



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

October 9, 2023

The RJ Group
ATTN: Devon Caines
222 Grand Avenue, Suite F
Bellingham, WA 98225

Re: Section 401 Water Quality Certification Denial without Prejudice, Order No. **22331**,
U.S. Army Corps of Engineers (Corps) Reference No. **NWS-2022-797**, Dukes Hill Plat, Skagit
County, Washington

Dear Devon Caines:

On October 10, 2022, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification for the above-referenced project. Ecology has one year from the Section 401 Water Quality Certification request to issue its decision.

At this time Ecology has not received the necessary information needed to assure that the discharges from the project will meet state water quality laws and requirements. Therefore, pursuant to Section 401 of the Clean Water Act, Chapter 90.48 RCW, and Chapter 173-201A WAC, Ecology is denying without prejudice The RJ Group request for a Section 401 Water Quality Certification. Receipt of a denial without prejudice does not preclude you from submitting a new request for a Section 401 Water Quality Certification at a later date.

If you have any questions, please contact Chris Luerkens at (360) 410-4807 or chris.luerkens@ecy.wa.gov. The Enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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

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

Enclosure (1)

WQC Order No. 22331, Corps No. NWS-2022-797
Aquatics ID No. 139579
October 9, 2023
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By certified mail: 9171 9690 0935 0233 1188 21

Sent via e-mail: devon@therjgroup.com

E-cc: Kristin Murray, U.S. Army Corps of Engineers
Molly Porter, Northwest Ecological Services, LLC
Chris Luerkens, Department of Ecology
Loree' Randall, Department of Ecology
ECYREFEDPERMITS@ecy.wa.gov

In The Matter of Denying Section 401 Water Quality
Certification to The RJ Group (Devon Caines)
pursuant to 33 U.S.C. 1341 (FWPCA § 401),
RCW 90.48.260 and Chapter 173-201A WAC

The RJ Group
Attn: Devon Caines
222 Grand Avenue, Suite F
Bellingham, WA 98225

WQC Order No.	22331
Corps Reference No.	NWS-2022-797
Site Location	Dukes Hill Plat project located within wetlands, Bellingham, Skagit County, Washington.

On October 10, 2022, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification (WQC) via a Joint Aquatic Resources Permit Application (JARPA) for the above-referenced project. Ecology has one year from the receipt of the request for a WQC to issue its decision.

On September 18, 2023, Ecology sent you an e-mail explaining that we needed an updated wetland delineation report and mitigation plan that is based on the final approved delineation.

- Justification - Delineation of wetlands allows Ecology to determine the wetland area being impacted and to assess if the mitigation is adequate to achieve no net loss. 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 47.85.040 RCW, 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.

Without this information, there is not reasonable assurance that the project will meet state water quality laws. With the statutory deadline approaching, Ecology must deny the WQC at this time. Therefore, pursuant to Section 401 of the Clean Water Act, Chapter 90.48 RCW and Chapter 173-201A WAC, The RJ Group request (Devon Caines) for a WQC is denied without prejudice.

Receipt of a denial without prejudice does not preclude you from submitting the information identified above with a new request for a WQC at a later date.

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 person, or by email (see addresses below).

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Filing an appeal

Filing with the PCHB

For the most current information regarding filing with the PCHB, visit: <https://elaho.wa.gov/> or call: 360-664-9160.

Service on Ecology

Street Addresses:

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

Mailing Addresses:

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

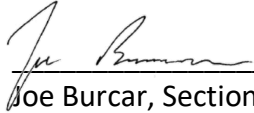
E-Mail Address:

ecologyappeals@ecy.wa.gov

WQC Order No. 22331, Corps No. NWS-2022-797
Aquatics ID No. 139579
October 9, 2023
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Signature

Dated this 9th day of October, 2023, at the Department of Ecology, Shoreline, Washington.

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

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