



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

January 28, 2020

Dick Clotfelter
215 5th Avenue, Unit C-202
Kirkland, WA 98033

**RE: Section 401 Water Quality Certification Denial without Prejudice, Order No. 17981,
U.S. Army Corps of Engineers (Corps) Reference No. NWS-2019-136, Clotfelter
Property Enhancement Project, Island County, Washington**

Dear Dick Clotfelter:

On February 8, 2019, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification (JARPA) for the above-referenced project. Ecology has one year from the Section 401 Water Quality Certification request to issue its decision.

At this time Ecology has not received the necessary information (outlined in an email sent on December 18, 2019) to be able to issue water quality certification for this project. Based on communications with the relevant parties, it is not likely the needed information will be provided by the statutory deadline of February 8, 2020.

Therefore, pursuant to Section 401 of the Clean Water Act, Chapter 90.48 RCW, and Chapter 173-201A WAC, Ecology is denying without prejudice your request for a Section 401 Water Quality Certification. Receipt of a denial without prejudice does not preclude you from submitting a new request for a Section 401 Water Quality Certification at a later date, at which time Ecology will begin a new review of the project.

If you have any questions, please contact Neil Molstad at (425) 649-7007. The Enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar", written over a horizontal line.

Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program

Enclosure



Dick Clotfelter
Clotfelter Property Enhancement Project
January 28, 2020
Page 2 of 2

By certified mail #9171 9690 0935 0233 1182 96

E-cc: ecyrefedpermits@ecy.wa.gov
Dick Clotfelter, Applicant
Jerry Gregory, Corps
Neil Molstad, Ecology
Loreé Randall, Ecology
April Zohn, Ducks Unlimited
Hiller West, Island County Planning and Community Development
Robert Smith, Plauche & Carr LLP
Paul Marczin, Washington Department of Fish & Wildlife
Allison Dellwo, Washington Recreation & Conservation Office

**IN THE MATTER OF DENYING
SECTION 401 WATER QUALITY
CERTIFICATION TO**

Dick Clotfelter

in accordance with 33 U.S.C. 1341 (FWPCA
§ 401), RCW 90.48.260 and Chapter 173-
201A WAC

) **ORDER No. 17981**
) **Corps Reference No. NWS-2019-136**
) Clotfelter Property Enhancement Project, Island
) County, Washington

Dick Clotfelter
215 5th Avenue, Unit C-202
Kirkland, WA 98033

On February 8, 2019, the Department of Ecology (Ecology) received a request for a Section 401 Water Quality Certification (WQC) via a Joint Aquatic Resources Permit Application (JARPA) for the above-referenced project. Ecology has one year from the receipt of the request for a WQC to issue its decision.

On December 19, 2019, Ecology sent you an email regarding the approaching statutory deadline and remaining information needs. It has been acknowledged that a final State Environmental Policy Act (SEPA) determination from Island County will not be provided by the statutory deadline of February 8, 2020.

Therefore, pursuant to Section 401 of the Clean Water Act, Chapter 90.48 RCW and Chapter 173-201A WAC, Dick Clotfelter's request for a WQC is denied without prejudice.

Receipt of a denial without prejudice does not preclude you from submitting a new request for a WQC at a later date, at which time we will begin a new review of the project.

YOUR RIGHT TO APPEAL

You have a right to appeal this Denial Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Denial Order. 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:

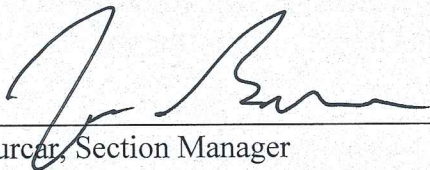
- File your appeal and a copy of this Denial Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Denial Order on Ecology in paper form - by mail or in person (see addresses below). Email is not accepted.

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

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW, Suite 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

SIGNATURE



Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office
Washington Department of Ecology

1/28/2020
Date