



**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY**

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

December 23, 2022

214-WLD Carrik Court, LLC  
Attn: Kristi Kyle  
1010 Market Street  
Kirkland, WA 98033

**RE: Section 401 Water Quality Certification Denial without Prejudice, Order No. 21493, U.S. Army Corps of Engineers Public Notice No. NWS-2022-29, Carrick Court, Snohomish County, Washington**

Dear Kristi Kyle:

On January 4, 2022, the Department of 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 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 214-WLD Carrik Court, LLC's 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 Doug Gresham at (425) 429-1846. 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  
Northwest Regional Section Manager  
Shorelands and Environmental Assistance Program

*Kristi Kyle*  
*December 23, 2022*  
*Page 2 of 2*

Sent via e-mail: [kkyle@westcotthomes.com](mailto:kkyle@westcotthomes.com)

Enclosure

E-cc: Kelly Werdick, U.S. Army Corps of Engineers  
Linda Ritter, City of Mukilteo  
Ashley Kees, WDFW  
Mark Merkelbach, Green Earth Operations  
Matt Hough, CPH Consultants  
Doug Gresham, Ecology  
Loree' Randall, Ecology  
[ECYREFEDPERMITS@ecy.wa.gov](mailto:ECYREFEDPERMITS@ecy.wa.gov) – Aquatics No. 141335

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|--|---|--|
| <b>IN THE MATTER OF GRANTING A WATER</b> | ) | <b>ORDER No. 21493</b>                       |
| <b>QUALITY CERTIFICATION TO</b>          | ) | <b>Corps Reference No. NWS-2022-29</b>       |
| 214-WLD Carrik Court, LLC                | ) | Carrick Court, Snohomish County, Washington. |
| in accordance with 33 U.S.C. 1341        | ) |  |
| (FWPCA § 401), RCW 90.48.120,            | ) |  |
| RCW 90.48.260 and Chapter                | ) |  |
| 173-201A WAC                             | ) |  |

214-WLD Carrik Court, LLC  
Attn: Kristi Kyle  
1010 Market Street  
Kirkland, WA 98033

On January 4, 2022, the Department of Ecology (Ecology) received a Joint Aquatic Resource Permit Application (JARPA) requesting a Section 401 Water Quality Certification (WQC) for the above-referenced project. Ecology has one year from the Section 401 Water Quality Certification request to issue its decision.

In an email sent December 6, 2022, Ecology explained that we needed several documents for the project prior to issuing a WQC. This includes revised design drawings, a revised mitigation plan, a water quality monitoring plan, SEPA determination, and a Notice of Intent to obtain a Construction Stormwater General Permit. Because these documents will not be provided before our January 4, 2023, deadline, Ecology does not have the necessary information to issue a WQC.

Without this information, there is not 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, 214-WLD Carrik Court LLC's 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://elaho.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.

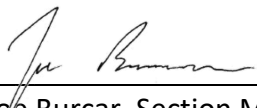
- Serve a copy of your notice of appeal and this Order on the Department of Ecology, in paper form, by mail or in person (see addresses below). E-mail is not accepted.

You must also comply with other applicable requirements in RCW 43.21B and WAC 371-08.

#### ADDRESS AND LOCATION INFORMATION

| Street Addresses  | Mailing Addresses  |
|---|--|
| <b>Department of Ecology</b><br>Attn: Appeals Processing Desk<br>300 Desmond Drive SE<br>Lacey, WA 98503<br><br><b>Pollution Control Hearings Board</b><br>1111 Israel RD SW, Suite 301<br>Tumwater, WA 98501 | <b>Department of Ecology</b><br>Attn: Appeals Processing Desk<br>PO Box 47608<br>Olympia, WA 98504-7608<br><br><b>Pollution Control Hearings Board</b><br>PO Box 40903<br>Olympia, WA 98504-0903 |

#### SIGNATURE

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

December 23, 2022

\_\_\_\_\_  
Date