



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

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

November 13, 2023

Westfront, LLC  
ATTN: Eric John Weden  
PO Box 3246  
Ferndale, WA 98248

Re: Section 401 Water Quality Certification Denial without Prejudice, Order No. **22403**,  
U.S. Army Corps of Engineers (Corps) Reference No. **NWS-2022-782**,  
Westfront Commercial/Labounty, Whatcom County, Washington

Dear Eric John Weden:

On November 16, 2022, the Washington State 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 Westfront, LLC's 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. The Enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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

Enclosure (1)

WQC Order No. 22403, Corps No. NWS-2022-782  
Aquatics ID No. 142047  
November 13, 2023  
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By certified mail: 9171 9690 0935 0233 1187 15

Sent via e-mail: [eric@wedenengineering.com](mailto:eric@wedenengineering.com)

E-cc: Kristin Murray, U.S. Army Corps of Engineers  
Karla Gallina, Aqua-Terr Systems Inc.  
Loree' Randall, Department of Ecology  
Chris Luerkens, Department of Ecology  
[ECYREFEDPERMITS@ecy.wa.gov](mailto:ECYREFEDPERMITS@ecy.wa.gov)

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

Westfront, LLC  
Attn: Eric John Weden  
PO Box 3246  
Ferndale, WA 98248

<b>WQC Order No.</b>	22403
<b>Corps Reference No.</b>	<b>NWS-2022-782</b>
<b>Site Location</b>	Westfront Commercial - Labounty project located within wetlands, Ferndale, Whatcom County, Washington.

On November 16, 2022, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification (WQC) for the above-referenced project. Ecology has one year from the receipt of the request for a WQC to issue its decision.

On October 23, 2023, Ecology met with you virtually and explained that we needed to receive an updated mitigation plan for proposed wetland impacts, and a State Environmental Policy Act (SEPA) determination issued by City of Ferndale for this proposal.

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, Westfront, LLC's request 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.

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- 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:

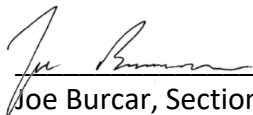
Department of Ecology  
Attn: Appeals Processing Desk  
PO Box 47608  
Olympia, WA 98504-7608

#### E-Mail Address:

ecologyappeals@ecy.wa.gov

## Signature

Dated this 13<sup>th</sup> day of November 2023, at the Department of Ecology, Shoreline, Washington.



Joe Burcar, Section Manager

Northwest Region Office

Shorelands and Environmental Assistance Program