



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

November 3, 2011

Blair Murray  
Tin Rock Development  
103 East Holly Street, Suite 417  
Bellingham, Washington 98225

**RE: Ecology Denial for Section 401 Water Quality Certification for the Cordata Urban Village Project, Bellingham, Whatcom County, Washington**

Dear Mr. Murray:

The U.S. Army Corps of Engineers (Corps) and the Department of Ecology (Ecology) issued a Joint Public Notice on November 9, 2010. Ecology has one year from the date of the Joint Public Notice to make a decision regarding the 401 Water Quality Certification. On October 18, 2011, Ecology sent you a letter explaining that there are two issues that need to be resolved before we can make our 401 decision. One of those issues is a completed SEPA determination. Since it was unlikely, at the time of our letter, that SEPA could be completed by our one year timeline and additional wetland mitigation research was still needed, we indicated that a denial of your Water Quality Certification was imminent.

As of today, the SEPA process has not yet begun and a decision regarding the wetland mitigation plan has not been determined, therefore, pursuant to Section 401 of the Clean Water Act, ch. 90.48 RCW and ch. 173-201A WAC, the Cordata Urban Village Project Water Quality Certification is denied without prejudice.

Receipt of a denial without prejudice does not preclude Tin Rock Development from resubmitting a request for 401 Certification at a later date.

**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 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<br>Attn: Appeals Processing Desk<br>300 Desmond Drive SE<br>Lacey, WA 98503 | Department of Ecology<br>Attn: Appeals Processing Desk<br>PO Box 47608<br>Olympia, WA 98504-7608 |
| Pollution Control Hearings Board<br>1111 Israel Rd SW<br>STE 301<br>Tumwater, WA 98501            | Pollution Control Hearings Board<br>PO Box 40903<br>Olympia, WA 98504-0903                       |

#### CONTACT INFORMATION

Please direct all questions about this Order to:

Susan Meyer  
Department of Ecology  
Northwest Regional Office  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008  
(425) 649-7168  
Susan.Meyer@ecy.wa.gov

#### MORE INFORMATION

**Pollution Control Hearings Board Website**

[www.eho.wa.gov/Boards\\_PCHB.aspx](http://www.eho.wa.gov/Boards_PCHB.aspx)

**Chapter 43.21B RCW - Environmental 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 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**

[www.ecy.wa.gov/biblio/wac173201A.html](http://www.ecy.wa.gov/biblio/wac173201A.html)

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SIGNATURE



Erik Stockdale, Unit Supervisor  
Wetlands/401 Unit  
Shorelands and Environmental Assistance Program  
Northwest Regional Office

November 3, 2011

ES:sm:cja

By certified mail: 7011 0470 0003 3720 9176

E-cc: Randel Perry, Corps of Engineers  
Vikki Jackson, NES  
Kim Weil, City of Bellingham  
Susan Meyer, Ecology/NWRO  
Loree' Randall, Ecology/HQ  
Raman Iyer, Ecology/NWRO  
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