



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

December 14, 2004

REGISTERED MAIL
R 237 329 161

Mr. John Miller
Zimmler Development, LLC
14915 Southwest 72nd Avenue, Suite 200
Tigard, Oregon 97223

Dear Mr. Miller:

RE: **Order No. 1803:** Administrative Order for placement of fill in 1.20 acres of an isolated wetland to construct a nine-lot industrial and commercial business park with associated parking and utilities at 6308 N.E. 88th Street in Clark County.

The request for an administrative order for proposed work in wetlands within the Salmon Creek Watershed, Clark County has been reviewed. The State of Washington has determined that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Chapter 90.48 RCW and other appropriate requirements of State law.

This approval is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Brad Murphy at (360) 407-7273. Written comments can be sent to him at the Department of Ecology, Southwest Regional Office, SEA Program, P.O. Box 47775, Olympia, Washington 98504-7775 or at e-mail bmur461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Perry J Lund", written over a circular stamp or seal.

Perry J Lund
Unit Supervisor
Shorelands and Environmental Assistance Program

PJL:LO:dn
Enclosure

cc: Brian Bieger, The Resource Company, Inc.
Brad Murphy, Ecology, SWRO
Lori Ochoa, Ecology, SWRO
Penny Keys, Ecology, HQ

DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY)
Mr. John Miller, Zimmler Development, LLC)
FOR AN ADMINISTRATIVE ORDER TO) ORDER NO. 1803
CONDUCT WORK IN AN ISOLATED WETLAND)

To: Mr. John Miller
Zimmler Development, LLC
14915 Southwest 72nd Avenue, Suite 200
Tigard, Oregon 97223

This is an Administrative Order requiring Mr. John Miller, Zimmler Development, 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.

On December 23, 2003, Mr. John Miller, Zimmler Development, LLC submitted a request to impact 1.20 acres of an isolated wetland to construct a nine-lot industrial and commercial business park with associated parking and utilities in Clark County.

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

IT IS ORDERED that Mr. John Miller, Zimmler Development, LLC shall comply with the following:

1. Mr. John Miller, Zimmler Development, LLC shall construct and operate the project in a manner consistent with the project described as follows or as otherwise approved by Ecology: Construct a nine-lot industrial and commercial business park to consist of seven buildings ranging from 45,000 square feet to 65,000 square feet in size with associated parking and utilities near the City of Vancouver, 6308 N.E. 88th Street, Clark County.
2. Project mitigation shall be constructed and maintained as described in the "Wetland and Buffer Mitigation Plan for I-205 Commerce Park Project; Clark County, WA" dated October 27, 2004.
3. Mr. John Miller, Zimmler Development, LLC shall provide access to the project site and all mitigation sites upon request by Ecology.
4. Mitigation for this project shall be completed as described in the following documents:
 - a) "As-Built" Report: A revised "as-built" report and drawing documenting the final design of the project area shall be prepared when site construction and all planting is completed. The "as-built" documents shall include the following:
 - Final site topography;
 - Photographs of the area taken from permanent reference points;

- The installed planting scheme showing quantities, densities, sizes, and approximate locations of plants, as well as plant sources and the time of planting;
- Types of habitat features (e.g., snags, large woody debris) and their locations;
- Locations of permanent vegetation transects, sampling and monitoring sites; and,
- An analysis of any changes to the mitigation plan that occurred during construction.

A copy of the "as-built" report and drawing shall be sent to Ecology's Southwest Regional Office, Attn: Brad Murphy at P.O. Box 47775, Olympia, WA 98504-7775, within 60 days of completing construction and planting, and in no case later than December 31, 2005.

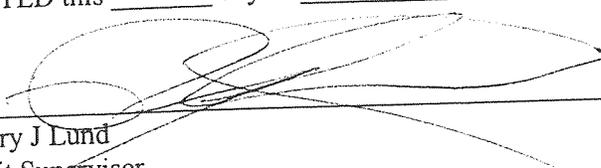
5. Mr. John Miller, Zimmer Development, LLC shall ensure that all appropriate project engineers and contractors at the project and mitigation sites shall have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall 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 no less than seven (7) days before construction begins at the project site.
6. Deed Restriction: Permanent protection of the wetland mitigation and preservation areas and buffers shall be recorded on the property deed. The deed shall clearly indicate that the wetland mitigation and preservation mitigation areas are "waters of the state". Documentation that this requirement has been fulfilled shall be provided to Ecology's Brad Murphy as part of the "as-built" report.
7. Monitoring and Contingency Plan: Monitoring shall be done as described in the "Wetland and Buffer Mitigation Plan for the I-205 Commerce Park Project; Clark County, WA" dated October 27, 2004:
 - a) A written report describing the monitoring results will be submitted to the Department of Ecology the first, third, fifth, seventh and tenth years after completion of the mitigation installation.
 - b) Performance Standards: Mitigation efforts shall be monitored for compliance with the performance standards referenced on page 11 of the Mitigation Plan Report, and as shown on the Mitigation Plan drawing. If the results of monitoring show that the Mitigation Area does not satisfy the performance standards set forth in the Mitigation Plan, additional monitoring and mitigation may be required (e.g., replanting, soil amendments, selection of alternative species, reevaluation of the Standard of Success, etc.). Any additional monitoring or mitigation measures are subject to review and approval by Ecology.
 - c) The wetland mitigation planting plan shall be field supervised and inspected by a qualified consultant(s) during grading and planting operations, as well as after planting has been completed, to ensure proper installation.

- d) The boundaries of the mitigation area and buffers shall be permanently marked with stakes at least every 100 feet. The marking shall include signage that clearly indicates that clearing vegetation, excavation, placement of fill, and fertilizer/pesticide applications are prohibited within mitigation areas.
8. Mr. John Miller, Zimmer Development, LLC shall provide notice to Ecology's Brad Murphy at (360) 407-7273 or e-mail bmur461@ecy.wa.gov at least 3 days prior to the start of placing fill in wetlands or other waters of the state.
9. This Order does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
10. 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.
11. 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.

Any person aggrieved by Order 1688 may obtain review thereof by appeal. Pursuant to ch. 43.21B RCW, a person can appeal this order to the Pollution Control Hearings Board within 30 days of the date of receipt of this Order. Any such appeal must be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, Attn: Loree' Randall, PO Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

DATED this 14 day of December, 2004, at Olympia, Washington.



Perry J Lund
Unit Supervisor
Shorelands and Environmental Assistance Program

Attachment # A
Isolated Wetland Administrative Order
Statement of Understanding

I, _____, state that, I will be involved as an agent or contractor for John Miller, Zimmer Development, LLC, in construction of the I-205 Commerce Park located near the City of Vancouver, 6308 N.E. 88th Street, Clark County. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Administrative Order #1803 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Company

