



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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December 16, 2014

Walter Smith
Burlington Northern Santa Fe Railway
2454 Occidental Avenue South, Suite 2D
Seattle, Washington 98134

RE: U.S. Army Corps of Engineers (Corps) Reference #2013-922
Ecology denial of Section 401 Water Quality Certification for the Seattle-to-Tacoma
Sounder Commuter Rail Easements and Improvements (Easement 4) Project, Auburn,
King County, Washington

Dear Mr. Smith:

On June 5, 2013, the Department of Ecology (Ecology) received the Joint Aquatic Resources Permit Application (JARPA) for the above-referenced project. A revised JARPA was received on August 21, 2013, and a withdrawal and re-application was received on August 15, 2014. The U.S. Army Corps of Engineers (Corps) and Ecology issued a Joint Public Notice for the above-referenced project on December 18, 2013. On November 25, 2014, Ecology sent you a letter explaining that the following issues need to be resolved before we could issue a Section 401 Water Quality Certification (WQC):

- Design issues raised by Washington Department of Fish and Wildlife and Muckleshoot Indian tribe regarding the two Culverts at 29th Street.
- Address concerns raised by the Muckleshoot Indian Tribe regarding wetland and stream mitigation through a revised In-Lieu Fee Plan for Easement 4.
- Code consistency memorandum for the City of Auburn floodplain code.
- Additional information regarding protection of water quality and water quality monitoring during construction. It is Ecology's understanding, per discussions with Ellie Ziegler, Sound Transit, that this information is being compiled for submittal.

With the statutory time frame approaching, Ecology has determined that there is insufficient time to work out the details needed to get reasonable assurance that the project will meet state water quality laws. Therefore, pursuant to Section 401 of the Clean Water Act, ch. 90.48 RCW and ch. 173-201A WAC, Burlington Northern Santa Fe Railway's request for a WQC is denied without prejudice.

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



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:

Rebekah Padgett
Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008
(425) 649-7129
rebekah.padgett@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website

www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board

<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

Chapter 371-08 WAC – Practice And Procedure

<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>

Chapter 90.48 RCW – Water Pollution Control

<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

Chapter 173-204 WAC – Sediment Management Standards

www.ecy.wa.gov/biblio/wac173204.html

Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173200.html

Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington

www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE



Paul Anderson, Unit Supervisor
Shorelands and Environmental Assistance Program
Northwest Regional Office



December 16, 2014

PA:rrp:mrw

By certified mail: 7013 2250 0000 1370 0515

cc: Ron Wilcox, U.S. Army Corps of Engineers
Ellie Ziegler, Sound Transit
Larry Fisher, Washington Department of Fish and Wildlife

e-cc: Patrick McGraner, Ecology
Loree' Randall, Ecology
Raman Iyer, Ecology
Karen Walter, Muckleshoot Indian Tribe KWalter@muckleshoot.nsn.us
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