



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Southwest Region Office
PO Box 47775, Olympia, WA 98504-7775 • 360-407-6300

January 24, 2024

VestCapital
ATTN: Tanner Wideriksen
315 Grand Boulevard, Suite 200
Vancouver, WA 98661

Re: Water Quality Certification Order No. **22461** (Corps No. **NWS-2023-0312**),
Zephyr Heights Short Plat, Clark County, Washington

Dear Tanner Wideriksen:

On November 29, 2023, VestCapital submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Zephyr Heights Short Plat, Clark 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 Meghan Tait at (360) 210-2783. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Maria Sandercock, Section Manager
Southwest Region Office
Shorelands and Environmental Assistance Program

Enclosure (1)

By certified mail: 9171 9690 0935 0233 1187 84

WQC Order No. 22461, Corps No. NWS-2023-0312

Aquatics ID No. 142549

January 24, 2024

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Sent via e-mail: tanner@vestcapital.com

E-cc: Ari Sindel, U.S. Army Corps of Engineers
Jim Barnes, Cascadia Ecological Services Inc.
Loree' Randall, Department of Ecology
Meghan Tait, Department of Ecology
ECYREFEDPERMITS@ecy.wa.gov

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

VestCapital
ATTN: Tanner Wideriksen
315 Grand Boulevard, Suite 200
Vancouver, WA 98661

WQC Order No.	22461
Corps Reference No.	NWS-2023-0312
Site Location	Zephyr Heights Short Plat project located within Wetland Unit 2, Camas, Clark County, Washington.

VestCapital submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Zephyr Heights Short Plat project, Clark County, Washington. The following required processing dates are referenced below:

- On April 10, 2023, VestCapital submitted a pre-filing meeting request.
- On April 18, 2023 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. 29 and requires an individual Section 401.
- On November 29, 2023, Ecology received a request for a Clean Water Section 401 Water Quality Certification.
- On December 5, 2023, Ecology issued a public notice for the project.

This project proposes to discharge fill in up to 0.169 of an acre of wetlands to construct a residential subdivision, a 8-lot short plat for new single-family homes, with associated infrastructure. Work would include clearing and grading using typical construction equipment. Compensatory mitigation for wetland impacts will be provided through purchase of mitigation bank credits from the Columbia River Wetland Mitigation Bank.

The project site is located at 2829 NW 18th Avenue, Wetland Unit 2, Clark County, Washington, Section 04, Township 1 N., Range 3 E., within Water Resource Inventory Area (WRIA) 27 Lewis and 28 Salmon-Washougal.

With this WQC Order, Ecology is granting with conditions VestCapital's request for a Section 401 Water Quality Certification for the Zephyr Heights Short Plat project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on November 29, 2023.

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, VestCapital 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 VestCapital 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.

Special Condition:

1. VestCapital shall mitigate wetland impacts as described in the Wetland Mitigation Plan, prepared by Cascadia Ecological Services, Inc., dated May 5, 2023, 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. VestCapital shall submit to Ecology documentation from the bank sponsor verifying the purchase of 0.144 wetland mitigation bank credits (credits) from the Columbia River Mitigation Bank. This documentation must include the Ecology Order Number, Order issuance date, impact acreage, the amount of credits required by the 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, VestCapital shall complete the purchase of credits before impacting wetlands. Otherwise, Ecology may require VestCapital 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.

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 VestCapital for the Zephyr Heights Short Plat 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. **22461** will remain valid for the duration of the associated DA permit. VestCapital 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 information 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 mail, 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

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:

Meghan Tait
Department of Ecology
(360) 210-2783
meghan.tait@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
<http://www.eluho.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>
- **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 24th day of January 2024 at the Department of Ecology, Shoreline Washington.



Maria Sandercock, Section Manager
Southwest Region Office
Shorelands and Environmental Assistance Program