



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

1250 West Alder Street • Union Gap, Washington 98903-0009 • (509) 575-2490

June 16, 2020

Yakima County Water Resources
Cliff Bennett and Troy Havens

SENT VIA ELECTRONIC MAIL

RE: Section 401 Water Quality Certification Denial without Prejudice, Order No. 18182,
U.S. Army Corps of Engineers (Corps) Reference No. NWS-2019-509
Shaw and Wide Hollow Creeks Flood Control Project, Shaw and Wide Hollow Creeks located
in Yakima County, Washington

Dear Troy Havens:

On June 21, 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 Yakima County Water Resources' 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 Lori White at 509-575-2616 or at lori.white@ecy.wa.gov.
The Enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Graff".

Gary Graff, PWS
Regional Section Manager
Shorelands and Environmental Assistance Program
Central Regional Office

Enclosure

cc: ecyrefedpermits@ecy.wa.gov
Loreé Randall, Ecology, HQ
David Moore, U.S Army Corps of Engineers

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

) **ORDER No. 18182**
) **Corps Reference No. NWS-2019-509**
) Shaw and Wide Hollow Creeks Flood Control
) Project, Shaw and Wide Hollow Creeks located
) in Yakima County, Washington
)

Yakima County Water Resources
Cliff Bennett and Troy Havens
128 N 2nd Street
Fourth Floor Courthouse
Yakima, WA 98901

On June 21, 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 18, 2020, Ecology sent you a letter explaining that we needed a revised Wetland and stream mitigation plan that offset the impacts of the project before we could issue a WQC. While an addendum to the Conceptual Mitigation Plan was provided on June 6, 2020, with additional information being submitted on June 10, 2020, Ecology still does not have the necessary details to demonstrate that the State's water quality standards will be met.

A detailed wetland and stream mitigation plan is needed that offset the remaining 0.6 acre wetland and 5,000 linear feet stream functions that will be lost through the channel excavation on Wide Hollow Creek and Shaw Creek channel relocation. 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, Shaw and Wide Hollow Creeks Flood Control 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 |
|--|---|
| 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



Gary Graff, PWS
Regional Section Manager
Shorelands and Environmental Assistance Program
Central Regional Office
Department of Ecology

June 16, 2020

Date