



**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

Northwest Regional Office 3190 160th SE Bellevue, Washington 98008-5452 (425) 649-7000

December 8, 2020

Skagit County Parks and Recreation
ATTN: Brian Adams, Director
1730 Continental Place
Mount Veronon, WA 98273

RE: Water Quality Certification Order No. **19504** for Corps Reference No. **NWS-2018-1164**,
Skagit Fields Project, City of Mount Vernon, Skagit County, Washington

Dear Brian Adams:

On December 17, 2019, Skagit County Parks and Recreation submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Skagit Fields Project in the City of Mount Vernon, Skagit County County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Joint Aquatic Resource Permit Application (JARPA), as revised by a letter from Graham-Bunting Associates dated December 2, 2020, including the final site plan dated November 30, 2020, and the public notice 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 conditions contained in the enclosed Order.

Please ensure that anyone doing work under this Order has read, is familiar with, and is able to follow all of the provisions within the attached Order.

If you have any questions about this decision, please contact Neil Molstad at (425) 389-5549 or Neil.Molstad@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

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

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

Enclosure

Sent by electronic mail to: briana@co.skagit.wa.us

e-cc: Ron Wilcox, Corps of Engineers
Marianne Manville-Ailles, City of Mount Vernon
Graham-Bunting Associates
Loree' Randall, Ecology, HQ SEA
Neil Molstad, Ecology, NWRO SEA
Stephanie Barney, Ecology, BFO WQP
ECY RE FEDPERMITS

IN THE MATTER OF GRANTING A)	ORDER # 19504
WATER QUALITY)	Corps Reference No. NWS-2018-1164
CERTIFICATION TO)	Skagit Fields Project, wetlands within the
SKAGIT COUNTY PARKS AND)	drainage area of an unnamed tributary to
RECREATION)	Trumpeter Creek, located in the City of Mount
in accordance with 33 U.S.C. 1341)	Vernon, Skagit County, Washington.
(FWPCA § 401), RCW 90.48.120, RCW)	
90.48.260 and Chapter 173-201A WAC		

Brian Adams, Director
 Skagit County Parks and Recreation
 1730 Continental Place
 Mount Vernon, WA 98273

On December 17, 2019, the Department of Ecology (Ecology) received a request from Skagit County Parks and Recreation for a Section 401 Water Quality Certification (WQC). A public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions of Chapter 173-225 Washington Administrative Code (WAC) on December 31, 2019.

The proposed project entails construction of five soccer playfields, a picnic area, and permeable walking paths, resulting in direct impacts to 3.24 acres of wetland and indirect impacts to 0.61 acres of wetland. The project site is located in Section 16, Township 34N, Range 4E, within Water Resource Inventory Area (WRIA) 3 (Lower Skagit-Samish).

AUTHORITIES

In exercising authority under 33 United State Code (U.S.C). § 1341, Revised Code of Washington (RCW) 90.48.120, and RCW 90.48.260, Ecology has reviewed the WQC request pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §§1311, 1312, 1313, 1316, and 1317 (FWPCA §§ 301, 302, 303, 306, and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws;
3. Conformance with the provision of using all known, available, and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010; and,
4. Conformance with Washington's prohibition on discharges that cause or tend to cause pollution of waters of the state of Washington. RCW 90.48.080.

WATER QUALITY CERTIFICATION CONDITIONS

With this Water Quality Certification (WQC) and through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as revised by the applicant in a letter from Graham-Bunting Associates dated December 2, 2020, and depicted through the final site plan dated November 30, 2020, and conditioned by this Order, will be conducted in a manner that will comply with applicable water quality standards and other appropriate requirements of state law. 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 to Skagit County Parks and Recreation (Applicant) subject to the conditions within this Order.

Issuance of this WQC for this proposal does not authorize the Applicant 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 WQC absolves the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

A. General Conditions

1. In this Order, the term “Applicant” shall mean Skagit County Parks and Recreation, its agents, assignees, and contractors.
2. All submittals required by this Order shall be sent to Ecology’s Headquarters Office, Attn: Federal Permit Manager, PO Box 47600, Olympia, WA, 98504 or via e-mail to fednotification@ecy.wa.gov and cc to neil.molstad@ecy.wa.gov. The submittals shall be identified with Order # 19504 and include the Applicant name, project name, project contact, and the contact phone number.
3. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Permit Application (JARPA) received by Ecology on December 17, 2019, revised by a letter from Graham-Bunting Associates dated December 2, 2020, and depicted on a site plan dated November 30, 2020.
4. The Applicant shall obtain Ecology review and approval before undertaking any further changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
5. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new public notice and Water Quality Certification or if a modification to this Order is required.
6. This Order is not effective until the U.S. Army Corps of Engineers (Corps) issues a permit for this project.
7. The Applicant shall send (per condition A.2 above) a copy of the final Corps permit to Ecology’s Federal Permit Manager within two weeks of receiving it.

8. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
9. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, and/or necessary data collection, to ensure that conditions of this Order are being met.
10. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
11. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48) or the federal Clean Water Act, Ecology may issue an amendment to this Order to incorporate any such changes or amendments applicable to this project.
12. The Applicant shall ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each signatory that s/he has read and understands the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins.
13. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
14. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.
15. This Order will automatically transfer to a new owner or operator if:
 - a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
 - b. A copy of this Order is provided to the new owner or operator; and,
 - c. If Ecology does not notify the new Applicant that this Order must be modified to complete the transfer.

16. Conditions in this Order apply to all planned phases of the construction and the mitigation for this project.

B. Notification Requirements

1. The following notification shall be made via phone or e-mail (e-mail is preferred) to Ecology's Federal Permit Manager via e-mail to fednotification@ecy.wa.gov and cc to neil.molstad@ecy.wa.gov. Notifications shall be identified with Order No. 19504 and include the Applicant name, project name, project location, project contact and the contact phone number.
 - a. At least ten (10) days prior to any pre-construction meetings
 - b. At least ten (10) days prior to the onset of any work on site
 - c. At least seven (7) days within the start of impacts to wetlands
 - d. Immediately following a violation of the state water quality standards or when the project is out of compliance with any condition of this Order
 - e. Within fourteen (14) days after completion of construction
2. In addition to the phone or e-mail notification required under B.1.d. above, the Applicant shall submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
3. If the project construction is not completed within 13 months of issuance of this Order, the Applicant shall submit per Condition A2 a written construction status report and submit status reports every 12 months until construction is completed.

C. Timing

1. This Order is valid until the Applicant meets all its requirements and the applicant has received written notification from Ecology to that effect.

D. Water Quality Criteria

1. This Order does not authorize the Applicant to exceed applicable turbidity standards beyond the limits established in WAC 173-201A-200(1)(e)(i).
2. Visible turbidity anywhere beyond the temporary area of mixing (point of compliance) from the activity shall be considered an exceedance of the standard.
3. If water quality exceedances for turbidity are observed outside the point of compliance, work shall cease immediately and the Applicant or the contractor shall assess the cause of the water quality problem and take immediate action to stop, contain, and correct the problem and prevent further water quality turbidity exceedances.
4. Notification of exceedances shall be made to Ecology's Federal Permit Manager within 24 hours of occurrence. Notification shall be made by telephone to (425) 389-5549 or by

e-mail at neil.molstad@ecy.wa.gov. The Applicant shall, at a minimum, provide Ecology with the following information:

- a. Corps Reference No. NWS-2018-1164, Order No. 19504, project name and applicant name.
- b. A description of the nature, extent, and cause of the exceedance.
- c. The period of non-compliance, including exact dates, duration, and times and/or the anticipated time when the project will return to compliance.
- d. The steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of the non-compliance.
- e. In addition, within five (5) days after notification of an exceedance, the Applicant shall submit a written report to Ecology that describes the nature of the exceedance, water quality monitoring results and location, photographs, and any other pertinent information.

E. Construction

General Conditions

1. 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.
2. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
3. No stockpiling or staging of materials shall occur at or below the Ordinary High Water Mark (OHWM) of any waterbody, non-modified wetland, or wetland buffer.
4. The Applicant shall obtain and comply with the conditions of the Construction Stormwater Permit (National Pollutant Discharge Elimination System – NPDES) issued for this project.
5. Within the project limits¹ all environmentally sensitive areas including, but not limited to, non-modified wetlands, wetland buffers, and mitigation areas shall be fenced with high visibility construction (HVF) prior to commencing construction activities. Construction activities include equipment staging, materials storage, and work vehicle parking.
Note: This condition does not apply to activities such as pre-construction surveying and installing HVF and construction zone signage.

¹ Project limits include mitigation sites, staging areas, borrow sources, and other sites developed or used to support project construction.

- a. If the project will be constructed in stages² a detailed description and drawings of the stages shall be sent to Ecology for review at least 20 days prior to placing HVF.
 - b. Condition 2.a. shall apply to each stage.
 - c. All field staff shall be trained to recognize HVF, understand its purpose and properly install it in the appropriate locations.
 - d. HVF shall be maintained until all work is completed for each project or each stage of a staged project.
6. All clearing limits, stockpiles, staging areas, and trees to be preserved shall clearly be marked prior to commencing construction activities and maintained until all work is completed for each project.
7. No petroleum products, fresh concrete, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.
8. All construction debris, excess sediment, and other solid waste material shall be properly managed and disposed of in an upland disposal site approved by the appropriate regulatory authority.
9. Turbid de-watering water associated with in-water work shall not be discharged directly to waters of the state, including wetlands. Turbid de-watering water shall be routed to an upland area for on-site or off-site settling.
10. Clean de-watering water associated with in-water work that has been tested and confirmed to meet water quality standards may be discharged directly to waters of the state including wetlands. The discharge outfall method shall be designed and operated so as not to cause erosion or scour in the stream channel, banks, or vegetation.
11. All equipment being used below the ordinary high water mark shall utilize biodegradable hydraulic fluid.

Equipment & Maintenance

12. Staging areas will be located a minimum of 50 feet and, where practical, 200 feet, from waters of the state including wetlands. If a staging area must be located within 50 feet of waters of the state, then the Applicant shall provide a written explanation and obtain approval from Ecology's Federal Permit Manager before placing the staging area in the 50-foot setback area.
13. Equipment used for this project shall be free of external petroleum-based products while used around the waters of the state, including wetlands. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and the undercarriage of equipment prior to its use around waters of the state, including wetlands.

² A stage is part of a project that has been separated into at least two distinct areas to be built during separate timeframes.

14. No equipment shall enter, operate, be stored or parked within any sensitive area except as specifically provided for in this Order.
15. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
16. Wash water containing oils, grease, or other hazardous materials resulting from washing of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.
17. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash-out of concrete delivery trucks, pumping equipment, and tools.

F. Wetlands

1. The Applicant shall mitigate wetland impacts as described in the letter from Graham-Bunting Associates dated December 2, 2020, (hereafter called the “mitigation plan”), or as revised and approved by Ecology.
2. Prior to impacting wetlands, the Applicant shall submit to Ecology documentation from the bank sponsor verifying the purchase of 2.99 wetland mitigation bank credits (credits) from the Skagit Environmental Mitigation Bank and/or the Nookachamps Mitigation Bank. This documentation must include the permit number, permit issuance date, impact acreage, the amount of credits required by the permit, and date of credit purchase.
3. The Applicant shall notify Ecology of any changes to the amount of wetland impacts, or revisions to the mitigation plan.
4. The Applicant shall complete the purchase of credits before the impacts to wetlands occur or Ecology may require additional compensation to account for temporal loss of wetland functions.
5. A portion of the proposed project consists of preserved wetland, compensation site buffer, and off-site wetland buffer. This area is depicted on the November 30, 2020, site plan for the project. The Applicant shall provide Ecology with documentation of a recorded restrictive covenant for this portion of the Skagit Fields project.

Specifically, the Applicant shall:

- a. Request a restrictive covenant template from Ecology or use an appropriate alternative to develop a draft restrictive covenant.
- b. Send the draft restrictive covenant to Ecology for review and approval.

- c. Record the Ecology-approved restrictive covenant with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.
 - d. Record the restrictive covenant with a figure that corresponds with the legal description showing the area that is being protected, a copy of this Order, and a site map showing the location of wetlands and their buffers that are being protected.
 - e. Send a copy of the recorded restrictive covenant to Ecology.
6. The Applicant shall comply with all applicable requirements of the City of Mount Vernon Critical Areas Ordinance regarding the proposed compensation site and off-site wetland buffers.

G. Emergency/Contingency Measures

1. The Applicant shall develop and implement a spill prevention and containment plan for this project.
2. The Applicant shall have adequate and appropriate spill cleanup material available on site at all times during construction.
3. The Applicant shall have adequate and appropriate spill response materials available on site to respond to any release of petroleum products or any other material into waters of the state.
4. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
5. Work causing distressed or dying fish and discharges of oil, fuel, or chemicals into state waters or onto land with a potential for entry into state waters is prohibited. If such work, conditions, or discharges occur, the Applicant shall notify Ecology's Federal Permit Manager per condition B.1. and immediately take the following actions:
 - a. Cease operations at the location of the non-compliance.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and prevent further environmental damage.
 - c. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - d. Immediately notify Ecology's Regional Spill Response Office 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.

- e. Immediately notify the National Response Center at 1-800-424-8802, for actual spills to water only.
6. Notify Ecology's Regional Spill Response Office immediately if chemical containers (e.g. drums) are discovered on-site or any conditions present indicating disposal or burial of chemicals on-site that may impact surface water or ground water.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this 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 both of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this 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 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 Road SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

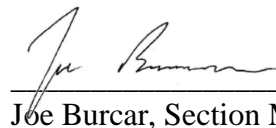
Neil Molstad
Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008
(425) 649-7007
neil.molstad@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
<http://www.eluho.wa.gov/Board/PCHB>
- **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>
- **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 8th day of December, 2020, at the Department of Ecology, Bellevue, Washington.



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

Attachment A
Statement of Understanding
Water Quality Certification Conditions

Skagit Fields
Skagit County Parks and Recreation
Water Quality Certification Order No. **19504**
and
Corps Reference No. **NWS-2018-1164**

I, _____, state that I will be involved as an agent or contractor for Skagit County Parks and Recreation in the site preparation and/or construction of the Skagit Fields project located in the City of Mount Vernon, Skagit County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. 19504 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company