



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

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

March 2, 2023

WA Department of Transportation  
ATTN: Jeff Sawyer  
PO Box 47440  
Olympia, WA 98504-7440

Re: Water Quality Certification Order No. **21619** (Corps No. **NWS-2021-0798-DOT-A**), SR 104  
Shine Creek – Fish Barrier Removal, Jefferson County, Washington

Dear Jeff Sawyer:

On January 31, 2023, the WA Department of Transportation (WSDOT) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the SR 104 Shine Creek – Fish Barrier Removal project in Jefferson 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 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 Penny Kelley at 360-280-8856. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brenden", is written over a horizontal line.

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

By certified mail 9489 0090 0027 6383 9289 68

WQC Order No. 21619, Corps No. 202100798-DOT-A  
Aquatics ID No. 140243  
March 2, 2023  
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Sent via e-mail: sawyerj@wsdot.wa.gov

Enclosure

E-cc: Susan Buis, U.S. Army Corps of Engineers  
Tara Stone, WSDOT  
Penny Kelley, Ecology  
Caroline, Corcoran, Ecology  
Loree' Randall, Ecology  
ECYREFEDPERMITS@ecy.wa.gov

<b>IN THE MATTER OF GRANTING A</b>	)	<b>WQC ORDER No. 21619</b>
<b>WATER QUALITY CERTIFICATION TO</b>	)	<b>Corps Reference No. NWS-2021-0798-DOT-A</b>
WA Department of Transportation	)	<i>Replace an existing culvert with a larger, fish</i>
pursuant to 33 U.S.C. 1341 (FWPCA §	)	<i>passable culvert on SR 104, MP 10.36 on Shine</i>
401), RCW 90.48.120, RCW 90.48.260 and	)	<i>Creek in Jefferson County, Washington</i>
Chapter 173-201A WAC	)	

WA Department of Transportation  
Attn: Jeff Sawyer  
PO Box 47440  
Olympia, WA 98504-7440

On January 30, 2023, the WA Department of Transportation (WSDOT) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the SR 104 Shine Creek – Remove Fish Barrier in Jefferson County, Washington. The following required processing dates are referenced below:

- On December 29, 2022, the WSDOT submitted a pre-filing meeting request.
- On January 31, 2023, WSDOT submitted additional information, and the Department of Ecology (Ecology) considered the Request valid on this date.

This project proposes to replace an existing 5 foot wide by 147-foot-long round metal culvert with a new 3-sided concrete box culvert (18 feet wide by 17 feet tall by 127 feet long). To remove the existing culvert and install the new one, a temporary detour lane and bridge will be constructed to shift traffic. The creek will be diverted around the work area utilizing a temporary bypass system and creating an isolated work area. Once the old culvert has been removed and the new one installed, the streambed materials will be placed, and the stream regraded to tie in with existing elevations on either side of the new structure. Large woody material will be placed in and on the banks of the creek to create habitat and disturbed areas will be seeded and planted.

The project site is located on SR 104 at milepost 10.36 in Jefferson County, Washington, Section 32, Township 28N., Range 1E WM., within Water Resource Inventory Area (WRIA) 17 – Quilcene-Snow.

With this Order, Ecology is granting WSDOT's request for a Section 401 Water Quality Certification for the SR 104 Shine Creek Fish Barrier Removal project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on January 30, 2023. 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, WSDOT 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 WSDOT 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.

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 WSDOT for the SR 104 Shine Creek Fish Barrier Removal 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. WQC Order No. **21619** will remain valid for the duration of the associated DA permit. WSDOT 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. 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://eluhho.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.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**

##### **E-mail Address:**

[pchb-shbappeals@eluhwa.gov](mailto:pchb-shbappeals@eluhwa.gov)

### **Serving a copy of the appeal on Ecology:**

Electronic copies of appeals are not accepted at the Department 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:


Penny Kelley  
Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600  
[penny.kelley@ecy.wa.gov](mailto:penny.kelley@ecy.wa.gov)

### **More Information**

- **Pollution Control Hearings Board Website**  
<http://www.eluhwa.gov/content/11>
- **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 & Transportation Section  
Shorelands and Environmental Assistance Program

March 2, 2023

Date