



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

January 16, 2015

Mr. Jerry Mahan
Westbrook Investments LLC
429 29th Street Northeast, Suite A
Puyallup, WA 98372

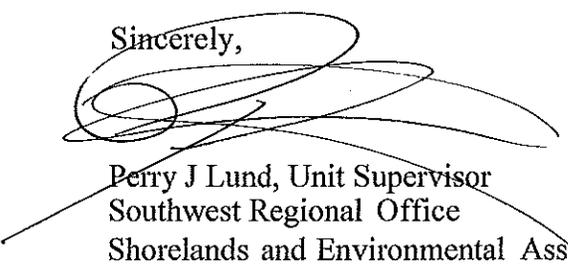
Re: Administrative Order No. 11175 to Permanently Fill/Impact 1254 sq. feet of Isolated Wetlands to Summer Canyon Subdivision in Pierce County, Washington

Dear Mr. Mahan:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application on November 4, 2013 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) 481-4208. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



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

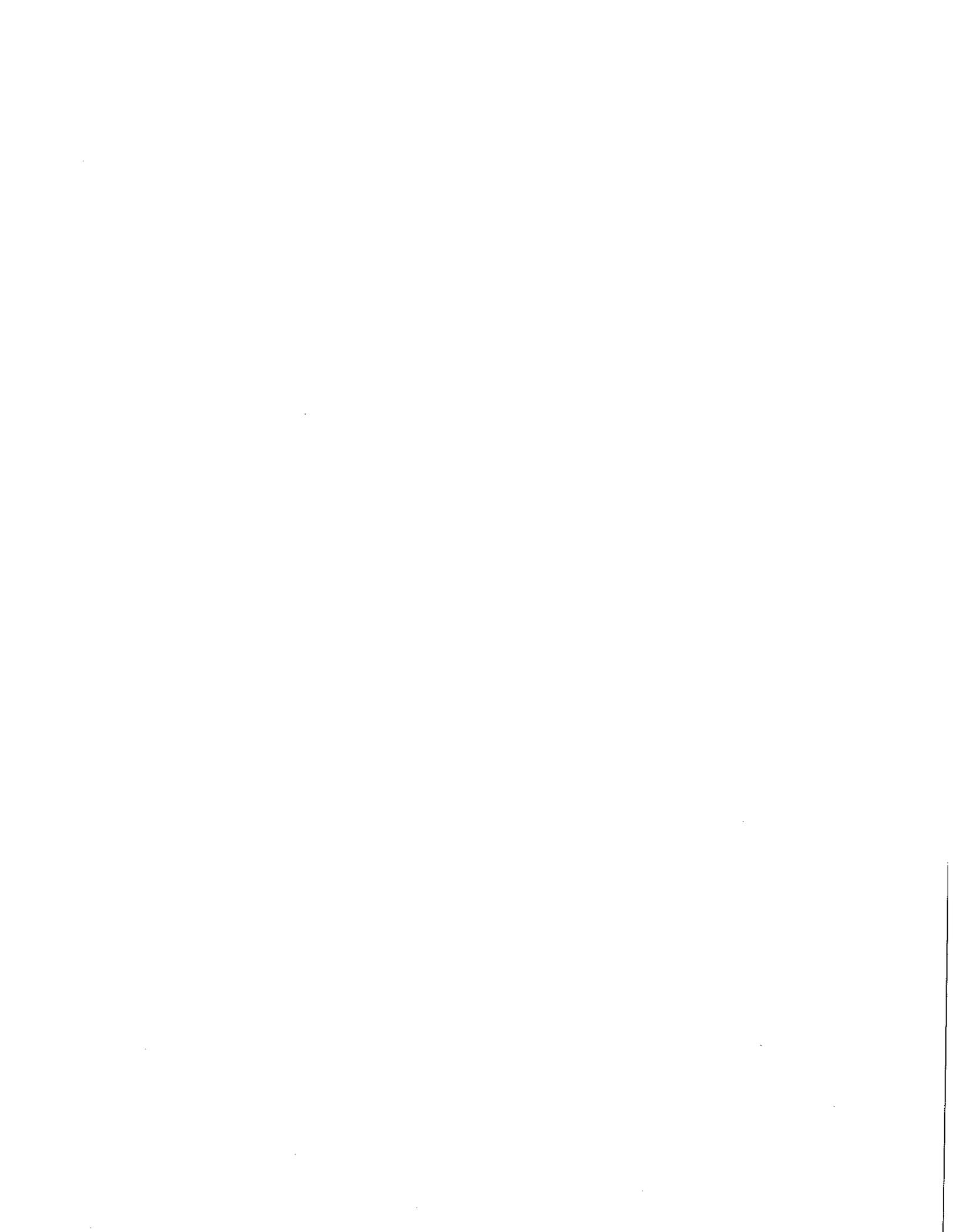
Enclosure

BY CERTIFIED MAIL: 7013 1710 0002 3967 9732

cc: Lori Lull, Project Manager, U.S. Army Corps of Engineers
Lori Harvey, CESL, CES NW, Inc.

e-cc: ECY RE FED PERMITS





STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY) Corps Ref # NWS-2013-1139
Westbrook Investments LLC)
FOR AN ADMINISTRATIVE ORDER TO) ORDER #11175
CONDUCT WORK IN ISOLATED WETLANDS)

TO: Mr. Jerry Mahan
Westbrook Investments LLC
429 29th Street Northeast, Suite A
Puyallup, WA 98372

This is an Administrative Order requiring Westbrook Investments LLC to comply with Chapter 90.48 RCW and the rules and regulations of the Department of Ecology (Ecology) by taking certain actions which 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.

Ecology received the Westbrook Investment LLC Joint Aquatic Resources Permit Application (JARPA) on November 4, 2013 requesting an Administrative Order to impact 1254 square feet of isolated wetlands to construct Summer Canyon Subdivision of 5.75 acres into 27 individual single-family lots, and tracts for a neighborhood park, stormwater facilities, and wetlands, in Pierce County. The site is located at 14715 Canyon Road East, Puyallup, WA 98372, Section 19, Township 19N, Range 4E, Pierce County, WA, WRIA 10.

This Administrative Order authorizes impacts to 1254 square feet of Category III isolated wetland at the project location. Mitigation for this proposal will consist of 2528 square feet of Wetland Creation for a total area of mitigation of 2528 square feet of wetland creation and 10,527 square feet of buffer creation as well as all other actions as proposed in the *“Wetland and Drainage Corridor Evaluation and Delineation Report and Conceptual Compensatory Mitigation Program for Unavoidable Impacts Associated with a Primary Access Roadway”* dated June 17, 2005 in the approximate location of Parcel # 4015416430.

For purposes of this Order, the term “Applicant” shall mean Westbrook Investments LLC and its agents, assigns, and contractors.

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

IT IS ORDERED that the Applicant shall comply with the following:

A. General Conditions:

1. The Applicant shall construct and operate the project in a manner consistent with the project description contained in the JARPA and site plans received by Ecology on November 4, 2013 or as otherwise approved by Ecology.

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, Lacey, WA 98504-7775. Any submittals shall reference Order No. 11175 and Corps No. NWS-2013-1139
3. The Applicant shall provide access to the project site and mitigation site upon request by Ecology.
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.
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.
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 and sign the Attachment A – *Statement of Understanding*.

B. Notification Requirements:

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's HQ/Regional Office Federal Permit Coordinator at PO Box 47600 Lacey WA 98504-7600, in writing at least three (3) days prior to the start of construction at the project and mitigation site.
2. The Applicant shall provide written notification to Ecology's HQ/Regional Office Federal Permit Coordinator at PO Box 47775, Lacey, WA 98504-7775, in writing within fourteen (14) days after completion of construction.

NOTE: These notifications shall include the information found in Attachment B - *Information Required for As-built Reports*".

C. Wetland Compensatory Mitigation Conditions:

1. The Applicant shall mitigate wetland impacts as described in the "*Wetland and Drainage Corridor Evaluation and Delineation Report and Conceptual Compensatory Mitigation Program for Unavoidable Impacts Associated with a Primary Access Roadway*" and the *site planting plans* (hereafter called the "Mitigation Plan") prepared by Tom Deming, and dated June 17, 2005, or as modified by this Order, or revised and approved by Ecology.
2. A status report on the mitigation construction must be submitted to Ecology 13 months from the date of permit issuance. Annual status reports on mitigation construction are required until mitigation construction is complete.

3. The Applicant shall have a wetland professional at the wetland mitigation site to supervise during construction and planting.
4. 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.
5. 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.
6. 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.
7. The Applicant shall ensure that no construction debris is deposited within existing wetlands and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology approved Mitigation Plan.
8. The Applicant shall not use polyacrylamide at the mitigation site(s).
9. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site(s).
10. 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.
11. 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.
12. 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.
13. Within 90 days of completing construction and planting of the Summer Canyon Wetland, the Applicant shall record a Wetlands Notice (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. Submit documentation of the recorded Notice to Ecology.

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 Administrative Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Administrative 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 Administrative Order

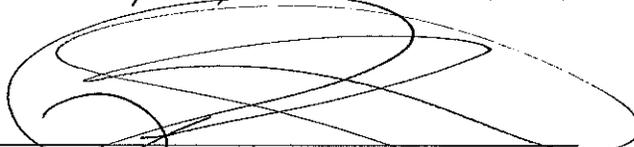
- File your appeal and a copy of this Administrative Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Administrative Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail 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 RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

DATED 4/16/2015 at Olympia, Washington.


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

Attachment A
Statement of Understanding
Water Quality Certification Conditions

Summer Canyon Subdivision
Westbrook Investments LLC
Water Quality Certification Order No. 11175
and
Corps Reference No. NWS-2013-1139

I, _____, state that I will be involved as an agent or contractor for Westbrook Investments LLC in the site preparation and/or construction of the Summer Canyon Subdivision located at 14715 Canyon Road East Puyallup, WA Pierce County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. 11175 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

Summer Canyon Subdivision
Or
Administrative Order # 11175
And
Corps Reference # NWS 2013-1139

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

Summer Canyon Subdivision
Or
Administrative Order # 11175
And
Corps Reference # NWS 2013-1139

Tax Parcel Number: 4015416430

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)

