, Section 21, Township 27N, Range 4E, within Water Resource Inventory Area (WRIA) 8–Cedar/Sammamish Watershed.

With this Order, Ecology is granting the City of Lynnwood Parks, Recreation & Cultural Arts Department’s request for a Section 401 Water Quality Certification for the Scriber Creek Trail Improvements Phase 2 project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments that Ecology received on February 1, 2022, that include the following supporting documentation:

1. *Scriber Creek Trail Phase 2: Environmentally Critical Areas Report*, prepared by Parametrix, and dated January 2021.
2. *Scriber Creek Trail Phase 2: Mitigation Plan*, prepared by Parametrix, and dated February, 2021.

Based on the information submitted, Ecology has determined that the discharges from the project will comply with state water quality requirements. Prior to undertaking any changes that materially alter the project, the City of Lynnwood Parks, Recreation & Cultural Arts Department 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 the City of Lynnwood Parks, Recreation & Cultural Arts Department 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 City of Lynnwood Parks, Recreation & Cultural Arts Department's for the Scriber Creek Trail Improvements Phase 2 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. 21047 will remain valid for the duration of the associated DA permit. Lynnwood Parks, Recreation & Cultural Arts Department 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 WQC Order to:

Doug Gresham
Department of Ecology
Northwest Regional Office
(425) 429-1846
Doug.Gresham@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>

Order No. 21047, Corps No. NWS-2021-245

Aquatics No. 140433

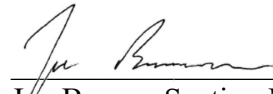
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- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

SIGNATURE

Dated this 21st day of March, 2022 at the Department of Ecology, Shoreline, Washington



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