



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

October 23, 2007

REGISTERED MAIL

RB 670 439 400 US

Mallard Marsh, LLC
Attn: Scott Gunning
624 Yale Avenue North
Seattle, WA 98109

RE: Requested Amendment to Administrative Order #5107 for Placement of Fill in 6.04 Acres of Wetlands Along Fryelands Ditch, Snohomish County, Washington.

Dear Mr. Gunning:

Enclosed is an amendment to the Water Quality Certification issued on September 20, 2007, for the above project located along Fryelands Ditch approximately one mile upstream of the confluence of French Creek, and three miles upstream from the Snohomish River in Snohomish County, Washington. Section 28, Township 28 North, Range 6 East.

The amended Order corrects the reference to the NRCS in Section C. Wetland Conditions. Additionally, the amended Order includes updated guidance on Reporting Requirements (Section D.) for wetland mitigation sites.

If you have any questions, please contact Cynthia Walcker at (425) 649-4318. Written comments can be sent to her at the Department of Ecology, 3190 - 160th Ave. SE, Bellevue, WA 98008. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

Geoff Tallent
Section Manager
Northwest Regional Office
Shorelands and Environmental Assistance Program

GT:csw:cja

cc: Susan Glenn, U.S. Army Corps of Engineers
Dan Golner, Ducks Unlimited

e-cc: Loree' Randall, Ecology
Penny Keys, Ecology
Paul Anderson, Ecology



**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

IN THE MATTER OF GRANTING)	ORDER #5107 1st Amendment
A WATER QUALITY)	U.S. Army Corps of Engineers #200601087
CERTIFICATION TO)	Proposed Project Includes 6.45 Acres of
Mallard Marsh, LLC)	Ground Disturbance. Placement of Fill
in accordance with 33 U.S.C. 1341)	Will Occur in 6.04 acres of Wetlands
FWPCA § 401), RCW 90.48.120,)	Along Fryelands Ditch, Snohomish
(RCW 90.48.260 and Chapter)	County, Washington
173-201A WAC)	

TO: Mallard Marsh, LLC
Attn: Scott Gunning
624 Yale Avenue North
Seattle, WA 98109

This amendment is for the above-referenced Administrative Order approved and issued by the Department of Ecology (Ecology) on September 20, 2007.

This amendment is issued under the provisions of Chapter 90.48 RCW and Chapter 173-201A WAC.

Administrative Order No. 5107 is hereby amended as follows:

1. Condition C.9. that reads:

9. Maintenance: Mallard Marsh, LLC is responsible for management and maintenance of the wetland restoration site, in consultation with the NRCS.

Is replaced with

9. Maintenance: Mallard Marsh, LLC is responsible for management and maintenance of the wetland restoration site, in consultation with Ducks Unlimited, Inc.

2. Condition D.1. that reads:

1. Record Drawings: Record drawings documenting the final design of the restoration project area shall be prepared when site construction and planting is completed. The drawings shall include the following:
- Vicinity map showing site access;
 - Approximate final site grading showing areas of berms, stream channels, water control structure, and habitat features;
 - Drawings that shall clearly identify the boundaries of the restoration area;

- Photographs of the area taken from permanent reference points;
- Locations of photopoints; and
- A description of any changes to the restoration plan that occurred during construction.

Two (2) copies of the post-construction report, drawings, and photos shall be sent to Ecology's Federal Permit Coordinator at the Northwest Regional Office, 3190 160th Avenue SE, Bellevue, WA, 98008-5452 within 60 days of completing construction and restoration.

Is replaced by the following:

1. Record drawings and monitoring reports describing the project status shall be submitted to Ecology. Both record drawings and monitoring reports should include the 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); and date of the report.
2. Detailed record drawings and a brief report shall be prepared after mitigation construction showing any variances from the final wetland mitigation plan. The record drawings shall be the baseline document used for all future monitoring of the mitigation project. It shall include but not be limited to:
 - Name and contact information for the parties responsible for the mitigation site including the applicant, landowner, and wetland professional on site during construction.
 - Date the construction started and ended and when the grading and planting were completed.
 - Final site topography.
 - Photographs of the site at record drawings conditions taken from permanent 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.
 - Summary of any problems encountered and alterations made to mitigation plan, including brief statement of reasons for changes, during construction of the mitigation site.
 - List of any follow-up actions needed with a schedule.
 - Copies of any records of long-term protection (e.g., conservation easement, deed notification) for the site.

Two (2) copies of the record drawings and accompanying report shall be sent to the Washington State Department of Ecology, Northwest Regional Office, Attn: 401/CZM Federal Permit Coordinator, 3190 160th Avenue SE, Bellevue, WA 98008-5452, within 60 days of completing construction and planting.

3. Monitoring reports shall be submitted following the schedule described in C.2. above and should include the following information:
- Who completed the monitoring activities (name, address, and phone number).
 - Time period for which the monitoring activities occurred.
 - Photographic record of the site from the most recent monitoring visit at record stations (photo pans are required in addition to along transect lines).
 - Summary of monitoring results and field data collected to determine compliance with performance standards.
 - Table of monitoring results compared to performance standards for specified target dates.
 - Summary of management actions (maintenance and contingencies) implemented at the mitigation site(s).
 - Summary of any problems or significant events that occurred on the site that may affect the ultimate success of the mitigation project.

All monitoring reports shall be submitted to Ecology's 401/CZM Federal Permit Coordinator, Northwest Regional Office, 3190 160th Avenue SE, Bellevue, WA 98008-5452, within 60 days of completing site monitoring for each monitoring year.

No other conditions or requirements of the above-mentioned order are affected by this amendment.

Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

Failure to comply with this amended Order may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this amended Order.

Appeal Process

You have a right to appeal this Order. To appeal this Order 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
P.O. 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

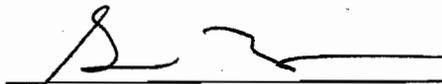
3. And send a copy of your appeal to:

Cynthia Walcker, Federal Permit Coordinator 401/CZM
Department of Ecology
Northwest Regional Office
3190 160th Avenue SE
Bellevue, WA 98008-5452

*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 October 23, 2007 at Bellevue, Washington.



Geoff Tallent, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology, Northwest Regional Office
State of Washington