



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

March 7, 2007

REGISTERED MAIL
RB 252 974 087 US

Pierce County Public Works and Utilities
Transportation Services
2702 South 42nd Street Suite 201
Tacoma, Washington 98409

Dear Sir or Madam:

RE: **Order No. 4028:** Administrative Order for placement of 1.3 acres of fill in an isolated palustrine scrub/shrub and emergent closed depression wetland to extend Canyon Road East from 192nd Street East to 200th Street East. The project will be located in Pierce County, Washington.

The request for an administrative order for proposed work in the isolated wetland in the Pierce 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 Randi Redick at (360) 407-7391. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Perry J. Lund
Unit Supervisor
Shorelands and Environmental Assistance Program

PJL:RR:th

Cc: Koko Ekendiz, U.S. Army Corps of Engineers



DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY)
Pierce County)
Department of Public Works) ORDER NO. **4028**
and Utilities-Transportation Services)
FOR AN ADMINISTRATIVE ORDER TO)
CONDUCT WORK IN AN ISOLATED WETLAND)

To: Mr. Patrick D. Baughman, P.E.
Pierce County
Public Works and Utilities-Transportation Services
2702 South 42nd Street, Suite 201
Tacoma, Washington 98409

This is an Administrative Order requiring Pierce County Public Works and Utilities Transportation Services 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 January 5th, 2006, Pierce County Public Works and Utilities Transportation Services submitted a request to impact 1.3 acres for placement of fill in a category 2 isolated palustrine scrub/shrub and emergent wetland; to construct 2,700 linear feet of new road that will extend Canyon Road East from 192nd Street East to 200th Street East. The project also includes stormwater treatment facilities and installation of traffic signals at 192nd Street East and 200th Street East. The project will be located in ¼ section NE, Section 1, Township 18N and Range 3E, WRIA 10, Pierce County, Washington. There will be 1.1 acre impact from road extension and 0.2 acre impact from the stormwater pond. Additionally there will be a buffer impact of 1.9 acre.

The proposed mitigation design will establish 2 acres of wetland, and enhance 3.3 acres of Reed canarygrass dominated wetland off site. In general, the design will expand the existing off site wetland, creating additional scrub-shrub wetland area, and plant native shrub species while controlling Reed canarygrass in the existing wetland area.

For purposes of this Order, the term "Applicant" shall mean Pierce County Public Works and Utilities Transportation Services and its agents, assignees, and contractors.

For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Regional Office, Attn: Federal Permit Manager, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. **4028** and Corps Jurisdictional Determination No. **200500583**.

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

IT IS ORDERED that Pierce County Public Works and Utilities Transportation Services shall comply with the following:

1. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Permit Application (JARPA) received by the Department of Ecology (Ecology) on January 5th, 2006 and in the Pierce County Department of Public Works and Utilities-Transportation Services Wetland Analysis Report and Final Mitigation Plan for Canyon Road Extension, 192nd Street East to 200th Street East, Pierce County, Washington dated June 2006, and as revised January 2007. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA and associated documents is voided by subsequent changes to the project not authorized by this Order.
2. The Applicant shall construct and operate the project in a manner consistent with the project description contained in the JARPA received by Ecology on January 5th, 2006 and in the Wetland Analysis Report and Final Mitigation Plan for Canyon Road Extension, 192nd Street East to 200th Street East, Pierce County, Washington dated June 2006, and as revised January 2007 or as otherwise approved by Ecology.
3. Project mitigation shall be constructed and maintained as described in the JARPA received by Ecology on January 5th, 2006 and in the Pierce County Department of Public Works and Utilities-Transportation Services Wetland Analysis Report and Final Mitigation Plan for Canyon Road Extension, 192nd Street East to 200th Street East, Pierce County, Washington dated June 2006, and as revised January 2007 or as otherwise approved by Ecology.
4. Compensatory mitigation construction and installation shall occur prior to or concurrently with, project impacts to wetlands
5. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
6. An "as built" report shall be prepared after construction showing any variances from the final mitigation plan. The "as-built" shall be the baseline document used for all future monitoring of the mitigation project. It shall include but not be limited to:
 - comments from a wetland specialist present on site during mitigation construction;
 - final site plan showing site topography (both site plan view and typical sections) and clearly indicating the mitigation site boundary;
 - photographs of the area taken from permanent photo points which will be designated on the site plan; and,
 - the installed planting scheme showing densities, sizes, and approximate locations of plants as well as plant sources and time of planting
 - an analysis of any changes to the mitigation plan that occurred during construction.

- title notification in the form of a wetland and wetland buffer notice will be placed on the wetland mitigation site, this notice will provide public record of the presence of wetland and any other critical areas and associated buffers and provide protection in perpetuity

A copy of the "as-built" report and drawings shall be sent to Ecology's Southwest Regional Office Attn: Federal Permit Manager 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 of the year that construction is completed.

7. Pierce County Department of Public Works and Utilities Transportation Services 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 more than 30 and no less than seven (7) days before that project engineer or contractor is scheduled to start work on the portion of the project they are responsible for.
8. Monitoring and Contingency Plan: Mitigation efforts shall be monitored for compliance with the performance standards referenced on pages 19 thru 22 of the Wetland Analysis Report and Final Mitigation Plan for Canyon Road Extension, 192nd Street East to 200th Street East, Pierce County, Washington dated June 2006, and as revised January 2007.
 - A.) Performance Standards: Mitigation efforts shall be monitored for compliance with the performance standards referenced on pages 16 thru 19 of the "Wetland Analysis Report and Final Mitigation Plan for Canyon Road Extension, 192nd Street East to 200th Street East, Pierce County, Washington dated June 2006, and as revised January 2007."
 - B.) A written report describing the monitoring results will be submitted to the Department of Ecology's Southwest Regional Office Attn: Federal Permit Manager, the first, third, fifth, seventh and tenth years after completion of the mitigation installation
 - C.) Prior to implementing any contingency measures, applicant will consult with permitting agencies.
 - D.) Contingency measures and additional monitoring of the mitigation may be required by Ecology if wetland monitoring reveals that performance measures are not being met
 - E.) 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.
 - F.) The wetland mitigation planting plan shall be field supervised and inspected by a qualified wetland specialist(s) during grading and planting operations, as well as after planting has been completed, to ensure proper installation.

- G) 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.
9. Pierce County Department of Public Works and Utilities Transportation Services shall provide written notice to Ecology's Federal Permit Manager by fax at (360) 407-6305 or by email rcol461@ecy.wa.gov at least 3 days prior to start of placing fill in wetlands or other waters of the state.
 10. This Order does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
 11. 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.
 12. 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

Appeal Process:

You have the right to appeal this Order to the Pollution Control Hearings Board. Pursuant to chapter 43 21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology, within thirty (30) days of the date of your receipt of this document.

To appeal this Order, your notice of appeal must contain a copy of the Ecology Order you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board
4224 - 6th Avenue SE, Rowe Six, Bldg 2
P.O. Box 40903
Lacey, Washington 98504-0903

Your appeal must also be served on:

The Department of Ecology
Appeals Coordinator
P O. Box 47608
Olympia, Washington 98504-7608

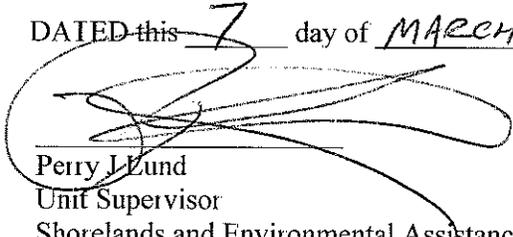
In addition, please send a copy of your appeal to:

Loree' Randall
Department of Ecology
P O Box 47600
Olympia, Washington 98504-7600

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

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43 21B.320. These procedures are consistent with Ch. 43 21B RCW.

DATED this 7 day of MARCH, 2007, at Olympia, Washington.



Perry J. Lund
Unit Supervisor
Shorelands and Environmental Assistance Program

PJL:RR:th

Attachment # A

Pierce County Department of Public Works and Utilities-Transportation Services
Water Quality Certification Order # 4028
Statement of Understanding
Water Quality Certification Conditions

I, _____, state that, I will be involved as an agent or contractor for Pierce County Department of Public Works and Utilities-Transportation Services in the construction of 2,700 linear feet of new road that will extend Canyon Road East from 192nd Street East to 200th Street East. The project also includes stormwater treatment facilities and installation of traffic signals at 192nd Street East and 200th Street East. The project will be located in ¼ section NE, Section 1, Township 18N and Range 3E, WRIA 10, Pierce County, Washington. I further state that I have read and understand the relevant conditions of the Washington Department of Ecology Water Quality Certification Order #4028 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