STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

December 5, 2007

REGISTERED MAIL
RB 252 945 341 US

Mr Thomas E. Armstrong
Development and Construction Group
12301 NE 10th Place, #303
Bellevue, WA 98005

RE: Administrative Order 5245 to mitigate for the 0.17 acres of isolated wetland fill for the construction of a residential development, "The Reserve at Valley Creek", by creating 0.17 acres of wetland and enhancing 0.48 acres of wetland, Port Angeles, Clallam County, Washington.

Dear Mr. Armstrong:

The request for an administrative order for proposed work in the isolated wetland in Port Angeles, Clallam 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 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: Joe Brock, U.S. Army Corps of Engineers
Robbyn Myers, BGE Environmental, LLC
Alison Moss, Dearborn & Moss
Scott Johns, City of Port Angeles
Chris Byrnes, Washington State Department of Fish and Wildlife

e-cc: Penny Keys, Ecology Headquarters
Loree' Randall, Ecology Headquarters
Brad Murphy, Ecology Wetland Specialist
Deborah Cornett, Ecology Water Quality

DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY DEVELOPMENT AND CONSTRUCTION GROUP FOR AN ADMINISTRATIVE ORDER TO CONDUCT WORK IN ISOLATED WETLANDS	))))	ORDER NO. 5245

To: Development and Construction Group
Attn: Mr. Thomas E. Armstrong
12301 NE 10th Place, #303
Bellevue, WA 98005

This is an Administrative Order requiring Development and Construction Group to comply with Chapter 90.48 RCW and the rules and regulations of the Department of Ecology (Ecology) by taking certain actions that 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. This Order does not authorize Development and Construction Group to place fill in wetlands that are under U.S. Army Corps of Engineers jurisdiction.

On August 9, 2006, Development and Construction Group submitted a request to Ecology to fill 0.17 acres of isolated wetlands to build a 139 lot residential subdivision on a 35.9 acre parcel at 140 East Ahlvers Road, S 16, T 30N, R 6W; WRIA #19, the Lyre-Hoko Watershed, in the City of Port Angeles, Clallam County, Washington. Mitigation for wetland impacts includes creation of 0.17 acres of wetland and 0.48 acres of wetland enhancement.

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

IT IS ORDERED that Development and Construction Group shall comply with the following:

1. Wetland compensatory mitigation and monitoring for the wetland fill shall be performed as described in: *The Reserve at Valley Creek Revised Wetland Mitigation Plan*, dated October 2007, by BGE Environmental, LLC., (Mitigation Plan), and accompanying drawings.

   a) Timing: The wetland restoration and enhancement described in the Mitigation Plan shall be implemented concurrently with site construction for the development. Buffers affected temporarily by site construction shall be restored during the first planting season after these areas are no longer needed for construction access or storage.

   b) Construction Monitoring: Grading and plant installation for wetland and buffer mitigation shall be monitored during construction by a qualified wetland ecologist to ensure proper elevations and that plants are appropriate placed.

c) Performance Standards: The goal and performance of the wetland and buffer mitigation shall be measured by the standards listed under the Mitigation Goal and Objectives and Performance Standards sections of the Wetland Mitigation Plan (pp. 14-16).

d) Mitigation Monitoring: Monitoring to ensure that the project performance standards are met shall be performed as specified in the Monitoring Plan section of the Mitigation Plan (pp. 16-17). **Two (2) copies of all monitoring reports shall be submitted to Federal Permit Manager, Shorelands and Environmental Assistance Program, Southwest Regional Office, PO Box 47775 Olympia, WA 98504-7775**, identified with Order No. 5245. Copies should also be submitted to the City of Port Angeles.

e) Maintenance: The Applicant is responsible for maintenance of the wetland mitigation sites such that the required performance standards are met. Maintenance shall be performed as listed under the Monitoring and Maintenance sections of the Mitigation Plan (pp. 16-17).

f) Contingency Plan: The Applicant shall be responsible for preparing a contingency plan if performance standards and plan objectives have not been met. A contingency plan may include the items described under the Contingency Plans sections of the Mitigation Plan. Any contingency plan must receive review and approval from Ecology prior to implementation.

g) Reporting: 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:

i. Background Information:
- Project name
- Associated permit and reference number(s) (assigned by the Corps, Ecology, local government)
- Who prepared the report (name, address, and phone number)
- Who the report was prepared for (name, address, and phone number)
- Date of the report

ii. The Development Site:
- Brief description of the development project
- Location of the development project and directions to the development site(s)
- Date construction of the development project started and ended
- Area (acres) and type(s) of wetlands affected by the development project, including the rating(s) and hydrogeomorphic classes, also briefly describe impacts to other aquatic resources

iii. The Mitigation Project:

- Location of the mitigation project and directions to the mitigation site(s)
- Brief description of the mitigation project and 8 1/2" x 11 map of the mitigation site(s) with:
  - Inset showing the geographic location of the site
  - Landmarks
  - Locations of permanent record stations
  - Types of wetlands, including ratings and hydrogeomorphic classes, and other aquatic habitats (as constructed)
  - Who completed the mitigation project (name, address, and phone number)
  - Goals and objectives of the mitigation project
  - List of performance standards for the mitigation project
  - 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 date the construction started and ended as well as when different activities were completed such as grading and planting
  - Final site topography
  - Photographs of the site at as-built conditions taken from photographic record stations (photo pans are required in addition to along transect lines)
  - Installed planting scheme with quantities, densities, sizes, and approximate locations
  - Types of habitat features and their locations

A copy of the as-built report and drawing shall be sent to: Federal Permit Manager, Shorelands and Environmental Assistance Program, Southwest Regional Office, PO Box 47775, Olympia, WA 98504-7775, identified as Order 5245, within 60 days of completing mitigation construction and planting.

The wetland mitigation development (creation and enhancement) shall be completed no later than 12 months from the date of this Order.

2. During the monitoring period, Development and Construction Group shall provide access to the project site upon request by Ecology.

3. This Order does not exempt the Applicant from and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.

4. 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.

5. 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 M. 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://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.

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 5 December 07 in Lacey, Washington.

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