



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

April 23, 2025

RM Homes LLC
Attn: James Kerby
2913 5th Avenue NE, Suite 201
Puyallup, Washington 98372

Re: Water Quality Certification Order No. **23592** (Corps No. **NWS-2024-900**), Tyee Ranch Residential Development, Pierce County, Washington

Dear James Kerby:

On January 21, 2025, RM Homes LLC (James Kerby) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Tyee Ranch Residential Development, Pierce 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. 23592, Corps No. NWS-2024-900

Aquatics ID No. 144976

April 23, 2025

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If you have any questions about this decision, please contact Lydia Albright at (360) 870-2983 or Lydia.Albright@ecy.wa.gov. 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 7507 75

Sent via e-mail: james@rmhomes.com

E-cc: Grace Hall, U.S. Army Corps of Engineers
Jon Pickett, Soundview Consultants, LLC
Erin Hanlon Brown, Ecology
Lydia Albright, Ecology
Brook Swensen, Ecology
Sierra Blakely, Ecology
ecyrefedpermits@ecy.wa.gov

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

RM Homes LLC
Attn: James Kerby
2913 5th Avenue NE, Suite 201
Puyallup, Washington 98372

WQC Order No.	23592
Corps Reference No.	NWS-2024-900
Site Location	Tyee Ranch Residential Development, located within wetlands, Edgewood, Pierce County, Washington.

RM Homes LLC (James Kerby) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Tyee Ranch Residential Development, Pierce County, Washington. The required processing dates are listed below:

- On November 14, 2024, the U.S. Army Corps of Engineers (Corps) sent a permit notification to Ecology that indicated that they are processing the project under Nationwide Permit (NWP) Program.
- On November 25, 2024, RM Homes LLC (James Kerby) submitted a pre-filing meeting request.
- On January 21, 2025, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On January 27, 2025, Ecology issued a public notice for the project.
- Ecology's "Reasonable Period of Time" for this project has been established as July 20, 2025.

The project proposes to permanently discharge fill within 3,924 square feet (0.09 acre) of a Category IV wetland in Wetland F at Edgewood, Pierce County, Washington. The purpose of the proposed work is to redevelop the subject property with a residential subdivision containing 33 single-family residences and associated infrastructure including internal access roads, utilities, and stormwater facilities. Direct wetland impacts will be compensated onsite through a combined approach of wetland creation and wetland enhancement.

The project site is located at 11617 15th St E; 1419 114th Ave E, in wetlands, Edgewood, Pierce County, Washington, Section 3/2, Township 20 N., Range 4 E., within Water Resource Inventory Area (WRIA) 10 Puyallup-White.

With this WQC Order, Ecology is granting with conditions RM Homes LLC (James Kerby)'s request for a Section 401 Water Quality Certification for the Tyee Ranch Residential Development project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on January 21, 2025, and the following supporting documentation:

1. Conceptual Mitigation Plan, Tyee Ranch, prepared by Soundview Consultants, revised February 28, 2025, received by Ecology on March 12, 2025.
2. Letter Response to Ecology Comments received by Ecology on March 12, 2025.
3. State Environmental Policy Act (SEPA) Mitigated Determination of Nonsignificance (MDNS) dated and received by Ecology on March 10, 2025.

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, RM Homes LLC (James Kerby) 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 RM Homes LLC (James Kerby) 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 RM Homes LLC (James Kerby) 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. 23592** will remain valid until December 31, 2036.
 - 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. RM Homes LLC (James Kerby) 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, RM Homes LLC (James Kerby) 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 RM Homes LLC (James Kerby) 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 Lydia.Albright@ecy.wa.gov. 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 RM Homes LLC (James Kerby) 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. RM Homes LLC (James Kerby) 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. RM Homes LLC (James Kerby) shall mitigate wetland impacts as described in the Conceptual Mitigation Plan, Tyee Ranch (hereafter called the "Mitigation Plan"), revised February 28, 2025, and received by Ecology on March 12, 2025; 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.
6. RM Homes LLC (James Kerby) shall submit any proposed changes to the Mitigation Plan in writing to Ecology via e-mail to fednotification@ecy.wa.gov and cc to Lydia.Albright@ecy.wa.gov for review, as described in the Mitigation Plan 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.
7. RM Homes LLC (James Kerby) shall provide a status report on the project and mitigation site construction to Ecology 13 months from the date of permit issuance. Annual status reports on project and mitigation construction are required until the project and mitigation construction are complete. The Project Proponent shall submit an updated written notification every 12 months thereafter until the Tyee Ranch Residential Development and onsite wetland creation and enhancement are complete.
- 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.
8. 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.
9. After completing construction and planting of the mitigation sites(s), the Project Proponent shall submit to Ecology via e-mail to fednotification@ecy.wa.gov and cc to Lydia.Albright@ecy.wa.gov 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 documentation of the recorded legal site protection mechanism required in Condition 10.
 - 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.
10. The Project Proponent shall follow the steps below to record a deed notification for the onsite wetland creation and enhancement:
- 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 via e-mail to fednotification@ecy.wa.gov and cc to Lydia.Albright@ecy.wa.gov with the As-built report (see Condition 9).
 - 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.

11. The Project Proponent shall submit to Ecology via e-mail to fednotification@ecy.wa.gov and cc to Lydia.Albright@ecy.wa.gov monitoring reports documenting mitigation site conditions for years 1, 2, 3, 5, 7 and 10 by December 31 of each monitoring year.

- 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.

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 RM Homes LLC (James Kerby) for the Tyee Ranch Residential Development 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.wa.gov/> or call: 360-664-9160.

Service on Ecology

Street Address:

Department of Ecology
Attn: Appeals Processing Desk
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 23rd day of April 2025 at the Department of Ecology, Lacey, Washington.



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