



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

September 3, 2025

Deborah Pozarycki
1810 23rd Avenue East
Seattle, WA 98112

Re: Water Quality Certification Order No. **23711** (Corps No. **NWS-2024-0472**), Pozarycki Bulkhead Replacement, Island County, Washington

Dear Deborah Pozarycki:

On 1/03/2025, Deborah Pozarycki submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Pozarycki Bulkhead Replacement, Island 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 Austin Schmalz at (425) 301-6989. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

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

Enclosure (1)

By certified mail: 9171 9690 0935 0233 1819 17

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Sent via e-mail: [dj7@hotmail.com](mailto:djr7@hotmail.com)

E-cc: Jaime Liljegren, U.S. Army Corps of Engineers
Richard Young, Tulalip Tribes
Allison Lisi, Facet NW
Jay Dally, Facet NW
Erin Hanlon Brown, Ecology
Austin Schmalz, Ecology
ecyrefedpermits@ecy.wa.gov

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

Deborah Pozarycki
1810 23rd Ave E
Seattle, WA 98112

WQC Order No.	23711
Corps Reference No.	NWS-2024-0472
Site Location	Pozarycki Bulkhead Replacement located within Saratoga Passage, Langley, Island County, Washington.

Deborah Pozarycki submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Pozarycki Bulkhead Replacement, Island County, Washington. The required processing dates are listed below:

- On 11/25/2024, Deborah Pozarycki submitted a pre-filing meeting request.
- On 1/3/2025, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 1/22/2025, Ecology issued a public notice for the project.
- Ecology's "Reasonable Period of Time" for this project has been established as 1/3/2026.

This project proposes to remove an existing 140-foot concrete bulkhead and to install a concrete bulkhead within the same footprint. The replaced concrete bulkhead footing would extend 4 feet deeper and the wall would extend vertically up to 1 foot taller than the existing structure. Removal and installation would occur concurrently in 40- to 60-foot sections. The existing bulkhead would be removed from the site using an excavator. Both removal and installation would occur during low tides. Temporary excavation would be completed to remove and install the concrete footings and a concrete wall would be poured within the same footprint. In addition, an existing dilapidated concrete break, approximately 19 piles, riprap, and approximately 100 tires would be removed over 2,000 linear feet on the beach, and approximately 70 cubic yards of suitable material would be placed to fill voids and restore the shoreline to a natural slope.

The project site is located at 110 Sunrise Ln, Langley, in Saratoga Passage, Island County, Washington, Section 34, Township 30 N., Range 3 E., within Water Resource Inventory Area (WRIA) 6 – Island.

With this WQC Order, Ecology is granting with conditions Deborah Pozarycki's request for a Section 401 Water Quality Certification for the Pozarycki Bulkhead Replacement project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 1/3/2025.

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, Deborah Pozarycki 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 Deborah Pozarycki 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 Deborah Pozarycki 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. **23711** will remain valid until 2/15/2027.
 - 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. Deborah Pozarycki shall send a copy of the final Federal permit via e-mail to fednotification@ecy.wa.gov and cc to Austin.Schmalz@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, Deborah Pozarycki 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 Deborah Pozarycki 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 Austin.Schmalz@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 Deborah Pozarycki 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. The following in-water work window applies to the project: All activities within the wetted perimeter of Saratoga Passage may be conducted from July 15 to October 15 if a biologist approved by the Department of Fish and Wildlife does not detect surf smelt eggs during a beach survey. Work must begin within seventy-two hours of the survey and must be completed within two weeks of the survey.

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

5. Water quality monitoring results shall be submitted upon request to fednotification@ecy.wa.gov and cc to Austin.schmalz@ecy.wa.gov.

- Justification - Ecology must protect waters of the state from all discharges and potential discharges of pollution and prevent exceedances of the water quality standards that protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, and WAC 173-225-010.
6. All concrete shall be completely cured prior to coming into contact with water, and all forms for concrete shall be completely sealed to prevent the possibility of fresh concrete entering 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 173-225-01
7. 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.

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 Deborah Pozarycki for the Pozarycki Bulkhead Replacement 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://elaho.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:

Austin Schmalz
Department of Ecology
(425) 301-6989
Austin.Schmalz@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>

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- **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 3 day of September 2025 at the Department of Ecology, Shoreline, Washington.



Joe Burcar, Section Manager

Northwest Region Office

Shorelands and Environmental Assistance Program