



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

January 22, 2025

Ten Talents Investments 19, LLC
Attn: Jocelyn Cross
275 W 3rd Street
Suite 300
Vancouver, WA 98660

Re: Water Quality Certification Order No. **23459** (Corps No. **NWS-2023-758**), Skyview East, Clark County, Washington

Dear Jocelyn Cross:

On March 1, 2024, Ten Talents Investments 19, LLC (Jocelyn Cross) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Skyview East, 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.

WQC Order No. 23459, Corps No. NWS-2023-758

Aquatics ID No. 143127

January 22, 2025

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If you have any questions about this decision, please contact Lydia Albright at Lydia.Albright@ecy.wa.gov or (360) 870-2983. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,



Maria Sandercock, Section Manager
Southwest Regional Office
Shorelands and Environmental Assistance Program

Enclosure (1)

By certified mail: 9489 0090 0027 6085 7509 35

Sent via e-mail: jocelync@hurleydev.com

E-cc: Joshua Ari Sindel, U.S. Army Corps of Engineers
Steffanie Simpson, Ecological Land Services
Erin Hanlon Brown, Ecology
Lydia Albright, Ecology
Meghan Flounlacker, Ecology
ecyrefedpermits@ecy.wa.gov

**In The Matter of Granting a Water Quality
Certification with Conditions to Ten Talents Investments 19, LLC
(Jocelyn Cross) pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW
90.48.120, RCW 90.48.260 and Chapter 173-201A WAC**

Ten Talents Investments 19, LLC
Attn: Jocelyn Cross
275 W 3rd Street
Suite 300
Vancouver, WA 98660

WQC Order No.	23459
Corps Reference No.	NWS-2023-758
Site Location	Skyview East located within wetlands, Vancouver, Clark County, Washington.

Ten Talents Investments 19, LLC (Jocelyn Cross) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Skyview East, Clark County, Washington. The required processing dates are listed below:

- On January 8, 2024, Ten Talents Investments 19, LLC (Jocelyn Cross) submitted a pre-filing meeting request.
- On March 1, 2024, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On March 20, 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 March 26, 2024, Ecology issued a public notice for the project.
- Ecology’s “Reasonable Period of Time” for this project has been established as March 1, 2025.

This project proposes five commercial/retail lots and construction of buildings, including sidewalks, internal access roads, associated utilities, and stormwater infrastructure. Proposed development will result in unavoidable direct and indirect impacts to the onsite wetland (Wetland A). Compensatory mitigation for project impacts will be provided through the purchase of mitigation bank credits from the Terrace Mitigation Bank.

The project site is located at 14002 NE 16th Ave, Wetland A, Clark County, Washington, Section 23, Township 3 N., Range 1 E., within Water Resource Inventory Area (WRIA) 28 Salmon-Washougal.

With this WQC Order, Ecology is granting with conditions Ten Talents Investments 19, LLC (Jocelyn Cross)'s request for a Section 401 Water Quality Certification for the Skyview East project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on March 1, 2024, and the following supporting documentation:

1. E-mail letter to Ecology dated April 9, 2024, regarding the project's avoidance and minimization of wetland impacts.
2. The Final Bank Use Plan dated August 27, 2024.
3. Final SEPA determination, dated December 20, 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, Ten Talents Investments 19, LLC (Jocelyn Cross) 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 Ten Talents Investments 19, LLC (Jocelyn Cross) 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 Ten Talents Investments 19, LLC (Jocelyn Cross) 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. **23459** will remain valid until December 31, 2025.
 - 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. Ten Talents Investments 19, LLC (Jocelyn Cross) shall send a copy of the final Federal permit via e-mail to fednotification@ecy.wa.gov and cc to Lydia.Albright@ecy.wa.gov 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, Ten Talents Investments 19, LLC (Jocelyn Cross) 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 Ten Talents Investments 19, LLC (Jocelyn Cross) 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 Ten Talents Investments 19, LLC (Jocelyn Cross) 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 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.

Wetland Mitigation Conditions:

5. Ten Talents Investments 19, LLC (Jocelyn Cross) shall mitigate wetland impacts as described in Revised Bank Use Plan, dated August 27, 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.

6. Ten Talents Investments 19, LLC (Jocelyn Cross) shall submit to Ecology documentation from the bank sponsor verifying the purchase of 0.43 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.

7. Unless otherwise authorized by this WQC Order, Ten Talents Investments 19, LLC (Jocelyn Cross) shall complete the purchase of credits before impacting wetlands. Otherwise,

Ecology may require Ten Talents Investments 19, LLC (Jocelyn Cross) 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 Ten Talents Investments 19, LLC (Jocelyn Cross) for the Skyview East 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 by 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.

Address and Location Information

Filing with the PCHB

For the most current information regarding filing with the PCHB, visit: <https://eluhwa.gov/> or call: 360-664-9160.

Service on Ecology

Street Address:

Department of Ecology
Attn: Appeals Processing Desk

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300 Desmond Drive SE

Lacey, WA 98503

Mailing Address:

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:

Lydia Albright

Department of Ecology

(360) 870-2983

Lydia.Albright@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
<https://eluhho.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 22nd day of January 2025 at the Department of Ecology, Lacey, Washington.



Maria Sandercock, Section Manager
Southwest Regional Office
Shorelands and Environmental Assistance Program