



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

July 17, 2024

WA Department of Transportation
ATTN: Steve Fuchs
P.O. Box 47440
Olympia, WA 98504-7440

Re: Amendment to 401 Water Quality Certification Order No. 20165 for U.S. Army Corps of Engineers Reference No. NWS-2020-864-DOT, SR 167/I-5 to SR 509 – New Expressway (Stage 1b) located within Surprise Lake Tributary, Hylebos Creek, and small streams, Pierce County, Washington

Dear Steve Fuchs:

Enclosed is an amendment to Water Quality Certification Order No. 20165, issued on July 8, 2021, for the above project. All other conditions of Water Quality Certification Order No. 20165 remain in effect.

The purpose of this amendment is to authorize replacing bridge crossings on Fife Ditch with a single box culvert. Through the design build process, it was determined a single box culvert would be more efficient to maintain than multiple bridge structures. The project description has been amended to capture this change in the proposed work.

If you have any questions, please contact Penny Kelley at 360-280-8856. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

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

Enclosure (1)

Second Amendment to Order No. 20165
Aquatics No. 139419, Corps No. NWS-2020-864-DOT
July 17, 2024
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By certified mail: 9489 0090 0027 6381 5322 42

Sent via e-mail: steve.fuchs@wsdot.wa.gov

E-cc: Sandi Manning, U.S. Army Corps of Engineers
Char Naylor, Puyallup Tribe
Elizabeth Bocksteigel, WDFW
Miles Penk, WDFW
Vivian Erickson, WSDOT
Caroline Corcoran, Ecology
Penny Kelley, Ecology
Loree' Randall, Ecology
ecyrefedpermits@ecy.wa.gov

In The Matter of Granting a Water Quality
Certification (WQC) 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: Steve Fuchs
P.O. Box 47440
Olympia, WA 98504-7440

WQC Order No.	20165, Second Amendment
Corps Reference No.	NWS-2020-864-DOT
Site Location	SR 167/I-5 to SR 509 – New Expressway (Stage 1b) project located within Surprise Lake Tributary, Hylebos Creek, and small streams, Pierce County, Washington.

On July 8, 2021, the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to WA Department of Transportation (WSDOT) for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request on June 28, 2024, to amend the 401 Certification replacing bridge crossings on Fife Ditch with a single box culvert. Through the design build process, it was determined a box culvert would be more efficient for long term maintenance by shifting from multiple bridge structures to one single structure.

WQC Order No. 20165 dated July 8, 2021, is hereby amended as follows:

I. The following information was added to the project description:

Culvert Construction

- Constructing a single box culvert in Fife Ditch (Stream 7)

II. The following information was deleted from the project description:

Bridge Construction

- Constructing shared-use path bridges over Fife Ditch (Bridge No. 16 and 17)

No other conditions or requirements of the above referenced Order are affected by this amendment.

Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

Failure to comply with this amended Order may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this amended Order.

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 options 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

Contact Information

Please direct all questions about this 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>

Second Amendment to WQC Order No. 20165
Aquatics No. 139419, Corps No. NWS-2020-864-DOT
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Signature

Dated this 17th day of July 2024 at the Department of Ecology, Lacey, Washington.



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