



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509)329-3400

August 26, 2009

**CERTIFIED MAIL – (7003 1680 0007 1587 1998)**

Mr. Derek Sandison  
WDOE  
Office of Columbia River  
303 S. Mission Street, Suite 200  
Wenatchee, WA 98801

Re: **Administrative Order No 7085: Authorizing impacts to 0.783 acres of wetlands** as part of the Weber Siphon Improvement Project to install a new irrigation siphon barrel near Rd U NE in Grant County.

Dear Mr. Condon:

Your request for an administrative order authorizing proposed work in wetlands for the Weber Siphon Improvement Project has been reviewed. The State of Washington has determined that the proposed work, as condition by the enclosed Order, will comply with applicable provisions of the State Water Pollution Control Act 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 Jeremy Sikes at (509) 329-3426. The enclosed Order may be appealed by the procedures described in the Order.

Sincerely,

Sara Hunt, Section Manager  
Shorelands and Environmental Assistance Program  
Eastern Regional Office

SH:JS:ljs

Enclosure

cc: Mr. Jim Blanchard, Special Projects Manager, US Bureau of Reclamation  
Jeremy Sikes, Ecology, ERO  
Penny Keys, Ecology, HQ  
Loree Randall, Ecology, HQ

DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY )  
Mr. Derek Sandison )  
FOR AN ADMINISTRATIVE ORDER TO ) ORDER NO. DE 7085  
CONDUCT WORK IN ISOLATED WETLANDS )

To:

Mr. Derek Sandison  
WDOE  
Office of Columbia River  
303 S. Mission Street, Suite 200  
Wenatchee, WA 98801

Mr. Jim Blanchard  
Special Projects Manager  
US Bureau of Reclamation  
P O Box 815  
Ephrata, WA 98823-0815

This is an Administrative Order requiring Derek Sandison, WDOE, and Jim Blanchard, US Bureau of Reclamation to comply with the State Water Pollution Control Act 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 July 29, 2009, Derek Sandison submitted a request to temporarily impact 0.783 acres of isolated ditch wetland to install a new irrigation siphon barrel parallel to the existing siphon barrel to transport irrigation water from the East Low Canal beneath roadways and other structures and install two new blowoff valves near Road U NE in Grant County. Mitigation shall consist of on-site restoration of 0.783 acres of disturbed wetland by re-grading and re-vegetating the ditch area disturbed by construction.

For purposes of this Order, the term "Applicant" shall mean Derek Sandison of Washington Department of Ecology and Jim Blanchard of the US Bureau of Reclamation, and their agents, assigns, and contractors.

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

IT IS ORDERED that the applicant shall comply with the following:

**A. General Conditions:**

1. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Eastern Region Office, Attn: Wetland Specialist, SEA Program, 4601 N. Monroe Street, Spokane, Washington 99205. Any submittals shall reference Order No. 7085.
2. Project mitigation shall be constructed and maintained as described in JARPA UPI#109692-09-01, East Low Canal Weber Siphon Improvement Project (hereafter Weber JARPA) date-stamped July 29, 2009.
3. The applicants shall construct and operate the project in a manner consistent with the project description contained in the Weber JARPA or as otherwise approved by Ecology.
4. The applicants shall provide access to the project site and all mitigation sites upon request by Ecology.
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 foremen, 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.
8. The Applicant shall ensure that all appropriate project engineers and contractors at the project site 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 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 within 30 days of this order.

**B. Notification Requirements:**

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Eastern Region Office Wetland Specialist in accordance with Condition A.1 above for the following activities:

- a. At least ten (10) days prior to the onset of in-water work, including wetlands
- b. At least ten (10) days prior to the onset of work at the wetland mitigation site
- c. Immediately following a violation of the state water quality standards or any condition of this Order
- d. Within fourteen (14) days after completion of construction

**C. Wetland Mitigation Conditions:**

1. The Applicant shall mitigate wetland impacts as described in the Weber JARPA attachment entitled "Weber Siphon Wetland Delineations and Stream Flagging" by ESA Adolphson and Assoc., dated June 23, 2009, except as modified in this Order or revised and approved by Ecology.
2. The Applicant shall submit any changes to the mitigation plan in writing to Ecology (per condition A.2. above) for review and approval before work begins or when problems occur during construction requiring plan changes.
3. To ensure proper installation, the Applicant's wetland professional must supervise and inspect all mitigation site construction and planting.

**Implementation:**

4. The Applicant shall begin the site restoration project immediately upon completion of the siphon installation work at Road U NE. Ecology may require additional compensation to account for additional temporal loss if the mitigation is not completed in a timely manner.
5. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands and their buffers and above the 100-year floodplain.
6. The Applicant shall ensure that no construction debris is deposited within existing wetland and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology approved Mitigation Plan.
7. If seeding is used as a temporary erosion control BMP, it must be consist of native, annual, non-invasive plant species.
8. The Applicant shall place signs at the restoration area's boundaries, including buffers, to clearly mark the area as wetland mitigation.
9. Upon completion of site-grading and prior to planting, the Applicant shall submit to Ecology written confirmation that the finished grades are consistent with native conditions, the approved mitigation plan or subsequent Ecology-approved plan changes. Written confirmation can be a signed letter from the surveyor or project engineer indicating how final elevations were confirmed and whether they are consistent with the plan.

10. If the mitigation site cannot be completed within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, with the:

- a. Reason for the delay.
- b. Expected date of completion.

The Applicant shall submit an updated written notification every 12 months thereafter until the facility and mitigation are complete.

11. Within ninety (90) days of completing site construction and planting, the Applicant shall submit a final as-built report with maps to Ecology. The As-Built report must:

- a. Document site conditions at Year Zero;
- b. Include the information listed in Attachment B (Information Required for As-built Reports);
- c. Include the information listed in Attachment B;
- d. Include documentation of the recorded legal mechanism required in Condition C14.

12. Within ninety (90) days of completing construction and planting, the Applicant shall record a Wetlands Notice (see Attachment C), a copy of Ecology's Order, and the as-built report. These documents must be recorded with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.

#### **D. Monitoring and Maintenance:**

1. The Applicant shall water and maintain all plantings at the mitigation site to meet the mitigation plan's performance standards.
2. The Applicant shall monitor the mitigation site for a minimum of five (5) years as described in the mitigation plan. Additional monitoring of the mitigation area may be required by Ecology if wetland monitoring reveals that performance measures are not being met.
3. The Applicant shall submit annual monitoring reports (one hard copy file and one electronic file per Condition A.1. of this Order) no later than November 30 to Ecology documenting site conditions at the mitigation, and the reports must contain, at a minimum, the information listed in Attachment D.
4. For monitoring year five (5) the Applicant shall use the 1997 or updated versions of the "Washington State Wetlands Identification and Delineation Manual" to delineate all compensatory wetlands and include delineation information (e.g. data sheets, maps, etc.) in the monitoring reports.

5. The Applicant shall implement the contingency measures if the restoration actions fail to reproduce conditions substantively equal to those present prior to construction; including hydraulic conveyance, bank stability, and vegetative cover. Should any of these measures fail to develop, the applicant shall develop and submit to Ecology for approval, a contingency plan to rectify the situation.
6. Prior to implementing any unidentified contingency measures, the Applicant shall consult with Ecology.
7. When necessary to meet the performance standards, the Applicant shall replace dead or dying plants with the same species, or a native plant alternative appropriate for the location, during the first available planting season and note the species, numbers, and approximate locations of all replanted materials in the subsequent monitoring report.
8. The property owner shall grant Ecology access to the mitigation area for inspection during the 5 year monitoring period or until mitigation success has been achieved.
9. If the Applicant has not met all conditions and performance standards for the mitigation site at the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both.
10. Until the Applicant has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Applicant's obligation under Condition C.1 to mitigate for wetland impacts is not met.

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 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:

Deliver your appeal in person to:

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

OR

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:

Deliver your appeal in person to:

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

OR

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

**3. And send a copy of your appeal to:**

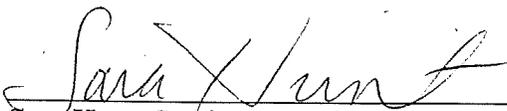
Jeremy Sikes, Wetland Specialist  
Department of Ecology  
Eastern Regional Office  
4601 N. Monroe  
Spokane, WA 99205  
Email: [jsik461@ecy.wa.gov](mailto:jsik461@ecy.wa.gov)

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 26<sup>th</sup> day of August, 2009 at Spokane, Washington.



Sara Hunt, Section Manager  
Shorelines and Environmental Assistance Program  
Eastern Regional Office