



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

March 27, 2024

City of Sedro-Woolley
Attn: Mark Freiberger
325 Metcalf Street
Sedro-Woolley, WA 98284

Re: Water Quality Certification Order No. **22538** (Corps No. **NWS-2022-297**)
Olmstead Park Development, Skagit County, Washington

Dear Mark Freiberger:

On August 4, 2023, the City of Sedro-Woolley submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Olmsted Park Development project, Skagit 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 Chris Luerkens at 360-410-4807 or Chris.Luerkens@ecy.wa.gov. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

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

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Enclosure (1)

By certified mail: 9171 9690 0935 0233 1415 60

Sent via e-mail: mfreiberger@Sedro-Wooley.gov

E-cc: Kristin Murray, U.S. Army Corps of Engineers
Ross Widener, Widener & Associates
Loree' Randall, Department of Ecology
Chris Luerkens, Department of Ecology
ECYREFEDPERMITS@ecy.wa.gov

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

City of Sedro-Woolley
Attn: Mark Freiburger
325 Metcalf Street
Sedro-Woolley, WA 98284

WQC Order No.	22538
Corps Reference No.	NWS-2022-297
Site Location	Olmsted Park Development located within wetlands, Sedro-Woolley, Skagit County, Washington.

The City of Sedro-Woolley submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Olmstead Park Development project, Skagit County, Washington. The following required processing dates are listed below:

- On May 15, 2023, 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 May 23, 2023, the City of Sedro-Woolley submitted a pre-filing meeting request.
- On August 4, 2023, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On August 15, 2023, Ecology issued a public notice for the project.
- Ecology’s “Reasonable Period of Time” for this project has been established as March 29, 2024

This proposal is to develop portions of Olmstead Park on property that had formerly been part of the Northern State Hospital campus. Elements of this project will include installation of gravel walking trails and maintenance trails, paved parking areas, sidewalks, new picnic shelters, recreational facilities, utilities, and a new stormwater pond. The project will result in fill of 0.12 acres of wetland and indirect impacts to a Category IV wetland. Compensatory mitigation for these wetland impacts will be completed through purchase of 0.28 mitigation credits from the Skagit Environmental Bank.

The project site is located southeast of the intersection of North Fruitdale Road and Northern State Road, within wetlands, Sedro-Woolley, Skagit County, Washington, Section 18,

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Township 35 N., Range 5 E., within Water Resource Inventory Area (WRIA) 3 Lower Skagit-Samish watershed.

With this WQC Order, Ecology is granting with conditions the City of Sedro-Woolley's request for a Section 401 Water Quality Certification for the Olmstead Park Development project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on August 4, 2023, and the following supporting documentation:

1. On February 8, 2024, Ecology received a Wetland Impacts Memorandum dated February 7, 2024, Ross Widener, Widener & Associates. This memorandum included revised wetland impact and compensatory mitigation calculations.
2. On February 8, 2024, Ecology received a Revised Trail Plans and Section Plans, from Widener & Associates.

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, the City of Sedro-Woolley 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 the City of Sedro-Woolley 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. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology and the supporting documentation described above.
 - Justification - Ecology has the authority to prevent and control pollution of state waters. By authorizing a discharge into a water of the state, through a WQC, Ecology is certifying the project as proposed will not negatively impact water quality. Therefore, it is imperative the project is conducted as it was presented during the review process. Any deviations from information within the WQC Request package and this WQC Order must be disclosed prior to the initiation of the planned work, and may require a new WQC request.

- Citation - 40 CFR 121.5, 40 CFR 121.10, 40 CFR 121.11, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, Chapter 173-201A WAC, Chapter 173-204 WAC, and WAC 173-225-010.
2. This WQC Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this WQC Order.
- Justification - Ecology has the authority to prevent and control pollution of state waters, and to protect designated uses. By authorizing a discharge into a water of the state, through a water quality certification, Ecology is certifying the project as proposed will not negatively impact state water quality and will comply with the state's water quality requirements. Therefore, it is imperative the project is conducted as it was presented during the review process, and as conditioned herein.
 - Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300(2)(e)(i), WAC 173-201A-310, WAC 173-204-120, and WAC 173-225-010.
3. Any work that causes distressed or dying fish or discharges of oil, fuel, or other chemicals into state waters or onto land with a potential for entry into state waters is prohibited¹. If such work, conditions, or discharges occur, immediately notify² Ecology's Regional Spill Response Office at 360-407-6300 and the Washington State Department of Fish & Wildlife with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems. You will also need to notify the Washington Emergency Management Division³ at 1-800-258-5990, for spills to water only. This condition is necessary to prevent oil and other hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm.
- Justification - This condition is necessary to prevent oil and hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.

Wetland Mitigation Conditions

4. The City of Sedro-Woolley shall mitigate wetland impacts as described in Mitigation Bank Use Plan for Olmstead Park Development, prepared by Widener & Associates, dated December 20, 2021, and as modified in the Wetland Impacts Memorandum, provided by Widener & Associates, dated February 7, 2024, 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.
5. The City of Sedro-Woolley shall submit to Ecology documentation from the bank sponsor verifying the purchase of 0.28 wetland mitigation bank credits (credits) from the Skagit Environmental 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.
6. Unless otherwise authorized by this WQC Order, the City of Sedro-Woolley shall complete the purchase of credits before impacting wetlands. Otherwise, Ecology may require the Project Proponent to provide additional compensation to account for additional temporal loss of wetland functions.

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- 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 City of Sedro-Woolley for the Olmstead Park Development 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. **22538** will remain valid for the duration of the associated DA permit. The City of Sedro Woolley 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

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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:

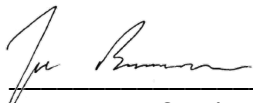
Chris Luerkens
Department of Ecology
360-410-4807
Chris.Luerkens@ecy.wa.gov

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>

Signature

Dated this 27th day of March 2024 at the Department of Ecology, Shoreline, Washington.



Joe Burcar, Section Manager

Northwest Region Office

Shorelands and Environmental Assistance Program