



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

September 16, 2025

Port of Skagit County
Attn: Heather Rogerson
15400 Airport Drive
Burlington, WA 98233

Re: Water Quality Certification Order No. **23837** (Corps No. **NWS-2025-310**), Watershed Business Park (WBP) – Project 1, Skagit County, Washington

Dear Heather Rogerson:

On 3/28/2025, Port of Skagit County submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Watershed Business Park (WBP) – Project 1, Skagit 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 Chris Luerkens at (360) 410-4807. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Chad Yunge on behalf of
Joe Burcar, Section Manager
Northwest Region Office
Shorelands and Environmental Assistance Program

Enclosure (1)

WQC Order No. 23837, Corps No. NWS-2025-310
Aquatics ID No. 145110
September 16, 2025
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By certified mail: 9171 9690 0935 0233 1819 62

Sent via e-mail: heatherr@portofskagit.com

E-cc: Colin Greenan, U.S. Army Corps of Engineers
Laura Schumacher, Port of Skagit County
Coli Huffman, Ecological Land Services
Erin Hanlon Brown, Ecology
Chris Luerkens, Ecology
ecyrefedpermits@ecy.wa.gov

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

Port of Skagit County
Attn: Heather Rogerson
15400 Airport Drive
Burlington, WA 98233

WQC Order No.	23837
Corps Reference No.	NWS-2025-310
Site Location	Watershed Business Park (WBP) – Project 1 located within wetlands and ditches, Burlington, Skagit County, Washington.

Port of Skagit County submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Watershed Business Park (WBP) – Project 1, Skagit County, Washington. The required processing dates are listed below:

- On 12/9/2024, the Port of Skagit County submitted a pre-filing meeting request.
- On 3/28/2025, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 4/3/2025, the U.S. Army Corps of Engineers (Corps) sent an email notification to Ecology that they are reviewing the project for authorization under the Nationwide Permit (NWP) Program.
- On 5/13/2025, Ecology issued a public notice for the project.
- Ecology’s “Reasonable Period of Time” for this project has been established as 9/30/2025.

This project proposes to develop the site for pad-ready light industrial lots. Key project components include frontage improvements along the south side of Peterson Road, construction of interior streets, creation of graded and compacted gravel lots and infrastructure needed to provide utilities to serve them, ditch modifications and development of a stormwater detention facility and conveyance line, and installation of a pedestrian trail. There are no proposed structures associated with this project; future development will be dependent upon the needs of individual lessees. The entirety of the site will be developed aside from a linear strip along the eastern property boundary consisting of forest and installed plantings, which will be retained as a vegetated buffer with a recreational trail system. The proposal will result in fill of 0.324 acres of wetland and 0.15 acres of ditches. Compensatory mitigation for

this proposal will consist of the purchase of mitigation bank credits from the Skagit Environmental Bank.

The project site is located east of 16120 Peterson Road, within wetlands and ditches, Skagit County, Washington, Section 2, Township 34 N., Range 4 E., within Water Resource Inventory Area (WRIA) 3 Lower Skagit - Samish Watershed.

With this WQC Order, Ecology is granting with conditions Port of Skagit County's request for a Section 401 Water Quality Certification for the Watershed Business Park (WBP) – Project 1 project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 3/28/2025.

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, Port of Skagit County 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 Port of Skagit County 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 Port of Skagit County 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. **23837** will remain valid until 11/30/2028.
 - 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. Port of Skagit County shall send a copy of the final Federal permit via e-mail to fednotification@ecy.wa.gov and cc to chris.luerkens@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, the Port of Skagit County 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 Port of Skagit County 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 chris.luerkens@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 the Port of Skagit County 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. 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.
5. This WQC Order does not authorize the Project Proponent to exceed applicable water quality standards beyond the limits established in Chapter 173-201A WAC, except as authorized by this WQC Order.
- 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.
6. 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.
7. The Port of Skagit shall mitigate wetland impacts as described in the Wetland Bank Use Plan, dated March 26, 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 – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300, and WAC 173-225-010.
8. Prior to impacting wetlands, the Port of Skagit County shall submit to Ecology documentation from the bank sponsor verifying the purchase of 0.277 wetland mitigation bank credits (credits) from the Skagit Environmental Bank. This documentation must include the Ecology Order Number, Order issuance date, impact acreage, the amount of credits required by the Order, and date of credit purchase.
- Justification - This condition is necessary to ensure the compensatory mitigation was actually provided by the bank.
 - Citation – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, RCW 47.85.040, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300, and WAC 173-225-010.
9. Unless otherwise authorized by this WQC Order, the Port of Skagit County shall complete the purchase of credits before impacting wetlands. Otherwise, Ecology may require the Port of Skagit County to provide additional compensation to account for additional temporal loss of wetland functions.
- Justification - Mitigation that is not emplaced concurrent with impacts will result in degradation of existing beneficial uses of the wetlands affected by the proposed action through temporal loss of functions.
 - Citation – 33 CFR 332, 40 CFR 131.12, 40 CFR 230, subpart J, RCW 47.85.040, Chapter 90.48 RCW, Chapter 90.54 RCW, Chapter 90.74 RCW, Chapter 173-201A WAC, WAC 173-201A-260 (3)(i-ii), WAC 173-201A-300 and WAC 173-225-010.

In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, this WQC is granted with conditions to the Port of Skagit County for the Watershed Business Park (WBP) – Project 1 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, in paper form, by mail, or in person (see addresses below). E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Filing an appeal with the PCHB:

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

Address and Location Information

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:

Chris Luerkens
Department of Ecology
(360) 410-4807
chris.luerkens@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 16 day of September 2025 at the Department of Ecology, Shoreline, Washington.

A handwritten signature in black ink, appearing to read 'Chad Yunge', written over a horizontal line.

Chad Yunge on behalf of Joe Burcar, Section Manager
Northwest Region Office
Shorelands and Environmental Assistance Program