



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

Northwest Region Office  
PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

April 23, 2025

Huber Properties, LLC  
Attn: Dylan Huber  
6391 SE Mullenix Road  
Port Orchard, WA 98367-9766

Re: Water Quality Certification Order No. **23561** (Corps No. **NWS-2023-0056**), Colbie Court Project, Unincorporated Kitsap County, Washington

Dear Dylan Huber:

On June 25, 2024, Huber Properties, LLC (Dylan Huber) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Colbie Court project, located in unincorporated Kitsap 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 Neil Molstad at (425) 389-5549 or [neil.molstad@ecy.wa.gov](mailto:neil.molstad@ecy.wa.gov). The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

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Joe Burcar, Section Manager  
Northwest Region Office  
Shorelands and Environmental Assistance Program

Enclosure (4)

WQ Order No. 23561, Corps No. NWS-2023-0056

Aquatics ID No. 142312

April 23, 2025

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By certified mail: 9171 9690 0935 0233 1813 51

Sent via e-mail: [Dylan@spp-mfg.com](mailto:Dylan@spp-mfg.com)

E-cc: Sarah Albright-Garland, U.S. Army Corps of Engineers  
Mark Heckert, Beaver Creek Environmental Service  
Erin Hanlon Brown, Ecology  
Neil Molstad, Ecology  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)



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

Huber Properties, LLC  
Attn: Dylan Huber  
6391 SE Mullenix Road  
Port Orchard, WA 98367-9766

<b>WQC Order No.</b>	23561
<b>Corps Reference No.</b>	NWS-2023-0056
<b>Site Location</b>	Colbie Court Project, located within wetlands in the Blackjack Creek watershed, near Port Orchard, Kitsap County, Washington.

Huber Properties, LLC (Dylan Huber) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act to the Department of Ecology (Ecology) for the Colbie Court project, Kitsap County, Washington. The required processing dates are listed below:

- On 1/13/2023, Huber Properties, LLC (Dylan Huber) submitted a pre-filing meeting request.
- On 4/29/2024, the U.S. Army Corps of Engineers (Corps) sent a permit notification to Ecology that indicated that they are processing the project under the Nationwide Permit (NWP) Program.
- On 6/25/2024, Ecology received a request for Clean Water Section 401 Water Quality Certification (Request), and Ecology considered the Request valid on this date.
- On 6/26/2024, Ecology issued a public notice for the project.
- Ecology's "Reasonable Period of Time" for this project has been established as 6/24/2025.

The project proposes to construct a 50-lot detached single-family subdivision on two parcels. The project will result in 0.08 acres of direct wetland impacts and 0.26 acres of indirect wetland impacts, which will be mitigated on site through 0.25 acres of wetland creation and 0.34 acres of wetland enhancement.

The project site is located on Parcels 112301-1-030-2007 and 112301-1-006-2007 (Street Address 5230 Bethel Rd SE), in wetlands located within the Blackjack Creek watershed, unincorporated Kitsap County, Washington, Section 11, Township 23 N., Range 01 E., within Water Resource Inventory Area (WRIA) 15 - Kitsap.

## Authorities

In exercising authority under 33 U.S.C. §1341, 40 CFR Part 121, RCW 90.48.120, RCW 90.48.260, and Chapter 173-201A, Ecology has reviewed this WQC request pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §§1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 302, 303, 306 and 307).
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.
4. Conformance with Washington's prohibition on discharges that cause or tend to cause pollution of waters of the state of Washington. RCW 90.48.080.
5. The Project Proponent of the project authorized is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, local or tribal authorities.

With this Water Quality Certification Order (WQC Order), Ecology is granting with conditions Huber Properties, LLC (Dylan Huber)'s request for a Section 401 Water Quality Certification for the Colbie Court project, with proposed impacts to wetlands in the Blackjack Creek watershed, located in unincorporated Kitsap County. Ecology has determined that the proposed discharges will comply with all applicable state water quality and other appropriate requirements of State law, provided the project is conducted in accordance with the WQC request that Ecology received on 6/25/2024, the supporting documents referenced in Table 1 below, **and the conditions of this WQC Order.**

**Table 1** Supporting Documents

Date Received	Document Type	Title and Date	Author
1/16/2024	Wetland Delineation	Wetland and Drainage Corridor Evaluation and Delineation Report, Revision 2, dated 1/10/2024	Mark Heckert, Beaver Creek Environmental Services, Inc.
6/24/2024	Stormwater Pollution Prevention Plan	Stormwater Pollution Prevention Plan, dated 6/5/2024	AHBL, Inc.

6/24/2024	Site and Grading Plans	Cover Sheet and Conceptual Grading and Drainage Plan, dated 4/17/2024	AHBL, Inc.
6/24/2024	Temporary Erosion Sediment Control (TESC) Plans	T.E.S.C Plan, Notes & Details, dated 6/12/2024	AHBL, Inc.
6/24/2024	Culvert Plan	Culvert Plan, dated 6/12/2024	AHBL, Inc.
6/25/2024	Joint Aquatic Resources Permit Application(JARPA) Form	JARPA 4/24/2024	Mark Heckert, Beaver Creek Environmental Services, Inc.
8/17/2024	Mitigation Plan	Mitigation Plan for Project Wetland & Buffer Impacts of Access Road Variance and Frontage Improvements, Revision 5, dated 8/6/2024	Mark Heckert, Beaver Creek Environmental Services, Inc.
3/7/2025	State Environmental Policy Act Determination Decision	Determination of Nonsignificance, dated 3/7/2025	Kitsap County Department of Community Development

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Huber Properties, LLC (Dylan Huber) 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) or other appropriate requirements of State law. Furthermore, nothing in this Section 401 Water Quality Certification absolves Huber Properties, LLC (Dylan Huber) from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

### Water Quality Certification Conditions

The following conditions will be incorporated into the Corps permit and strictly adhered to by Huber Properties, LLC (Dylan Huber). Specific condition justifications and citations are provided below.

## A. General Conditions

1. In this WQC Order, the term “Project Proponent” shall mean Huber Properties, LLC (Dylan Huber), and its agents, assignees, and contractors.
  - Justification - Ecology needs to identify that conditions of this WQC Order apply to anyone conducting work on behalf of the Project Proponent to ensure compliance with the water quality standards and other applicable state laws.
  - Citation - 40 CFR 121.1(j), Chapter 90.48 RCW, RCW 90.48.080, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, Chapter 173-201A WAC, and WAC 173-225-010.
2. All submittals required by this WQC Order shall be sent to Ecology’s Headquarters Office, Attn: Federal Permit Manager, via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) and cc to [neil.molstad@ecy.wa.gov](mailto:neil.molstad@ecy.wa.gov). The submittals shall be identified with WQC Order No. 23561 and include the Project Proponent’s name, Corps permit number, project name, project contact, and the contact phone number.
  - Justification - Ecology needs to identify where information and submittals are to be submitted to be in compliance with the requirements of this WQC Order.
  - Citation - Chapter 90.48 RCW, RCW 90.48.120, RCW 90.48.260, Chapter 173-201A WAC, and WAC 173-225-010.
3. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on 6/25/2024 and the supporting documentation identified in Table 1.
  - Justification - Ecology has the authority to prevent and control pollution of state waters. By authorizing a discharge into a water of the state, through a WQC, Ecology is certifying the project as proposed will not negatively impact water quality. Therefore, it is imperative the project is conducted as it was presented during the review process. Any deviations from information within the WQC Request package and this WQC Order must be disclosed prior to the initiation of the planned work, and may require a new WQC request.
  - Citation - 40 CFR 121.5, 40 CFR 121.10, 40 CFR 121.11, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, Chapter 173-201A WAC, Chapter 173-204 WAC, and WAC 173-225-010.
4. The Project Proponent shall keep copies of this WQC Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.

- Justification - All parties (including on-site contractors) must be aware of and comply with the WQC Order for the protection of water quality.
  - Citation - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.
5. The Project Proponent 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. The Project Proponent shall ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand relevant conditions of this WQC Order and all permits, approvals, and documents referenced in this WQC Order. The Project Proponent shall provide Ecology a signed statement (see Attachment A for an example) before construction begins.
- Justification - Ecology needs to ensure that anyone conducting work at the project, on behalf of the Project Proponent, 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 - Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.
7. This WQC Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this WQC Order.
- Justification - Ecology has the authority to prevent and control pollution of state waters, and to protect designated uses. By authorizing a discharge into a water of the state, through a water quality certification, Ecology is certifying the project as proposed will not negatively impact state water quality and will comply with the state's water quality requirements. Therefore, it is imperative the project is conducted as it was presented during the review process, and as conditioned herein.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300(2)(e)(i), WAC 173-201A-310, WAC 173-204-120, and WAC 173-225-010.
8. Failure of any person or entity to comply with the WQC Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the state's water quality standards and the conditions of this WQC Order.
- 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. Ecology has independent state authority to ensure protection of state water quality. Civil penalties and other enforcement actions are the primary means of securing compliance with water quality requirements.
  - Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.037, RCW 90.48.080, RCW 90.48.120, RCW 90.48.140, RCW 90.48.142, RCW 90.48.144, and WAC 173-225-010.
9. The Project Proponent shall provide Ecology documentation for review before undertaking any major changes to the proposed project that could significantly and adversely affect water quality, other than those project changes required by this WQC Order.
- Justification - Ecology has independent authority to enforce our 401 certification conditions issued through this WQC Order pursuant to RCW 90.48, and has independent state authority to ensure protection of state water quality. In order to ensure the project will comply with water quality standards in the event of any major changes, Ecology must be able to review the scope of work involved in the construction and operation of the project, otherwise all work must stop and a new 401 certification pre-filing meeting, followed by a new WQC request (after requisite 30-days) is required.
  - Citation - 40 CFR 121.1(k) and (n), 40 CFR 121.3, 40 CFR 121.5, 40 CFR 121.11, Chapter 90.48 RCW, and Chapter 173-201 WAC.
10. The Project Proponent shall send (per A.2.) a copy of the final Federal permit to Ecology 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.
11. To transfer this WQC Order to a new owner or operator the Project Proponent 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 per condition A.2. 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 Project Proponent 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. Notification Requirements**

1. The following notifications shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Permit Manager via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) and cc to [neil.molstad@ecy.wa.gov](mailto:neil.molstad@ecy.wa.gov). Notifications shall be identified with WQC Order No.23561, Corps Reference No. NWS-2023-0056, and include the Project Proponent name, project name, project location, project contact and the phone number.
  - a. Immediately following a violation of state water quality standards or when the project is out of compliance with any conditions of this WQC Order;
  - b. At least ten (10) days prior to all pre-construction meetings;
  - c. At least ten (10) days prior to conducting initial in-water work activities, including wetland impacts; and
  - d. Within seven (7) days of completion of each in-water work activity, including wetland impacts.
    - Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must be aware of when a project starts and ends and whether there are any issues. This allows Ecology to evaluate compliance with the state water quality requirements.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, Chapter 173-201A WAC, WAC 173-201A-300 - 330, Chapter 173-204 WAC, and WAC 173-225-010.
2. In addition to the phone or e-mail notification required under B.1.a. above, the Project Proponent shall submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
    - Justification - Ecology has independent state authority to ensure protection of state water quality. This condition is intended to assure the Project Proponent remains in full compliance with state water quality requirements for the duration of the project.
    - Citation - Chapter 90.48 RCW, RCW 90.48.120, Chapter 173-201A WAC, and WAC 173-225-010.
  3. If the project construction is not completed within 13 months of issuance of this WQC Order, the Project Proponent shall submit per Condition A.2 a written construction status report and submit status reports every 12 months until construction and mitigation are completed.
    - Justification - Ecology has independent state authority to ensure protection of state water quality. Ecology must be aware of when a project starts and ends and whether there are any issues. This allows Ecology to evaluate compliance with the state water quality requirements.
    - Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, Chapter 173-201A WAC, WAC 173-201A-300 - 330, Chapter 173-204 WAC, and WAC 173-225-010.

#### **C. Timing**

1. This WQC Order is effective upon issuance of the U.S. Corps of Engineers (Corps) permit for this project and will remain valid until December 31, 2031.
  - 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.

#### **D. Water Quality Criteria**

1. This WQC Order does not authorize the Project Proponent to exceed applicable water quality standards beyond the limits established in Chapter 173-201A WAC.

- Justification - This condition ensures compliance with water quality standards to protect surface 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.

## **E. Construction**

### **General Conditions**

1. All work in and near waters of the state shall be conducted to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMPs) suitable to prevent exceedances of state water quality standards shall be in place before starting maintenance and shall be maintained throughout the duration of the activity.
  - Justification - Disturbed areas without appropriate BMPs and construction methods can discharge excess sediment to waters of the state and degrade water quality. 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.
2. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
  - Justification -Ensures that the project proponent preserves sensitive areas from 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.
3. No stockpiling or staging of materials shall occur at or below the OHWM of any waterbody.
  - 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, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.
4. The Project Proponent 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.
5. Within the project limits<sup>1</sup> all environmentally sensitive areas including, but not limited to, wetlands, wetland buffers, shoreline riparian buffers and mitigation areas shall be fenced with high visibility construction fencing (HVF), , prior to commencing construction activities. Construction activities include equipment staging, materials storage, and work vehicle parking. Note: This condition does not apply to activities such as pre-construction surveying and installing HVF and construction zone signage.
- a. If the project will be constructed in stages<sup>2</sup> a detailed description and drawings of the stages shall be sent to Ecology for review at least 20 days prior to placing HVF.
  - b. Condition 5.a. shall apply to each stage.
  - c. All field staff shall be trained to recognize HVF, understand its purpose and properly install it in the appropriate locations.
  - d. HVF shall be maintained until all work is completed for each project or each stage of a staged 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.

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<sup>1</sup> Project limits include mitigation sites, staging areas, borrow sources, and other sites developed or used to support project construction.

<sup>2</sup> A stage is part of a project that has been separated into at least two distinct areas to be built during separate timeframes.

- 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.
6. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
- 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, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.
7. All construction debris, excess sediment, and other solid waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
- Justification - Ecology must be assured that the Project Proponent is managing and disposing of material to 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.
8. Applicant shall ensure that fill (soil, gravel, or other material) placed for the proposed project does not contain toxic materials in toxic amounts.
- 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, Chapter 173-201A WAC, WAC 173-201A-300-330, WAC 173-204-120, and WAC 173-225-010.
9. Work within waters of the state shall be conducted in the dry or during periods of low flow to the extent practicable.
- 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, Chapter 173-201A WAC, WAC 173-201A-300-330, WAC 173-204-120, and WAC 173-225-010.

### **Equipment and Maintenance**

10. 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.

11. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the state, including wetlands. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state, including wetlands.

- 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, Chapter 90.56 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

12. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this WQC Order.

- 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, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

13. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.

- 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, Chapter 90.56 RCW, Chapter 173-200, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

14. Wash water containing oils, grease, or other hazardous materials resulting from washing of equipment or working areas shall not be discharged into state waters. The Project Proponent shall set up a designated area for washing down equipment.

- 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, Chapter 90.56 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

15. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash-out of concrete delivery trucks, pumping equipment, and tools.

- 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, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.

### **Culvert Work and Stream Bypass**

16. All culvert work shall be conducted in the dry or in isolation from stream flow.

- Justification - This condition would limit re-suspension of sediment that could cause water quality exceedances. 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.

17. Culverts shall be installed to avoid inlet scouring and prevent downstream bank erosion.

- Justification - Scour and erosion could cause long term instability of the project and contribute to water quality impacts. 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.

#### **F. Wetland Mitigation Conditions**

1. The Project Proponent shall mitigate wetland impacts as described in the Mitigation Plan for Project Wetland & Buffer Impacts of Access Road Variance and Frontage Improvements, Revision 5 (hereafter called the "Mitigation Plan") identified in Table 1, 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 - 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. The Project Proponent shall submit any proposed changes to the Mitigation Plan in writing to Ecology (see A.2) for review before implementing the changes.
  - Justification - When adequate mitigation is provided, the water quality impacts are offset and not considered significant, at least in the long-term. Changes to impacts or mitigation warrant review to ensure adequate mitigation is provided.
  - Citation - 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. The Project Proponent shall have a qualified wetland professional at the wetland mitigation site to supervise during construction and planting.
  - Justification - Mitigation success is critical to achieving control of pollution. Supervision of qualified professionals helps ensure success.



- Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, 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.

## Implementation

4. Unless otherwise authorized by this WQC Order, the Project Proponent shall begin the compensatory mitigation project before, or concurrently with, impacting wetlands. Otherwise, Ecology may require the Project Proponent 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.
  - Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, 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.
5. The Project Proponent shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands or their buffers and landward of the 100-year floodplain, unless otherwise provided for in the Mitigation Plan.
  - Justification - Placement of excess material in wetlands, buffers or floodplains may adversely affect the functions of the wetlands onsite and contribute to a failure of the mitigation plan. 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 - 40 CFR 131.12, Chapter 47.85.040 RCW, 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. The Project Proponent shall ensure that no material is stockpiled within existing wetlands or their buffers at the wetland mitigation site(s) at any time, unless otherwise provided for in the Mitigation Plan.
  - Justification - Placement of excess material in wetlands or buffers may adversely affect the functions of the wetlands onsite and contribute to a failure of the mitigation plan. 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 - 40 CFR 131.12, Chapter 47.85.040 RCW, 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. The Project Proponent shall ensure that no construction debris is deposited within existing wetlands or their buffers at the wetland mitigation site(s) at any time, unless otherwise provided for in the Mitigation Plan.
- Justification - Placement of construction debris in wetlands or buffers may adversely affect the functions of the wetlands onsite and contribute to a failure of the mitigation plan. 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 - 40 CFR 131.12, Chapter 47.85.040 RCW, 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.
8. The Project Proponent shall not use hay or straw on exposed or disturbed soil at the mitigation site(s), unless otherwise provided for in the Mitigation plan.
- Justification - Straw can be a source of noxious weeds which are a subset of invasive species that have been classified according to the seriousness of the threat they pose. Governments and landowners are required to control them. Noxious weeds can inhibit the success of a mitigation site.
  - Citation - WAC 16-228-1400, WAC 173-225-010, and WAC 173-226-110 WAC.
9. Aquatic herbicides can be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category.
- a. Applicators are required to be permitted under Ecology's Noxious Weed Control Permit.
  - b. Applicators shall comply with all conditions of the Noxious Weed Control Permit.
- Justification - Noxious weeds are a subset of invasive species that have been classified according to the seriousness of the threat they pose. Governments and landowners are required to control them. 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 – WAC 16-228-1400, WAC 173-225-010, and WAC 173-226-110.

10. If weed-barrier fabric is used on the site, the Project Proponent shall use only water-permeable, fully biodegradable, non-toxic weed-barrier fabric for the entire-site and/or individual plant weed control. If use of non-biodegradable plastic weed-barrier fabric is proposed in the mitigation plan approved by Ecology, it shall be used only at the base of individual plants and shall be removed before it starts to break down, before it interferes with plant growth, or before the end of the monitoring period, whichever comes first.

- Justification - The establishment of hydrophytic vegetation and substrate characteristics, is a necessary element of the mitigation plan and is promoted by weed suppression. Suppression of weeds is necessary until hydrophytic vegetation is established, after which time the presence of the fabric will hinder vegetation establishment and may affect mitigation success.
- Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, 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.

11. If seeding is used for temporary erosion control, it must be a seed mix consisting of native, annual, non-invasive plant species.

- Justification - Establishment of native species are a necessary element of wetland mitigation. Planting mixes must not contain non-native, invasive species, including noxious weeds since they will inhibit the success of the mitigation site and plan. Noxious weeds are a subset of invasive species that have been classified according to the seriousness of the threat they pose. Governments and landowners are required to control them.
- Citation - 40 CFR 131.12, Chapter 16-228-1400 WAC, Chapter 47.85.040 RCW, 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, WAC 173-225-010, and WAC 173-226-110.

12. If solid or mesh plant protector tubes are used on the mitigation site(s), Ecology strongly recommends that the Project Proponent use fully biodegradable options (photodegradable is not considered biodegradable). If non-biodegradable plant protection options are used, they shall be removed before they interfere with plant growth or before the end of the monitoring period, whichever comes first.

- Justification - This requirement provides assurance that the mitigation site has the best chance at being successful in achieving wetland conditions. 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 - 40 CFR 131.12, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), and WAC 173-201A-300.

13. The Project Proponent shall place signs and/or fencing at the mitigation area's(s') boundaries, including buffers, consistent with Kitsap County Critical Areas Ordinance requirements to mark the area as a wetland mitigation site(s).

- Justification - This requirement provides assurance that the mitigation site has the best chance at being successful in achieving wetland conditions.
- Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), and WAC 173-201A-300.

14. After completing construction and planting of the mitigation sites(s), the Project Proponent shall submit to Ecology (see A.2) an as-built report, including plan sheets, documenting site conditions at Year Zero. The as-built report must:

- a. Be submitted within 90 days of completing construction and planting.
  - b. Include the information listed in Attachment B (Information Required for As-built Reports).
  - c. Include documentation of the recorded legal site protection mechanism required in Condition F.15.
- Justification - This condition is necessary to ensure the mitigation site was constructed and planted per the approved mitigation plan and serves as a baseline for monitoring performance standards, which must be met to ensure success of the mitigation site.
  - Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, 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.

15. The Project Proponent shall follow the steps below to record a deed notification for the Colbie Court project mitigation site:

- a. Send a draft deed notification to Ecology for review prior to recording.
- b. Record, on the mitigation site property deed, a description of the mitigation area identified in the final mitigation plan and a site map from the final wetland mitigation plan or as-built report showing the location of wetlands and their buffers.

- c. Record these documents with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.
- d. Submit proof of this recorded documentation to Ecology (per condition A.2) with the As-built report (see F.14).
  - Justification - The mitigation plan needs to ensure that measures will be taken to protect the site for the long term to ensure that wetland functions and values are replaced, thereby preserving beneficial uses and offsetting pollution.
  - Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, 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.

### **Monitoring and Maintenance**

- 16. The Project Proponent shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards. If an irrigation system is installed, it shall be removed by the end of year three unless otherwise provided for in the Mitigation Plan.
  - Justification - Designing and implementing an appropriate maintenance plan is crucial to the success of a mitigation site.
  - Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, 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.
- 17. The Project Proponent shall monitor the mitigation site for a minimum of five (5) years. The Project Proponent shall use the monitoring methods described on page(s) 12-15 of the Mitigation Plan.
  - Justification - A monitoring plan describes the methods used to collect and analyze data needed to show that performance standards are being met. Monitoring plans are necessary to track environmental changes at mitigation sites to ensure success of the mitigation site.
  - Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, 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.
- 18. The Project Proponent shall submit to Ecology (see A.2) monitoring reports documenting mitigation site conditions twice yearly for the five (5) years of the monitoring period. The monitoring reports must:

- a. Be submitted on the schedule described in the Mitigation Plan.
  - b. Include the information listed in Attachment C (Information Required for Monitoring Reports).
    - Justification- Monitoring reports track the environmental progress of the mitigation site and are necessary to track environmental changes at mitigation sites to ensure success of the mitigation site.
    - Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, 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.
19. The Project Proponent shall implement the Mitigation Plan's contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.
- Justification - A contingency plan is necessary in case the actions undertaken for the mitigation fail or only partially succeed. A contingency plan contains corrective measures that will be taken if monitoring indicates that performance standards are not being met. The contingency plan outlines the steps that will be taken for each performance standard if it is not met.
  - Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, 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.
20. Prior to implementing contingency measures not specified in the Mitigation Plan, the Project Proponent shall consult with Ecology regarding the contingency measures.
- Justification - A contingency plan is necessary in case the actions undertaken for the mitigation fail or only partially succeed. A contingency plan contains corrective measures that will be taken if monitoring indicates that performance standards are not being met. The contingency plan should outline the steps that will be taken for each performance standard if it is not met.
  - Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, 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.
21. When necessary to meet the performance standards, the Project Proponent shall replace dead or dying plants with the same species, or an appropriate native plant alternative, during the current or upcoming planting season and note species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.

- Justification - Performance standards must be met to ensure success of the mitigation site.
- Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, 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.

22. At the end of monitoring year five (5), the Project Proponent shall use the currently approved federal wetland delineation manual and appropriate regional supplement to delineate all compensatory wetlands and include delineation information (e.g., data sheets, maps, wetland size, etc.) in the monitoring report.

- Justification - Delineation of wetlands helps to determine if the wetland area is adequately replaced, achieving no net loss. Delineation also informs whether mitigation is on track for success or if changes need to be made.
- Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, 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.

23. At the end of monitoring year five (5), the Project Proponent shall use the current version of the "Washington State Wetlands Rating System for Western Washington" to rate the mitigation site wetland and include the information in the monitoring report.

- Justification - Wetland rating will provide information regarding what wetland functions and values have been established at the mitigation site, informing whether adequate compensation has occurred.
- Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, 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, WAC 173-225-010 and Chapter 365-190-090 WAC.

24. If the Project Proponent has not met all compensatory mitigation conditions by the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both. Conditions include specifications in the approved Mitigation Plan, such as performance standards for the mitigation site.

- Justification - If the mitigation site is not meeting all compensatory mitigation conditions then the water quality impacts will not be offset by the mitigation.
- Citation - 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 47.85.040 RCW, 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.

25. The Project Proponents obligation to compensate for wetland impacts under Condition F.1 is not met until the Project Proponent has received written notice from Ecology that the obligation is met.

- Justification - If the mitigation site is not meeting all compensatory mitigation conditions then the water quality impacts will not be offset by the mitigation.
- Citation - 40 CFR 131.12, Chapter 47.85.040 RCW, 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.

## **G. Emergency/Contingency Measures**

1. The Project Proponent shall develop and implement a spill prevention and containment plan for all aspects of this project.

- Justification - Ecology must ensure that the Project Proponent has a plan to prevent pollution from entering waterways. 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, Chapter 90.56.280 RCW, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.

2. The Project Proponent shall have adequate and appropriate spill response and cleanup materials available on site to respond to any release of petroleum products or any other material into waters of the state.

- Justification - Ecology must have assurance that the Project Proponent has the material readily available in WQC Order to address any spills that might occur to protect 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 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.

3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.



- 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, 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.
4. Work causing distressed or dying fish and discharges of oil, fuel, or chemicals into state waters or onto land with a potential for entry into state waters is prohibited. If such work, conditions, or discharges occur, the Project Proponent shall notify Ecology's Federal Permit Manager, per condition A.2, and immediately take the following actions:
- a. Cease operations at the location of the non-compliance.
  - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and prevent further environmental damage.
  - c. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
  - d. Immediately notify Ecology's Regional Spill Response Office and the Washington State Department of Fish and 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.
  - e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
- 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. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.
  - Justification - Oil and hazardous materials spills cause environmental damage. 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.

## **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.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](mailto: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:

Neil Molstad  
Department of Ecology  
(425) 389-5549  
[neil.molstad@ecy.wa.gov](mailto:neil.molstad@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 23 day of April, 2025, at the Department of Ecology, Shoreline, Washington.



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Joe Burcar, Section Manager  
Northwest Region Office  
Shorelands and Environmental Assistance Program

## **Attachment A**

### **Statement of Understanding Water Quality Certification Conditions**

Colbie Court

Water Quality Certification WQC Order No. 23561

As the Project Proponent for the Colbie Court project, I have read and understand the conditions of Washington State Department of Ecology WQC Order No. 23561, and any permits, plans, documents, and approvals referenced in the WQC Order. I have and will continue to ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this WQC Order and any permits, plans, documents, and approvals referenced in the WQC Order.

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Signature

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Date

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Title

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Phone

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Company

## **Attachment B**

### **Information Required for As-built Reports**

Colbie Court

Ecology Order No. 23561

And

Corps Reference No. NWS-2023-0056

Ecology requires the following information for as-built reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

#### **Background Information**

1. Project name.
2. Ecology Order number and the Corps reference number.
3. Name and contact information of the person preparing the as-built report. Also, if different from the person preparing the report, include the names of:
  - a. The Project Proponent
  - b. The landowner
  - c. Wetland professional on site during construction of the mitigation site(s).
4. Date the report was produced.

#### **Mitigation Project Information**

5. Brief description of the **final** mitigation project with any changes from the approved plan made during construction. Include:
  - a. Actual acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
  - b. Important dates, including:
    01. Start of project construction.
    02. When work on the mitigation site began and ended.

03. When different activities such as grading, removal of invasive plants, installing plants, and installing habitat features began and ended.

6. Description of any problems encountered and solutions implemented (with reasons for changes) during construction of the mitigation site(s).
7. List of any follow-up actions needed, with a schedule.
8. Vicinity map showing the geographic location of the site(s) with landmarks.
9. Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
  - a. Boundary of the site(s).
  - b. Topography (with a description of how elevations were determined).
  - c. Installed planting scheme (quantities, densities, sizes, and approximate locations of plants, as well as the source(s) of plant material).
  - d. Location of habitat features.
  - e. Location of permanent photo stations and any other photos taken.

Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions after the site work is completed.

10. Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction from which each photo was taken. Photo pans are recommended.
11. A copy of any deed notifications, conservation easements, or other approved site protection mechanism.

## **Attachment C**

### **Information Required for Monitoring Reports**

Colbie Court

Ecology Order No. 23561

And

Corps Reference No. NWS-2023-0056

Ecology requires the following information for monitoring reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

#### **Background Information**

1. Project name.
2. Ecology Order number and the Corps reference number.
3. Name and contact information of the person preparing the monitoring report. Also, if different from the person preparing the report, include the names of:
  - a. The Project Proponent
  - b. The landowner
  - c. The party responsible for the monitoring activities.
4. Dates the monitoring data were collected.
5. Date the report was produced.

#### **Mitigation Project Information**

6. Brief description of the mitigation project, including acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
7. Description of the monitoring approach and methods. For each performance standard being measured provide the following information:
  - a. Description of the sampling technique (e.g., monitoring point for soil or hydrology, line or point intercept method, ocular estimates in individually placed plots). If you are using a standardized technique, provide a reference for that method.



- b. Size and shape of plots or transects.
  - c. Number of sampling locations and how you determined the number of sampling locations to use.
  - d. Percent of the mitigation area being sampled.
  - e. Locations of sampling (provide a map showing the locations), how you determined where to place the sampling locations (e.g., simple random sample), and whether they are permanent or temporary.
  - f. Schedule for sampling (how often and when).
  - g. Description of how the data was evaluated and analyzed.
8. Summary table(s) comparing performance standards with monitoring results and whether each standard has been met.
9. Discussion of how the monitoring data were used to determine whether the site(s) is meeting performance standards.
10. Goals and objectives and a discussion of whether the project is progressing toward achieving them.
11. Summary, including dates, of management actions implemented at the site(s), for example, maintenance and corrective actions.
12. Summary of any difficulties or significant events that occurred on the site that may affect the success of the project.
13. Specific recommendations for additional maintenance or corrective actions with a timetable.
14. Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction the camera is facing. Photo pans are recommended.
15. Vicinity map showing the geographic location of the site(s) with landmarks.
16. Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
- a. Boundary of the site(s).
  - b. Location of permanent photo stations and any other photos taken.

- c. Data sampling locations, such as points, plots, or transects.
- d. Approximate locations of any replanted vegetation.
- e. Changes to site conditions since the last report, such as areas of regrading, a shift in the location of Cowardin classes or habitat features, or a change in water regime.

Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions during the most recent monitoring year.