



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

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

May 30, 2024

WA Department of Transportation  
ATTN: Cindy Volyn  
2830 Euclid Ave Bldg A  
Wenatchee, WA 98801

Re: Water Quality Certification Order No. **22867** (Corps No. **NWS-2024-0270-DOT**), US 101/SR 116 North Olympic Peninsula – Remove Fish Barriers (Chimacum Creek), Jefferson County, Washington

Dear Cindy Volyn:

On March 28, 2024, the WA Department of Transportation submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the US 101/SR 116 North Olympic Peninsula – Remove Fish Barriers (Chimacum Creek) in Jefferson 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 Penny Kelley at 360-280-8856. The enclosed WQC Order may be appealed by following the procedures described within.

WQC Order No. 22867, Corps No. NWS-2024-0270-DOT  
Aquatics ID No. 140227  
May 30, 2024  
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Sincerely,



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

Enclosure (1)

By certified mail: 9489 0090 0027 6381 5320 37

Sent via e-mail: [volync@wsdot.wa.gov](mailto:volync@wsdot.wa.gov)

E-cc: Samantha Stanford, U.S. Army Corps of Engineers  
Tara Stone, WSDOT  
Penny Kelley, Ecology  
Caroline Corcoran, Ecology  
Loree' Randall, Ecology  
[ECYREFEDPERMITS@ecy.wa.gov](mailto:ECYREFEDPERMITS@ecy.wa.gov)

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

WA Department of Transportation  
Attn: Cindy Volyn  
2830 Euclid Ave Bldg A  
Wenatchee, WA 98801

<b>WQC Order No.</b>	22867
<b>Corps Reference No.</b>	NWS-2024-0270-DOT
<b>Site Location</b>	US 101/SR 116 North Olympic Peninsula – Remove Fish Barriers (Chimacum Creek) located within Chimacum Creek, near Port Hadlock, Jefferson County, Washington.

WA Department of Transportation (WSDOT) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the US 101/SR 116 North Olympic Peninsula – Remove Fish Barriers (Chimacum Creek) in Jefferson County, Washington. The following required processing dates are listed below:

- On 1/17/2024, WSDOT submitted a pre-filing meeting request.
- On 3/28/2024, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 4/11/2024, 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 4/22/2024, Ecology issued a public notice for the project.
- Ecology’s “Reasonable Period of Time” for this project has been established as 10/8/2024.

This project proposes to replace a fish barrier culvert under SR 116 with a fish passable structure. The existing culvert will be replaced with a 54-foot long and 70.6-foot span concrete culvert and four mechanically stabilized earth structural walls. The stream will be widened and regraded through the new structure with four course bars being added at the inlet and outlet of the new culvert. Additionally, large woody material and deformable grade control materials will be placed within the stream to restore organic materials to the sediments. The project will result in temporary and permanent impacts to wetlands; widening the stream will convert a portion of wetland to stream channel and temporary impacts result from establishing

construction access to the stream. All disturbed areas will be restored and replanted with native vegetation. Installing the fish passable culvert will allow access to 238,212 linear feet upstream of the new culvert as well as a gain of 57 linear feet of stream from converting wetland to stream.

The project site is located on SR 116 at milepost 0.22, on Chimacum Creek in Jefferson County, Washington, Section 2, Township 29 N., Range 1 W., within Water Resource Inventory Area (WRIA) 17, Quilcene – Snow.

With this WQC Order, Ecology is granting with conditions WSDOT's request for a Section 401 Water Quality Certification for the US 101/SR 116 North Olympic Peninsula – Remove Fish Barriers (Chimacum Creek) project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 3/28/2024.

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, WSDOT 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 WSDOT 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.

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. **22867** will remain valid for the duration of the associated Corps permit for the project.
  - 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. WSDOT shall send a copy of the final Federal permit via e-mail to [fednotification@ecy.wa.gov](mailto: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. Turbid dewatering water associated with in-water work shall not be discharged directly to waters of the state, including wetlands. Turbid dewatering water shall be routed to an upland area for on-site or off-site settling.
- Justification – 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.
4. Clean dewatering water associated with in-water work that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state including wetlands. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.

Justification – 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. 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 prohibited<sup>1</sup>. If such work, conditions, or discharges occur, immediately notify<sup>2</sup> 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 Division<sup>3</sup> at 1-800-258-5990, for spills to water only. This condition is necessary to prevent oil and other hazardous materials spills from

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<sup>1</sup> RCW 90.48

<sup>2</sup> WAC 173-303-145

<sup>3</sup> RCW 90.56.280

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.

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 WSDOT for the US 101/SR 116 North Olympic Peninsula – Remove Fish Barriers (Chimacum Creek) 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://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

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Attn: Appeals Processing Desk

PO Box 47608

Olympia, WA 98504-7608

**E-Mail Address:**

[ecologyappeals@ecy.wa.gov](mailto: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:

Penny Kelley

Department of Ecology

360-280-8856

[penny.kelley@ecy.wa.gov](mailto:penny.kelley@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>

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- **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 30th day of May 2024 at the Department of Ecology, Olympia, Washington.



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