



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

September 1, 2022

Olympic Pipeline Company LLC
Attn: Ernest H. Falcon
600 SW 39th Street, Suite 275
Renton, Washington, 98057

Re: Water Quality Certification Order No. **21068** for Corps Reference No. **201900825**,
Colony Creek MP 28.35 Pipeline Relocation Project, Skagit County, Washington

Dear Mr. Falcon:

On February 11, 2022, Olympic Pipeline Company LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Colony Creek MP 28.35 Pipeline Relocation Project, Skagit 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 Kerry Carroll at (360) 407-7503. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

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

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Enclosure

E-cc: Danette Guy, U.S. Army Corps of Engineers

Loree' Randall, Ecology

Kerry Carroll, Ecology

Chris Luerkins, Ecology

ECYREFEDPERMITS@ecy.wa.gov – Aquatics No. 137738



IN THE MATTER OF GRANTING A WATER) ORDER No. 21068
QUALITY CERTIFICATION TO) Corps Reference No. 201900825
Olympic Pipeline Company LLC) *Colony Creek MP 28.35 Pipeline Relocation*
pursuant to 33 U.S.C. 1341 (FWPCA) *Project located within Colony Creek , Bow,*
§ 401), RCW 90.48.120, RCW 90.48.260) *Skagit County, Washington*
and Chapter 173-201A WAC)

Olympic Pipeline Company LLC
Attn: Ernest H. Falcon
600 SW 39th Street, Suite 275
Renton, Washington, 98057

On February 11, 2022, Olympic Pipeline Company LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Colony Creek MP 28.35 Pipeline Relocation Project, Skagit County, Washington. The following processing dates are referenced below:

- On February 25, 2022 Ecology issued a public notice for the project.
- On March 24, 2022, the U.S. Army Corps of Engineers (Corps) notified Ecology that they are reviewing the project for authorization under Nationwide Permit #12.
- On March 25, 2022, Ecology responded to the Corps that an individual Section 401 is required.

This project proposes to cut out and replace a portion of the existing petroleum products pipeline, install scour protection, bank protection, large woody material and engineered streambed material features in the channel to protect the pipeline, and stabilize the upstream and downstream banks. Mitigation will consist of the purchase of .01 credits from the Nookachamps wetland mitigation bank and site restoration will occur once the work is complete.

The project site is located near Wood Road in Colony Creek, Skagit County, Washington, Section 25, 26, Township 36 N., Range 3E, within Water Resource Inventory Area (WRIA) 1, Nooksack.

With this Order, Ecology is granting Olympic Pipeline Company LLC's request for a Section 401 Water Quality Certification for the Colony Creek MP 28.35 Pipeline Relocation project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments that Ecology received on February 11, 2022.

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, Olympic Pipeline Company 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 Olympic Pipeline Company 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.

Special Condition:

1. Prior to impacting wetlands, the Project Proponent shall submit to Ecology documentation from the bank sponsor verifying the purchase of credits as specified in the Wetland Mitigation and Bank Use Plan dated February 9, 2022. 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, RCW 47.85.040, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300 and WAC 173-225-010 .*

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 Olympic Pipeline Company LLC for the Colony Creek MP 28.35 Pipeline Relocation 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. 21068 will remain valid for the duration of the associated DA permit. Olympic Pipeline Company 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. The appeal process is governed by RCW 43.21B and WAC 371-08. “Date of receipt” is defined in RCW 43.21B.001(2). More information is available at www.eluho.wa.gov.

To appeal, you must do all of the following within 30 days of the date of receipt of this Order:

- File your notice of appeal and a copy of this Order with the PCHB (see filing options below). “Filing” means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. “Notice of appeal” is defined in WAC 371-08-340.

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- Serve a copy of your notice of appeal and this Order on the Department of 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 RCW 43.21B and WAC 371-08.

Filing an appeal with the PCHB:

For the most current information regarding filing with the PCHB, visit:

www.eluho.wa.gov/content/11

Filing by mail

Mailing Address:

Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

Filing in person (or by certified mail/courier)

Street Address:

Pollution Control Hearings Board
1111 Israel RD SW
STE 301
Tumwater, WA 98501

Filing electronically

Email address:

pchb-shbappeals@eluho.wa.gov

Serving a copy of the appeal on Ecology:

Electronic copies of appeals are not accepted at the Department of Ecology per WAC 371-08-305(10).

Filing by mail

Mailing Address:

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

Filing in person (or by certified mail/courier)

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:

Kerry Carroll
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
kerry.carroll@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



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

September 1, 2022

Date