



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000  
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May 27, 2020

Washington Scuba Alliance  
Attn: James E. Trask  
21120 119th Ave SE  
Kent WA 98301-1149

**RE:** Section 401 Water Quality Certification Denial without Prejudice, Order No. 18161,  
U.S. Army Corps of Engineers (Corps) Reference No. NWS-2019-493, Washington Scuba  
Alliance Redondo Beach Park Artificial Reef Project, King County, Washington

Dear James E. Trask:

On May 28, 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 to have reasonable assurance that the project will meet state water quality laws. Therefore, pursuant to Section 401 of the Clean Water Act, Chapter 90.48 RCW, and Chapter 173-201A WAC, Ecology is denying without prejudice the Washington Scuba Alliance's 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.

If you have any questions, please contact Penny Kelley at 360-280-8856 or [penny.kelley@ecy.wa.gov](mailto:penny.kelley@ecy.wa.gov). The Enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brenden", is written over a light blue horizontal line.

Brenden McFarland, Section Manager  
Environmental Review and Transportation Section  
Shorelands and Environmental Assistance Program

E-CC: Kristin McDermott, Corps of Engineers  
Laura Arbor, WDFW  
Cyrilla Cook, DNR

Joe Miles, DNR  
Maria Sandercock, Ecology  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)  
Loreé Randall, Ecology, HQ

**IN THE MATTER OF DENYING  
SECTION 401 WATER QUALITY  
CERTIFICATION TO**  
Washington Scuba Alliance  
in accordance with 33 U.S.C. 1341 (FWPCA  
§ 401), RCW 90.48.260 and Chapter 173-  
201A WAC

) **ORDER No. 18161**  
) **Corps Reference No. NWS-2019-493**  
) Washington Scuba Alliance Redondo Beach  
) Park Artificial Reef, King County, Washington

Washington Scuba Alliance  
Attn: James E. Trask  
21120 119th Ave SE  
Kent WA 98031-1149

On May 28, 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 May 5, 2020, Ecology sent you an e-mail explaining that we needed the following information for review before we could issue a WQC:

- A copy of the SEPA Determination issued by the City of Des Moines
- A plan describing the methods for transferring benthic sea life (including geoduck) away from the work area immediately prior to construction and monitoring the survival of the transferred sea life.

Without this information, there is not reasonable assurance that the project will meet state water quality laws. With the statutory deadline approaching, Ecology must deny the WQC at this time. Therefore, pursuant to Section 401 of the Clean Water Act, Chapter 90.48 RCW and Chapter 173-201A WAC, the Washington Scuba Alliance Redondo Beach Park Artificial Reef Project request for a WQC is denied without prejudice.

Receipt of a denial without prejudice does not preclude you from submitting the information identified above with a new request for a WQC at a later date.

#### **YOUR RIGHT TO APPEAL**

You have a right to appeal this Denial Order to the Pollution Control Hearing 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.) E-mail 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
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel RD SW, Suite 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

#### SIGNATURE



Brenden McFarland, Section Manager  
Environmental Review and Transportation Section  
Shorelands and Environmental Assistance Program

May 27, 2020