



**STATE OF WASHINGTON**  
**DEPARTMENT OF ECOLOGY**

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

April 24, 2023

WA Department of Transportation  
ATTN: Mark Stamey  
1019 Andis Road  
Burlington, WA 98233

Re: Water Quality Certification Order No. **21697** (Corps No. **NWS-2021-0902-DOT**), SR 534  
Tributary to Carpenter Creek Fish Passage, Skagit County, Washington

Dear Mark Stamey:

On March 15, 2023, the WA Department of Transportation submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the SR 534 Tributary to Carpenter Creek Fish Passage project in Skagit 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 McFarland", is written over a horizontal line.

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

Enclosure 1

By certified mail: 9489 0090 0027 6383 9287 84

WQC Order No. 21697, Corps No. NWS-2021-0902-DOT  
Aquatics ID No. 141110  
April 25, 2023  
Page 2 of 2

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

E-cc: Jennifer Lang, U.S. Army Corps of Engineers  
Sam Merrick, WSDOT  
Loree' Randall, Ecology  
Penny Kelley, Ecology  
Caroline Corcoran, Ecology  
ECYREFEDPERMITS@ecy.wa.gov

<b>IN THE MATTER OF GRANTING A</b>	)	<b>WQC ORDER No. 21697</b>
<b>WATER QUALITY CERTIFICATION TO</b>	)	<b>Corps Reference No. NWS-2021-0902-DOT</b>
WA Department of Transportation	)	SR 534 Tributary to Carpenter Creek Fish
pursuant to 33 U.S.C. 1341 (FWPCA §	)	Passage; replacing two culverts on a tributary to
401), RCW 90.48.120, RCW 90.48.260 and	)	Carpenter Creek in Skagit County, Washington
Chapter 173-201A WAC	)	

WA Department of Transportation  
Attn: Mark Stamey  
1019 Andis Road  
Burlington, WA 98233

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 534 Tributary to Carpenter Creek Fish Passage in Skagit County, Washington. The following required processing dates are referenced below:

- On October 13, 2021, WSDOT submitted a pre-filing meeting request.
- On March 15, 2023, Ecology received a request for Clean Water Section 401 Water Quality Certification
- On March 16, 2023, Ecology issued a public notice for the project.

This project proposes to replace to fish barrier culverts on a tributary to Carpenter Creek as it flows under SR 534; one culvert will be replaced with a new box concrete culvert and the other will be removed to allow daylighting the stream into a newly constructed stream channel. The new stream will cross over an existing liquid petroleum pipeline corridor located 8' below the ground. The pipeline will not be touched by this project. An existing stormwater outlet will be reconfigured to discharge above the proposed OHWM of the creek to allow continued existing highway drainage patterns.

The project will result in impacts to existing wetlands as the new stream channel will be realigned to flow through the existing wetland. The design of the project creates a stream/wetland complex that results in improved aquatic habitat and functions: connecting the stream to the wetland hydrologically through adjusted elevations along the channel, installing large woody debris that creates pool habitat in the creek for fish, planting native woody and emergent vegetation to support stream and wetland habitat, creating depressional areas close to the stream with wood and native species to increase wetland functions. The replacement of these fish barriers with the new culvert and daylighted stream channel will provide access to 1.56 miles of upstream habitat for fish.

The project site is located at on SR 534, starting at milepost 0.49 and ending at milepost 0.69 in Skagit County, Washington, Section 17, 20, Township 33N., Range 3E., within Water Resource Inventory Area (WRIA) 3, Lower Skagit-Samish.

With this WQC Order, Ecology is granting WSDOT's request for a Section 401 Water Quality Certification for the SR 534 Tributary to Carpenter Creek Fish Passage project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on March 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 WSDOT for the SR 534 Tributary to Carpenter Creek Fish Passage 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. **21697** 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 Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21b.001(2).

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 Chapter 43.21B RCW and Chapter 371-08 WAC.

### **Filing an appeal with the PCHB:**

For the most current information regarding filing with the PCHB, visit:  
<https://elaho.wa.gov/content/11>

### **Address and Location Information**

#### **Street Address:**

##### **Department of Ecology**

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

##### **Pollution Control Hearings Board**

1111 Israel RD SW  
STE 301  
Tumwater, WA 98501

#### **Mailing Addresses:**

##### **Department of Ecology**

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

##### **Pollution Control Hearings Board**

PO Box 40903  
Olympia, WA 98504-0903

#### **E-Mail Address:**

##### **Department of Ecology**

Not currently available (see Chapter 371-08 WAC)

##### **Pollution Control Hearings Board**

Pchb-shbappeals@elaho.wa.gov

### **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.eluho.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**



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Brenden McFarland, Section Manager  
Environmental Review and Transportation Section, HQ  
Shorelands and Environmental Assistance Program  
Department of Ecology

April 24, 2023  
Date