



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

February 22, 2024

DL Skagit Properties
ATTN: Tom Lane
10515 Evergreen Way
Everett, WA 98204

Re: Section 401 Water Quality Certification Denial without Prejudice, Order No. **21631**,
(Corps No. **NWS-2022-678**), Shannon Property, Whatcom County, Washington

Dear Tom Lane:

On February 27, 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 DL Skagit 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 Chris Luerkens at (360) 410-4807. The Enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Maria Sandercock, Section Manager
Shorelands and Environmental Assistance Program

Enclosure (1)

By certified mail: 9171 9690 0935 0233 1414 23

Sent via e-mail: tlane@dwaynelane.com

WQC Order No. 21631, Corps No. NWS-2022-678

Aquatics ID No. 141993

February 22, 2024

Page 2 of 2

E-cc: Jacalen Printz, U.S. Army Corps of Engineers
Jon Pickett, Soundview Consultants
Loree' Randall, Department of Ecology
Chris Luerkens, Department of Ecology
ecyrefedpermits@ecy.wa.gov

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

DL Skagit Properties
Attn: Tom Lane
10515 Evergreen Way
Everett, WA 98204

WQC Order No.	21631
Corps Reference No.	NWS-2022-678
Site Location	Shannon Property project located within Tenmile Creek, stream and wetlands, Ferndale, Whatcom County, Washington.

On February 27, 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 February 7, 2024, Ecology sent you an e-mail explaining that we needed State Environmental Policy Act (SEPA) and an updated Wetland Mitigation Plan.

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, DL Skagit 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. 21631, Corps No. NWS-2022-678

Aquatics ID No. 141993

February 22, 2024

Page 2 of 2

- 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 22nd day of February, 2024, at the Department of Ecology, Shoreline, Washington.



Maria Sandercock, Section Manager
Shorelands and Environmental Assistance Program