



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Southwest Region Office
PO Box 47775, Olympia, WA 98504-7775 • 360-407-6300

June 30, 2022

Quail Reserve III, LLC
ATTN: Jon Girod
4501 NE Minnehaha Street
Vancouver, WA 98661

Re: Water Quality Certification Order No. 21220 for Corps Reference No. NWS-2021-0718,
Quail Reserve III, Battle Ground, Clark County, Washington

Dear Jon Girod:

On January 3, 2022, Quail Reserve III, LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Quail Reserve III Project in Battle Ground, Clark 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 Lori Kingsbury at Lori.kingsbury@ecy.wa.gov. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Maria Sandercock, Acting Section Manager
Shorelands and Environmental Assistance Program
Southwest Region Office

Enclosure

Quail Reserve III
Aquatics No. 141331
Corps No. NWS- 2021-0718
June 30, 2022
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ec: Jim Carsner, U.S. Army Corps of Engineers
Kevin Grosz, Olson Environmental, LLC
Loree' Randall, Ecology
Lori Kingsbury, Ecology
Lori White, Ecology
ECYREFEDPERMITS@ecy.wa.gov – Aquatics No. 141331

IN THE MATTER OF GRANTING A) ORDER No. 21220
WATER QUALITY CERTIFICATION TO) Corps Reference No. NWS-2021-718
Quail Reserve III, LLC) Quail Reserve III, within Wetlands, Battle
pursuant to 33 U.S.C. 1341 (FWPCA §) Ground, Clark County, Washington
401), RCW 90.48.120, RCW 90.48.260 and)
Chapter 173-201A WAC)

Quail Reserve III, LLC
Attn: Jon Girod
4501 NE Minnehaha Street
Vancouver, WA 98661

On January 3, 2022, Quail Reserve III, LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Quail Reserve III project in Battle Ground, Clark County, Washington. The following required processing dates are referenced below:

- On March 4, 2022, Quail Reserve III, LLC submitted a revised Request for a 401 Water Quality Certification.
- On March 7, 2022, 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 and requires an individual Section 401.
- Within the March 7, 2022 e-mail, the Corps also provided the “Reasonable Period of Time” (deadline) for the WQC of July 5, 2022.
- On March 15, 2022, Ecology issued a public notice for the project.

This project proposes to construct a six-lot single family residential short plat with associated infrastructure on an approximately 3.25-acre site.

The project will directly impact 0.49- acres and indirectly impact approximately 1-acre of Category III wetlands. Mitigation to compensate for wetland impacts will be through the purchase of 0.99 credits from Terrace Mitigation Bank.

The project site is located at 2402 SE 12th Street, Battle Ground, Clark County, Washington, 98604; SW Quarter of Section 1, Township 3 North, and Range 2 East; within Water Resource Inventory Area (WRIA) 28, Salmon-Washougal.

With this Order, Ecology is granting Quail Reserve III, LLC request for a Section 401 Water Quality Certification for the Quail Reserve III project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on January 3, 2022, and the following supporting documentation:

1. Revised 401 Request received on March 4, 2022.

2. *Quail Reserve III Final Wetland Mitigation Plan*, Battle Ground, Washington, prepared by Olson Environmental, LLC, dated June 2, 2022.

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, Quail Reserve III, 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 Quail Reserve III, 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 Quail Reserve III, LLC 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. Quail Reserve III, LLC shall mitigate wetland impacts as described in *Quail Reserve III Final Wetland Mitigation Plan*, Battle Ground, Washington, prepared by Olson Environmental, LLC, dated June 2, 2022 (hereafter called the "Mitigation Plan") as identified in Condition 2 above, or as required by this Order.
 - *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. Quail Reserve III, LLC shall submit any proposed changes 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, Quail Reserve III, LLC shall submit to Ecology documentation from the bank sponsor verifying the purchase of 0.99 wetland mitigation bank credits (credits) from the Terrace 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, Quail Reserve III, LLC shall complete the purchase of credits before impacting wetlands or Ecology could use its discretionary authority to require Quail Reserve III, LLC 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 Quail Reserve III, LLC has not purchased credits within 13 months of the date of this Order, the Project Proponent shall inform Ecology, in writing, of the status of:
 - a. Quail Reserve III
 - b. When bank credits will be purchasedWith the:
 - c. Reason for the delay
 - d. Expected date of completion

Quail Reserve III, LLC shall submit an updated written notification every 12 months thereafter until the Quail Reserve III 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.*

6. Quail Reserve III, LLC obligation to compensate for wetland impacts under Condition 1 of this section is not met until Quail Reserve III, LLC has received written notice from Ecology that the obligation is met.
- *Justification - If the mitigation site is not meeting all compensatory mitigation conditions then the water quality impacts will not be offset by the mitigation.*
 - *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.*

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 Quail Reserve III, LLC for Quail Reserve III 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. 21220 will remain valid for the duration of the associated DA permit. Quail Reserve III, 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, Suite 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 98504-47775
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>

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SIGNATURE



Maria Sandercock, Acting Section Manager
Shorelands and Environmental Assistance Program
Southwest Region Office
Department of Ecology

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Date