



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

June 29, 2023

John Mirante
Pacific Ridge-DRH LLC
17921 Bothell-Everett Hwy, #100
Bothell, WA 98012

Re: Termination of Section 401 Water Quality Certification Order No. 21552

Dear John Mirante:

For the reasons stated below, the Department of Ecology (Ecology) hereby terminates Water Quality Certification (WQC) Order No. 21552, pursuant to RCW 90.48.120.

Project Background

On May 2, 2023, Ecology issued a Section 401 WQC to Pacific Ridge-DRH LLC for the Ashford 9 project to construct a 9-lot residential plat including utilities, an internal access road, and other associated infrastructure. Because of design changes requiring the sidewalk alignment along the road frontage to be widened, Ecology issued Section 401 WQC Order No. 21763 on May 25, 2023, allowing the change and additional mitigation. Therefore, Ecology is terminating Section 401 WQC Order No. 21552 because it is no longer valid.

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://eluhwa.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)

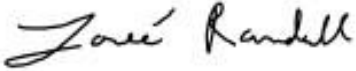
Pollution Control Hearings Board

Pchb-shbappeals@eluhwa.gov

If you have questions, please contact Sonia Mendoza at (360) 918-1342 or Sonia.mendoza@ecy.wa.gov.

Termination of WQC No. 21552
Aquatics ID No. 142105, Corps No. NWS-2022-765
June 29, 2023
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Sincerely,

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

Enclosures: WQC Order No. 21552

By Certified Mail: 9489 0090 0027 6383 6850 21

Sent via e-mail: jymirante@drhorton.com

E-cc: Mae Ancheta, U.S. Army Corps of Engineers
John Laufenberg, Wetland Resources Inc.
Joe Burcar, Ecology
Doug Gresham, Ecology
Rowan Kelsall, Ecology
Sonia Mendoza, Ecology
Ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A)	WQC ORDER No. 21552
WATER QUALITY CERTIFICATION TO)	Corps Reference No. NWS-2022-765
Pacific Ridge-DRH LLC)	<i>Ashford 9 located within Wetland A, Bothell,</i>
pursuant to 33 U.S.C. 1341 (FWPCA §)	<i>Snohomish County, Washington</i>
401), RCW 90.48.120, RCW 90.48.260 and)	
Chapter 173-201A WAC)	

Pacific Ridge-DRH LLC
Attn: John Mirante
17921 Bothell-Everett Hwy, #100
Bothell, WA 98012

Pacific Ridge-DRH LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Ashford 9, in Snohomish County, Washington. The following required processing dates are referenced below:

- On November 4, 2022, Pacific Ridge-DRH LLC submitted a pre-filing meeting request.
- On December 7, 2022, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On December 14, 2022, Pacific Ridge-DRH LLC submitted additional information, and the Department of Ecology (Ecology) considered the Request valid on this date.
- On October 11, 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. NWP #29 and requires an individual Section 401.
- On January 4, 2023, Ecology issued a public notice for the project.

The project involves constructing a 9-lot residential plat including utilities, an internal access road, and other associated infrastructure. This requires placing fill within 504 ft² (0.012 acre) of Wetland A, a Category III depressional wetland. The applicant proposes to purchase 0.0116 credits from the Keller Farm Mitigation Bank.

The project site is located at 16215 Sunset Road, in Bothell, Snohomish County, Washington, Section 04, Township 27 North, Range 05 East, within Water Resource Inventory Area (WRIA) No. 8-Cedar/Sammamish.

With this Order, Ecology is granting Pacific Ridge-DRH LLC's request for a Section 401 Water Quality Certification for the Ashford 9 project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on December 7, 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, Pacific Ridge-DRH LLC 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 Pacific Ridge-DRH LLC 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 Pacific Ridge-DRH LLC from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Special Conditions:

A. Wetland Mitigation Bank Conditions

1. Pacific Ridge-DRH LLC shall mitigate wetland impacts as described in Mitigation Bank Use Plan for Ashford 9, prepared by Wetland Resources, dated September 15, 2022, (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. Prior to impacting Wetland A, Pacific Ridge-DRH LLC shall submit to Ecology documentation from the bank sponsor verifying the purchase of 0.0116 wetland mitigation bank credits (credits) from the Keller Farm Mitigation Bank. This documentation must include the Ecology WQC Order Number, WQC Order issuance date, impact acreage, the amount of credits required by the WQC Order, and date of credit purchase.
 - *Justification - This condition is necessary to ensure the compensatory mitigation was actually provided by the bank.*

- *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.*
3. Unless otherwise authorized by this WQC Order, Pacific Ridge-DRH LLC shall complete the purchase of credits before impacting wetlands. Otherwise, Ecology may require Pacific Ridge-DRH LLC 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 WAC.*
4. The Project Proponent shall obtain and comply with the conditions of the Construction Stormwater General Permit (National Pollutant Discharge Elimination System - NPDES) issued for this project.
- *Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.*
 - *Citation – Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, RCW 90.48.260, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, 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 to Pacific Ridge-DRH LLC for the Ashford 9 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. 21552 will remain valid for the duration of the associated DA permit. Pacific Ridge-DRH LLC should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

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).

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<https://eluhwa.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

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E-Mail Address:

Department of Ecology

Not currently available (see WAC 371-08)

Pollution Control Hearings Board

Pchb-shbappeals@elaho.wa.gov

Contact Information

Please direct all questions about this Order to:

Doug Gresham
Department of Ecology
Northwest Regional Office
(425) 429-1846
Doug.Gresham@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
<http://www.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>

WQC Order No. 21552, Corps No. NWS-2022-765

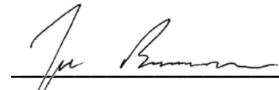
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- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

Signature



Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology, Northwest Regional Office

May 2, 2023