



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 1981)

Mr. Ted Condon, COO
NW Industrial Services
3808 N. Sullivan Road, Bldg. 107
Spokane WA 99216

Re: Administrative Order No 7081: Authorizing impacts to 3,986 square feet of wetlands as part of the Barr Bio-Industrial Park in SW portion of Section 14, Township 22 North, Range 39 East near I-90 Exit 254 in Lincoln County.

Dear Mr. Condon:

The request for an administrative order for proposed work in wetlands for the Barr Bio-Industrial Park 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 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 following the procedures described in the Order.

Sincerely,

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

SH:JS:ljs

Enclosure

cc: Jeremy Sikes, Ecology, ERO
Penny Keys, Ecology HQ
Loree Randall, Ecology HQ

DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY)
Mr. Ted Condon)
FOR AN ADMINISTRATIVE ORDER TO) ORDER NO. DE 7081
CONDUCT WORK IN ISOLATED WETLANDS)

To:

Mr. Ted Condon, COO
NW Industrial Services
3808 N. Sullivan Road, Bldg. 107
Spokane WA 99216

This is an Administrative Order requiring Ted Condon to comply with the State Water Pollution Control Act Chapter 90.48 RCW 1 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 August 12, 2009, Ted Condon submitted a request to impact 3,986 square feet of isolated wetlands to construct a biosolid waste processing and recycling facility in Lincoln County. Mitigation shall be on-site creation of 5,979 square feet of wetlands through re-grading and re-vegetating an upland swale area in the northeast portion of the site.

For purposes of this Order, the term "Applicant" shall mean Ted Condon, NW Industrial Services and his 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 St., Spokane, Washington 99205. Any submittals shall reference Order No. 7081.
2. Project mitigation shall be constructed and maintained as described in "Amended Critical Area Site Assessment Report and Mitigation Plan; Project Name: Barr Bio-

Industrial Park” (hereafter Barr Mitigation Plan) authored by Michael Folsom of Geographical Services, dated August 11, 2009.

3. NW Industrial Services shall construct and operate the project in a manner consistent with the project description contained in the Barr Mitigation Plan or as otherwise approved by Ecology.
4. NW Industrial Services 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 (see Attachment A for an example) 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 Compensatory Mitigation Conditions:

1. Before initiating construction of the mitigation wetlands, the applicant shall submit detailed engineering drawings for the mitigation site to Ecology for approval. The drawings shall constitute construction plans for the concept schematics found on pages 28-30 of the Barr Mitigation Plan; to include, at a minimum:
 - a. Current and proposed contour intervals in plan-view at sufficient resolution to depict the configuration of each berm and perimeter grading.
 - b. A minimum of two (2) cross section elevations depicting relative current and proposed surface elevations.
 - c. Planting locations and configuration; including species, numbers, and planting specifications.
 - d. Details of surface water routing from the site, including details of outfall and surface conveyance structures
 - e. Fence locations and general specifications.
2. The Applicant shall mitigate wetland impacts as described in the Barr Mitigation Plan authored by Michael Folsom of Geographical Services, dated August 11, 2009, except as modified in this Order or revised and approved by Ecology.
3. 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.
4. To ensure proper installation, the Applicant's wetland professional must supervise and inspect all mitigation site construction and planting.

Implementation:

5. The Applicant shall begin the compensatory mitigation project before or concurrent with impacting wetlands. Ecology may require additional compensation to account for additional temporal loss if the mitigation is not completed in a timely manner.
6. 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.
7. The Applicant shall ensure that no construction debris is deposited within existing wetlands and their buffers at the wetland mitigation site(s) at any time, unless provided for in the Ecology approved Mitigation Plan.
8. If seeding is used as a temporary erosion control BMP, it must be consist of native, annual, non-invasive plant species.
9. The Applicant shall place signs at the mitigation area's boundaries, including buffers, to clearly mark the area as wetland mitigation.

10. Upon completion of site-grading and prior to planting, the Applicant shall submit to Ecology written confirmation that the finished grades are consistent with 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.
11. 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.

12. 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.
13. 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 monitoring reports (one hard copy file and one electronic file per Condition A.1. of this Order) to Ecology documenting site conditions at the mitigation site for the years listed in the mitigation plan, 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 mitigation plan's contingency measures if goals, objectives, and performance standards are not being met.
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.2 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
P O 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:

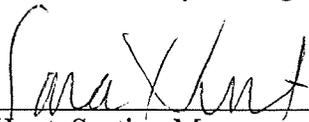
Jeremy Sikes, Wetland Specialist
Department of Ecology
Eastern Regional Office
4601 N. Monroe
Spokane, WA 99205
Email: jsik461@ecy.wa.gov

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 26th day of August 26, 2009 at Spokane, Washington.



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