



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

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

March 14, 2023

Vector Development  
Attn: Tyler Litzenberger  
11335 NE 122<sup>nd</sup> Way, Suite 105  
Kirkland, WA 98034

Re: Section 401 Water Quality Certification Denial without Prejudice, Order No. **21641**, U.S. Army Corps of Engineers (Corps) Reference No. NWS-2021-727, Emerald Logistics, King County, Washington

Dear Tyler Litzenberger:

On March 29, 2022, 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 needed to assure that the discharges from the project will meet state water quality laws and requirements. Therefore, pursuant to Section 401 of the Clean Water Act, Chapter 90.48 RCW, and Chapter 173-201A WAC, Ecology is denying without prejudice Vector Development'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, starting with a pre-filing meeting request at a later date.

If you have any questions, please contact Leah Beckett at (425) 324-5590 or [leah.beckett@ecy.wa.gov](mailto: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 Region Office

By Certified Mail: 9171 9690 0935 0233 1189 51

WQC Order No. 21641, Corps No. NWS-2021-727  
Aquatics ID No. 140888  
March 14, 2023  
Page 2 of 2

Sent via e-mail: [tlitz@vectorrecorp.com](mailto:tlitz@vectorrecorp.com)

Enclosure (1)

E-cc: Jennifer Lang, U.S. Army Corps of Engineers  
Martin Fox, Muckleshoot Tribe  
Kelsey Payne, Snoqualmie Tribe  
Alexandria Teague, City of Auburn  
Julian Douglas, WDFW  
Eva Barber, Department of Ecology  
Leah Beckett, Department of Ecology  
Loree' Randall, Department of Ecology  
Lori White, Department of Ecology  
[ECYREFEDPERMITS@ecy.wa.gov](mailto:ECYREFEDPERMITS@ecy.wa.gov)

**IN THE MATTER OF DENYING SECTION  
401 WATER QUALITY CERTIFICATION TO**  
Vector Development  
in accordance with 33 U.S.C. 1341  
(FWPCA § 401), RCW 90.48.260 and  
Chapter 173-201A WAC

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**ORDER No. 21641**  
**Corps Reference No. NWS-2021-727**  
Emerald Logistics, King County, Washington

Vector Development  
Attn: Tyler Litzenberger  
11335 NE 122<sup>nd</sup> Way, Suite 105  
Kirkland, WA 98034

On March 29, 2022, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification (WQC) for the above-referenced project. Ecology has one year from the receipt of the request for a WQC to issue its decision.

On February 22, 2023, Ecology sent you an email explaining that in order for us to complete our review we needed a State Environmental Policy Act<sup>1</sup> (SEPA) Threshold Determination.

This information is required before Ecology can determine if a project will comply with state laws and water quality requirements<sup>2</sup>. 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, Vector Development'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://eluh.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.

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<sup>1</sup> Chapter 43.21C RCW, Chapter 173-802 WAC, Chapter 197-11 WAC

<sup>2</sup> Chapter 90.48 RCW, Chapter 173-201A WAC, WAC 173-201A-300

- 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 980501

**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 of Ecology per WAC 371-08-305(10).

**Filing by mail**

**Mailing Address:**

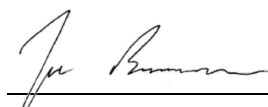
Department of Ecology  
Attn: Appeals Processing Desk  
PO Box 47608  
Olympia, WA 98504-7608

**Filing in person (or by certified mail/courier)**

**Street Address:**

Department of Ecology  
Attn: Appeals Processing Desk  
300 Desmond Drive SE  
Lacey, WA 98503

**Signature**



3/14/2023

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

Date