



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

September 20, 2007

REGISTERED MAIL
RB 252 945 284 US

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

RE: Administrative Order No. 5087 for the completion of 44.7 acres of compensatory wetland mitigation for the 37.1 acres of impacts to prior converted cropland wetland as a result of the ongoing construction of the mix-use development of Battle Ground Commerce, Battle Ground, Clark County, Washington.

Dear Mr. Pavlina:

On September 24, 2005, Ecology and The Gold Medal Group, LLC entered into an agreement allowing the development of Battle Ground Commerce to continue while identifying and implementing a compensatory mitigation plan to offset the project's wetland impacts. 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 Sarah M. Lukas at (360) 407-7459. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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

PJL:SML:dn
Enclosure

cc: Bill Abadie, U.S. Army Corps of Engineers
Ecological Land Services, Inc.



e-cc: Penny Keys, Ecology Headquarters
Loree' Randall, Ecology Headquarters
Mark Cline, Ecology SWRO
Deborah Cornett, Ecology SWRO
Lori Ochoa, Ecology SWRO

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 may create 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 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 in the City of Battle Ground, Clark County, Washington.

For purposes of this Order, the term "Applicant" shall mean The 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, (Wetland Mitigation Plan), and the *Battle Ground Commerce Wetland Delineation Report*- dated June 30, 2006, or as otherwise approved by Ecology.

- 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. **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 No. 5087.
- 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;

- 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.

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. Ecology must approve in writing any changes to the mitigation plan or monitoring requirements **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.
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 workers, 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.

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.

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the “date of receipt” of this document. Filing means actual receipt by the Board during regular office hours
- Serve your appeal on the Department of Ecology within 30 days of the “date of receipt” of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). “Date of receipt” is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

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

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

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

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

Sarah Lukas
Department of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775

*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://www.l.leg.wa.gov/CodeReviser>*

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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 20th day of September, 2007, at Olympia, Washington.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a solid horizontal line.

Perry J Lund, Unit Manager
Shorelands and Environmental Assistance Program, Southwest Regional Office
Department of Ecology

