



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

May 12, 2005

CERTIFIED MAIL
7000 1670 0013 5840 3344

US Army Corps of Engineers
Attn: Tom Mueller, Chief
Regulatory Branch
PO Box 3755
Seattle, WA 98124

CERTIFIED MAIL
7000 1670 0013 5840 3573

Mr. C. David Callahan
Rose Manor Properties, Inc.
10804 NE Hwy 99
Vancouver, WA 98666

Re: Corps Reference No.200400928 – Proposed placement of approximately 16,000 cubic yards of fill on 10.42 acres for a retail and commercial center in wetlands associated with Salmon Creek in Battle Ground, Clark County, Washington

Dear Mr. Mueller and Mr. Callahan:

The above-referenced proposed project requiring a Section 404 permit from the Army Corps of Engineers (Corps) for work in waters of the U.S. has been reviewed. At this time, Ecology is unable to certify that this proposed project meets aquatic protection requirements of the state of Washington. Therefore, per Section 401 of the federal Clean Water Act, RCW 90.48, and 173-201A WAC, the applicant's request for water quality certification is denied.

Water quality certification is denied due to a lack of reasonable assurance that the proposed mitigation adequately compensates for impacts to waters of the state.

Denial is based on the following:

- The wetland report does not contain sufficient information to evaluate this proposal. The delineation and functional assessment do not provide sufficient data to allow review of the proposal for compliance with standards in the Washington State Wetland Rating System For Western Washington, Revised (Ecology Publication # 04-06-025)
- The mitigation plan does not contain sufficient information to determine if the proposed mitigation meets the standards in Guidance on Wetland Mitigation in Washington State, Parts 1 and 2 (Ecology Publication #04-01-013a and 04-01-013b)

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- The proposed mitigation is inadequate to compensate for 10 acres of wetland fill. Mitigation must meet standards in the Wetland Mitigation Guidance document noted above.
- The buffers proposed for this project are inadequate. There is insufficient information to determine if the buffers will protect the values and functions of the wetlands.
- Incidental and temporal impacts are not addressed.
- The delineation of the mitigation site is inadequate. There is insufficient information on the means proposed to ensure the site will not be developed in the future.
- Statements of increased functions on the mitigation sheets are not supported by documentation.
- The delineation report is based on the Corps 87 manual instead of the Washington State Wetlands Identification and Delineation Manual (ECY #96-94)

You may re-apply to the Corps and Ecology for the required 404 and 401 permits. Ecology is prepared to work with all parties to ensure that the project design will meet certification requirements.

Any person aggrieved by this 401 Certification may obtain review thereof by appeal, within thirty (30) days of receipt of this 401 Certification, to the Washington Pollution Control Hearings Board, P.O. 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, P.O. 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.

Please contact Jo Sohneronne (360) 407-6926 of my staff if you have any questions or would like more information.

Sincerely,



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

PJL:JS:dn

cc: Ms. Beverly Becker, BDK Environmental Services
Ron Klump, US Army Corps of Engineers, Seattle District, Vancouver Field Office
Brian Carraco, City of Battle Ground
Dick Clark, EPA