



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Region Office
PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

November 30, 2022

Komodo Properties LLC
ATTN: Shyam Ayengar
5329 164th Ave NE
Bellevue, WA 98006

**Re: Section 401 Water Quality Certification Denial without Prejudice, Order No. 21472,
U.S. Army Corps of Engineers (Corps) Reference No. NWS-2021-1027, Burien Komodo
Property, King County, Washington**

Dear Shyam Ayengar:

On December 7, 2021, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification for the above-referenced project. Ecology has one year from the Section 401 Water Quality Certification request to issue its decision.

At this time Ecology has not received the necessary information to have reasonable assurance that the project will meet state water quality laws. Therefore, pursuant to Section 401 of the Clean Water Act, Chapter 90.48 RCW, and Chapter 173-201A WAC, Ecology is denying without prejudice Komodo Properties LLC request for a Section 401 Water Quality Certification. Receipt of a denial without prejudice does not preclude you from submitting a new request for a Section 401 Water Quality Certification at a later date.

If you have any questions, please contact Leah Beckett at (425) 324-5590 or Leah.Beckett@ecy.wa.gov. The Enclosed Order may be appealed by following the procedures described in the Order.

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 e-mail: sayengar@gmail.com

WQ Order No. 21472, Corps No. NWS-2021-1027
Aquatics ID No. 141170
November 30, 2022
Page 2 of 2

Enclosure (1)

E-cc: James Carsner, U.S. Army Corps of Engineers
Ben Wright, Soundview Consultants, LLC
Loree' Randall, Ecology
Leah Beckett, Ecology
ECYREFEDPERMITS@ecy.wa.gov



IN THE MATTER OF DENYING SECTION)	ORDER No. 21472
401 WATER QUALITY CERTIFICATION TO)	Corps Reference No. NWS-2021-1027
Komodo Properties LLC)	Burien Komodo Property, King County,
in accordance with 33 U.S.C. 1341)	Washington
(FWPCA § 401), RCW 90.48.260 and)	
Chapter 173-201A WAC)	

Komodo Properties LLC
ATTN: Shyam Ayengar
5329 164th Ave NE
Bellevue, WA 98006

On December 7, 2021, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification (WQC) via a Joint Aquatic Resources Permit Application (JARPA) for the above-referenced project. Ecology has one year from the receipt of the request for a WQC to issue its decision.

On November 3, 2022, Ecology sent you an e-mail and letter explaining that we needed the following:

- Updated wetland and stream mitigation plan reflecting changes in wetland ratings (updated wetland rating forms), updated wetland and stream buffer sizes, mitigation methods and acreage. Ecology recommends that we have a call to discuss the mitigation plan in order to ensure that it provides the information that Ecology needs.
- Water Quality Monitoring and Prevention Plan (WQMPP) that addresses all in-water work.
- SEPA Determination from the City of Burien
- Dewatering Plan, if applicable

Without this information, there is not reasonable assurance that the project will meet state water quality laws. With the statutory deadline approaching, Ecology must deny the WQC at this time. Therefore, pursuant to Section 401 of the Clean Water Act, Chapter 90.48 RCW and Chapter 173-201A WAC, Burien Komodo Property request for a WQC is denied without prejudice.

Receipt of a denial without prejudice does not preclude you from submitting the information identified above with a new request for a WQC at a later date.

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 <https://eluhwa.wa.gov/content/11>.

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.
- 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:
<https://eluhwa.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 980501

Filing electronically

E-mail Address:

pchb-shbappeals@eluhwa.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

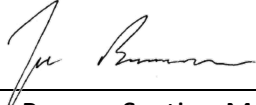
WQ Order No. 21472, Corps No. NWS-2021-1027

Aquatics ID No. 141170

November 30, 2022

Page 3 of 3

Signature



11/30/2022

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

November 30, 2022