



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

March 15, 2023

WA Department of Transportation
ATTN: John Lefotu
777 108th Ave NE, Suite 800
Bellevue, WA 98004

Re: Water Quality Certification Order No. **21638** (Corps No. **NWS-2017-0166-DOT**), I-405 I-90 to NE 6th Express Toll Lanes in King County, Washington

Dear John Lefotu:

On February 15, 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 I-405 I-90 to NE 6th Express Toll Lanes in King 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,

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

By certified mail 9489 0090 0027 6383 9288 90

WQC Order No. 21638, Corps No. NWS-2017-0166-DOT
Aquatics ID No. 135783
March 15, 2023
Page 2 of 2

Sent via e-mail: lefotul@wsdot.wa.gov

Enclosure 1

E-cc: Jennifer Lang, U.S. Army Corps of Engineers
Sandi Manning, U.S. Army Corps of Engineers
Jeffrey Longstead
Rob Thomas, WSDOT
Loree' Randall, Ecology
Penny Kelley, Ecology
ECYREFEDPERMITS@ecy.wa.gov

IN THE MATTER OF GRANTING A)	WQC ORDER No. 21638
WATER QUALITY CERTIFICATION TO)	Corps Reference No. NWS-2017-0166-DOT
WA Department of Transportation)	<i>Construct new express toll lanes in each</i>
pursuant to 33 U.S.C. 1341 (FWPCA §)	<i>direction on I-405 near the Renton/Bellevue area</i>
401), RCW 90.48.120, RCW 90.48.260 and)	<i>in King County, Washington</i>
Chapter 173-201A WAC)	

WA Department of Transportation
 Attn: John Lefotu
 777 108th Ave NE, Suite 800
 Bellevue, WA 98004

WA Department of Transportation (WSDOT) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the I-405 I-90 to NE 6th Express Toll Lanes in King County, Washington. The following required processing dates are referenced below:

- On January 13, 2023, WSDOT submitted a pre-filing meeting request.
- On February 15, 2023, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On February 23, 2023, Ecology issued a public notice for the project.

This project proposes to construct new northbound and southbound express toll lanes on I-405, starting at I-90 Interchange (milepost 11.9) and extending to NE 6th Street (milepost 14.6). Additional road improvements include:

- Widening the I-405 overpass for SE 8th Street (milepost 12.78)
- Reconstructing the Main Street Bridge over I-405 (milepost 13.31)
- Constructing new overpass structures and sections of trail for the Eastside Rail Corridor/Regional Trail (milepost 12.09 to milepost 12.49)

Road construction also entails stormwater management improvements as well as paving, re-striping, and signal work. Compensatory mitigation will be provided for all unavoidable wetland impacts.

The project site is located at I-405 from I-90 (milepost 11.9) to NE 6th Street (milepost 14.6) in King County, Washington, Section 4, Township 24N, Range 5E and Section 32, 33, 29, Township 25N, Range 5E., within Water Resource Inventory Area (WRIA) 8, Lake Washington/Cedar/Sammamish.

With this Order, Ecology is granting WSDOT's request for a Section 401 Water Quality Certification for the I-405 I-90 to NE 6th Express Toll Lanes project, provided that the activity is

conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on February 15, 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 I-405 I-90 to NE 6th Express Toll Lanes 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. **21638** 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 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://eluhho.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

E-mail Address:

pchb-shbappeals@eluhho.wa.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 Order to:

Penny Kelley
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
penny.kelley@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
<http://www.eluhho.wa.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 and Transportation Section
Shorelands and Environmental Assistance Program
Department of Ecology

March 15, 2023

Date