



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

July 3, 2024

Hinton Development
ATTN: Rob Hinton
14010 NE 3rd Court #A106
Vancouver, WA 98685

Re: Water Quality Certification Order No. **22929** (Corps No. **NWS-2022-894**), Viers Site, Clark County, Washington

Dear Rob Hinton:

On March 19, 2024, Hinton Development submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Viers Site, Clark 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 Meghan Tait at (360) 210-2783. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

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

Enclosure (1)

By certified mail: 9171 9690 0935 0233 1416 76

WQC Order No. 22929, Corps No. NWS-2022-894

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Sent via e-mail: rob@hintondevelopment.com

E-cc: Ari Sindel, U.S. Army Corps of Engineers

Gabby Bender, ELS

Loree' Randall, Ecology

Meghan Tait, Ecology

ECYREFEDPERMITS@ecy.wa.gov

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

Hinton Development
Attn: Rob Hinton
14010 NE 3rd Court #A106
Vancouver, WA 98685

WQC Order No.	22929
Corps Reference No.	NWS-2022-894
Site Location	Viers Site located within Wetlands A-N, Stream A and B, and Mill Creek, Vancouver, Clark County, Washington.

Hinton Development submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Viers Site, Clark County, Washington. The following required processing dates are listed below:

- On 12/8/2022, Hinton Development submitted a pre-filing meeting request.
- On 3/19/2024, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 3/27/2024 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 4/3/2024, Ecology issued a public notice for the project.
- Ecology's "Reasonable Period of Time" for this project has been established as 7/25/2024.

This project proposes to construct a residential subdivision with 84 lots, internal access roads, sidewalks, utilities, and install a culvert and road crossing over the offsite stream.

The project site is located at 4600 Block of NE 174th St, Wetlands A-N, Stream A and B, and Mill Creek, Clark County, Washington, Section 13, Township 3 N., Range 1 E., within Water Resource Inventory Area (WRIA) 28- Salmon Washougal.

With this WQC Order, Ecology is granting with conditions Hinton Development's request for a Section 401 Water Quality Certification for the Viers Site project, provided that the activity is

conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 3/19/2024, and the following supporting documentation:

1. E-mail letter to Ecology dated 4/22/2024, regarding the project's mitigation plan amendment and visual water quality monitoring.

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, Hinton Development 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 Hinton Development 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.

A. General 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. **22929** will remain valid until December 31, 2028.
 - 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. Hinton Development 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 Hinton Development 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 Hinton Development 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.

B. Wetland Mitigation Conditions

1. Hinton Development shall mitigate wetland impacts as described in Revised Mitigation Plan, dated March 8, 2024, prepared by Ecological Land Services, and as amended in the Ecology Only Mitigation Plan Amendment, dated April 22, 2024, prepared by Ecological Land Services, 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. Hinton Development shall submit to Ecology documentation from the bank sponsor verifying the purchase of 0.076 wetland mitigation bank credits (credits) from the Terrace 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. Unless otherwise authorized by this WQC Order, Hinton Development shall complete the purchase of credits before impacting wetlands. Otherwise, Ecology may require Hinton Development 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 Hinton Development for the Viers Site 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

WQC Order No. 22929, Corps No. NWS-2022-894

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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:

Meghan Tait
Department of Ecology
360-210-2783
Meghan.tait@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 3 day of July 2024 at the Department of Ecology, Lacey, Washington.



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