



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

September 20, 2007

REGISTERED MAIL
RB 252 945 275 US

Port of Vancouver
ATTN: Kim Shaffer, Project Manager
3103 NW Lower River Road
Vancouver, WA 98660

RE: Administrative Order 5091 to impact 1.03 acres of an isolated wetland to develop a new 7-lot light industrial park on a 58-acre site referred to as Parcel 8 located in west Vancouver, south of Vancouver Lake, at 3210 Northwest Lower River Road, Vancouver, Clark County, Washington.

Dear Ms. Shaffer:

Ecology has reviewed your request for an Administrative Order for work within isolated wetlands in Clark County. 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 Lori Ochoa at (360) 407-6926. 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 Manager
Southwest Regional Office
Shorelands and Environmental Assistance Program

PL:LO:dn
Enclosure

cc: Tom Taylor, U.S. Army Corps of Engineers
Ed Strohmaier, JD White
Marian Lahav, City of Vancouver



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

DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY)
Port of Vancouver)
FOR AN ADMINISTRATIVE ORDER TO) ORDER NO. **5091**
CONDUCT WORK IN AN ISOLATED WETLAND)

To: Port of Vancouver
ATTN: Ms. Kim Shaffer
3103 NW Lower River Road
Vancouver, WA 98660

This is an Administrative Order requiring the Port of Vancouver 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.

On May 21, 2007, the Port of Vancouver submitted a request to impact 1.03 acres of an isolated wetland to develop a new 7-lot light industrial park on a 58-acre site referred to as Parcel 8. The site is located in west Vancouver, south of Vancouver Lake, at 3210 Northwest Lower River Road, Vancouver, Clark County, Washington; NE Section 20, Township 2 North, Range 1 East, WRIA 28, Salmon-Washougal Watershed.

This Administrative Order authorizes 1.03 acres of Category IV isolated wetland impacts at the Port of Vancouver Parcel 8 development site. To offset these impacts, a total of 1.60 acres of Category II emergent and forested wetlands will be created. The mitigation will take place on Port of Vancouver property known as Parcel 6. The created wetland will be constructed to adjoin Wetland A, a 92.27-acre wetland complex located in Parcel 6 and the southern end of Parcel 8.

For purposes of this Order, the term "Applicant" shall mean the Port of Vancouver 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 Port of Vancouver shall comply with the following:

1. The Port of Vancouver shall construct and operate the project in a manner consistent with the project description contained in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on May 21, 2007, and in the "*Conceptual Wetland Mitigation Plan for the Port of Vancouver, Parcel 8 Development*" (*Wetland Mitigation Plan*), dated November 2006, or as otherwise approved by Ecology.

2. Project mitigation shall be constructed and maintained as described in the *Wetland Mitigation Plan*, dated November 2006.
3. Ecology must approve in writing any changes to the *Wetland Mitigation Plan* or monitoring requirements before they are incorporated or implemented on the ground.
4. Compensatory mitigation construction and installation shall occur prior to or concurrently with project impacts to wetlands.
5. The Port of Vancouver shall provide access to the project site and all mitigation sites upon request by Ecology.
6. All mitigation sites shall be monitored for a 10-year period following project construction. Ecology may require additional monitoring of the mitigation area if wetland monitoring reveals that performance measures are not being met.
7. Wetland mitigation monitoring and maintenance shall be implemented as described in the *Wetland Mitigation Plan*, dated November 2006.
8. The Applicant is responsible for achieving the mitigation "Performance Standards" outlined in the *Wetland Mitigation Plan*. These performance standards shall be met over the 10-year monitoring period. The final mitigated wetlands shall meet the Category II characteristics as described in the *Washington State Wetlands Rating System for Western Washington*, revised August 2004.
9. Contingency measures shall be implemented as identified in the Contingency Plan section of the *Wetland Mitigation Plan*, dated November 2006. Prior to implementing any contingency measures, the applicant will consult with permitting agencies.
10. Deed Restriction: Permanent protection of the wetland mitigation area and buffers shall be recorded on the property deed for the Wetland Mitigation Site. The deed shall clearly indicate that the wetland mitigation areas are "waters of the state". Documentation that this requirement has been fulfilled shall be provided to the Southwest Regional Office Federal Permit Coordinator as part of the "As-Built" report.

Wetland Mitigation Reporting Conditions:

11. A detailed "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;
- name and contact information for the parties responsible for the mitigation site including the applicant, landowner, and wetland professional on site during construction;
- important dates including:
 - when the development project's construction began; and,
 - the starting and completion dates of the construction of the compensatory mitigation project including grading and planting.
- 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;
- the installed planting scheme showing densities, sizes, and approximate locations of plants as well as plant sources and time of planting;
- types of habitat features and their locations;
- an analysis of any changes to the mitigation plan and any problems that occurred during construction;
- demonstration that the mitigation areas have been successfully established and that the "Additional Measures" have been implemented; and,
- documentation that the wetland mitigation area and buffers have been recorded on the property deed for the Wetland Mitigation Site.

Two copies of the "As-Built" report and drawings shall be sent to Ecology's Southwest Regional Office, Attn: Project Manager at P.O. Box 47775, Olympia, WA 98504-7775, within 60 days of completing mitigation (including planting). "As-built" submittals shall reference Order No. **5091**.

If the mitigation construction is not completed within 12 months of the date of this Order, a written status report shall be submitted to Ecology's Southwest Regional Office Project Manager. Mitigation construction status reports shall continue to be submitted every 12 months until the construction is complete and the final "as-built" report is submitted.

12. Two copies of the mitigation monitoring reports shall be submitted to Ecology's Southwest Regional Office Project Manager by December 31 of each monitoring year for years 1, 2, 3, 5, 7, and 10 and as further described in the *Wetland Mitigation Plan*, dated November 2006.

13. The remaining portion of Parcel 6 is currently proposed for use as a mitigation bank. Once the mitigation bank becomes authorized, the *Wetland Mitigation Plan*, dated November 2006, shall be revised as appropriate to ensure that it is consistent with the final Parcel 6 Mitigation Bank Instruments goals and performance standards.
14. This Order does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
15. 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.
16. 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

Deliver your appeal in person to:

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

3. And send a copy of your appeal to:

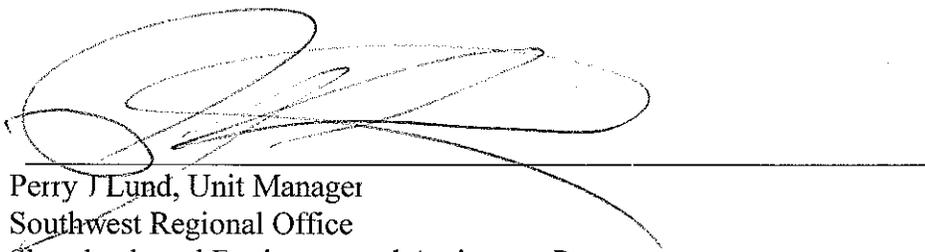
Lori Ochoa
Department of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775

*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://www1.leg.wa.gov/CodeReviser>*

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 21 day of September, 2007, at Olympia, Washington.



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

