



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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September 30, 2021

Dennis Rice
LPC Fredrickson 7, LP
One North Wacker Drive, Suite 1925
Chicago, IL 60606
drice@logisticspropco.com

Re: Administrative Order No. 20716 to permanently fill/impact 0.36 acre of non-federally regulated wetlands to construct LPC Fredrickson ONE Building 7 in Pierce County, Washington

Dear Dennis Rice:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on June 10, 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 blue circular stamp. The stamp contains the text "Perry J Lund, Section Manager" and "Shorelands and Environmental Assistance Program".

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

Enclosure

cc: Jenae Churchill, U.S. Army Corps of Engineers
Scott Sissons, Pierce County
ECYREFEDPERMITS@ECY.WA.GOV

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

| | |
|---------------------------------|--------------------------------|
| IN THE MATTER OF THE REQUEST BY |) ORDER No. 20716 |
| DENNIS RICE, LPC FREDRICKSON 7 |) |
| FOR AN ADMINISTRATIVE ORDER TO |) Corps Ref. No. #NWS-2019-905 |
| CONDUCT WORK IN NON-FEDERALLY |) |
| REGULATED WETLANDS |) |

TO: Dennis Rice
LPC Fredrickson 7, LP
One North Wacker Drive, Suite 1925
Chicago, IL 60606
drice@logisticspropco.com

This is an Administrative Order requiring Dennis Rice, LPC Fredrickson 7, 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 Dennis Rice, LPC Fredrickson 7, Joint Aquatic Resources Permit Application (JARPA) on June 10, 2021, requesting an Administrative Order to impact 0.36 acres of non-federally regulated wetlands to construct LPC Fredrickson ONE Building 7 in Pierce County. The U.S. Army Corps of Engineers (Corps) issued its jurisdictional determination on June 18, 2020. The site is located at 20015 34th Avenue E, Spanaway, WA 98387, Section 02, Township 18 North, Range 03 East, Pierce County, and WRIA 12.

This Administrative Order authorizes 0.36 acres of Category III wetland impacts at the project location. Mitigation for this proposal will consist of 1.18 acre of Wetland Creation, and 0.28 acre of Wetland Buffer Enhancement for a total area of mitigation of 1.46 acre and all other actions as proposed in the *Fredrickson 7 (Pearson Property) Detailed Mitigation Plan* dated September 2021 in the approximate location of 3518 208th Street East, Spanaway, Washington adjacent to the Fredrickson Industrial Park Wetland Mitigation Area.

For purposes of this Order, the term “Applicant” shall mean Dennis Rice, LPC Fredrickson 7, 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 June 10, 2021 or as otherwise approved by Ecology.
2. For purposes of this Order, all submittals required by its conditions shall be sent to fednotification@ecy.wa.gov and a cc to zachary.meyer@ecy.wa.gov. Any submittals shall reference Order No. 20716.
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. for the following activities:
 - a. At least three (3) days prior to the start of construction at the project and mitigation site.
 - b. Within fourteen (14) days after completion of construction.
 - c. Immediately following a violation of the state water quality standards or any condition of this Order.

C. Wetland Mitigation Conditions:

1. The Applicant shall mitigate wetland impacts as described in the *Fredrickson 7 (Pearson Property) Detailed Mitigation Plan* (hereafter called the “Mitigation Plan”) prepared by Confluence Environmental Company and dated September 2021, or as modified by this Order or revised and approved by Ecology.
2. The Applicant shall provide a status report on the mitigation construction 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 follow the steps below to record a deed notification for the wetland mitigation site:
 - a. Record, on the mitigation site property deed, a description of the mitigation area identified in the final mitigation plan and a site map from the final wetland mitigation plan or as-built report showing the location of wetlands and their buffers.
 - b. Record these documents with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.
 - c. Submit proof of this recorded documentation to Ecology.
15. For monitoring years five (5) and ten (10) the Applicant shall use the currently approved federal wetland delineation manual and appropriate regional supplement to delineate all compensatory wetlands and include delineation information (e.g. data sheets, maps, etc.) in the monitoring reports.

D. Timing

1. This Order will expire when all its conditions have been met and upon receipt of a mitigation closeout letter from Ecology.

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 |
|--|---|
| Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 | Department of Ecology 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
Shorelands and Environmental Assistance Program
300 Desmond Dr. SE, Lacey, WA 98503
360-407-6167
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 September 30, 2021, at Olympia, Washington.



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