



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

June 29, 2023

WA Department of Natural Resources
ATTN: Roberta Davenport
PO Box 47027
Olympia, WA 98504-7027

Re: Water Quality Certification Order No. **21912** (Corps No. **NWS-2022-456**), Whiteman Cove Fish Passage Restoration Project, Pierce County, Washington

Dear Roberta Davenport:

On July 8, 2022, the Department of Natural Resources (DNR) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Whiteman Cove Fish Passage Restoration Project, Pierce 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 Lori White at (564) 669-1396. 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 93

WQC Order No. 21912, Corps No. NWS-2022-456

Aquatics ID No. 141657

June 29, 2023

Page 2 of 2

Sent via e-mail: roberta.davenport@dnr.wa.gov

E-cc: Jen Casper, U.S. Army Corps of Engineers
Josh Jensen, Anchor QEA, LLC
Lori White, Ecology
ECYREFEDPERMITS@ecy.wa.gov

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

WA Department of Natural Resources
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PO Box 47027
Olympia, WA 98504-7027

WQC Order No.	21912
Corps Reference No.	NWS-2022-456
Site Location	Whiteman Cove Fish Passage Restoration Project is located within Case Inlet and Whiteman Cove, Longbranch, Pierce County, Washington.

Washington Department of Natural Resources (DNR) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Whiteman Cove Fish Passage Restoration Project, Pierce County, Washington. The following required processing dates are listed below:

- On 5/4/2022, the DNR submitted a pre-filing meeting request.
- On 7/8/2022, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 8/18/2022, DNR submitted additional information, and the Department of Ecology (Ecology) considered the Request valid on this date.
- On 9/23/2022, the U.S. Army Corps of Engineers (Corps) issued a joint public notice.

This project proposes to re-establish fish passage between Whiteman Cove and Case Inlet in Puget Sound by replacing a section of Bay Road SW that blocks access with a bridge and restoring the historic channel/lagoon feature. This work will include removing a section of Bay Road, re-grading to create an open channel, decommissioning two existing control structures/tide gates, constructing a new single-span bridge across the channel opening, installing scour protection for the bridge pilings and abutments, improvements to Bay Road, and restoring and planting the new open channel shoreline, roadway shoreline, and disturbed areas.

The project site is located within Case Inlet and Whiteman Cove at 20001 Bay Road SW, in Longbranch, Pierce County, Washington, Section SE 16, Township 20 N., Range 1 W., within Water Resource Inventory Area (WRIA) 15-Kitsap.

With this WQC Order, Ecology is granting with conditions DNR's request for a Section 401 Water Quality Certification for the Whiteman Cove Fish Passage Restoration Project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 7/8/2022, and the following supporting documentation:

1. E-mail letter to Ecology dated 12/2/2022, regarding the project's DNR Responses to Public Comment.
2. E-mail letter to Ecology dated 4/11/2023, regarding the project's SEPA Determination.
3. E-mail letter with plan to Ecology dated 5/31/2023 and 6/2/2023, regarding revised water quality monitoring plan (WQMP).
4. Email letter with plan revisions to Ecology dated 6/9/2023, regarding revised plan sheets and JARPA materials for the bridge foundations, scour protections, structural earthen wall and creosote timber removal.

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, DNR 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 DNR 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.

1. The Project Proponent shall conduct water quality monitoring as described in the approved Water Quality Monitoring Plan.
 - Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and prevent exceedances of the water quality standards that protect aquatic life and beneficial uses.
 - Citation - RCW 90.48, RCW 90.48.030, Chapter 173-201A WAC, 173-201A-300-330 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 the DNR for the Whiteman Cove Fish Passage Restoration 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. **21912** will remain valid for the duration of the associated DA permit. DNR 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 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://eluh.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:

Lori White

Department of Ecology

564-669-1396

lori.white@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
<http://elaho.wa.gov>

- **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 29th day of June, 2023, at the Department of Ecology, Lacey, Washington.



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