



**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

Northwest Regional Office 3190 160th SE Bellevue, Washington 98008-5452 (425) 649-7000

May 6, 2021

Peter Schmidt
36515 249th Ave SE
Enumclaw, WA 98022

Administrative Order Docket #	20007
Schmidt Property	Parcel 2820069034, located in unincorporated King County

Re: Agreed Order

Dear Peter Schmidt:

Enclosed is Agreed Order number 20007 between the Department of Ecology and Peter Schmidt to achieve compliance with state water quality standards. All correspondence relating to this document should be directed to Neil Molstad at the Department of Ecology, Northwest Regional Office, neil.molstad@ecy.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar", written over a horizontal line.

Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office

Enclosures: Administrative Order Docket # 20007
Restoration Plan

By electronic mail to: peter@jdltractors.com

ecc: Kerry Carroll, HQ
Dana Mock, HQ
Pesha Klein, King County
David Bond, King County
Doug Dobkins, King County
Larry Fisher, WDFW
Kristin McDermott, USACOE
Ed Sewell, Sewell Wetland Consulting, Inc.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF AN)	ADMINISTRATIVE ORDER
ADMINISTRATIVE ORDER)	DOCKET # 20007
AGAINST)	
Peter Schmidt)	

To: Peter Schmidt
36515 249th Ave SE
Enumclaw, WA 98022

Administrative Order Docket #	20007
Site Name	Schmidt Property, unincorporated King County, west of Enumclaw
Location	Located NE of the intersection of 220 th Ave SE and SE 464 th St, King County Parcel # 2820069034
Description	Land clearing and grading activities not authorized by the Department of Ecology in state regulated wetlands.

This is an Agreed Order between the Department of Ecology (Department) and Peter Schmidt to achieve compliance with Chapter 90.48 Revised Code of Washington (RCW) and Chapter 173-201A Washington Administrative Code (WAC) by taking certain actions which are described below for the discharge of polluting matters into waters of the state at the subject property.

RECOGNITION OF THE DEPARTMENT'S JURISDICTION

This Agreed Order is issued pursuant to the authority vested in the Department by the Federal Water Pollution Control Act (FWPCA), 33 USC sec 1311, et seq. and by Chapter 90.48 RCW.

RCW 90.48.030 provides that the Department shall have the jurisdiction to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington.

Peter Schmidt agrees to undertake all actions required of him by the terms and conditions of this Agreed Order and not to contest the Department's jurisdiction and authority to administer this Agreed Order.

STIPULATED FACTS

RCW 90.48.120(2) authorizes the Department to issue administrative orders requiring compliance whenever it determines that a person has violated or created a substantial potential to

violate any provision of Chapter 90.48 RCW. The Department's determination that a violation has occurred is based on the following facts:

The Department received a report from King County on August 12, 2020 describing clearing within a forested wetland on your property. The Department sent a letter to you on September 16, 2020 informing you that unauthorized impacts to wetlands violate state law and requesting a site visit. On November 30, 2020, Department staff conducted a site visit with you and your wetland consultant, during which the Department identified areas of cleared, grubbed, and partially reseeded wetlands. Based on a restoration plan prepared by Sewell Wetland Consulting, Inc., revised March 23, 2021, approximately 1.4 acres of Category III wetland has been altered. The aforementioned activities within the wetlands were not authorized by the Department through any required permit process.

SCOPE OF WORK AND SCHEDULE

For these reasons, and in accordance with RCW 90.48.120(2) IT IS AGREED, that Peter Schmidt shall take the following actions. These actions are necessary to satisfy the requirements of Chapter 173-201A WAC. Peter Schmidt has participated in defining these actions and the schedule by which they shall be completed.

Implementation

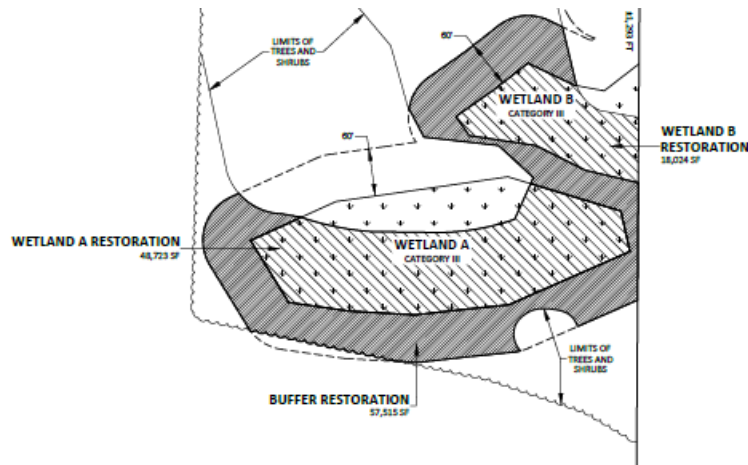
1. Peter Schmidt shall restore impacts to wetlands and wetland buffer as described in the restoration plan prepared by Sewell Wetland Consulting, Inc., revised March 23, 2021, except as modified in this Agreed Order or revised and approved by the Department.
2. The wetland and buffer restoration planting was conducted in late March 2021 in order to take advantage of more suitable planting conditions in the early part of the growing season and to give the plantings more time to establish before the drier summer months. Department staff conducted site visits to review the plantings on March 26, 2021 and April 21, 2021. The conditions within the restoration areas observed on April 21, 2021, will be considered the "As-Built" condition, and the required minimum five (5) year monitoring period will start on April 21, 2021, pending Department receipt of the Agreed Order signed by Peter Schmidt.

Modifications to the Restoration Plan

3. An as-built report, prepared by a qualified wetland professional and including all of the elements described in the restoration plan, shall be provided to the Department by June 1, 2021.
4. Based on the conditions observed during the April 21, 2021 site visit, the Department has determined that Condition 3 of the Plant Installation Notes and Condition 1 of the

Maintenance Plan within the restoration plan, which refer to the placement of mulch, are not necessary at this time.

5. A 60 foot wetland buffer has been established and fenced off around the impacted wetlands, as shown below:



The above figure differs from that shown in the March 23, 2021 revision of the restoration plan, and is the correct representation of the areas of restored wetland buffer.

Monitoring and Maintenance

6. Peter Schmidt or his wetland consultant shall monitor the restoration site for a minimum of five (5) years, and shall use the monitoring methods described in the March 21, 2021 restoration plan, or as revised and approved by the Department.
7. Peter Schmidt or his wetland consultant shall submit annual monitoring reports as described in the March 21, 2021 restoration plan.
8. Peter Schmidt or his wetland consultant shall consult with the Department if unidentified contingency measures are necessary.
9. Peter Schmidt shall provide access to the restoration site upon request by Department personnel for site inspections, monitoring, necessary data collection, and/or to ensure that the conditions of this Agreed Order are being met.

PROHIBITION OF NEW WORK WITHIN WATERS OF THE STATE

Peter Schmidt is prohibited from undertaking regulated activities (i.e., mechanized clearing, filling, excavating, draining, or any discharge of pollutants) within waters of the state or their

associated buffers on the subject property, except for approved restoration work, until the actions defined in the “Scope of Work and Schedule” Section of this Agreed Order are completed and the Department has issued a written Order of Satisfaction.

Peter Schmidt agrees to implement this prohibition.

Peter Schmidt acknowledges that the restoration plan prepared by Sewell Wetland Consulting, Inc., applies to restoration work only, and that any future site development will likely require permits from King County. King County may also require wetland and/or buffer restoration activities not described within the “Scope of Work and Schedule” Section of this Agreed Order.

PROGRESS REPORTING

Peter Schmidt or his wetland consultant shall provide regular progress reports to the Department on its efforts to comply with the requirements of this Agreed Order. It is anticipated that the annual monitoring reports for the restoration areas will satisfy this requirement.

Peter Schmidt or his wetland consultant shall promptly notify the Department of any occurrence which may result in non-compliance with the requirements of this Agreed Order. Such notification shall state the nature of the potential non-compliance, the reason(s) therefore and the actions taken by Peter Schmidt or his wetland consultant to address the potential non-compliance.

AMENDMENTS TO THE AGREED SCOPE OF WORK AND SCHEDULE

Amendments to the agreed scope of work and schedule may be requested for good cause. Extension of deadlines imposed by this Agreed Order shall be granted only when requests for extensions are submitted in writing within 30 days of Peter Schmidt or his wetland consultant becoming aware of a circumstance which may result in non-compliance with the schedule in the “Scope of Work and Schedule” Section or at least 30 days prior to the dates identified within this section, whichever comes first.

To be effective, all proposed amendments must be agreed to and signed by the persons with signature authority for each party and attached to this Agreed Order.

TERMINATION OF THE AGREED ORDER

The Department shall issue an Order of Satisfaction upon finding that the restoration at the subject property has been completed. Upon issuance, the requirements of this Agreed Order shall be deemed to be fulfilled and shall have no further effect on Peter Schmidt.

FAILURE TO COMPLY WITH THIS ORDER

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Failure to comply with this Agreed Order may result in civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Agreed Order.

CONTACT INFORMATION

Please direct all questions about this Agreed Order to:

Neil Molstad
Department of Ecology
Northwest Regional Office
(425) 389-5549
neil.molstad@ecy.wa.gov

SIGNATURE



Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office

May 6th, 2021

Date

Peter Schmidt

Date