



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

July 8, 2024

WA Department of Transportation
ATTN: Victoria Book
7407 31st Ave NE
Olympia, WA 98516

Re: Water Quality Certification Order No. **22935** (Corps No. **NWS-2024-506-DOT**), US 12/SR 8 Grays Harbor County – Unnamed Tributary to Wenzel Slough, Remove Fish Barriers, Grays Harbor County, Washington

Dear Victoria Book:

On June 13, 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 12/SR 8 Grays Harbor County – Unnamed Tributary to Wenzel Slough, Remove Fish Barriers project in Grays Harbor 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. 22935, Corps No. NWS-2024-506-DOT

Aquatics ID No. 143944

July 8, 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 5322 66

Sent via e-mail: victoria.book@wsdot.wa.gov

E-cc: Sandra Manning, U.S. Army Corps of Engineers
Carson Masse, WSDOT
Penny Kelley, Ecology
Loree' Randall, Ecology
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: Victoria Book
7407 31st Ave NE
Olympia, WA 98516

WQC Order No.	22935
Corps Reference No.	NWS-2024-506-DOT
Site Location	US 12/SR 8 Grays Harbor County – Unnamed Tributary to Wenzel Slough, Remove Fish Barriers located within an un-named tributary to Wenzel Slough in Grays Harbor County, Washington.

The 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 12/SR 8 Grays Harbor County – Unnamed Tributary to Wenzel Slough, Remove Fish Barriers, Grays Harbor County, Washington. The following required processing dates are listed below:

- On 6/10/2024, WSDOT submitted a pre-filing meeting request.
- On 6/13/2024, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 6/21/2024, Ecology issued a public notice for the project.
- Ecology’s “Reasonable Period of Time” for this project has been established as 12/10/2024.

This project proposes to replace the existing culvert with a three-sided buried structure that will be approximately 139 feet long and 26 feet wide. The new culvert will entail wingwalls and 5-foot secant piles for foundation support. The stream will be realigned, widened, and regraded. Large woody material will be installed upstream and downstream of the new culvert. Realigning the stream will permanently impact wetlands by converting a portion of wetlands to stream channel; construction access will result in temporary wetland impacts. All temporary impacts will be restored with plantings using native species. The new culvert and realigned stream will provide fish habitat by opening additional access upstream of the new culvert.

The project site is located on US 12 at milepost 17.56 where the un-named tributary crosses under US 12 to Wenzel Slough in Grays Harbor County, Washington, Section 32, Township 18 N., Range 6 W., within Water Resource Inventory Area (WRIA) 22 Lower Chehalis.

With this WQC Order, Ecology is granting with conditions WSDOT's request for a Section 401 Water Quality Certification for the US 12/SR 8 Grays Harbor County – Unnamed Tributary to Wenzel Slough, Remove Fish Barriers project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 6/13/2024.

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 WSDOT 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 modification for this project. WQC Order No. **22935** 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 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. 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. If such work, conditions, or discharges occur, immediately notify 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 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 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.

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 12/SR 8 Grays Harbor County – Unnamed Tributary to Wenzel Slough, Remove Fish Barriers 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
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:

Penny Kelley
Department of Ecology
360-280-8856
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>
- **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 8th day of July 2024 at the Department of Ecology, Lacey, Washington.



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