

DEQ Public Hearing

NEXT Renewable Fuels

Zoom Webinar | October 8, 2024



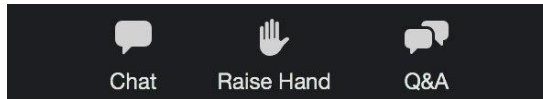
Using Zoom Webinar

- Hear the audio either through your computer or by calling in by phone with the phone number provided upon registration.
- Note that you will not be able to speak unless the host enables your audio and then you unmute.



Asking a Question

- You should see the following along the bottom of your screen.



- To ask a question: type it into the Q&A or raise your hand and the host will un-mute you. (*9 if you're on the phone)
- Use chat if you're having technical difficulties.



Making a Comment

- During the public hearing portion of the meeting, raise your hand to comment
- We'll call folks in the order their hand was raised
- Remember *9 if you're listening by phone
- State and spell your first and last name



Purpose and Agenda of Today's Meeting

Why are we here

- Provide information about the draft 401 Water Quality Certification for NEXT Renewable Fuels
- Answer questions
- Receive verbal public comment

As always, please speak for yourself and be respectful of others.



Public Comment Period

- Open now through Friday, October 25 at 5 p.m.
- Verbal and written comments given equal weight
 - Can submit written comments online via email at 401PublicComments@deq.oregon.gov or Your DEQ Online, or by mail
 - Go to ordeq.org/next-renewables for more information about how to submit a written comment and to learn more about this proposed project
- DEQ can only consider comments about the draft 401 Water Quality Certification



401 Water Quality Certification

Haley Teach, 401 Program Coordinator



Good evening, my name is Haley Teach, and I am the Program Coordinator for DEQ's 401 Water Quality Certification program.

What I'll discuss

Topics

- What is the 401 Water Quality Certification (WQC)?
- Why NEXT is applying for a 401 WQC?
- What the 401 WQC regulates and evaluates?



The Proposed Project

- Renewable fuel production using organic waste materials:
 - Vegetable oils
 - Animal fats
- Proposed facility located at the Port of Columbia County's Port Westward Industrial Park in Clatskanie

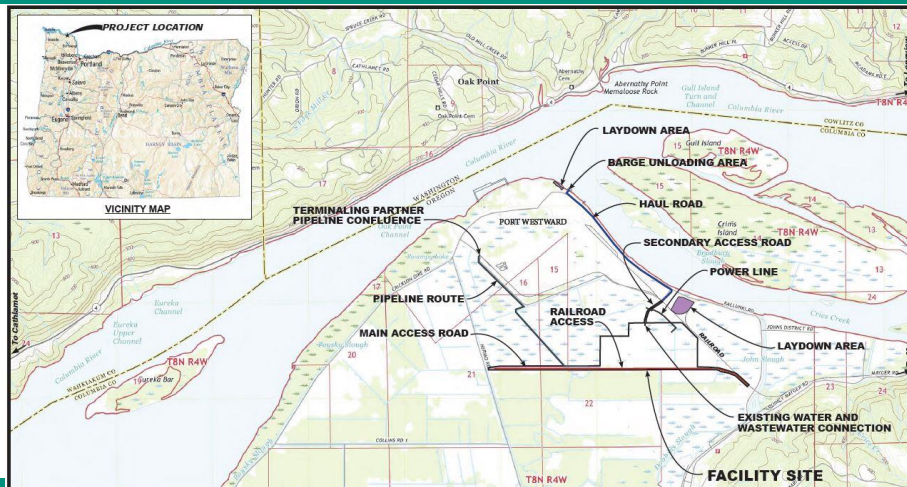


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The NEXT Renewable Fuels project proposes to construct a renewable diesel fuel manufacturing facility at the Port of Columbia County's [Port Westward Industrial Park](#) near Clatskanie.

The proposed facility will receive and process a variety of organic waste materials to produce the fuel products that work like their petroleum-based equivalents. NEXT expects to have a production capacity of up to 1.58 million gallons of fuel per day when the facility is running at full capacity.

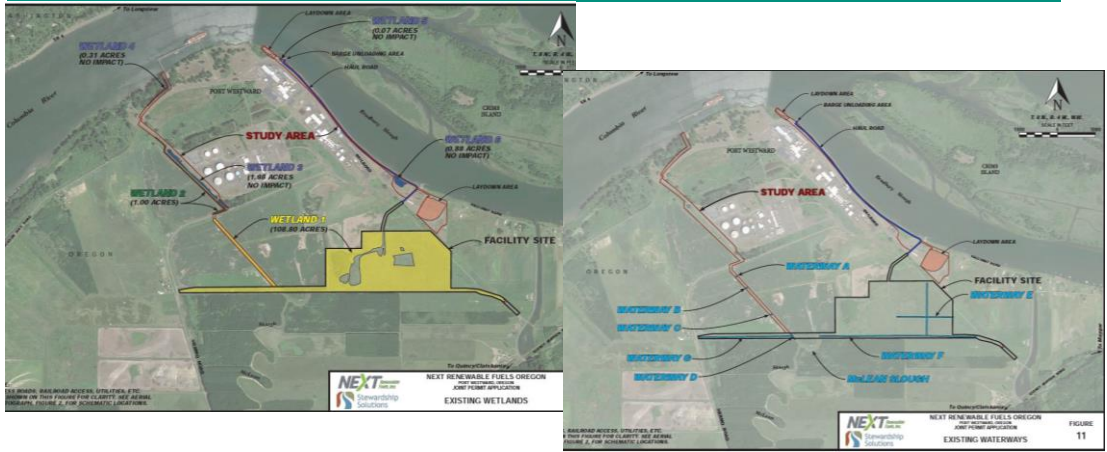
Proposed NEXT Renewable Fuels Location



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The proposed site is located in Columbia County in wetland and waters. The Columbia River is located outside of the levees and bounds the BDD to the northwest. The Clatskanie River is located west and southwest of the site. The proposed site was drained in the early 1900s, primarily with surface ditches, which coincided with drainage for agriculture for a large portion of the historic Port Westward area. The dike construction in the area has the site surface waters cut off from the Columbia River and hydrology is now influenced primarily by direct precipitation and management of the drainage ditches.

Proposed NEXT Renewable Fuels Location



The Site has six wetlands and eight waters mapped. The U.S. Army Corps of Engineers finalized the federal jurisdictional determination of onsite wetlands and waters this past April. The waterways on the project site drain through McLean Slough and Beaver Slough to the BDD pump station near the Clatskanie River, which then flows to the Columbia River.

What is a 401 Water Quality Certification?

- A 401 Water Quality Certification (WQC) is required for any federally licensed or permitted activities, that may result in any discharge to navigable waters.
- The 401 WQC is a necessary step of the U.S. Army Corps of Engineers 404 permitting process.
- Allows state to certify that a project meets:
 - Certain Clean Water Act requirements (Sections 301, 302, 303, 306, 307)
 - State water quality standards (OAR 340-41)
 - Other water quality requirements of State law
- The Clean Water Act gives states and authorized Tribes the authority to grant, deny, or waive certification.
 - DEQ can modify or revoke the 401 WQC decision if the project changes.



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A 401 Water Quality Certification is required for any federally licensed or permitted activities, that may result in any discharge to navigable waters. DEQ is the certifying authority in Oregon to review applications for a 401 Water Quality Certification. The jurisdictional waters impacted at this proposed project site are wetlands and waters. NEXT Renewable Fuels is seeking a federal Section 404 Permit from the Army Corps of Engineers for this project due to proposed removal and fill activities within wetlands and waters.

Part of the requirement to receiving that 404 authorization from the USACE is to obtain a 401 Water Quality Certification from DEQ. DEQ's role for the 401 certification is to evaluate the discharge to these wetlands and waters for water quality compliance with the Clean Water Act and State water quality standards.

Per EPA's final 401 rule, DEQ's 401 decision options include issuance of a certification, issuance of a denial, or presumption of waiver. DEQ does not waive authority.

The draft 401 WQC is based on the information submitted to DEQ and the current proposed project plan. DEQ has the authority to modify or revoke the 401 certification if the scope of the project changes or other authorizations (e.g., land use decision

changes), are re-evaluated.

401 Water Quality Certification

- Projects are evaluated based on potential impacts to:
 - Water quality standards
 - Beneficial uses
 - Antidegradation
- Examples of what DEQ does not have authority over for this 401 WQC review:
 - Rail car routes, quantity, or products transported by rail
 - Vessel use changes
 - Land use



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Proposed aquatic impacts related to the removal and fill activities must not impair established water quality standards or beneficial uses of the receiving water body. In addition, DEQs antidegradation policy prevents unnecessary further degradation of surface water quality.

Some examples of areas that DEQ does not have jurisdiction over for this project for the 401 review are:

- Rail car routes, numbers and the types of products that can be transported by rail
- Vessel use changes
- Land use

Basis of Review- Water Quality Standards

–Water Quality Criteria

–Beneficial Uses

–Antidegradation

Such as:

- Dissolved Oxygen
- Polychlorinated biphenyls (PCBs)
- DDE (4,4')
- Temperature
- Total Dissolved Gas
- Dioxin (2,3,7,8-TCDD)



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I'm going to talk briefly about water quality impairments. McLean Slough is upstream of the Clatskanie River, which is listed on the Section 303(d) list of impaired water bodies for dissolved oxygen. The term 303(d) is the state's list of impaired and threatened waters. States are required to submit their list of impaired waters to EPA for approval every two years. For each water on the list, the state identifies the pollutant causing the impairment, when known.

Dissolved oxygen refers to the concentration of oxygen gas incorporated in water. In waterbodies that are water quality limited for dissolved oxygen; the activity must result in a reduction more than 0.10 mg/l for a single source.

No fill activities in the Columbia River are proposed for this project, but the Columbia River is adjacent to the site. The Columbia River between Mill Creek and Wallace Slough is listed on the Section 303(d) list of impaired waters for polychlorinated biphenyls (PCBs) and DDE (4,4).

- PCBs belong to a broad family of human-made organic chemicals known as chlorinated hydrocarbons. PCBs were domestically manufactured from 1929 to 1979 when they were banned. Although no longer commercially produced in the United

States, PCBs may be present in products and materials produced before the 1979 PCB ban.

- DDE is a breakdown product of DDT, which was used in the past as an insecticide.

Section 303(d) also requires that the state establish a Total Maximum Daily Load (TMDL) for any waterbody designated as water quality limited. The TMDL is a calculation that identifies the amount of pollutants, from point source and non-point sources, that a waterbody can receive and still meet specific water quality standards. The Columbia River between Mill Creek and Wallace Slough also has an approved EPA TMDL developed for temperature, dioxin (2,3,7,8-TCDD) and total dissolved gas.

- Dioxin of 2,3,7,8-TCDD can be inadvertently produced in very small amounts as an impurity during the incineration of municipal and industrial wastes, typically from pulp and paper mills, and during the manufacture of certain chemicals. Most of the exposure of the general population to this dioxin is from food, mainly meat, dairy products, and fish.

Basis of Review- Water Quality Standards

- Water Quality Criteria
- Beneficial Uses
- Antidegradation

Such as:

- Domestic water supply
- Fishing
- Fish and aquatic life



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Water quality standards are established to protect beneficial uses of the state's waters. Impaired beneficial uses for the Clatskanie River and Columbia River are domestic water supply, fishing, and fish and aquatic life. The proposed project area is not used for fishing or recreation. Federally listed fish species do not occur within the waters in the project area. There are listed salmonids present within the Lower Columbia River adjacent to the area; however, there is no free and open connection to the fish-bearing waterway because the existing levee system does not allow fish from the Columbia River to enter waterways.

Additional beneficial uses include: industrial water supply, irrigation, livestock watering, wildlife and hunting, boating, water contact recreation, aesthetic quality, and commercial navigation and transportation.

Basis of Review- Water Quality Standards

- Water Quality Criteria
- Beneficial Uses
- Antidegradation

[OAR 340-041-0004](#) is designed to protect water from further degradation from new or increased sources of pollution and protects, maintains, and enhances surface water quality to protect existing beneficial uses.



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The purpose of the Antidegradation Policy is to guide decisions that affect water quality to prevent unnecessary further degradation from new or increased point and nonpoint sources of pollution, and to protect, maintain, and enhance existing surface water quality to ensure the full protection of all existing beneficial uses.

Proposed Stormwater Management Plan

- Stormwater facility treatment rate: 50% of the 2-year, 24-hour storm event.
- Stormwater from the Main Plant will be covered under the Port of Columbia County's NPDES Permit.
- The remaining areas of the facility generating stormwater will be covered under a NPDES 1200-Z Industrial Stormwater general permit.



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The 401 review evaluates post-construction stormwater management for any project that adds or re-constructs any impervious surface. DEQ's 401 stormwater treatment guidance requires stormwater facilities to treat runoff at a rate of 50% of the 2-year 24-hour storm event.

Stormwater from the access road, rail spur and rail spur access road will be routed to treatment swales to provide water quality treatment, detention, and conveyance of stormwater runoff. Treated stormwater will discharge to McLean Slough from two points. Outlets in the stormwater facilities will be equipped with a downturned elbow to trap floatables, including oil sheen,.

The proposed facility will discharge comingled wastewater/stormwater to the Columbia River via the Port of Columbia County wastewater treatment facility, which has an existing NPDES permit that complies with the current TMDL. The remaining areas of the facility generating stormwater will be covered under a NPDES 1200-Z Industrial Stormwater general permit, which regulates how the facility manages its stormwater while operating.

Proposed Mitigation Plan

- The proposed project impacts 104.3 acres of wetlands on site.
- The proposed mitigation plan is to enhance 466.3 acres of emergent, shrub, and forested wetland.
- Mitigation has been approved by the Oregon Dept. of State Lands through the State Removal-Fill permit.



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Like I said earlier, the site was historically a bottomland depression wetland with an annual connection to the Columbia River. Offsite mitigation is proposed within the same sub-watershed at the facility site to compensate for the on-site wetland impacts. The mitigation site has been previously used as a poplar tree plantation.

The compensatory mitigation site will be constructed concurrently with the construction of the proposed fuels facility.

The existing ditches located around the perimeter of the site will remain in place to avoid raising groundwater elevations adjacent to the mitigation site.

DEQ is not the lead regulatory agency to oversee the details of the mitigation plan.

Draft 401 WQC Review Status

- Status of NEXT Renewable Fuels Oregon 401 Water Quality Certification review
 - Current application for a 401 WQC submitted in January 2024
 - Previous applications received a denial by DEQ in September 2021 and 2022 for application incompleteness
 - Public comment on draft 401 WQC ends October 25, 2024 at 5 p.m.



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DEQ issued a denial without prejudice decision to the applicant (NEXT) in both September of 2021 and September of 2022 due to incomplete application information. A denial without prejudice is an administrative denial that allows an applicant to re-submit an application for a 401 certification.

NEXT submitted to DEQ for a new 401 certification review in January 2024. Per EPA's 401 rule, DEQ was granted a full year by the U.S. Army Corps of Engineers to issue a 401 decision. DEQ's deadline for a 401 decision is in January 2025.

Draft 401 WQC Review Status

- Public Engagement History
 - September 7, 2021: Public information meeting
 - November 5 - December 5, 2021: Joint public notice with U.S. Army Corps of Engineers
 - February 8-23, 2022: DEQ re-opened the public notice
 - September 5, 2024: DEQ public notice of draft WQC announced



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The 401 review for this project has been involved in several public engagement opportunities since 2021, shown here. DEQ posted the draft 401 WQC for public notice on September 5, 2024 because DEQ determined we had been provided the information we needed by the applicant for a 401 water quality evaluation.

Per Oregon Administrative Rules, the 401 public notice period of a draft decisions is 35-days; however, DEQ has preemptively extended the opportunity for comment to 50 days and scheduled a public hearing.

Additional Contacts by Topic

Topic	Agency	Contact
Mitigation Plan	Oregon Department of State Lands	Heather Dimke Heather.dimke@dsl.oregon.gov
Alternative analysis, draft EIS	U.S. Army Corps of Engineers	Bo Davidson James.E.Davidson2@usace.army.mil
Land use	Port of Columbia County	inquiries@portofcolumbiacounty.org Building@columbiacounty.org
Air quality	Oregon DEQ	https://ordeq.org/next-renewables
Spill response	Oregon DEQ	Scott Smith scott.smith@deq.oregon.gov



Next Steps

- Send written public comments to either:
401PublicComments@deq.oregon.gov, through *Your DEQ Online*, or by mail
- Public Comment Period Close: October 25 at 5 p.m.
- In response to comments, DEQ may modify the draft 401 WQC



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Please send comments through only one mean, either in writing via email or Your DEQ Online. DEQ evaluates all written and verbal comments equally. DEQ is evaluating the content of the public comments about the draft 401 WQC, not necessarily the quantity of comments received.

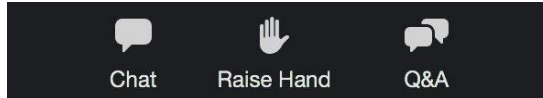
Questions and Answers

- Raise your hand to ask a question
- Press *9 if you're listening by phone
- You can also type your question in the Q&A box
- We'll call folks in the order their hand was raised



Public Hearing

- Raise your hand to comment
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- State and spell your first and last name



Next Steps

- Send written public comments to either:
401PublicComments@deq.oregon.gov, through *Your DEQ Online*, or by mail
- Public comment period close: October 25 at 5 p.m.
- In response to comments, DEQ may modify the draft 401 WQC
- Learn more at <https://ordeq.org/next-renewables>



Thank you!

