



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

February 27, 2024

Washington State Parks and Recreation
ATTN: Hannah JB Ross
1111 Israel Road SW
Olympia, WA 98504-2650

Re: Water Quality Certification Order No. **22524** (Corps No. **NWS- 2022-0485**), Cape
Disappointment State Park Culvert Replacement, Pacific County, Washington

Dear Hannah JB Ross:

On 12/15/2023, Washington State Parks and Recreation submitted a request for a Section 401
Water Quality Certification (WQC) under the federal Clean Water Act for the Cape
Disappointment State Park Culvert Replacement, Pacific County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies with conditions 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 Zach Meyer at (360) 481-9885.
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: 9489 0090 0027 6094 0259 49

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e-cc: Brad Johnson, U.S. Army Corps of Engineers
David Goltz, Environmental Science Associates
Loree' Randall, Ecology
Zach Meyer, Ecology
ECYREFEDPERMITS@ecy.wa.gov

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

Washington State Parks and Recreation
Attn: Hannah JB Ross
1111 Israel Road SW
Olympia, WA 98504-2650

WQC Order No.	22524
Corps Reference No.	NWS- 2022-0485
Site Location	Cape Disappointment State Park Culvert Replacement located within wetlands, in Ilwaco, Pacific County, Washington.

Washington State Parks and Recreation submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Cape Disappointment State Park Culvert Replacement, Pacific County, Washington. The following required processing dates are listed below:

- On 8/2/2023, the Washington State Parks and Recreation submitted a pre-filing meeting request.
- On 12/15/2023, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 1/18/2024, the U.S. Army Corps of Engineers (Corps) sent an email notification to Ecology that they are reviewing the project for authorization under the Nationwide Permit Program and requires an individual Section 401.
- On 1/30/2024, Ecology issued a public notice for the project.
- Ecology’s “Reasonable Period of Time” for this project has been established as 7/16/2024.

This project proposes to discharge up to 1,000 cubic yards of road grade fill within 0.33 acre of Wetland A to replace two existing culverts and expand Fort Canby Road. The West culvert would be replaced with a 12 feet wide by 5 feet tall by 30 feet long concrete box culvert and the East culvert would be replaced with a 18 feet wide by 8 feet tall by 31 feet long concrete box culvert. The existing road measures 21 feet wide and would be expanded on the West to 26 feet wide and 32 feet wide on the East to include a concrete pedestrian path. The pedestrian path would be approximately 1,000 feet long by 5 feet wide, and would connect the O'Neil Lake Campground in the eastern portion of the park with the North Head Trail.

The project site is located in wetlands at 244 Robert Gray Drive, Ilwaco, Pacific County, Washington, Section 8 and 9, Township 9N., Range 11W., within Water Resource Inventory Area (WRIA) 24 - Willapa.

With this WQC Order, Ecology is granting with conditions Washington State Parks and Recreation's request for a Section 401 Water Quality Certification for the Cape Disappointment State Park Culvert Replacement project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 12/15/2023, and the following supporting documentation:

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, Washington State Parks and Recreation 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 Washington State Parks and Recreation 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 Conditions:

1. Washington State Parks and Recreation shall mitigate wetland impacts as described in the Cape Disappointment Fort Canby Road Improvement Bank Use Plan, dated September 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. Washington State Parks and Recreation shall submit to Ecology documentation from the bank sponsor verifying the purchase of 0.429 wetland mitigation bank credits (credits) from the Long Beach 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. Washington State Parks and Recreation shall complete the purchase of credits before impacting wetlands. Otherwise, Ecology may require Washington State Parks and Recreation 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 the Washington State Parks and Recreation for the Cape Disappointment State Park Culvert Replacement 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. **22524** will remain valid for the duration of the associated DA permit. Washington State Parks and Recreation should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it. To transfer this Order to a new owner or operator, complete a Request for Transfer of Order form following the instructions at the top of the form. Link to form: <https://apps.ecology.wa.gov/publications/SummaryPages/ECY070695.html>.

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 360-407-6831 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:

Zach Meyer

Department of Ecology

(360) 481-9885

zachary.meyer@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
<https://elaho.wa.gov>
- **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>

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Signature

Dated this 27th day of February 2024 at the Department of Ecology, Olympia, Washington.



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