



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

January 8, 2007

**REGISTERED MAIL**  
**RB 252 944 788 US**

WARAC, LLC  
ATTN: Mr. Tim Lapsley  
7211-A NE 43<sup>rd</sup> Avenue  
Vancouver, WA 98661

RE: **Order No. 3955:** Administrative Order for placement of 0.15 acre of fill in an isolated palustrine emergent wetland to extend West 8<sup>th</sup> Street into Kay's Subdivision. The project will be located at Pacific Highway within the City of La Center, Clark County, Washington

Dear Mr. Lapsley:

The request for an administrative order for proposed work in the isolated wetland in the City of La Center, Clark 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. If you have any questions, please contact Mark Cline at (360) 407-7273. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

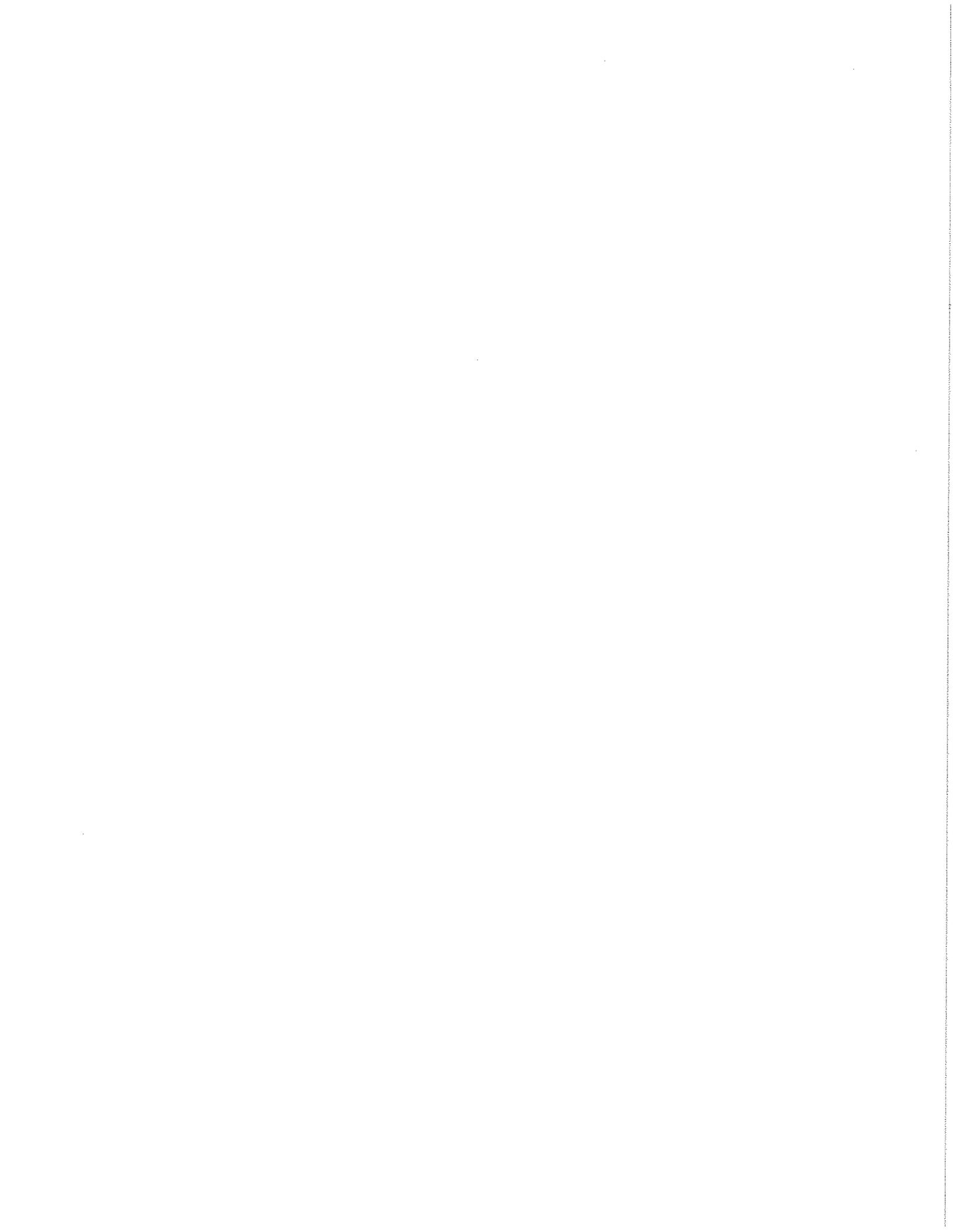
Perry J. Lund  
Unit Supervisor  
Shorelands and Environmental Assistance Program

PJL:RR:dn  
Enclosure

cc: David Martin, U.S. Army Corps of Engineers  
Louise Wold, LDC Design Group  
Jeff Sarvis, City of La Center

e-cc: Penny Keys, Ecology/HQ  
Loree Randall, Ecology/HQ  
Randi Redick, Ecology/SWRO  
Mark Cline, Ecology/SWRO





DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY )  
WARAC, LLC c/o Tim Lapsley )  
FOR AN ADMINISTRATIVE ORDER TO ) ORDER NO. 3955  
CONDUCT WORK IN AN ISOLATED WETLAND )

To: WARAC, LLC  
ATTN: Mr. Tim Lapsley  
7211-A Northeast 43<sup>rd</sup> Avenue  
Vancouver, Washington 98661

This is an Administrative Order requiring WARAC, LLC to comply with 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 February 8, 2006, WARAC, LLC submitted a request to impact an isolated palustrine emergent wetland with a total area of 0.15 acre to extend West 8<sup>th</sup> Street into Kay's Subdivision. The project will be located at Pacific Highway within the City of La Center, Clark County, Washington WRIA 27, Lewis Watershed, North West Quarter of Section 3, Township 4 North, Range 1 East.

For purposes of this Order, the term "Applicant" shall mean WARAC, LLC and its agents, assignees, and contractors.

For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Regional Office, Attn: Federal Permit Manager, P.O. Box 47775, Olympia, WA 98504-7775. Any submittals shall reference Order No. 3955.

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

IT IS ORDERED that WARAC, LLC shall comply with the following:

1. Work authorized by this Order is limited to the work described in the Joint Aquatic Resource Permit Application (JARPA) received by the Department of Ecology (Ecology) on February 8, 2006. The Applicant will be out of compliance with this Order and must reapply with and updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
2. The Applicant shall construct and operate the project in a manner consistent with the project description contained in the JARPA received by Ecology on February 8, 2006, and in the Preliminary Wetland Rehabilitation Plan for the Kay's Subdivision Project, La Center, Washington, dated January 27, 2005, or as otherwise approved by Ecology.
3. Project mitigation shall be constructed and maintained as described in the Joint Aquatic Resource Permit Application (JARPA) received by Ecology on February 8, 2006, and in the Preliminary Wetland Rehabilitation Plan for the Kay's Subdivision Project, La Center, Washington, dated January 27, 2005, or as otherwise approved by Ecology.

4. Compensatory mitigation construction and installation shall occur prior to or concurrently with, project impacts to wetlands.
5. 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.
6. An "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;
  - an analysis of any changes to the mitigation plan that occurred during construction; and,
  - 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 Office, Attn: Federal Permit Manager at P O. Box 47775, Olympia, WA 98504-7775, within 60 days of completing construction and planting, and in no case later than December 31 of the year that construction is completed.

7. Monitoring and Contingency Plan: Mitigation efforts shall be monitored for compliance with the performance standards referenced on pages 24-26 of the "Preliminary Wetland Rehabilitation Plan" for the Kay's Subdivision Project, La Center, Washington dated January 27, 2005.
  - A.) A written report describing the monitoring results will be submitted to the Department of Ecology's Southwest Regional Office, Attn: Federal Permit Manager, the first, second, third, fourth, and fifth years after completion of the mitigation installation
  - B.) Prior to implementing any contingency measures, applicant will consult with permitting agencies
  - C.) Contingency measures and additional monitoring of the mitigation may be required by Ecology if wetland monitoring reveals that performance measures are not being met.
  - D.) Any changes to the mitigation plan or monitoring requirements must be approved by Ecology before they are incorporated into the plan or implemented on the ground.

8. This Order does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
9. 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.
10. 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.

**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.

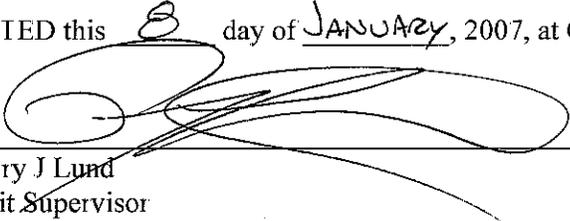
In addition, please send a copy of your appeal to:

Loree' Randall  
Department of Ecology  
P.O. Box 47600  
Olympia, Washington 98504-7600

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

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 8 day of JANUARY, 2007, at Olympia, Washington.



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Perry J Lund  
Unit Supervisor  
Shorelands and Environmental Assistance Program