



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Central Region Office

1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490

September 4, 2024

Bauers Landing Lodge Association
ATTN: Belinda Martinez-Arens
523 Riverview Drive
Orondo, WA 98843

Re: Water Quality Certification Order No. 22615 (Corps No. **NWS-2022-0890**), Bauers Landing Lodge Boat Launch Maintenance and Shoreline Improvement, Douglas County, Washington

Dear Belinda Martinez-Arens:

On February 27, 2024, Bauer Landing Lodge Association (Belinda Martinez-Arens) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Bauers Landing Lodge Boat Launch Maintenance and Shoreline Improvement, Douglas 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 Ryan Anderson at (509) 379-1917. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Lori White, Section Manager
Central Regional Office
Shorelands and Environmental Assistance Program

Enclosure (1)

WQC Order No. 22615, Corps No. NWS-2022-0890
Aquatics ID No. 143204
September 4, 2024
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By certified mail: 7014 3490 0001 5527 6659

Sent via e-mail: b.martinezarens@gmail.com

E-cc: Jenae Churchill, U.S. Army Corps of Engineers
Nate Schmidt, Washington Department of Fish and Wildlife
Jay Dirkse, Grette Associates LLC
Loree' Randall, Ecology
Ryan Anderson, Ecology
ECYREFEDPERMITS@ecy.wa.gov

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

Bauers Landing Lodge Association
 Attn: Belinda Martinez-Arens
 523 Riverview Drive
 Orondo, WA 98843

WQC Order No.	22615
Corps Reference No.	NWS-2022-0890
Site Location	Bauers Landing Lodge Boat Launch Maintenance and Shoreline Improvement located within Columbia River, Douglas County, Washington.

Bauers Landing Lodge Association (Belinda Martinez-Arens) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Bauers Landing Lodge Boat Launch Maintenance and Shoreline Improvement, Douglas County, Washington. The following required processing dates are listed below:

- On 11/6/2023, 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 11/10/2023, the Bauers Landing Lodge Association (Belinda Martinez-Arens) submitted a pre-filing meeting request.
- On 2/27/2024, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 2/29/2024, Ecology issued a public notice for the project.
- Ecology’s “Reasonable Period of Time” for this project has been established as 2/25/2025.

This project proposes to remove an existing 432-square foot (sq. ft.) ramp-float structure and replace it with an 394-sq. ft. ramp-float structure, dredge up to 1850 cubic yards (CY) of sediment impacting 14,200 sq. ft., discharge 50-CY of rock for boat launch protection impacting 1000-sq. ft., excavate up to 1050 CY of fill and discharge up to 80 CY of cobble fill impacting 16700-sq. ft. for man-made peninsula removal and shoreline rehabilitation.

The project site is located near 521 River View Drive, Orondo, Columbia River, Douglas County, Washington, Section 15, Township 26 N., Range 21 E., within Water Resource Inventory Area (WRIA) 44 Moses Coulee.

With this WQC Order, Ecology is granting with conditions Bauers Landing Lodge Association's (Belinda Martinez-Arens) request for a Section 401 Water Quality Certification for the Bauers Landing Lodge Boat Launch Maintenance and Shoreline Improvement project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 2/27/2024, and the following supporting documentation:

1. Water Quality Monitoring Plan (WQMP) Bauers Landing Lodge Boat Launch Maintenance and Shoreline Improvement / Protection Project - Columbia River dated August 14, 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, Bauers Landing Lodge Association (Belinda Martinez-Arens) 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 Bauers Landing Lodge Association (Belinda Martinez-Arens) 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.

Special 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. **22615** will remain valid until February 25th, 2030.
 - 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. Bauers Landing Lodge Association (Belinda Martinez-Arens) 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. If the Federal Agency determines the proposed project does not require a Federal permit, the Project Proponent shall immediately inform Ecology.
 - 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 Bauers Landing Lodge Association (Belinda Martinez-Arens) 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 Bauers Landing Lodge Association (Belinda Martinez-Arens) 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. 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 prohibited¹. If such work, conditions, or discharges occur, immediately notify² Ecology's Regional Spill Response Office at 360-407-6300 and the Washington State Department of Fish & Wildlife

¹ RCW 90.48

² WAC 173-303-145

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 Division³ 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.
5. The Bauers Landing Lodge Association (Belinda Martinez-Arens) shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, and/or necessary data collection, to ensure that conditions of this WQC Order are being met.
- Justification - Ecology must be able to investigate and inspect construction sites and facilities for compliance with all state rules and laws.
 - Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.090, RCW 90.48.120, Chapter 173-201A WAC, and WAC 173-225-010.
6. This WQC Order does not authorize the Bauers Landing Lodge Association (Belinda Martinez-Arens) to exceed applicable turbidity standards beyond the limits established in Chapter 173-201A WAC as set forth below, unless otherwise authorized in this WQC Order:
- a. Temporary area of mixing for turbidity established within the state water quality standards for fresh waters (WAC 173-201A-200) is as follows:
 - 01. For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from the activity causing the turbidity exceedance.

³ RCW 90.56.280

02. For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of the activity causing the turbidity exceedance.
 03. For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of the activity causing the turbidity exceedance.
 04. For projects working within or along lakes, ponds, wetlands, or other non-flowing waters, the point of compliance shall be at a radius of one hundred fifty feet from the activity causing the turbidity exceedance.
 - Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and prevent exceedances of the water quality standards that 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.
7. The Bauers Landing Lodge Association (Belinda Martinez-Arens) shall obtain and comply with the conditions of the Construction Stormwater General Permit (National Pollutant Discharge Elimination System - NPDES) issued for this project.
- 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, RCW 90.48.260, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.
8. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state, including wetlands, unless otherwise requested by the project proponent and authorized by Ecology.
- Justification - Requiring a minimum setback ensures that material will not end up in waters of the state. 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.

9. The following in-water work windows apply to the project:

a. For in-water construction the in-water work window is restricted to July 16th to February 28th.

b. Pile driving activity is restricted to October 1st to February 28th.

- Justification - This condition is reaffirming the project will take place during a time period that will not harm fish or other aquatic species.
- Citation - Chapter 77.55 RCW, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300, WAC 173-201A-330, WAC 173-225-010, and Chapter 220-660 WAC.

10. Any project change that requires a new or revised Hydraulic Project Approval (HPA) from the Department of Fish and Wildlife should be sent to Ecology for review before the change is implemented.

- Justification - This condition is reaffirming the project will take place during a time period that will not harm fish or other aquatic species.
- Citation - Chapter 77.55 RCW, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300, WAC 173-201A-330, WAC 173-225-010, and Chapter 220-660 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 Bauers Landing Lodge Association (Belinda Martinez-Arens) for the Bauers Landing Lodge Boat Launch Maintenance and Shoreline Improvement 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:

Ryan Anderson
Department of Ecology, Central Regional Office
509-379-1917
Ryan.Anderson@ecy.wa.gov

More Information

- [Pollution Control Hearings Board Website](https://elaho.wa.gov)
<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)
<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)
<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)
<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)
<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)
<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)
<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)
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

WQC Order No. 22615, Corps No. NWS-2022-0890

Aquatics ID No. 143204

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Signature

Dated this 4th day of September 2024 at the Department of Ecology, Union Gap, Washington.



Lori White, Regional Section Manager

Central Region Office

Shorelands and Environmental Assistance Program