



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office • PO Box 330316 • Shoreline, Washington 98133-9716 • (206) 594-0000  
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

April 20, 2022

Lopez Landing Partners LLC  
Attn: Craig Pierce  
19711 88<sup>th</sup> Avenue NE  
Bothell, WA 98011

Re: Water Quality Certification Order No. **21118** for Corps Reference No. **NWS-2021-221**,  
Lopez Landing Development, San Juan County, Washington

Dear Craig Pierce:

On June 14, 2021, Lopez Landing Partners LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Lopez Landing Development, San Juan 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 Water Quality Certification Order (WQC Order).

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

If you have any questions about this decision, please contact Chris Luerkens at (360) 410-4807, or by email at [chris.luerkens@ecy.wa.gov](mailto:chris.luerkens@ecy.wa.gov). The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar".

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

Provided via electronic mail to: [cbpierce@comcast.net](mailto:cbpierce@comcast.net)

Lopez Landing Development  
Aquatics No. **140174**, Corps No. **NWS-2021-221**  
April 20, 2022  
Page 2 of 2

Enclosure (1)

E-cc: Jennifer Casper, U.S. Army Corps of Engineers  
Scott Rozenbaum, Rozewood Environmental Services  
David Williams, San Juan County  
Rachel McCrea, Department of Ecology  
Chris Luerkens, Department of Ecology  
[ECYREFEDPERMITS@ecy.wa.gov](mailto:ECYREFEDPERMITS@ecy.wa.gov) – Aquatics No. 140174

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 21118</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2021-221</b>
<b>CERTIFICATION TO</b>	)	<i>Lopez Landing Development located within</i>
Lopez Landing Partners LLC	)	<i>Wetlands, Lopez Island, San Juan County,</i>
pursuant to 33 U.S.C. 1341 (FWPCA	)	<i>Washington</i>
§ 401), RCW 90.48.120, RCW 90.48.260	)	
and Chapter 173-201A WAC	)	

Lopez Landing Partners LLC  
 Attn: Craig Pierce  
 19711 88<sup>th</sup> Avenue NE  
 Bothell, WA 98011

On June 14, 2021, Lopez Landing Partners LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Lopez Landing Development, San Juan County, Washington. The following processing dates are referenced below:

- On February 16, 2021, Lopez Landing Partners LLC submitted a pre-filing meeting request.
- On October 25, 2021, the U.S. Army Corps of Engineers (Corps) notified Ecology that they are reviewing the project for authorization under Nationwide Permit #29, and that an individual Section 401 is required. Additionally, the Corps provided the “Reasonable Period of Time” (deadline) for the WQC of April 21, 2022.
- On January 5, 2022, Ecology issued a public notice for the project.

This applicant proposes to develop a 7.16 acre property located in Lopez Village on Lopez Island. The development will include approximately 28 residences, new roads, and related infrastructure. Two small wetlands will be impacted, resulting in approximately 0.087 acres of wetland fill. Compensatory mitigation for wetland impacts will occur through the onsite creation of approximately 0.087 acres of wetland creation, and 0.17 acres of wetland enhancement.

The project site is located east of Lopez Road, and north of Weeks Road, Lopez Island, San Juan County, Washington, Section 15, Township 35N, Range 2W, within Water Resource Inventory Area (WRIA) #2 San Juan.

With this WQC Order, Ecology is granting Lopez Landing Partners LLC’s request for a Section 401 Water Quality Certification for the Lopez Landing Development project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments that Ecology received on June 14, 2021, and including the following supporting documentation:

1. *Revised Wetland Mitigation Plan, Lopez Landing Development, Lopez Island, Rozewood Environmental Services, Inc., revised date March 10, 2022.*

2. Construction Stormwater General Permit coverage letter from Ecology dated December 8, 2021.
3. Email from Scott Rozenbaum, Rozewood Environmental Services, Inc. to Ecology, received March 7, 2021, stating that work within ditch will occur between July through September when the ditch is dry.

Based on the information submitted, Ecology has determined that the discharge(s) from the project will comply with state water quality requirements. Prior to undertaking any changes that materially alter the project, Lopez Landing Partners 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 Lopez Landing Partners 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.

The following conditions will be incorporated into the Corps permit and strictly adhered to by Lopez Landing Partners LLC. Specific condition justifications and citations required by 40 CFR 121.7(d)(1) are provided below each condition in *italic text*.

### **Special Conditions:**

1. 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 [chris.luerkens@ecy.wa.gov](mailto:chris.luerkens@ecy.wa.gov). The submittals shall be identified with WQC Order # **21118** and include the Project Proponent's name, Corps permit number, project name, project contact, and the contact phone number.
  - *Justification - Ecology needs to identify where information and submittals are to be submitted to be in compliance with the requirements of this WQC Order.*
  - *Citation - 40 CFR 121, Chapter 90.48 RCW, Chapter 90.48.120 RCW, Chapter 90.48.260 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
2. 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.
  - *Justification - Ecology must be able to investigate and inspect project site and all mitigation sites for compliance with all state rules and laws.*

- *Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.090 RCW, Chapter 173-201A WAC, and Chapter 173-225-010 WAC.*
3. The Project Proponent shall submit to Ecology (per Condition 1) 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.
  - b. Address status of mitigation in meeting goals, objectives, and performance standards listed in the Mitigation Plan.
- *Justification- Monitoring reports track the environmental progress of the mitigation site and are necessary to track environmental changes at mitigation sites to ensure success of the mitigation site.*
  - *Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A-260 (3)(i-ii) WAC, Chapter 173-201A-300 WAC and Chapter 173-225-010 WAC.*

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 Lopez Landing Partners LLC for the Lopez Landing 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. **21118** will remain valid for the duration of the associated DA permit. Lopez Landing Partners LLC should send a copy of the final DA permit to [fednotification@ecy.wa.gov](mailto: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:

Chris Luerkens  
Department of Ecology  
(360) 410-4807  
[Chris.luerkens@ecy.wa.gov](mailto:Chris.luerkens@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>

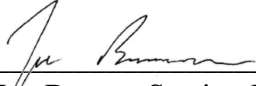
WQC Order # 21118, Corps No. NWS-2021-221

Aquatics No. 140174

April 20, 2022

Page 5 of 5

**SIGNATURE**



---

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

4/20/2022