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

October 22, 2007

REGISTERED MAIL
RB 670 439 387 US

Denise Bosman
1326 Van Dyk Road
Lynden, Washington 98264

Dear Ms. Bosman:

RE: **Administrative Order No. 5185**: Administrative Order for placement of fill in 0.03 acres of isolated wetlands for construction of driveway to access 4 new lots, Whatcom County, Washington.

The request for an administrative order for proposed work in wetlands in Whatcom 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, which you should read and understand prior to construction. Please note that the Department of Ecology is requiring proof of deed restrictions or conservation easements at the same time that the as-built report is submitted. If you have any questions, please contact Susan Meyer at (425) 649-7168. Written comments can be sent to her at the Department of Ecology, Northwest Regional Office, 3190 160th Avenue SE, Bellevue, WA 98008, or at e-mail sume461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Geoff Tallent
Section Manager
Shorelands and Environmental Assistance Program

GT:sm:ca

Enclosure

cc: Vikki Jackson, NES LLC
Lyn Morgan-Hill, Whatcom County Planning and Development Services
Penny Keys, Ecology
Loree' Randall, Ecology

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY	)	
DENISE BOSMAN	)	
FOR AN ADMINISTRATIVE ORDER TO	)	ORDER NO. 5185
CONDUCT WORK IN ISOLATED WETLANDS	)	

TO: Denise Bosman
1326 Van Dyk Road
Lynden, Washington 98264

This is an Administrative Order requiring Denise Bosman, 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.

On June 7, 2007, Denise Bosman submitted a request to Ecology to impact 0.03 acres of isolated wetlands for construction of an access drive to service a new 4-lot shortplat located south of East Smith Road and north of Yellow Brick Road in Whatcom County, Washington.

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

IT IS ORDERED that Denise Bosman shall comply with the following:

1. Wetland compensatory mitigation and monitoring for the wetland fill shall be performed as described in the *Wetland Impact Assessment and Mitigation Plan for the Robert Butenschoen Short Plat-Parcel #390332050337* (Mitigation Plan), by Northwest Ecological Services, LLC, dated May 2007,except as modified in this Order.

   a) Timing: The wetland mitigation plan shall be implemented concurrently with the site construction for the development, or within the first year following the site construction.

   b) Construction Monitoring: The wetland mitigation grading activity and plant installation shall be monitored during construction by a qualified wetland ecologist to ensure proper elevations are achieved and plants are appropriately placed.

   c) Signage: Additional Native Growth Protection Area (NGPA) signs shall be installed at the outside edge of the wetland buffer in each of the 4 lots to be established. Signs shall be placed in areas nearest to likely building footprints.

   Performance Standards: The performance of the wetland mitigation shall be measured by the standards listed in Section 4.3 (*Mitigation Goals, Objectives and Performance Standards)* of the Mitigation Plan.

c) Monitoring: Monitoring to ensure that the project performance standards are met shall be performed as specified in Section 4.5 (*Monitoring and Maintenance)* of the Mitigation Plan. **Two copies of all monitoring reports shall be submitted to the Department of Ecology, Northwest Regional office, Attn: Susan Meyer, Shorelands and Environmental Assistance Program, 3190 – 160th Avenue SE, Bellevue, WA, 98008-5452**, identified with Order No. 5185.

d) 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 Section 4.5 of the Mitigation Plan.

e) 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 in Section 4.6 (*Contingency Plan)* of the Mitigation Plan.

g) As-built Report: The Applicant shall submit a final as-built report for the wetland mitigation project with drawings within 60 days of completing construction, including planting. This report shall be sent to Ecology's Northwest Regional Office as stated above.

- Please provide one electronic copy on compact disc and one hard copy, always prominently displaying the Order number.
- The following information shall be included in the as-built report:
  i. Final site topography.
  ii. Photographs taken from permanent reference points.
  iii. Installed planting scheme with quantities, densities, sizes and approximate locations.
  iv. Types of habitat features and their locations.
  v. Important dates including:
    a. When the development project's construction began.
    b. Starting and completion dates of the construction of the compensatory mitigation project including grading and planting of the site.
  vi. Name and contact information for the parties responsible for the mitigation site including the applicant, landowner, and wetland professional on site during construction.
  vii. Description of and reasons for any changes to the plan.
  viii. Description of any problems that occurred during construction.
  ix. List of any follow-up actions needed with a schedule.
  x. **Copy of the deed notifications or conservation easements for the 4 separate lots.**

- If the mitigation project is not completed within 13 months of the date of this Order #5185, submit a written status report on the mitigation construction. Continue to

submit status reports every 12 months until the construction (including planting) of the mitigation is complete and the final as-built report is submitted.

2. Denise Bosman, shall provide access to the project site upon request by Ecology.

3. This Order does not exempt 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:

Department of Ecology
Northwest Regional Office
Attn: Rebekah Padgett
3190 160th Avenue SE
Bellevue, WA 98008

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 22, 2007_____ at Bellevue, Washington.

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