



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

May 1, 2024

Hood Canal Salmon Enhancement Group
ATTN: Andy Hokit
PO Box 2169
Belfair WA, 98528

Re: Water Quality Certification Order No. **22708** (Corps No. **NWS-2023-0401**), Union River Estuary Theler Wetlands Restoration Project, Belfair, Mason County, Washington

Dear Andy Hokit:

On January 18, 2024, the Hood Canal Salmon Enhancement Group submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Union River Estuary Theler Wetlands Restoration Project, Belfair, Mason 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 Casey Vaughn at (564) 669-4201. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

WQC Order No. 22708, Corps No. NWS-2023-0401

Aquatics ID No. 142742

May 1, 2024

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Enclosure (1)

By certified mail: 9489 0090 0027 6347 8916 97

Sent via e-mail: Andy@pnwsalmoncenter.org

E-cc: Pamela Sanguinetti, U.S. Army Corps of Engineers

Chris Waldbillig, Department of Fish and Wildlife

Loree' Randall, Ecology

Casey Vaughn, Ecology

Lizzie Carp, Ecology

ECYREFEDPERMITS@ecy.wa.gov

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

Hood Canal Salmon Enhancement Group
Attn: Andy Hokit
PO Box 2169
Belfair WA, 98528

WQC Order No.	22708
Corps Reference No.	NWS-2023-0401
Site Location	Union River Estuary Theler Wetlands Restoration Project located within the Hood Canal, near Belfair, Mason County, Washington.

Hood Canal Salmon Enhancement Group submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Union River Estuary Theler Wetlands Restoration Project, Mason County, Washington. The following required processing dates are listed below:

- On June 26, 2023, the Hood Canal Salmon Enhancement Group submitted a pre-filing meeting request.
- On January 18, 2024, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On February 2, 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 (NWP) Program.
- On February 16, 2024, the Hood Canal Salmon Enhancement Group submitted additional information, and the Department of Ecology (Ecology) considered the Request valid.
- On February 22, 2024, Ecology issued a public notice for the project.
- Ecology’s “Reasonable Period of Time” for this project has been established as August 14, 2024.

This project proposes to remove two levees (825 ft. and a 425 ft.) consisting of a total of 7,300 cubic yards of fill material from the southern part of the Union River Estuary on Hood Canal, allowing for the re-connection of 7 acres of estuarine wetland habitat. The project will also construct a boardwalk in the levee removal footprint.

The project site is located at 47.4397517, -122.8398437, Hood Canal, Mason County, Washington, Section 32, Township 23 N., Range 1 W., within Water Resource Inventory Area (WRIA) 15 Kitsap.

With this WQC Order, Ecology is granting with conditions the Hood Canal Salmon Enhancement Group's request for a Section 401 Water Quality Certification for the Union River Estuary Theler Wetlands Restoration project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on January 18, 2024, and the following supporting documentation:

1. Updated Water Quality Monitoring and Protection Plan (WQMPP), received on April 25, 2024.
2. Boardwalk construction specifications, received on April 25, 2024.

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 Hood Canal Salmon Enhancement Group 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 Hood Canal Salmon Enhancement Group 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.

Conditions:

1. 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. **22708** will remain valid until September 1, 2029.
 - Justification – Certifications are required for any license or permit that authorizes an activity that may result in a discharge or fill material into waters. This WQC Order is not valid until the Federal agency issues a permit. Additionally, Ecology needs to be able to specify how long the WQC Order will be in effect.
 - Citation – Chapter 90.48 RCW, Chapter 173-201A WAC, and WAC 173-225-010.

2. The Project Proponent shall send a copy of the final Federal permit via e-mail to fednotification@ecy.wa.gov and cc to Federal Permit Manager prior to the starting of any work authorized by this WQC Order.
 - Justification - This condition is needed to ensure that the federal permit has been issued and all the conditions of the WQC Order have been included into the federal permit.
 - Citation - 40 CFR 121.10, 40 CFR 121.11, and Chapter 90.48 RCW.
3. To transfer this WQC Order to a new owner or operator the Project Proponent shall:
 - a. Complete a Request for Transfer of Order with a specific transfer date of the WQC Order's obligations, coverage, and liability and submit it to Ecology at fednotification@ecy.wa.gov and cc to Federal Permit Manager. Link to form: <https://apps.ecology.wa.gov/publications/SummaryPages/ECY070695.html>;
 - b. Provide a copy of this WQC Order to the new owner or operator; and
 - c. The transfer is not considered valid until the Project Proponent receives written notification from Ecology that the transfer has been approved.
 - Justification – Ecology has independent state authority to ensure protection of state water quality. Ecology needs to ensure that anyone conducting work at the project, including any new owners or operators, are aware of and understand the required conditions of this WQC Order to ensure compliance with the water quality standards and other applicable state laws.
 - Citation – 40 CFR 121.5, Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.
4. The Project Proponent shall implement the approved Water Quality Monitoring and Protection Plan (WQMPP).
 - Justification - This condition is necessary to ensure that the monitoring and BMPs that are proposed by the Project Proponent and authorized by Ecology are conducted to protect water quality. Ecology must protect waters of the state from 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 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

5. All work in and near waters of the state shall be conducted to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMPs) suitable to prevent exceedances of state water quality standards shall be in place before starting construction and shall be maintained throughout the duration of the activity.

- Justification - Disturbed areas without appropriate BMPs and construction methods can discharge excess sediment to waters of the state and degrade water quality. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.
- Citation - Chapter 90.48 RCW, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.

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 Hood Canal Salmon Enhancement Group for the Union River Estuary Theler Wetlands Restoration Project.

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://eluh.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:

Casey Vaughn
Department of Ecology
(564) 669-4201
Casey.Vaughn@ecy.wa.gov

More Information

- **[Pollution Control Hearings Board Website](https://eluh0.wa.gov)**
<https://eluh0.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 1st day of May 2024 at the Department of Ecology, Lacey, Washington.



Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program