



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300  
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

August 31, 2021

Patrick McCutcheon  
2703 39th Street NW  
Gig Harbor, WA 98335

Re: Administrative Order No. 20695 to permanently fill/impact 1,642 square feet of non-federally regulated wetlands to construct the McCutcheon Residence in Pierce County, Washington

Dear Patrick McCutcheon:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on August 9, 2021 requesting an Administrative Order for proposed work in non-federally regulated wetlands. Ecology has determined that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Chapter 90.48 RCW and other applicable requirements of state law.

This approval is subject to the conditions contained in the enclosed Order. **You must familiarize yourself with and abide by the conditions in the Order, including all notification requirements.** If you have any questions, please contact Zach Meyer at (360) 407-6167 or zachary.meyer@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in blue ink, appearing to read "Perry J Lund", is written over a circular blue stamp or seal.

Perry J Lund, Section Manager  
Shorelands and Environmental Assistance Program  
Southwest Regional Office

Enclosure

cc: Kelly Werdick, U.S. Army Corps of Engineers  
Emily Arteche, City of Edgewood  
Bryan Peck, Habitat Technologies  
Zach Meyer, Dept. of Ecology  
ECYREFEDPERMITS@ECY.WA.GOV

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY ) ORDER No. 20695  
PATRICK MCCUTCHEON )  
FOR AN ADMINISTRATIVE ORDER TO ) Corps Ref. No. #NWS-2021-308  
CONDUCT WORK IN NON-FEDERALLY )  
REGULATED WETLANDS )

TO: Patrick McCutcheon  
2703 39th Street NW  
Gig Harbor, WA 98335

This is an Administrative Order requiring Patrick McCutcheon 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.

Ecology received the Patrick McCutcheon Joint Aquatic Resources Permit Application (JARPA) on August 9, 2021, requesting an Administrative Order to impact 1,642 square feet of non-federally regulated wetlands to construct the McCutcheon Residence in Pierce County. The U.S. Army Corps of Engineers (Corps) issued its jurisdictional determination on August 4, 2021. The site is located at 10705 36th St. E, Edgewood, WA 98372, in the NW 1/4 of Section 15, Township 20, and Range 4E, Pierce County, WRIA 10.

This Administrative Order authorizes 1,642 square feet of Category II wetland impacts at the project location. Mitigation for this proposal will consist of 1,774 square feet of Wetland Creation, 20,909 square feet of Wetland Enhancement and 2,517 square feet of Wetland Buffer Enhancement for a total area of mitigation of 25,200 square feet and all other actions as proposed in the *Habitat Technologies' Compensatory Mitigation Program, prepared for Patrick McCutcheon* dated September 8, 2020, Revised August 26, 2021 in the approximate location of 10705 36th St. E, Edgewood, WA 98372.

For purposes of this Order, the term "Applicant" shall mean Patrick McCutcheon and its 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. The Applicant shall construct and operate the project in a manner consistent with the project description contained in the JARPA received by Ecology on August 9, 2021 or as otherwise approved by Ecology.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Southwest Regional Office, Attn: Zach Meyer, SEA Program, 300 Desmond Drive SE, Lacey, WA 98503 or via email to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) and a cc to [zachary.meyer@ecy.wa.gov](mailto:zachary.meyer@ecy.wa.gov). Any submittals shall reference Order No. 20695.
3. The Applicant shall provide access to the project site and mitigation site upon request by Ecology.
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 forepersons, 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.
6. 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.

**B. Notification Requirements:**

1. The Applicant shall provide written notification to Ecology in accordance with condition A.2. at least three (3) days prior to the start of construction at the project and mitigation site.
2. The Applicant shall provide written notification to Ecology in accordance with condition A.2. within fourteen (14) days after completion of construction.
3. The Applicant shall provide written notification to Ecology in accordance with condition A.2. immediately following a violation of the state water quality standards or any condition of this Order.

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

**C. Wetland Mitigation Conditions:**

1. The Applicant shall mitigate wetland impacts as described in the *Compensatory Mitigation Program* (hereafter called the "Mitigation Plan") prepared by Habitat Technologies, and dated September 8, 2020, Revised August 26, 2021, or as modified by this Order or revised and approved by Ecology.
2. A status report on the mitigation construction, must be submitted to Ecology, 13 months from the date of permit issuance. Annual status reports on mitigation construction are required until mitigation construction is complete.
3. The Applicant shall have a wetland professional at the wetland mitigation site to supervise during construction and planting.
4. Unless otherwise approved by Ecology in writing, the Applicant shall begin the compensatory mitigation project before, or concurrent with, impacting wetlands or Ecology may require additional compensation to account for additional temporal loss of wetland functions.
5. The Applicant shall ensure that all excess excavated site material is disposed of in an appropriate location outside of wetlands or their buffers at the wetland mitigation site and above the 100-year floodplain, unless otherwise provided for in the Mitigation Plan.
6. The Applicant shall ensure that no material is stockpiled within existing wetlands or their buffers at the wetland mitigation site(s) at any time, unless otherwise provided for in the Mitigation Plan.
7. The Applicant shall ensure that no construction debris is deposited within existing wetlands or their buffers at the wetland mitigation site(s) at any time, unless provided for in the Mitigation Plan.
8. The Applicant shall not use polyacrylamide at the mitigation site(s).
9. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site(s), unless otherwise approved by Ecology.
10. If weed-barrier fabric is used on the site, the Applicant shall use only permeable, fully biodegradable, non-toxic weed-barrier fabric for entire-site and/or individual plant weed control, unless otherwise approved by Ecology. If non-biodegradable plastic weed-barrier fabric is approved by Ecology, it shall be used only at the base of individual plants and shall be removed before it starts to break down, before it

interferes with plant growth, or before the end of the monitoring period, whichever comes first.

11. Aquatic herbicides can be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category.
  - a. Applicators are required to be permitted under Ecology's Noxious Weed Control Permit.
  - b. Applicators shall comply with all conditions of the Noxious Weed Control Permit.
12. If seeding is used as a best management practice for temporary erosion control, it must be a seed mix consisting of native, annual, non-invasive plant species, unless otherwise approved by Ecology.
13. If solid or mesh plant protector tubes are used on the mitigation site(s), Ecology strongly recommends that the Applicant use fully biodegradable options. If non-biodegradable plant protection options are used, they shall be removed before they interfere with plant growth or before the end of the monitoring period, whichever comes first.
14. The Applicant shall provide Ecology with documentation of a recorded Wetland Notice for the McCutcheon Mitigation Site. The Applicant shall:
  - a. Within 90 days of completing construction and planting of McCutcheon Mitigation Site, send a draft Wetlands Notice (see Attachment A: Wetland Notice for Deed Notification for an example) to Ecology for review and approval prior to recording;
  - b. Record the approved Wetland Notice with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property;
  - c. Record the Wetland Notice with the site map from the final wetland mitigation plan showing the location of wetlands and their buffers; and ,
  - d. Send a copy of the recorded Wetland Notice to Ecology.

#### **D. Timing**

1. This Order is valid until the Applicant meets all its requirements and the applicant has received written notification from Ecology to that effect.

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.

## YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do both of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

## ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

## CONTACT INFORMATION

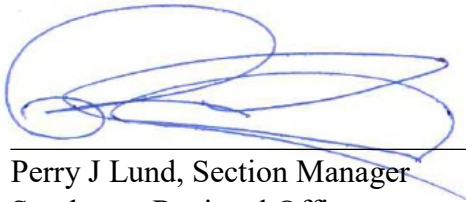
Please direct all questions about this Order to:

Zach Meyer  
Department of Ecology  
Southwest Regional Office  
300 Desmond Drive SE, Lacey, WA 98503  
(360) 407-6167  
[zachary.meyer@ecy.wa.gov](mailto:zachary.meyer@ecy.wa.gov)

## MORE INFORMATION

- **Pollution Control Hearings Board Website**  
<http://www.eluho.wa.gov/Board/PCHB>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**  
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**  
<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

DATED August 31, 2021, at Olympia, Washington.



---

Perry J Lund, Section Manager  
Southwest Regional Office  
Shorelands and Environmental Assistance Program

**Attachment A**  
**Wetland Notice for Deed Notification**  
**(See Condition C.14)**

McCutcheon Residence  
Administrative Order # {20695}

Tax Parcel Number: \_\_\_\_\_

Legal Description: \_\_\_\_\_

Legal Owner: \_\_\_\_\_

NOTICE: This property contains wetlands as defined by Chapter 36.70A030(21) RCW, Chapter 90.58.030 (2)(h) RCW and WAC 173-201A-020. The property was the subject of an Ecology action under Chapter 90.48.260 RCW or Chapter 90.48.120(1) RCW.

\_\_\_\_\_, issued on \_\_\_\_\_, 20\_\_\_\_  
(Corps federal reference #) (Ecology Order #)

to \_\_\_\_\_ for \_\_\_\_\_.  
(Applicant Name) (Project Name)

Restrictions on use or alteration of the wetlands may exist due to natural conditions of the property and resulting regulations. A copy of Ecology's Order and the site map from the final wetland mitigation plan indicating the location of wetlands and their buffers is attached hereto.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

State of Washington)  
County of \_\_\_\_\_)

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes  
mentioned in this instrument.

GIVEN under my hand an official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for the state of Washington,  
residing at \_\_\_\_\_.

(Amended by Ord. 11200 § 50 (part), 1996)