



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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January 24, 2022

KB Homes  
Attn: Pete Nichols  
320 120th Ave. NE, Suite 202  
Bellevue, WA 98005  
pfnichols@kbhome.com

Re: Administrative Order No. 20950 to permanently fill/impact 4,991 square feet and additional indirect impacts totaling 9,160 square feet of non-federally regulated wetlands to construct Emerald Hollow in Pierce County, Washington

Dear Pete Nichols:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on July 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 Zachary 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".

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

Enclosure

cc: Kelly Werkick, U.S. Army Corps of Engineers  
Scott Sissons, Pierce County  
Kyla Caddey, Soundview Consultants  
Jon Pickett, Soundview Consultants  
ECYREFEDPERMITS@ECY.WA.GOV

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY ) ORDER No. 20950  
PETE NICHOLS, KB HOMES )  
FOR AN ADMINISTRATIVE ORDER TO ) Corps Ref. No. #NWS-2021-199  
CONDUCT WORK IN NON-FEDERALLY )  
REGULATED WETLANDS )

TO: KB Homes  
Attn: Pete Nichols  
320 120th Ave. NE, Suite 202  
Bellevue, WA 98005  
pfnichols@kbhome.com

This is an Administrative Order requiring Pete Nichols, KB Homes, 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(2) 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 July 9, 2021, Ecology received a Joint Aquatic Resources Permit Application (JARPA) requesting an Administrative Order to impact non-federally regulated wetlands to construct Emerald Hollow in Pierce County. The U.S. Army Corps of Engineers (Corps) issued its jurisdictional determination on July 6, 2021. The site is located at 12712 168th St. E., Puyallup, Washington, 98374, Southeast ¼ of Section 26, Township 19 North, Range 04 East, Pierce County, WRIA 12 Chambers/Clover.

This Administrative Order authorizes fill of 4,991 square feet of Wetland A and additional indirect impacts totaling 5,797 square feet of Wetland A and 3,363 square feet of Wetland B. Wetland A and B are both category III wetlands. Mitigation for this proposal will consist of the purchase of 15.095 acre-points at the Pierce County In Lieu Fee Program as outlined in the *Emerald Hollow Mitigation Plan*, dated July 2021, revised December 2021.

For purposes of this Order, the term “Applicant” shall mean Pete Nichols, KB Homes, and its agents, assigns, and contractors.

In view of the foregoing and in accordance with RCW 90.48.120(2):

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 July 9, 2021, and the *Emerald Hollow Mitigation Plan* dated July 2021 and revised December 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 zachary.meyer@ecy.wa.gov. Any submittals shall reference Order No. 20950.
3. The Applicant shall provide access to the project 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. Within fourteen (14) days of completing work activities in wetlands.
  - b. 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 *Emerald Hollow Mitigation Plan* (hereafter called the "mitigation plan") prepared by Soundview Consultants, dated July 2021, revised December 2021, or as revised and approved by Ecology.
2. The Applicant shall notify and submit in writing to Ecology (see A.2) any proposed changes to the amount of wetland impacts or revision to the mitigation plan for review and approval before implementing the changes.
3. The Applicant shall obtain a Statement of Sale from the Sponsor as documentation of purchase of 15.095 credits for this impact project (see A.2).

The Applicant shall submit a copy of the Statement of Sale to Ecology (see A.2) within 60 days of receipt. Documentation from the Sponsor shall include:

- a. Ecology's Order number,
  - b. Order issuance date,
  - c. Description of mitigation credits purchased,
  - d. Signatures from the Sponsor and the Applicant.
4. The Applicant shall complete the purchase of credits as soon as possible and no later than one year from the date of this Order, or Ecology may require additional compensation to account for temporal loss of wetland functions.
  5. If the Applicant has not purchased credits within 12 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of
    - a) Emerald Hollow
    - b) When ILF credits will be purchased

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 Emerald Hollow is complete and the required credits are purchased.

6. 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**

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 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  
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:

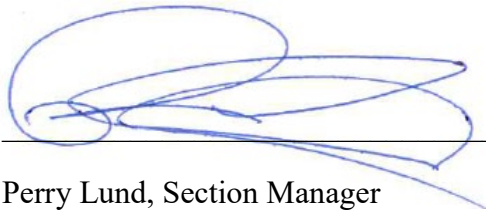
Zachary Meyer  
Department of Ecology  
Shorelands and Environmental Assistance Program  
Southwest Regional Office  
300 Desmond Dr SE, Lacey, WA 98503  
360-407-6167  
zachary.meyer@ecy.wa.gov

#### **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 173.204 WAC – Sediment Management Standards**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**  
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **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 January 24, 2022, at Olympia, Washington.



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