



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

*Northwest Regional Office • PO Box 330316 • Shoreline, Washington 98133-9716 • (206) 594-0000  
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May 10, 2022

Connie Emerson  
9805 NE 116th St, #7484  
Kirkland, WA 98034

Re: Water Quality Certification Order No. **21093** for Corps Reference No. **NWS-2021-0992**,  
Emerson Short Plat Project, City of Kirkland, King County, Washington

Dear Connie Emerson:

On November 26, 2021, PACE Engineers, on behalf of Connie Emerson, submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Emerson Short Plat Project in the City of Kirkland, King 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 Neil Molstad at [neil.molstad@ecy.wa.gov](mailto:neil.molstad@ecy.wa.gov) or (425) 389-5549. 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  
Shorelands and Environmental Assistance Program  
Northwest Regional Office

Sent via email: [emersonconnie@icloud.com](mailto:emersonconnie@icloud.com)

Emerson Short Plat Project

Aquatics No. **21093**, Corps No. **NWS-2021-0992**

May 10, 2022

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E-cc: Eilean Davis, PACE Engineers  
Colleen Anderson, U.S. Army Corps of Engineers  
Martin Fox, Muckleshoot Tribe  
Rebekah Padgett, Department of Ecology  
Loree' Randall, Department of Ecology  
ECYREFEDPERMITS@ecy.wa.gov – Aquatics No. 141237

<b>IN THE MATTER OF GRANTING A</b>	) <b>ORDER No. 21093</b>
<b>WATER QUALITY CERTIFICATION TO</b>	) <b>Corps Reference No. NWS-2021-0992</b>
Connie Emerson	) <i>Emerson Short Plat Project, Impacts to a</i>
pursuant to 33 U.S.C. 1341 (FWPCA §	) <i>Wetland located in the East Lake Washington</i>
401), RCW 90.48.120, RCW 90.48.260	) <i>Watershed, City of Kirkland, King County,</i>
and Chapter 173-201A WAC	) <i>Washington</i>

Connie Emerson  
9805 NE 116<sup>th</sup> Street, #7484  
Kirkland, WA 98034

On November 26, 2021, PACE Engineers, on behalf of Connie Emerson (the Project Proponent), submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Emerson Short Plat Project, City of Kirkland, King County, Washington. The following required processing dates are referenced below:

- On November 23, 2021, the U.S. Army Corps of Engineers (Corps) notified the Washington State Department of Ecology (Ecology) that they are reviewing the project for authorization under Nationwide Permit No. 29, which requires an individual WQC from Ecology.
- On December 21, 2021, Ecology issued a public notice for the project.

This project proposes to divide an existing parcel into three smaller parcels and construct two residences on each of the two new parcels created by the division. The proposed project will result in impacts to 0.016 acres of Category IV wetland.

The project site is located at 12522 Holmes Point Drive NE, within the East Lake Washington Watershed, City of Kirkland, King County, Washington, Section 26, Township 26 N., Range 04 E., within Water Resource Inventory Area (WRIA) 8 (Cedar/Sammamish).

With this Order, Ecology is granting Connie Emerson's request for a Section 401 Water Quality Certification for the Emerson Short Plat Project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on November 26, 2021, and the supporting documentation described in the Special Conditions section below.

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, the Project Proponent 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 Project Proponent 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 Connie Emerson from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

### **Special Conditions: Wetland Compensatory Mitigation**

1. The Project Proponent shall mitigate wetland impacts as described in the *Emerson Short Plat Project Bank Use Plan* (hereafter called the "Mitigation Plan") dated March 18, 2022 and submitted to Ecology on March 21, 2022.
  - *Justification - Alteration of water quality necessitates the use of mitigation as a method of controlling pollution. When mitigation is provided, the impacts are not considered significant enough to water quality, at least in the long-term. The water quality standards, along with mitigation, protect wetlands as well as permitting some level of degradation where unavoidable or necessary.*
  - *Citation – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, 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.*
2. The Project Proponent shall submit any proposed changes to to the Mitigation Plan in writing to Ecology for review before implementing the changes.
  - *Justification –When mitigation is provided, the water quality impacts are offset and not considered significant, at least in the long-term. Changes to impacts or mitigation must be considered when evaluating mitigation adequacy.*
  - *Citation – 33 CFR 332, 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 WAC 173-201A-300 WAC, and Chapter 173-225-010 WAC.*
3. Prior to impacting wetlands, the Project Proponent shall submit to Ecology documentation from the bank sponsor verifying the purchase of 0.014 wetland mitigation bank credits (credits) from the Keller Farm Mitigation Bank. This documentation must include the Ecology Order Number, Order issuance date, impact acreage, the amount of credits required by the Order, and date of credit purchase.
  - *Justification - This condition is necessary to ensure the compensatory mitigation was actually provided by the bank.*
  - *Citation – 33 CFR 332, 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.*

4. Unless otherwise authorized by this WQC Order, the Project Proponent shall complete the purchase of credits before impacting wetlands or Ecology could use its discretionary authority to require the Project Proponent to provide additional compensation to account for additional temporal loss of wetland functions.
  - *Justification - Mitigation that is not emplaced concurrent with impacts will result in degradation of existing beneficial uses of the wetlands affected by the proposed action through temporal loss of functions.*
  - *Citation – 33 CFR 332, 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.*
5. If the Project Proponent has not purchased credits or completed the Emerson Short Plat project within 13 months of the date of this Order, the Project Proponent shall inform Ecology, in writing, of the status of
  - a) The Emerson Short Plat Project
  - b) When bank credits will be purchased

With the:

- c) Reason for the delay
- d) Expected date of completion

The Project Proponent shall submit an updated written notification every 12 months thereafter until the Emerson Short Plat Project is complete and the required credits are purchased.

- *Justification - Mitigation that is not emplaced concurrent with impacts will result in degradation of existing beneficial uses of the wetlands affected by the proposed action through temporal loss of functions.*
- *Citation – 33 CFR 332, 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), 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 Connie Emerson for the Emerson Short Plat 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. 21093 will remain valid for

the duration of the associated DA permit. Connie Emerson or their project representative 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**

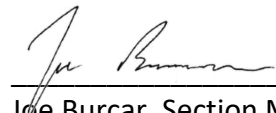
Please direct all questions about this Order to:

Neil Molstad  
Department of Ecology  
PO Box 330316  
Shoreline, WA 98133-9716  
[neil.molstad@ecy.wa.gov](mailto: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



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

5/10/2022

Date