STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

September 30, 2015

Ms. Leshya Wig
Wig Properties, LLC - Nisqually
4811 134th PL SE
Bellevue, WA 98006

Re: Administrative Order No. 11687 to permanently fill/impact 21,424 square feet of isolated wetlands at the Lacey Gateway Town Center in Thurston County, Washington

Dear Ms. Wig:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on May 18, 2015, requesting an Administrative Order for proposed work in isolated wetlands. Ecology has determined that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Chapter 90.48 RCW and other applicable requirements of state law.

This approval is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Alex Callender at (360) 407-6167. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enclosures

By Certified Mail 7012 2920 0000 1182 1703

cc: Darren Habel, Project Manager, U.S. Army Corps of Engineers
Chad Armour, Chad Armour, LLC

e-cc: ECY RE FED PERMITS

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY WIG PROPERTIES LLC - NISQUALLY FOR AN ADMINISTRATIVE ORDER TO CONDUCT WORK IN ISOLATED WETLANDS	))))	CORPS Reference **NWS-2013-146** ORDER #11687

TO: Wig Properties, LLC - Nisqually
Attn: Leshya Wig
4811 134th Place SE
Bellevue, WA 98006

This is an Administrative Order requiring Wig Properties, LLC - Nisqually, to comply with Chapter 90.48 RCW and the rules and regulations of the Department of Ecology (Ecology) by taking certain actions that are described below. RCW 90.48.120(1) authorizes Ecology to issue Administrative Orders requiring compliance whenever it determines that a person has violated or creates a substantial potential to violate any provision of Chapter 90.48 RCW.

On May 18, 2015, Wig Properties, LLC - Nisqually, submitted a request to Ecology to impact 0.49 acres (21,424 sq. feet) of isolated wetlands to enable the construction of a large retail center, parking lot, utilities, storm drainage control facilities and frontage improvements located at the south side of Britton Parkway, Lacey, in Thurston County, Washington.

In view of the foregoing and in accordance with RCW 90.48.120(1):

IT IS ORDERED that Wig Properties, LLC – Nisqually shall comply with the following:

A. General Conditions:

A.1 The Applicant shall construct and operate the project in a manner consistent with the project description contained in the JARPA received by Ecology on May 18, 2015, or as otherwise approved by Ecology.

A.2 For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Regional Office, Attn: Alex Callender, SEA Program, PO Box 47775 Olympia, WA 98504-7775. Any submittals shall reference Order No. **11687** and Corps No. **NWS-2013-146**.

A.3 The Applicant shall provide access to the project site and mitigation site upon request by Ecology.

A.4 Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and foremen, and state and local government inspectors.

A.5 Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines 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 the public interest.

A.6 The Applicant shall ensure that all appropriate project engineers and contractors at the project site 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 project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents, and approvals. These statements shall be provided to Ecology before construction begins at the project.

B. Notification Requirements:

B.1 The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Southwest Regional Office Wetland Specialist, in accordance with condition A.2 above for the following activities:

a. At least ten (10) days prior to a pre-construction meeting
b. At least ten (10) days prior to the onset of any work on site
c. At least ten (10) days prior to the onset of in-water work, including wetlands
d. At least seven (7) days within the start of impacts to wetlands
e. At least ten (10) days prior to the onset of work at the wetland mitigation site
f. Immediately following a violation of the state water quality standards or any condition of this Order
g. Within fourteen (14) days after completion of construction
h. At least seven (7) days prior to completing each wetland mitigation site

Wetland Compensatory Mitigation Conditions:

C. 1 The Applicant shall mitigate wetland impacts as described in the *Wetland Mitigation Plan Gateway Masterplan* (hereafter called the "Mitigation Plan") prepared by Chad Amour, LLC, and dated September 28, 2015 or as modified by this Order or revised and approved by Ecology.

C. 2 The Applicant shall submit any changes to the Mitigation Plan in writing to Ecology (see A.2) for review and approval before work begins.

C.3 The Applicant shall get review and written approval from Ecology of any plan changes required if problems arise during construction and planting of the wetland mitigation site.

C. 4 The Applicant shall have a wetland professional at the wetland mitigation site to supervise during construction and planting.

Implementation

C. 5 Unless otherwise approved by Ecology in writing, the Applicant shall begin the compensatory mitigation project before, or concurrent with, impacting wetlands or Ecology may require additional compensation to account for additional temporal loss of wetland functions.

C. 6 If the mitigation site(s) cannot be completed within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of:

a) the Mitigation Plan
b) Lacey Gateway Mitigation Site

With the:

c) Reason for the delay.
d) Expected date of completion.
e) The Applicant shall submit an updated written notification every 12 months thereafter until the Lacey Gateway Mitigation Site are complete.

C. 7 The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers at the wetland mitigation site and above the 100-year floodplain.

C. 8 The Applicant shall ensure that no material is stockpiled within existing wetlands and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology-approved Mitigation Plan.

C. 9 The Applicant shall ensure that no construction debris is deposited within existing wetland and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology approved Mitigation Plan.

C. 10 The Applicant shall not use polyacrylamide at the mitigation site(s).

C. 11 The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site(s).

C. 12 Aquatic herbicides can be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category. Applicators are required to be permitted under Ecology's Noxious Weed Control Permit. Applicators shall comply with all conditions of the Noxious Weed Control Permit.

C. 13 If weed-barrier fabric is used on the site, the Applicant shall use only permeable, fully biodegradable, non-toxic weed-barrier fabric for entire-site and/or individual plant weed control. Non-biodegradable plastic weed-barrier fabric shall be used only at the base of individual plants and shall be removed before it starts to break down, before it interferes with plant growth, or before the end of the monitoring period, whichever comes first.

C. 14 If seeding is used as a best management practice for temporary erosion control, it must be a seed mix consisting of native, annual, non-invasive plant species.

C. 15 The Applicant shall place signs at the mitigation area's boundaries, including buffers, every 50 feet to mark the area as a wetland mitigation site.

C. 16 Upon completion of site-grading and prior to planting, the Applicant shall submit to Ecology written confirmation, from a surveyor or project engineer, that the finished grades are consistent with the approved Mitigation Plan or subsequent Ecology-approved plan changes. The confirmation should indicate how final elevations were confirmed. The written confirmation can be in the form of an email or signed letter.

C. 17 After completing construction and planting of the mitigation sites(s), the Applicant shall submit to Ecology (see A.2) an as-built report, including plan sheets, documenting site conditions at Year Zero. The as-built report must:

a) Be submitted within 90 days of completing construction and planting. Include one hard copy and one electronic file.

b) Include the information listed in Attachment B (Information Required for As-built Reports).

c) Include documentation of the recorded legal mechanism required in Condition C.18.

C. 18 Within 90 days of the date the Order was issued, the Applicant shall record a Wetlands Notice for Lacey Gateway Mitigation Site (see Attachment C: Wetland Notice for Deed Notification). The Notice must be recorded with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.

Monitoring and Maintenance

C. 19 The Applicant shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards. The mitigation plan dated September 28, 2015 If an irrigation system is installed, it shall be removed by the end of year three unless permission is received in writing from Ecology to allow the system to remain for a longer period.

C. 20 The Applicant shall monitor the mitigation site for a minimum of *10* years. The Applicant shall use the monitoring methods described on page 8 of the Mitigation Plan.

C. 21 The Applicant shall submit to Ecology (see A.2) monitoring reports documenting mitigation site conditions for years 1, 2, 3, 5, 7, and 10. The monitoring reports must:

a) Be submitted by May 1 following each monitoring year. Include one hard copy and one electronic file.

b) Include the information listed in Attachment D (Information Required for Monitoring Reports).

C. 22 The Applicant shall implement the Mitigation Plan's contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.

C. 23 Prior to implementing contingency measures not specified in the Mitigation Plan, the Applicant shall consult with and obtain written approval from Ecology for the changes.

C. 24 When necessary to meet the performance standards, the Applicant shall replace dead or dying plants with the same species, or an appropriate native plant alternative, during the first available planting season and note species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.

C. 25 For monitoring years five (5) and ten (10) the Applicant shall use the currently approved federal wetland delineation manual and appropriate regional supplement to delineate all compensatory wetlands and include delineation information (e.g. data sheets, maps, etc.) in the monitoring reports.

C. 26 At the end of the monitoring period, the Applicant shall use the October 2014 or updated version of "Washington State Wetlands Rating System for Western Washington" to rate all wetlands (except those that have been preserved) and include the information in the monitoring report.

C. 27 If the Applicant has not met all conditions, including performance standards for the mitigation site at the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both.

C. 28 Until the Applicant has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Applicant's obligation under Condition C.1 to mitigate for wetland impacts is not met.

Failure to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearings 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 all 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.

- Serve a copy of your appeal and this Order on the City of Lacey in paper form – by mail or in person. (See address below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Questions about this order should be directed to:

Alex Callender
Wetland Specialist
SW Regional Office
PO Box 47775
Olympia, WA 98504-7775
360-407-6167
alexander.callender@ecy.wa.gov

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 **Pollution Control Hearings Board** 1111 Israel RD SW STE 301 Tumwater, WA 98501	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 **Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903 **City of Lacey** **Community Development** 420 College Street SE Lacey, WA 98503

DATED 10/1/15 at Olympia, Washington.

Perry J Lund, Unit Manager
Shorelands & Environmental Assistance Program
Southwest Regional Office – Ecology
State of Washington

Attachment A
Statement of Understanding
Water Quality Certification Conditions

Lacey Gateway Masterplan
Wig Properties, LLC - Nisqually
Administrative Order No. 11687
and
Corps Reference No. NWS-2013-146

I, _____, state that I will be involved as an agent or contractor for Wig Properties, LLC – Nisqually in the site preparation and/or construction of the Lacey Gateway Masterplan located at Britton Parkway NE, Thurston County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Administrative Order No. 11687 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

Attachment B
Information Required for As-built Reports

Lacey Gateway Masterplan
Administrative Order # 11687
And
Corps Reference # NWS-2013-146

Ecology requires the following information for as-built reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

Background Information

1) Project name.
2) Ecology Order number and the Corps reference number.
3) Name and contact information of the person preparing the as-built report. Also, if different from the person preparing the report, include the names of:
    a) The applicant
    b) The landowner
    c) Wetland professional on site during construction of the mitigation site(s).
4) Date the report was produced.

Mitigation Project Information

5) Brief description of the **final** mitigation project with any changes from the approved plan made during construction. Include:
    a) **Actual** acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
    b) Important dates, including:
        i. Start of project construction.
        ii. When work on the mitigation site began and ended.
        iii. When different activities such as grading, removal of invasive plants, installing plants, and installing habitat features began and ended.
6) Description of any problems encountered and solutions implemented (with reasons for changes) during construction of the mitigation site(s).
7) List of any follow-up actions needed, with a schedule.
8) Vicinity map showing the geographic location of the site(s) with landmarks.
9) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
    a) Boundary of the site(s).
    b) Topography (with a description of how elevations were determined).
    c) Installed planting scheme (quantities, densities, sizes, and approximate locations of plants, as well as the source(s) of plant material).
    d) Location of habitat features.
    e) Location of permanent photo stations and any other photos taken.

    Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions after the site work is completed.
10) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction from which each photo was taken. Photo pans are recommended.
11) A copy of any deed notifications, conservation easements, or other approved site protection mechanism.

Attachment C
Wetland Notice for Deed Notification
(See Condition 12)

Lacey Gateway Masterplan
Administrative Order # 11687
And
Corps Reference # NWS 2013-146

Tax Parcel Number: _____

Legal Description: _____

Legal Owner: _____

NOTICE: This property contains wetlands as defined by Chapter 36.70A030(21) RCW, Chapter 90.58.030 (2)(h) RCW and WAC 173-201A-020. The property was the subject of an Ecology action under Chapter 90.48.260 RCW or Chapter 90.48.120(1) RCW.

_____, issued on _____,20___
(Corps federal reference #) (Ecology Docket #)

to_____ for_____.
(Applicant Name) (Project Name)

Restrictions on use or alteration of the wetlands may exist due to natural conditions of the property and resulting regulations. A copy of Ecology's Order and the site map from the final wetland mitigation plan indicating the location of wetlands and their buffers is attached hereto.

EXECUTED this _____ day of _____, 20 ____.

_____

_____

State of Washington)
County of _____)

I certify that I know or have satisfactory evidence that _____
signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

GIVEN under my hand an official seal this _____ day of _____, 20 ____.

_____
NOTARY PUBLIC in and for the state of Washington,
residing at _____.

(Amended by Ord. 11200 § 50 (part), 1996)

Attachment D
Information Required for Monitoring Reports

Lacey Gateway Masterplan
Ecology Order # 11687
And
Corps Reference # NWS-2013-146

Ecology requires the following information for monitoring reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

Background Information

1) Project name.
2) Ecology Order number and the Corps reference number.
3) Name and contact information of the person preparing the monitoring report. Also, if different from the person preparing the report, include the names of:
   a) The applicant
   b) The landowner
   c) The party responsible for the monitoring activities.
4) Dates the monitoring data were collected.
5) Date the report was produced.

Mitigation Project Information

6) Brief description of the mitigation project, including acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
7) Description of the monitoring approach and methods. For each performance standard being measured provide the following information:
   a) Description of the sampling technique (e.g., monitoring point for soil or hydrology, line or point intercept method, ocular estimates in individually placed plots). If you are using a standardized technique, provide a reference for that method.
   b) Size and shape of plots or transects.
   c) Number of sampling locations and how you determined the number of sampling locations to use.
   d) Percent of the mitigation area being sampled.
   e) Locations of sampling (provide a map showing the locations), how you determined where to place the sampling locations (e.g., simple random sample), and whether they are permanent or temporary.
   f) Schedule for sampling (how often and when).
   g) Description of how the data was evaluated and analyzed.
8) Summary table(s) comparing performance standards with monitoring results and whether each standard has been met.

9) Discussion of how the monitoring data were used to determine whether the site(s) is meeting performance standards.
10) Goals and objectives and a discussion of whether the project is progressing toward achieving them.
11) Summary, including dates, of management actions implemented at the site(s), for example, maintenance and corrective actions.
12) Summary of any difficulties or significant events that occurred on the site that may affect the success of the project.
13) Specific recommendations for additional maintenance or corrective actions with a timetable.
14) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction the camera is facing. Photo pans are recommended.
15) Vicinity map showing the geographic location of the site(s) with landmarks.
16) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
    a) Boundary of the site(s).
    b) Location of permanent photo stations and any other photos taken.
    c) Data sampling locations, such as points, plots, or transects.
    d) Approximate locations of any replanted vegetation.
    e) Changes to site conditions since the last report, such as areas of regrading, a shift in the location of Cowardin classes or habitat features, or a change in water regime.

    Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions during the most recent monitoring year.