



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

December 18, 2023

Komodo Properties, LLC
ATTN: Shyam Ayengar
5329 164th Ave SE
Bellevue, WA 98006

Re: Section 401 Water Quality Certification Denial without Prejudice, Order No. **22463**,
U.S. Army Corps of Engineers (Corps) Reference No. **NWS-2021-1027**, Burién Komodo
Property, King County, Washington

Dear Shyam Ayengar:

On January 6, 2023, 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 Komodo Properties' 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 Leah Beckett at (425) 324-5590 or by email at leah.beckett@ecy.wa.gov. The Enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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

Enclosure (1)

WQC Order No. 22463, Corps No. NWS-2021-1027
Aquatics ID No. 141170
Burien Komodo Property
December 18, 2023
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By certified mail: 9171 9690 0935 0233 1187 91

Sent via e-mail: sayengar@gmail.com

E-cc: Brad Johnson, U.S. Army Corps of Engineers
Ben Wright, Soundview Consultants
Loree' Randall, Department of Ecology
Leah Beckett, Department of Ecology
ECYREFEDPERMITS@ecy.wa.gov – Aquatics ID No. 141170

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

Komodo Properties, LLC
Attn: Shyam Ayengar
5329 164th Ave SE
Bellevue, WA 98006

WQC Order No.	22463
Corps Reference No.	NWS-2021-1027
Site Location	Burien Komodo Property located within Miller Creek and wetlands, Burien, King County, Washington.

On January 6, 2023, 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 November 9, 2023, Ecology sent Ben Wright, agent, Soundview Consultants, an email explaining that we needed a SEPA threshold determination for the project and any finalized project designs that have changed since receipt of the application. At this time Ecology has not received this information.

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. Therefore, pursuant to Section 401 of the Clean Water Act, Chapter 90.48 RCW and Chapter 173-201A WAC, Komodo Properties' 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.

WQC Order No. 22463, Corps No. NWS-2021-1027
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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:

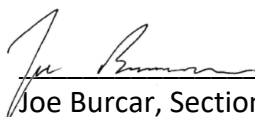
Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

E-Mail Address:

ecologyappeals@ecy.wa.gov

Signature

Dated this 18th day of December, 2023 at the Department of Ecology, Shoreline, Washington.



Joe Burcar, Section Manager

Northwest Region

Shorelands and Environmental Assistance Program