



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

May 15, 2012

Keene Road Investments, LLC
Engelhard Investment Corp.
4800 W. 19th Avenue
Kennewick, WA 99338

RE: Order # 9196 - Administrative Order for work in isolated wetlands along the Keene Road corridor in the City of Richland between Englewood Drive and Badger Mountain Park, Benton County, Washington

Dear Glen Engelhard:

Your request for authorization for proposed work in isolated wetlands along the Keene Road corridor in the City of Richland has been reviewed. On behalf of the State of Washington, we certify that the proposed work, as conditioned by the enclosed Order, will comply with applicable requirements of State law.

This certification is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Catherine Reed at (509) 575-2616. Written comments can be sent to her at the Department of Ecology, Central Regional Office or at craj461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



FOR JEFF LEWIS

Jeff Lewis, Section Manager
Shorelands and Environmental Assistance Program

Enclosure (permit)

By certified mail: 7009 2250 0004 4951 3014

ecc: WDFW – Eric Bartrand
City of Richland, Jeff Rolph
Dept of Ecology, Jessica Moore
Corps of Engineers, Tim Erkel



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY

Keene Road Investments, LLC
Engelhard Investment Corp.
4800 W. 19th Avenue
Kennewick, WA 99338

FOR AN ADMINISTRATIVE ORDER TO) ORDER #9196
CONDUCT WORK IN ISOLATED WETLANDS)

TO: Keene Road Investments, LLC

This is an Administrative Order requiring Keene Road Investments (the applicant), LLC 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 created a substantial potential to violate any provision of Chapter 90.48 RCW.

On May 8, 2012, Keene Road Investments, LLC submitted a request to Ecology for authorization to impact up to 0.67 acres of Category IV isolated wetlands on parcel # 126982000003001 and 126982000005001 to enable the construction of an adjacent grocery store with parking lot, utilities, storm drainage control facilities and frontage improvements. The project is located on the north side of Keene Road, west and adjacent to Badger Mountain Community Park, and east of the Cherrywood Estates subdivision and Englewood Drive, within the City of Richland in Benton County, Washington. Potential wetland impact areas considered under this Order are identified in the "Wetland Assessment and Delineation Report (including Washington State Wetland Rating) for Keene Road – East Area" (April 2012) by Columbia Environmental Sciences, Inc. and

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

IT IS ORDERED that (applicant) shall comply with the following:

1. Wetland compensatory mitigation and monitoring for the wetland fill shall be performed as described in the Conceptual Wetland Mitigation Plan for Keene Road – East Area (April 2012) prepared by Columbia Environmental Sciences, Inc.(CESI) and the Mitigation Plan drawings included therein, by the applicant or their designee, except as modified in this Order.
 - A final wetland mitigation plan shall be submitted to Ecology for approval within 60 days from the date of approval of the project by the City of Richland. Ecology approval of the final wetland mitigation plan must be obtained before construction activities within the

existing wetland or buffer area occurs. The plan shall include a plan-view planting plan map and planting details (approximate numbers and locations of plant species or plant communities that will be retained or planted within the wetlands and buffer areas). The plan should include a 5-year monitoring plan, with at least 3 progress reports submitted during that time period.

- The mitigation plan shall include retention of the existing cottonwoods that are taller than 20-feet within the proposed buffer and wetland area. The lower limbs on large cottonwoods that are retained can be pruned if doing so will significantly help with line-of-sight/security issues. Elimination of the rest of the existing cottonwoods should be minimized to the greatest extent possible, but must be mitigated by planting of the same number of removed cottonwoods. The replacement cottonwoods can be planted in clumps not less than 10 feet apart within any part of the wetland or buffer area.
 - The planting plan must include at least as many native willow or other native shrub species as the number of Russian olive trees or saplings that are removed within the buffer or wetland area. Shrub plantings should be scattered across the mitigation and buffer area as much as possible.
 - The 25-foot buffers proposed by the applicant shall be planted with native vegetation as described in the final wetland mitigation plan.
- a) Timing: The wetland mitigation plan shall be implemented concurrently with the site construction for the development, unless another timeline is approved by Ecology prior to construction of the project.
- b) Construction Monitoring: The wetland mitigation grading activity and plant installation shall be monitored during construction by a qualified wetland ecologist to ensure proper elevations are achieved and plants are appropriately placed.
- c) Performance Standards: The performance of the wetland mitigation shall be measured by the standards listed under the Performance Standards section of the Final Wetland Mitigation Plan.
- d) Monitoring: Monitoring to ensure that the project performance standards are met shall be performed as specified in the Monitoring Plan section of the final approved Wetland Mitigation Plan. **A copy of all monitoring reports shall be submitted to Wetland Specialist, Shorelands and Environmental Assistance Program, 15 West Yakima Avenue, Suite 200, Yakima, WA 98902, identified with Order #9196.**
- e) Maintenance: The Applicant is responsible for maintenance of the wetland mitigation sites such that the required performance standards are met. Maintenance shall be performed as listed under the Maintenance section in the final approved Wetland Mitigation Plan. The

maintenance plan must address the issue of noxious weed removal and specify removal thresholds.

- f) Contingency Plan: The Applicant shall be responsible for preparing a contingency plan if performance standards and plan objectives have not been met. A contingency plan may include the items described under the Contingency Plans section in the final approved Wetland Mitigation Plan.
 - g) As-built Report: Submit a final as-built report for the wetland mitigation projects, with drawings within 60 days of completing construction, including planting. Send this report to Ecology's Central Regional Office, Attn: Wetland Specialist, Shorelands and Environmental Assistance Program, 15 West Yakima Avenue, Suite 200, Yakima, WA 98942.
 - i. Provide one (1) electronic copy on compact disc and one (1) hard copy. Always prominently display the Ecology Docket Number.
 - ii. Include the following information in the as-built report:
 - a. Final site topography.
 - b. Photographs taken from permanent reference points.
 - c. Installed planting scheme with quantities, densities, sizes and approximate locations.
 - d. Types of habitat features and their locations.
 - e. Important dates including:
 - f. When the development project's construction began.
 - g. Starting and completion dates of the construction of the compensatory mitigation project including grading and planting of the site.
 - h. Name and contact information for the parties responsible for the mitigation site including the applicant, landowner, and wetland professional on site during construction.
 - i. Description of and reasons for any changes to the plan.
 - j. Description of any problems that occurred during construction.
 - k. List of any follow-up actions needed with a schedule.
 - iii. If the mitigation project is not completed within 13 months of the date of this certification Order 9196, submit a written status report on the mitigation construction. Continue to submit status reports every 12 months until the construction (including planting) of the mitigation is complete and the final as-built report is submitted.
2. This Order shall only apply to the study area in the "Wetland Assessment and Delineation Report (including Washington State Wetland Rating) for Keene Road – East Area" (April 2012) by Columbia Environmental Sciences, Inc. Impacts to the open water wetland in the west area (west of Englewood Drive and east of Cherrywood Estates) – will require a separate wetland delineation, rating, and mitigation plan should future development be proposed that will impact the wetland.

3. The Applicant shall provide access to the project site upon request by Ecology.
4. This Order does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
5. 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.
6. 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.

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 43.21.B RCW and Chapter 371-08. "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 the Department of 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

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Mailing Addresses

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

OR

Pollution Control Hearings Board

Pollution Control Hearings Board
111 Israel Road, SW
Suite 301
Tumwater, WA 98501

Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

For additional information visit the Environmental Hearings Office Website:
<http://www.eho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website:
<http://www1.leg.wa.gov/CodeReviser>

Dated May 15 at Yakima, Washington.


FOR JEFF LEWIS

Jeff Lewis, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology Central Regional Office
State of Washington