



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

September 15, 2006

REGISTERED MAIL
RB 252 973 991 US

Aho Construction I, Inc.
5512 NE 109th Court, Suite 101
Vancouver, WA 98662

Dear Sir or Madame:

RE: Water Quality Certification Order **3817** for Corps Public Notice No. 200400642 to construct a residential development within the City of Vancouver, Clark County, Washington.

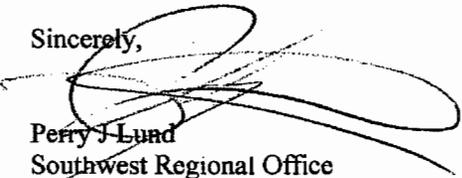
On October 26, 2005, Aho Construction I, Inc., submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the proposed Damaari Terrace Subdivision. The project proposes to construct 141 single-family residences in two phases on a 30.6 acre site within the City of Vancouver. Activities associated with this project include: construction of public and private access roads, installation of water and sanitary sewer facilities, developing an on-site stormwater management conveyance system and treatment facilities, and construction of a wetland mitigation area. The U.S. Army Corps of Engineers issued a public notice on September 16, 2005 for the proposed project.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

This letter also serves as the State response to the Corps of Engineers' September 16, 2005 Public Notice.

If you have any questions, please contact Lori Ochoa at (360) 407-6926. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Perry J. Lund
Southwest Regional Office
Shorelands and Environmental Assistance Program

PJL:LO:th
Enclosure

cc: Ron Klump – U.S. Army Corps of Engineers
Richard Clark – EPA
Francis Naglich - Ecological Land Services
Ann Frieze - WDFW



IN THE MATTER OF GRANTING A) **ORDER # 3817**
WATER QUALITY CERTIFICATION) **Corps Reference No. 200400642**
TO) To construct a residential development in wetlands
Aho Construction I, Inc.) adjacent to Burnt Bridge Creek located in the City of
in accordance with 33 U.S.C. 1341 (FWPCA) Vancouver, Clark County, Washington.
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)

TO: Aho Construction I, Inc.
ATTN: Mr. Tom Arrowsmith
5512 N.E. 109th Court, Suite 101
Vancouver, WA 98662

On October 26, 2005 Aho Construction I, Inc. submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on September 16, 2005.

The proposed project entails the construction of 141 single-family residences in two phases on a 30.6 acre site located at 12606 NE 49th Street, within the City of Vancouver, Clark County, WA 98682; Section 15, Township 2 North, Range 2 East, WRIA 28, Salmon/Washougal Watershed. Activities associated with this project include: construction of public and private access roads, installation of water and sanitary sewer facilities, developing an on-site stormwater management conveyance system and treatment facilities, and construction of a wetland mitigation area.

The project will impact 4.39 acres of Category IV emergent wetlands. No development activities will occur within approximately 450 feet from the OHWM of Burnt Bridge Creek. Impacts will occur from: placement of fill to raise the structures above the 100-year floodplain, construction of public and private roads to provide access to the lots, installation of municipal water and sanitary sewer facilities, development of on-site stormwater management conveyance system and treatment facilities, and constructing a wetland mitigation area.

Mitigation will be constructed on 8.20 acres along the northern property boundary, adjacent to burnt Bridge Creek which will connect the existing riparian corridor and avoid fragmenting wetland in the middle of the site. The mitigation area will consist of: 1) creation of 4.37 acres of category III forested and scrub-shrub wetland with a minimum 50-foot buffer along the southern and eastern boundaries; and 2) enhancement of 1.43 acres of category IV emergent wetland to a category III forested and scrub-shrub wetland.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 303, 306 and 307);

2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. For purposes of this Order, the term "Applicant" shall mean Aho Construction I, Inc., and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Regional Office, Attn: Federal Permit Coordinator, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. 3817 and Corps No. 200400642.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on October 26, 2005. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
4. Within 30 days of receipt of an updated JARPA Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
5. This Order shall be rescinded if the Corps does not issue a Section 404 permit
6. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
7. 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 lead workers, and state and local government inspectors.

8. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that 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 water quality.
10. 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 before construction begins at the project.
11. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
12. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation for each day of continuing noncompliance.

B. No Further Impairment of Existing Water Quality

1. Burnt Bridge Creek and Salmon Creek are Class A waters of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(2) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Applicants from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
2. Both Burnt Bridge Creek and Salmon Creek have been identified on the current 303(d) list of impaired waterbodies for exceeding state water quality standards for fecal coliform, dissolved oxygen, and ph. This project shall not result in further exceedances of those standards.

C. Timing:

1. This Order is valid until all compliance requirements in this document have been met.

D. Notification Conditions:

1. The Applicant shall notify Ecology's Southwest Regional Office Federal Permit Coordinator at least fourteen (14) days prior to the onset of any work on the site.
2. The Applicant shall notify Ecology's Southwest Regional Office Federal Permit Coordinator within fourteen (14) days after completion of construction.

3. The Applicant shall ensure that all appropriate project engineers and contractors at the project and mitigation sites shall 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 no less than seven (7) days before construction begins at the project site.

NOTE: These notifications shall include the applicant's name, project name, project location, the number of this Order, contact and contact's phone number.

E. Stormwater Management:

1. The Applicant shall implement and comply with the most current NPDES Construction Stormwater General Permit issued for this project.

F. Construction Conditions:

1. Work in or near waters of the state shall be done in a manner that minimizes turbidity, erosion, and other water quality impacts.
2. Prior to clearing and grading any sensitive areas to remain undisturbed shall be protected from construction impacts. Sensitive areas and buffers that are to be protected from disturbance shall be clearly marked with bright orange construction fencing so as to be clearly visible to equipment operators. Clearing limits, travel corridors and stockpile sites shall be clearly marked. All project staff shall be trained to recognize construction fencing or flagging that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channels that are not authorized to be altered. Equipment shall enter and operate only within the marked clearing limits, corridors and stockpile areas.
3. Construction stormwater, sediment and erosion control Best Management Practices suitable to prevent exceedances of state water quality standards (*e.g.*, a perimeter erosion control silt fence, etc.) shall be in place prior to the start of project construction and shall be maintained throughout construction.
4. All construction debris shall be properly disposed of on land so that it cannot cause water quality degradation to state waters.
5. Turbid water generated from construction activities, including turbid de-watering water, shall not be discharged directly to waters of the state, including wetlands. Turbid water shall be routed to an upland location to allow removal of fine sediment and other contaminants.
6. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in order to prevent contamination to surface waters. All fueling areas shall be provided with adequate spill containment. Fueling equipment and vehicles within 50 feet of state waters and wetlands is not allowed.
7. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters or storm drains.

G. Wetland Mitigation

1. Project mitigation shall be constructed and maintained as described in the *Final Mitigation Plan for Damaari Terrace Subdivision Vancouver, Washington*, Preliminary dated May 17, 2005; revised May 31, 2006 and as clarified in the August 15, 2006 letter to Mark Cline.
2. Any changes to the *Final Mitigation Plan* must be approved in writing by Ecology.
3. Compensatory mitigation construction and installation shall occur prior to or concurrently with, project impacts to wetlands.
4. All excess excavated material from the mitigation site shall be disposed of in an appropriate location outside of sensitive area and their buffers and shall be stabilized or contained so as to prevent its entry into waters of the state.
5. No materials shall be stockpiled within the wetlands or stream that are not authorized to be altered.
6. All earth areas that have been exposed or disturbed on the mitigation site shall be stabilized to prevent erosions by using mulch or an equivalent such as seeding with a suitable erosion control seed mix consisting of native, non-invasive plant species only.
7. All mitigation sites shall be monitored for a 10-year period following project construction. Additional monitoring of the mitigation area may be required by Ecology if wetland monitoring reveals that performance measures are not being met.
8. Wetland mitigation monitoring and maintenance shall be implemented as described on Pages 27, 28, 29, and 30 of the *Final Mitigation Plan*.
9. The Applicant is responsible for achieving the mitigation "Performance Standards" outlined on Page 11 in the *Final Mitigation Plan*. These performance standards shall be met over the ten year monitoring period. The final mitigated wetlands shall meet the Category III characteristics as described in the *Washington State Wetlands Rating System for Western Washington* revised August 2004.
10. The property owner shall grant Ecology access to the mitigation areas for inspection during the 10 year monitoring period or until mitigation success has been achieved.
11. Contingency measures shall be implemented as identified on Page 30 of the *Final Mitigation Plan for Damaari Terrace Subdivision; Vancouver, WA* dated Preliminary May 17, 2005; Revised dated May 31, 2006. Prior to implementing any contingency measures, applicant will consult with permitting agencies.
12. Any changes to the mitigation plan or monitoring requirements must be approved in writing by Ecology before they are incorporated into the plan or implemented on the ground.
13. Deed Restriction: Permanent protection of the wetland mitigation area and buffers shall be recorded on the property deed for the Wetland Mitigation Site. The deed shall clearly indicate that the wetland mitigation areas are "waters of the state". Documentation that this requirement has been fulfilled shall be provided to the Southwest Regional Office Federal Permit Coordinator as part of the "as-built" report.

H. Reporting Conditions:

1. A detailed "As Built" report shall be prepared after construction showing any variances from the final mitigation plan. The "As-Built" shall be the baseline document used for all future monitoring of the mitigation project. It shall include but not be limited to:
 - comments from a wetland specialist present on site during mitigation construction;
 - final site plan showing site topography (both site plan view and typical sections) and clearly indicating the mitigation site boundary;
 - photographs of the area taken from permanent photo points which will be designated on the site plan;
 - the installed planting scheme showing densities, sizes, and approximate locations of plants as well as plant sources and time of planting; and,
 - an analysis of any changes to the mitigation plan that occurred during construction.
 - demonstration that the mitigation areas have been successfully established and that the "Additional Measures" have been implemented.
 - documentation that the wetland mitigation area and buffers have been recorded on the property deed for the Wetland Mitigation Site.

A copy of the "as-built" report and drawings shall be sent to Ecology's Southwest Regional Federal Permit Coordinator within 60 days of completing construction and planting, and in no case later than December 31, 2007.

2. Mitigation monitoring reports shall be submitted to Ecology by December 31 of each monitoring year for years 1, 2, 3, 5, 7, and 10 and as further described in the *Final Mitigation Plan for Damaari Terrace Subdivision; Vancouver, WA*; Preliminary dated May 17, 2005; Revised dated May 31, 2006.

I. Emergency/Contingency Measures:

1. Adequate and appropriate spill response materials shall be kept on hand to respond to emergency release of petroleum products or any other material into waters of the state.
2. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.
3. Any work that is out of compliance with the provisions of this Order, or any discharge of oil, fuel, or chemicals into state waters, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these occur, the operator shall immediately take the following actions:
 - a. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem and/or prevent further environmental damage.
 - b. Notify Ecology of the failure to comply. All petroleum spills shall be reported immediately to Ecology's 24-hour spill response team at (360) 407-6300, **and** within 24 hours of spills and other events to Ecology's Southwest Regional Office 401/CZM Federal Permit Coordinator at (360) 407-6926.

- c. Submit a written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

Compliance with this condition does not relieve the Applicants from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

4. In the event of finding distressed or dying fish, the Applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the Applicant is instructed by Ecology or WDFW on what to do with them. Ecology or WDFW may require analyses of these samples before allowing the work to resume.
5. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology's Southwest Regional Spill Response Office at 360 407-6300.

J. Appeal Process:

You have the right to appeal this Order to the Pollution Control Hearings Board. Pursuant to chapter 43.21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology within thirty (30) days of the date of your receipt of this document.

To appeal this Order, your notice of appeal must contain a copy of the Ecology Order you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board
4224 - 6th Avenue SE, Rowe Six, Bldg. 2
P.O. Box 40903
Lacey, Washington 98504-0903

Your appeal must also be served on:

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

In addition, please send a copy of your appeal to:

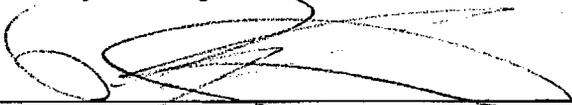
Federal Permit Appeals Coordinator
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

For additional information: Environmental Hearings Office Website: <http://www.eho.wa.gov>

Order #3817, Corps No. 200400642,
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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 15 SEPTEMBER 2006 at Lacey, Washington.



Perry J Lund, Unit Supervisor
Shorelands and Environmental Assistance Program
Department of Ecology – Southwest Regional Office
State of Washington

Attachment # A

Damaari Terrace Subdivision
Water Quality Certification Order # 3817

Statement of Understanding
Water Quality Certification Conditions

I, _____, state that, I will be involved as an agent or contractor for Aho Construction I, Inc. in the construction of the Damaari Terrace subdivision located at 12606 NE 49th Street, Vancouver, WA 98682, Clark County, Washington. I further state that I have read and understand the relevant conditions of the Washington Department of Ecology Water Quality Certification Order #3817 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Phone

Company