



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

*Northwest Regional Office • PO Box 330316 • Shoreline, Washington 98133-9716 • (206) 594-0000  
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November 8, 2021

Imperial Group Holdings LLC  
Attn: Lucy Chen  
2225 94th Avenue NE  
Clyde Hill, WA 98004

**Re: Administrative Order No. 19794 to permanently fill/impact 1,842 ft<sup>2</sup> of non-federally regulated wetlands for Newport Townhomes in King County, Washington**

Dear Lucy Chen:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on February 26, 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 Doug Gresham at (425) 429-1846. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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

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

Enclosure

Sent via email to: [lucychen@baselcg.com](mailto:lucychen@baselcg.com)

ecc: Kelly Werdick, U.S. Army Corps of Engineers  
Jeff Mallahan, Wetland Resources  
ECY RE FED PERMITS

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY	)	ORDER # 19794
IMPERIAL GROUP HOLDINGS LLC	)	Corps AJD Ref # NWS-2020-110
FOR AN ADMINISTRATIVE ORDER TO	)	
CONDUCT WORK IN NON-FEDERALLY	)	
REGULATED WETLANDS	)	

TO: Imperial Group Holdings LLC  
Attn: Lucy Chen  
2225 94th Avenue NE  
Clyde Hill, WA 98004

This is an Administrative Order requiring Imperial Group Holdings 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 26, 2021, Ecology received a Joint Aquatic Resources Permit Application (JARPA) requesting an Administrative Order to impact 1,842 ft<sup>2</sup> of non-federally regulated wetlands to construct the Newport Townhomes in King County. This project consists of a 9-building, 58-unit, multi-family residential development with associated infrastructure. The U.S. Army Corps of Engineers (Corps) issued its jurisdictional determination on August 3, 2020. The site is located at 12855 Coal Creek Parkway SE, Section 16, Township 24N, Range 5E, King County, in WRIA 8.

This Administrative Order authorizes 1,842 ft<sup>2</sup> of Category IV wetland impacts at the project location. On-site compensatory mitigation for this impact will consist of: 1,264 ft<sup>2</sup> of rehabilitation of a Category II wetland, 6,507 ft<sup>2</sup> of enhancement of a Category II wetland, 10,818 ft<sup>2</sup> of enhancement of a Category II wetland buffer, and improved detention and treatment of storm water runoff to a Category II wetland.

For purposes of this Order, the term “Applicant” shall mean Imperial Group Holdings LLC 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 February 26, 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](mailto:fednotification@ecy.wa.gov) and cc to [doug.gresham@ecy.wa.gov](mailto:doug.gresham@ecy.wa.gov). Any submittals shall reference Order No. 19794.
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 foremen, 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 in accordance with condition A.2 above for the following activities:
  - a. At least ten (10) days prior to the onset of any work on site
  - b. At least seven (7) days within the start of impacts to wetlands.
  - c. Immediately following a violation of the state water quality standards or any condition of this Order
  - d. At least ten (10) days prior to the onset of work at the wetland mitigation site
  - e. Within fourteen (14) days after completion of construction at the wetland mitigation site.

**C. Wetland Mitigation Conditions:**

1. The Applicant shall mitigate wetland impacts as described in the *Mitigation Plan for Newport Townhomes* (hereafter called the "mitigation plan") prepared by Wetland Resources, Inc., dated October 5, 2021 or as 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 concurrently 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 and 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 at any time, unless 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 at any time, unless provided for in the Mitigation Plan.
8. The Applicant shall not use polyacrylamide at the mitigation site.
9. The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site, 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, 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 Newport Townhomes wetland mitigation site:
  - a. Send a draft deed notification (see Attachment A: Wetland Notice for Deed Notification as an example) to Ecology for review prior to recording and make edits based on Ecology's comments.
  - b. 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.
  - c. Record these documents with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.
  - d. Submit proof of this recorded documentation to Ecology.

**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.

#### **Filing an Appeal with the PCHB:**

**Mailing Address:**

Pollution Control Hearings Board  
PO Box 40903  
Olympia, WA 98504-0903

**Street Address:**

Pollution Control Hearings Board  
1111 Israel RD SW  
STE 301  
Tumwater, WA 98501

#### **Serving a copy of the appeal on Ecology:**

**Mailing Address:**

Department of Ecology  
Attn: Appeals Processing Desk  
PO Box 47608  
Olympia, WA 98504-7608

**Street Address:**

Department of Ecology  
Attn: Appeals Processing Desk  
300 Desmond Drive SE  
Lacey, WA 98503

#### **Contact Information**

Please direct all questions about this Order to:

Doug Gresham  
Department of Ecology  
Northwest Regional Office  
(425) 429-1846  
Doug.Gresham@ecy.wa.gov

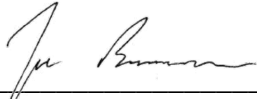
#### **More Information**

- **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 this 8th day of November, 2021, at Shoreline, Washington.



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Joe Burcar, Section Manager

Northwest Regional Office

Shorelands and Environmental Assistance Program

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

Newport Townhomes  
Administrative Order # 19794  
And  
Corps Reference # NWS-2020-110

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)