



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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November 8, 2021

Universal Health Services, Inc.
Attn: Steve Filton
367 South Gulph Road
King of Prussia, PA 19406

Re: Administrative Order No. 20163 to permanently fill 0.37 acre of non-federally regulated wetlands to construct the Olympia Behavioral Health Hospital in Thurston County, Washington

Dear Steve Filton:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on June 7, 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 Rebecca Rothwell at 360-407-7273 or Rebecca.rothwell@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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

Gary Graff, Section Manager
Shorelands and Environmental Assistance Program

Enclosure

cc: Brandon Clinton, U.S. Army Corps of Engineers
Sarah Schelling, City of Lacey
ecyrefedpermits@ecy.wa.gov

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY)	ORDER No. 20163
UNIVERSAL HEALTH SERVICES, INC.)	Corps Ref. No. NWS-2020-570
FOR AN ADMINISTRATIVE ORDER TO)	
CONDUCT WORK IN NON-FEDERALLY)	
REGULATED WETLANDS)	

TO: Universal Health Services, Inc.
Attn: Steve Filton
367 South Gulph Road
King of Prussia, PA 19406

This is an Administrative Order requiring Universal Health Services, Inc. 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 June 7, 2021, Ecology received a request to impact 0.37 acre of non-federally regulated wetlands to construct the Olympia Behavioral Health Hospital. The U.S. Army Corps of Engineers (Corps) issued its jurisdictional determination on November 12, 2020. The site is located at 3000 Marvin Road Northeast, Lacey, SW ¼ of Section 2, Township 18, Range 1W, Thurston County, WRIA 13.

The proposed project will construct an 85-bed behavioral health hospital within the eastern portion of the subject property. The building will be new construction and will be approximately 75,900 square feet in size. The construction of the hospital will include the associated infrastructure and landscaping.

This Administrative Order authorizes 0.37 acre of Category III wetland impacts at the project location. Onsite mitigation for this proposal will consist of 3.44 acres of wetland preservation and all other actions as proposed in the *Olympia Behavioral Health Compensatory Mitigation Plan*, authored by Grette Associates, LLC, and dated September 2021. The mitigation will occur on the west side of the same parcel as the development project.

For purposes of this Order, the term “Applicant” shall mean Universal Health Services, Inc. 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:

- A.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 9, 2021, or as otherwise approved by Ecology.

- A.2 For purposes of this Order, all submittals required by its conditions shall be sent to Rebecca.rothwell@ecy.wa.gov and fednotification@ecy.wa.gov. Any submittals shall reference Order No. 20163.
- A.3 The Applicant shall provide access to the project site and mitigation site upon request by Ecology.
- A.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.
- A.5 Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that 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.
- A.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. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. **These statements shall be provided to Ecology before construction begins at the project.**

B. Notification Requirements:

- B.1 The Applicant shall provide written notification to Ecology 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 ten (10) days prior to the onset of in-water work, including wetlands
 - c. Immediately following a violation of the state water quality standards or any condition of this Order
 - d. Within fourteen (14) days after completion of construction.

C. Wetland Mitigation Conditions

- C.1 The Applicant shall mitigate wetland impacts as described in the *Olympia Behavioral Health Compensatory Mitigation Plan*, authored by Grette Associates, LLC, and dated September 2021, or as modified by this Order or revised and approved by Ecology.
- C.2 The Applicant shall submit any changes to the Mitigation Plan in writing to Ecology (see A.2) for review and approval before implementing the changes.

- C.3 The Applicant shall have a qualified wetland professional at the wetland mitigation site to supervise during construction and planting.

Implementation

- C.4 Unless otherwise approved by Ecology in writing, the Applicant shall provide documentation of a recorded protection document for the preservation area (per C.16) before or concurrently with impacting wetlands, or Ecology may require additional compensation to account for additional temporal loss of wetland functions.
- C.5 If the mitigation activities (removal of invasive reed canarygrass from within Wetland B, seeding, installation of signs [per C.14], and submittal of a recorded protection document [per C.16]) cannot be completed within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of:
- a) The Olympia Behavioral Health development project
 - b) The on-site wetland mitigation activities.

With the:

- c) Reason for the delay.
- d) Expected date of completion.

The Applicant shall submit an updated written notification every 12 months thereafter until the development project and mitigation activities are complete.

- C.6 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.
- C.7 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.
- C.8 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.
- C.9 The Applicant shall not use polyacrylamide at the mitigation site.
- C.10 The Applicant shall not use hay or straw on exposed or disturbed soil at the mitigation site, unless otherwise approved by Ecology.
- C.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.

- C.12 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.
- C.13 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.
- C.14 The Applicant shall place signs at the mitigation area's boundaries, including buffers, every 50 feet to mark the area as a wetland mitigation site.
- C.15 After completing planting of the buffer enhancement area, the Applicant shall submit to Ecology (see A.2) an as-built report per Section 10.2 of the Mitigation Plan within 90 days of completing planting, unless otherwise approved by Ecology.
- C.16 Prior to impacting wetlands at the project site, the Applicant shall follow the steps below to record a restrictive covenant for the mitigation site:
 - a. Request a restrictive covenant template from Ecology or use an appropriate alternative to develop a draft restrictive covenant.
 - b. Send the draft restrictive covenant to Ecology for review and approval.
 - c. Record the Ecology-approved restrictive covenant with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property.
 - d. Record the restrictive covenant with a figure that corresponds with the legal description showing the area of wetlands and buffers that are being protected.
 - e. Send a copy of the recorded restrictive covenant to Ecology (see A.2).

Monitoring and Maintenance

- C.17 The Applicant shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards. If an irrigation system is installed, it shall be removed by the end of year three unless permission is received in writing from Ecology to allow the system to remain for a longer period.
- C.18 The Applicant shall monitor the:
 - a. Preservation site for a minimum of four years as described in Sections 7.1.2 (Invasive Species Monitoring) and 7.2 (Wetland Hydrology Monitoring).
 - b. Buffer enhancement area for a minimum of five years as described in Section 10 (Buffer Enhancement Monitoring and Contingency Plan).

- C.19 The Applicant shall submit monitoring reports to Ecology (see A.2 and Attachment B) by December 31 of each monitoring year (years 1, 2, 3, and 4 for the preservation site and years 1, 3, and 5 for the buffer enhancement area). The monitoring reports for the preservation site and buffer enhancement area may be combined.
- C.20 The Applicant shall implement the Mitigation Plan's contingency measures if the Mitigation Plan's goals, objectives, or performance standards are not being met.
- C.21 Prior to implementing contingency measures not specified in the Mitigation Plan, the Applicant shall consult with and obtain written approval from Ecology for the changes.
- C.22 When necessary to meet the performance standards, the Applicant shall replace dead or dying plants with the same species, or an appropriate native plant alternative, during the first available planting season and note species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.
- C.23 If the Applicant has not met all conditions, including performance standards, for the mitigation site at the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both.
- C.24 Until the Applicant has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Applicant's obligation under Condition C.1 to mitigate for wetland impacts is not met.

D. Timing

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 Hearings 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 all 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, Suite 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:

Rebecca Rothwell
Department of Ecology
Southwest Regional Office
360-407-7273
Rebecca.rothwell@ecy.wa.gov

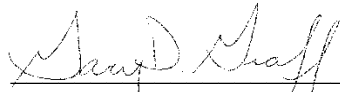
More Information

- **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 November 8th, 2021, at Olympia, Washington.

A handwritten signature in dark ink, appearing to read "Gary D. Graff", is written over a horizontal line.

Gary Graff, Section Manager
Shorelands and Environmental Assistance Program

Attachment A: Statement of Understanding of Administrative Order Conditions

Project: Olympia Behavioral Health Hospital

Ecology Order #20163/Corps Reference #NWS-2020-570

I, _____, state that I will be involved as an agent or contractor for Universal Health Services, Inc. in the site preparation and/or construction of the Olympia Behavioral Health Hospital located at 3000 Marvin Road Northeast, Lacey, Thurston County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order No. 20163 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

OR

As the Applicant for the Olympia Behavioral Health Hospital project, I have read and understand the conditions of Washington State Department of Ecology Order #20163 and any permits, plans, documents, and approvals referenced in the Order.

I have and will continue to ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this Order and any permits, plans, documents, and approvals referenced in the Order.

Signature

Date

Title

Phone

Company

Attachment B: Information Required for Monitoring Reports

Project: Olympia Behavioral Health Hospital
Ecology Order #20163/Corps Reference #NWS-2020-570

Ecology requires the following information for monitoring reports submitted under this Order. Ecology will accept additional information that may be required by other agencies.

Background Information

- 1) Project name.
- 2) Ecology Order number and the Corps reference number.
- 3) Name and contact information of the person preparing the monitoring report. Also, if different from the person preparing the report, include the names of:
 - a) The applicant
 - b) The landowner
 - c) The party responsible for the monitoring activities.
- 4) Dates the monitoring data were collected.
- 5) Date the report was produced.

Mitigation Project Information

- 6) Brief description of the mitigation project, including acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
- 7) Description of the monitoring approach and methods. For each performance standard being measured provide the following information:
 - a) Description of the sampling technique (e.g., monitoring point for soil or hydrology, line or point intercept method, ocular estimates in individually placed plots). If you are using a standardized technique, provide a reference for that method.
 - b) Size and shape of plots or transects.
 - c) Number of sampling locations and how you determined the number of sampling locations to use.
 - d) Percent of the mitigation area being sampled.
 - e) Locations of sampling (provide a map showing the locations), how you determined where to place the sampling locations (e.g., simple random sample), and whether they are permanent or temporary.
 - f) Schedule for sampling (how often and when).
 - g) Description of how the data was evaluated and analyzed.
- 8) Summary table(s) comparing performance standards with monitoring results and whether each standard has been met.
- 9) Discussion of how the monitoring data were used to determine whether the site(s) is meeting performance standards.
- 10) Goals and objectives and a discussion of whether the project is progressing toward achieving them.

- 11) Summary, including dates, of management actions implemented at the site(s), for example, maintenance and corrective actions.
 - 12) Summary of any difficulties or significant events that occurred on the site that may affect the success of the project.
 - 13) Specific recommendations for additional maintenance or corrective actions with a timetable.
 - 14) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction the camera is facing. Photo pans are recommended.
 - 15) Vicinity map showing the geographic location of the site(s) with landmarks.
 - 16) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
 - a) Boundary of the site(s).
 - b) Location of permanent photo stations and any other photos taken.
 - c) Data sampling locations, such as points, plots, or transects.
 - d) Approximate locations of any replanted vegetation.
 - e) Changes to site conditions since the last report, such as areas of regrading, a shift in the location of Cowardin classes or habitat features, or a change in water regime.
- Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions during the most recent monitoring year.