



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

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

June 20, 2023

Sound Transit  
ATTN: Becki Kniveton  
401 South Jackson Street  
Seattle, WA 98104-2826

Re: Water Quality Certification Order No. **21556** (Corps No. **201300687**), Federal Way Link Extension, King County, Washington

Dear Becki Kniveton:

On October 4, 2022, Sound Transit submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Federal Way Link Extension, 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 Doug Gresham at [doug.gresham@ecy.wa.gov](mailto:doug.gresham@ecy.wa.gov) or (425) 429-1846. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar", is written over a horizontal line.

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

WQC Order No. 21556, Corps No. 201300687

Aquatics ID No. 136707

June 20, 2023

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Enclosure (1)

By certified mail: 9171 9690 0935 0233 1411 26

Sent via email to: becki.knivetton@soundtransit.org

E-cc: Sandra Manning, U.S. Army Corps of Engineers  
Rebecca McAndrew, Sound Transit  
Dangelei Fox, Sound Transit  
Loree' Randall, Department of Ecology  
Doug Gresham, Department of Ecology  
ECYREFEDPERMITS@ecy.wa.gov

In The Matter of Granting a Water Quality  
Certification to Sound Transit  
pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120,  
RCW 90.48.260 and Chapter 173-201A WAC

Sound Transit  
ATTN: Becki Kniveton  
401 South Jackson Street  
Seattle, WA 98104-2826

<b>WQC Order No.</b>	21556
<b>Corps Reference No.</b>	201300687
<b>Site Location</b>	Federal Way Link Extension located within Federal Way, King County, Washington.

Sound Transit submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Federal Way Link Extension, King County, Washington. The following required processing dates are listed below:

- On 8/24/2022, Sound Transit submitted a pre-filing meeting request.
- On 10/4/2022, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 5/22/2023, the U.S. Army Corps of Engineers (Corps) sent an email notification to Ecology that they are reviewing the project for authorization under Nationwide Permit No. 14 and requires an individual Section 401.
- On 5/22/2023, Ecology issued a public notice for the project.

The Federal Way Link Extension will extend the Sound Transit light rail system from the City of SeaTac to the cities of Des Moines, Kent, and Federal Way in King County. The 7.8-mile alignment extends south from the existing Angle Lake Station in SeaTac, crosses SR 99 in an elevated configuration, and continues south along the west side of I-5. There will be an elevated Kent/Des Moines Station, with the creation of two new streets (South 234th and South 238th), and a 500-space parking garage. At the elevated S. 272nd Star Lake Station there will be a 1,100-space parking garage and portions of 26th Avenue South and 28th Avenue South will be rebuilt. This railway segment will end at an elevated Federal Way Transit Center with a new 400-space parking garage to accommodate additional vehicles.

On 1/16/2020, the Corps initially authorized Sound Transit, to discharge fill in 14 separate wetlands, Bingaman Creek, and the South 249th Place Ditch; while Ecology issued a Letter of Verification for this work on 1/22/2020. On 2/23/2021, the Corps issued a reverification of the project due to project changes, but determined it complied with Ecology requirements. On 9/20/2022, Sound Transit requested a Corps verification of the project under the 2021 Nationwide Permits, since the

work will not be completed by 2/24/2023. Emergency work activities were approved by the Corps on 9/27/2022.

The Ecology public notice issued on 5/22/23, addresses additional impacts to Wetlands WKE-12-1 and WDW-12-4, which include 0.377 acres of direct impacts, 0.483 acres of indirect impacts, and 0.111 acres of long-term temporary impacts. These impacts will be mitigated by purchasing 62.338 additional In-Lieu Fee credits from the King County Mitigation Reserves Program.

The project site is located within the cities of SeaTac, Des Moines, Federal Way, and Kent within King County, Washington. This linear corridor is within: Sections 4, 9, and 16 of Township 21 N. and Range 4 E.; and Sections 4, 9, 10, 15, 16, 21, 22, 28, and 33 of Township 22 N. and Range 4 E. This area is within both Water Resource Inventory Area (WRIA) 9-Duwamish/Green River and WRIA 10-Puyallup/White River basins.

With this WQC Order, Ecology is granting with conditions Sound Transit's request for a Section 401 Water Quality Certification for the Federal Way Link Extension project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 10/4/2022, and the following supporting documentation:

1. Revised JARPA memorandum, dated 2/16/2023, prepared by Sound Transit, and received on 5/2/2023.
2. Wetland data sheets and rating forms for additional wetland impacts, prepared by Shannon & Wilson, and received on 5/2/2023.
3. Revised In-lieu Fee Use Plan, Addendum No. 2, dated 2/16/2023, prepared by Shannon & Wilson, and received on 5/2/2023.

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, Sound Transit 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 Sound Transit 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 Sound Transit from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

**A. Wetland Mitigation Conditions:**

1. The Project Proponent shall mitigate wetland impacts as described in the F200 Federal Way Link Extension (FLWE) Design-Build Project Contract No. RTA/CN 0009-17—In-Lieu Fee Use Plan, Addendum No. 2, prepared by Shannon & Wilson, dated 2/16/2023 (hereafter called the “Mitigation Plan”), or as required by this Order.
  - Justification - Alteration of water quality necessitates the use of mitigation as a method of controlling pollution. When adequate mitigation is provided, the impacts are not considered significant enough to water quality, at least in the long-term. The water quality standards, along with mitigation, protect wetlands as well as permitting some level of degradation where unavoidable or necessary.
  - Citation - 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300, and WAC 173-225-010.
2. The Project Proponent shall obtain a Statement of Sale from the Sponsor as documentation of purchase of 62.338 additional credits for this impact project. The Project Proponent shall submit a copy of the Statement of Sale to Ecology within 60 days of receipt. Documentation from the Sponsor shall include:
  - a. Ecology’s Order number,
  - b. Order issuance date,
  - c. Description of mitigation credits purchased,
  - d. Signatures from the Sponsor and the Applicant.
  - Justification - This condition is necessary to ensure the compensatory mitigation was actually provided by the in-lieu-fee program.
  - Citation – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, RCW 47.85.040, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii) and WAC 173-201A-300.
3. Unless otherwise authorized by this Order, the Project Proponent shall complete the purchase of credits before impacting wetlands. Otherwise, Ecology may require the Project Proponent to provide additional compensation to account for additional temporal loss of wetland functions.
  - Justification - Mitigation that is not emplaced concurrent with impacts will result in degradation of existing beneficial uses of the wetlands affected by the proposed action through temporal loss of functions.

- Citation - 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, RCW 47.85.040 , Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300, and WAC 173-225-010.

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 with conditions to Sound Transit for the Federal Way Link Extension 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. **21556** will remain valid for the duration of the associated DA permit. Sound Transit 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 Addresses:

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

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**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

## **Americans with Disabilities Act Information**

### **Accommodation Requests**

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

## **Contact Information**

Please direct all questions about this WQC Order to:

Doug Gresham

Department of Ecology

Northwest Regional Office

(425) 429-1846

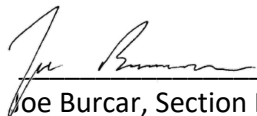
[doug.gresham@ecy.wa.gov](mailto:doug.gresham@ecy.wa.gov)

## 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

Dated this 20<sup>th</sup> day of June 2023, at the Department of Ecology, Shoreline, Washington



Joe Burcar, Section Manager

Northwest Region Office

Shorelands and Environmental Assistance Program