



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

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

June 27, 2023

Whatcom County  
ATTN: Paula Harris  
322 North Commercial Street, Suite 201  
Bellingham, WA 98225

Re: Water Quality Certification Order No. **21908** (Corps No. **NWS-2022-26**), Truck Road Bank Stabilization Phase 2, Whatcom County, Washington

Dear Paula Harris:

On December 23, 2022, Whatcom County submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Truck Road Bank Stabilization Phase 2, Whatcom 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 Sonia Mendoza at (360) 918-1342 or at [Sonia.mendoza@ecy.wa.gov](mailto:Sonia.mendoza@ecy.wa.gov). The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Loree' Randall, Section Manager  
Federal Permitting Section  
Shorelands and Environmental Assistance Program

Enclosure (1)

By certified mail: 9489 0090 0027 6383 9285 86

*WQC Order No. 21908, Corps No. NWS-2022-26*

*Aquatics ID No. 141367*

*June 27, 2023*

*Page 2 of 2*

Sent via e-mail: PHarris@co.whatcom.wa.us

E-cc: Matthew Bennett, U.S. Army Corps of Engineers  
Christina Schoenfelder, Whatcom County Public Works  
Sonia Mendoza, Ecology  
ECYREFEDPERMITS@ecy.wa.gov

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

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Attn: Paula Harris  
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<b>WQC Order No.</b>	21908
<b>Corps Reference No.</b>	NWS-2022-26
<b>Site Location</b>	Truck Road Bank Stabilization Phase 2 located within North Fork Nooksack River, City of Deming, Whatcom County, Washington.

Whatcom County submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Truck Road Bank Stabilization Phase 2, Whatcom County, Washington. The following required processing dates are listed below:

- On 11/21/2022, the Whatcom County submitted a pre-filing meeting request.
- On 12/23/2022, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 1/13/2022 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 require an individual Section 401.
- On 12/28/2022, the U.S. Army Corps of Engineers (Corps) issued a joint public notice.

The Phase 2 project limits will encompass approximately 6.5 acres, including the construction disturbance footprint, areas for construction equipment access, easements, construction staging, and areas to be protected in place. However, the construction disturbance footprint itself will be considerably less (165,724 square feet [3.8 acres]) and the in-water portion of the project represents 51,329 square feet (1.2 acres). Phase 2 project work to be implemented in summer 2023 will include approximately 870 linear feet of road realignment (20 feet paved width with 3 foot gravel shoulders on each side), road prism and damaged revetment repair, removal of 397 cubic yards of excess rock revetment placed along 110 linear feet of river bank in Phase 1 (173 cubic yards to be removed below the ordinary high water mark [OHWM]), in-water large wood and engineered log structures (ELs) installations, and native riparian vegetation planting.

The project site is located at the 5800 and 5900 blocks of Truck Road in the City of Deming, North Fork Nooksack River, Whatcom County, Washington, Section 33, Township 39 N., Range 05 E., within Water Resource Inventory Area (WRIA) 1 - Nooksack.

With this WQC Order, Ecology is granting Whatcom County's request for a Section 401 Water Quality Certification for the Truck Road Bank Stabilization Phase 2 project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 12/23/2022.

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, Whatcom County 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 Whatcom County 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 Whatcom County for the Truck Road Bank Stabilization Phase 2 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. **21908** will remain valid for the duration of the associated DA permit. Whatcom County 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>

### **Address and Location Information**

#### **Street Addresses:**

##### **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

### **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:

Sonia Mendoza  
Department of Ecology  
(360) 918-1342  
[Sonia.Mendoza@ecy.wa.gov](mailto:Sonia.Mendoza@ecy.wa.gov)

## More Information

- **Pollution Control Hearings Board Website**  
<http://elaho.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 27th day of June, 2023, at the Department of Ecology, Lacey, Washington.

A handwritten signature in black ink that reads "Loree' Randall". The signature is written in a cursive, flowing style.

Loree' Randall, Section Manager

Federal Permitting Section

Shorelands and Environmental Assistance Program