



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

December 28, 2015

Gold Medal Group, LLC
Mr. Dennis Pavlina
7710 NE Vancouver Mall Drive
Vancouver, WA 98662

Re: First Amendment to Administrative Order #5087, Battle Ground Commerce, unnamed wetlands, Battle Ground, Clark County, Washington

Dear Mr. Pavlina:

Enclosed is the First Amendment to Administrative Order #5087 issued on September 20, 2007, for the above-referenced project.

The purpose of this Amendment is to authorize the substitution of eight acres of wetland enhancement on the "DP2" property (tax parcel #986035235) in the City of Battle Ground in lieu of the eight acres of wetland preservation originally required by Order #5087. In order to clearly show the changes, we are providing a strikeout version of the Order for your information.

If you have any questions, please contact Rebecca Rothwell at 360-407-7273 or rebecca.rothwell@ecy.wa.gov. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

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

By certified mail: 7014 0150 0000 9188 5483

e-cc: Rebecca Rothwell, Ecology
Loree' Randall, Ecology
Lori Kingsbury, Ecology
Sam Crummett, City of Battle Ground
Jim Barnes, Cascadia Ecological Services
ecyrefedpermits@ecy.wa.gov





IN THE MATTER OF THE REQUEST BY)
Gold Medal Group, LLC (Battle Ground Commerce)) FIRST AMENDMENT TO
FOR AN ADMINISTRATIVE ORDER TO) ORDER NO. 5087
CONDUCT WORK IN AN ISOLATED WETLAND)

TO: Gold Medal Group, LLC
Mr. Dennis Pavlina
7710 NE Vancouver Mall Drive
Vancouver, WA 98662

On September 20, 2007, the Washington Department of Ecology (Ecology) issued an Administrative Order (Order) to Gold Medal Group, LLC/Dennis Pavlina for the above-referenced project pursuant to the State Water Pollution Control Act, RCW 90.48.

Because the applicant was unable to secure the eight acres of Category II wetlands for preservation as required by the Order, this Amendment authorizes the substitution of eight acres of wetland enhancement on the "DP2" property (tax parcel #986035235) in the City of Battle Ground, Clark County, Washington in lieu of the above-referenced eight acres.

Administrative Order #5087 is hereby amended as follows:

I. The third paragraph on page 1, which reads:

This Administrative Order authorizes 37.1 acres of slope wetland impacts (11.16 acres of Category III and 23.66 acres of Category IV) at the Battle Ground Commerce development site. To offset these wetland impacts 44.7 acres of wetland mitigation will be implemented. Mitigation includes preserving 8.0 acres of Category II wetland, rehabilitating 31.9 acres of Category III and IV wetlands to Category II functions, and re-establishing 48 acres of Category III wetlands to Category II functions.

Is replaced with:

This Administrative Order authorizes 37.1 acres of slope wetland impacts (11.16 acres of Category III and 23.66 acres of Category IV) at the Battle Ground Commerce development site. To offset these wetland impacts 44.7 acres of wetland mitigation will be implemented. Mitigation includes enhancing 8.0 acres of wetland, rehabilitating 31.9 acres of Category III and IV wetlands to Category II functions, and re-establishing 4.8 acres of Category III wetlands to Category II functions.

II. The fourth paragraph on page 1, which reads:

The mitigation will take place on four properties located within the NE 1/4 of Section 2, Township 3 North, Range 2 East and SE 1/4 of Section 35, Township 4 North, Range 2 East Willamette Meridian in the City of Battle Ground, Clark County, Washington.

Is replaced with:

The mitigation will take place on properties located within the NE 1/4 of Section 2, Township 3 North, Range 2 East and SE 1/4 of Section 35, Township 4 North, Range 2 East Willamette Meridian and on tax parcel #986035235 in the City of Battle Ground, Clark County, Washington.

III. Condition 1, which reads:

Shall construct and maintain the mitigation activity in a manner consistent with the project described in the *Mitigation Plan for Battle Ground Commerce* dated June 30, 2007 (Wetland Mitigation Plan), and the *Battle Ground Commerce Wetland Delineation Report* dated June 30, 2006, or as otherwise approved by Ecology.

Is replaced with:

Shall construct and maintain the mitigation activity in a manner consistent with the project described in the *Mitigation Plan for Battle Ground Commerce* dated June 30, 2007, the *Wetland Mitigation Plan, DP2 Properties LLC Mitigation Site, Battle Ground, Washington*, by Cascadia Ecological Services, dated October 20, 2015 (Wetland Mitigation Plans), and the *Battle Ground Commerce Wetland Delineation Report* dated June 30, 2006, or as otherwise approved by Ecology.

IV. Condition 1.d, which states:

d) Monitoring: Monitoring to ensure that the project performance standards are met shall be performed as specified in the "Monitoring Plan" section of the Wetland Mitigation Plan. Two copies of all monitoring reports shall be submitted to: Department of Ecology Southwest Regional Office, Shorelands and Environmental Assistance Program, Attn: Permit Manager PO Box 47775, Olympia WA 98504-7775, submittals shall reference Order #5087.

Is replaced with:

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

i. Be submitted by December 31 of each monitoring year. Include one hard copy and one electronic file. Submit hard copy reports to Department of Ecology, Southwest Regional Office, Attn: Rebecca Rothwell, PO Box 47775, Olympia, WA 98504-7775. Submit electronic copies to rebecca.rothwell@ecy.wa.gov.

ii. Include the information listed in Attachment A (Information Required for Monitoring Reports).

V. The following conditions are added:

1.h) In addition to condition 1.g, which pertains to completion of the existing mitigation site on Fairgrounds Avenue per the 2007 mitigation plan, if the mitigation on the "DP2" property is not complete within 12 months of the receipt date of the Amendment to Order #5087, submit a status report on the mitigation construction stating the reason for the delay and the expected date of completion. Continue to submit status reports every 12 months until construction is complete and the final as-built report is submitted.

1.i) After completing construction and planting of the "DP2" mitigation site, the Applicant shall submit to Ecology 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. Submit a hard copy to Department of Ecology, Southwest Regional Office, Attn: Rebecca Rothwell, PO Box 47775, Olympia, WA 98504-7775. Submit electronic copies to rebecca.rothwell@ecy.wa.gov.

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

No other conditions or requirements of the above-mentioned order are affected by this amendment.

Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

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

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 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.

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

Dated this 28th day of December, 2015, at Olympia, Washington



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

DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY)
Gold Medal Group, LLC (Battle Ground Commerce))
FOR AN ADMINISTRATIVE ORDER TO) ORDER NO. 5087
CONDUCT WORK IN AN ISOLATED WETLAND)

To: Gold Medal Group, LLC
Mr. Dennis Pavlina
7710 NE Vancouver Mall Drive
Vancouver, WA 98662

This is an Administrative Order requiring The Gold Medal Group, LLC (Gold Medal) 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.

Gold Medal is constructing a mixed use development in Battle Ground, Washington, known as Battle Ground Commerce. The development will impact 37.1 acres of wetlands. On September 24, 2005, Ecology and Gold Medal entered into an Agreement to establish a process that would allow development to continue while identifying and implementing a compensatory mitigation plan to offset the project's wetland impacts.

This Administrative Order authorizes 37.1 acres of slope wetland impacts (13.16 acres of Category III and 23.66 acres of Category IV) at the Battle Ground Commerce development site. To offset these wetland impacts 44.7 acres of wetland mitigation will be implemented. Mitigation includes preserving enhancing 8.0 acres of Category II wetland, rehabilitating 31.9 acres of Category III and IV wetlands to Category II functions, and re-establishing 4.8 acres of Category III wetlands to Category II functions.

The mitigation will take place on ~~four~~ properties located within the NE ¼ of Section 2, Township 3 North, Range 2 East and SE ¼ of Section 35, Township 4 North, Range 2 East Willamette Meridian and on tax parcel #986035235 in the City of Battle Ground, Clark County, Washington.

For purposes of this Order, the term "Applicant" shall mean Gold Medal Group, 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 Gold Medal Group shall comply with the following:

1. Shall construct and maintain the mitigation activity in a manner consistent with the project described in the *Mitigation Plan for Battle Ground Commerce*-dated June 30, 2007, the *Wetland Mitigation Plan, DP2 Properties LLC Mitigation Site, Battle Ground, Washington, by Cascadia Ecological Services*, dated October 20, 2015 (Wetland Mitigation Plans), and the *Battle Ground Commerce Wetland Delineation Report*- dated June 30, 2006, or as otherwise approved by Ecology.

December 28, 2015 – This document shows the conditions that have been amended since the original Order was issued. Therefore, it is not the official certification and should be used only for informational purposes. First Amendment changes are shown in red.

- a) Timing: This Order is valid until all compliance requirements in this document have been met.
- b) Mitigation Construction Monitoring: To ensure that proper elevations are achieved and plants are appropriately placed, monitoring of wetland mitigation grading and plant installation shall be completed by a qualified wetlands ecologist.
- c) Performance Standards: The performance of the wetland mitigation shall be measured by the standards described in the “Mitigation Goals, Objectives and Standards” section of the 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 Wetland Mitigation Plan. Copies of all monitoring reports shall be submitted to Permit Managers, Shorelands and Environmental Assistance Program, PO Box 47775, Olympia WA 98504-7775, identified with the Order No. 5087.~~
- d) The Applicant shall submit to Ecology monitoring reports documenting mitigation site conditions for years 1, 2, 3, 5, 7, and 10. The monitoring reports must:
- i. Be submitted by December 31 of each monitoring year. Include one hard copy and one electronic file. Submit hard copy reports to Department of Ecology, Southwest Regional Office, Attn: Rebecca Rothwell, PO Box 47775, Olympia, WA 98504-7775. Submit electronic copies to rebecca.rothwell@ecy.wa.gov.
 - ii. Include the information listed in Attachment A (Information Required for Monitoring Reports).
- e) Maintenance: The Applicant is responsible for maintaining the mitigation site to ensure that performance standards are met. Maintenance shall be performed as described in “Specifications For Maintenance” section of the Wetland Mitigation Plan.
- f) Contingency Plan: Contingency measures and additional monitoring may be required by Ecology if wetland monitoring reveals that performance measures are not being met. Such measures may include those described in the “Contingency Plan” section of the Wetland Mitigation Plan.
- g) An “as-built” report and drawing documenting the final design of the mitigation area shall be prepared when the mitigation plan has been implemented. The “as-built” documents shall include the following:
- Vicinity map showing site access;
 - Types of habitat features and their locations;
 - Final site topography;
 - Drawings that clearly identify the boundaries of the mitigation areas;
 - The installed planting scheme showing quantities, densities, sizes, and approximate locations of plants, as well as plant sources and the time of planting;
 - Photographs of the area taken permanent reference points;
 - Locations of photo points, sampling and monitoring sites;
 - An analysis of any changes to the mitigation plan that occurs during construction;

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- Name and contact information for the parties responsible for the mitigation site including the applicant, landowner, and wetlands professional on site during construction;
- Important dates including:
 - Starting and completion dates of the construction of the mitigation project including grading and planting of the site
- A list of any follow-up actions needed with a schedule; and,
- Copy of deed notification.

Two copies of the “as-built” report and drawing shall be sent to Ecology’s Southwest Regional Office Permit Manager, Shorelands and Environmental Assistance Program, PO Box 47775, Olympia, WA 98504-7775 within 60-days of the completed mitigation construction and planting.

If the mitigation is not complete within 12 months of the receipt date of this Order No. 5087, submit a status report on the mitigation construction. Continue to submit two copies of status reports every 12 months until construction is complete and the final as-built report is submitted.

h) In addition to condition 1.g, which pertains to completion of the existing mitigation site on Fairgrounds Avenue per the 2007 mitigation plan, if the mitigation on the “DP2” property is not complete within 12 months of the receipt date of the Amendment to Order #5087, submit a status report on the mitigation construction stating the reason for the delay and the expected date of completion. Continue to submit status reports every 12 months until construction is complete and the final as-built report is submitted.

i) After completing construction and planting of the “DP2” mitigation site, the Applicant shall submit to Ecology 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. Submit a hard copy to Department of Ecology, Southwest Regional Office, Attn: Rebecca Rothwell, PO Box 47775, Olympia, WA 98504-7775. Submit electronic copies to rebecca.rothwell@ecy.wa.gov.

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

2. Gold Medal shall provide access to the project site and mitigation sites upon request by Ecology.
3. Prior to implementing any contingency measures, the Gold Medal will consult with Ecology.
4. Any changes to the mitigation plan or monitoring requirements must be approved by Ecology before they are incorporated into the plan or implemented on the ground.
5. This Order does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.

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6. 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.
7. 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.

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