



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

*Northwest Regional Office • PO Box 330316 • Shoreline, Washington 98133-9716 • (206) 594-0000  
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February 15, 2022

Snohomish County Fire District #21  
Attn: Chad Schmidt  
12131 228th St NE  
Arlington, WA 98223

Re: Administrative Order No. 20254 to permanently fill/impact 1,239 ft<sup>2</sup> of non-federally regulated wetlands for McEloy Road Fire Station in Snohomish County, Washington

Dear Chad Schmidt:

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

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

Enclosure

Sent via email to: CSchmidt@firedistrict21.com

ecc: Amanda Nadjkovic, U.S. Army Corps of Engineers  
John Laufenberg, Wetland Resources  
ECY RE FED PERMITS

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

IN THE MATTER OF ISSUING AN ) ORDER # 20254  
ADMINISTRATIVE ORDER TO ) Corps Ref # NWS-2020-1003  
Snohomish County Fire District 21 ) McElroy Road Fire Station, located in  
pursuant to RCW 90.48.120(2) ) Snohomish County, Washington

TO: Snohomish County Fire District #21  
Attn: Chad Schmidt  
12131 228th St NE  
Arlington, WA 98223

This is an Administrative Order requiring Snohomish County Fire District 21 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.

The U.S. Army Corps of Engineers (Corps) issued a jurisdictional determination on March 12, 2021, concluding that Wetlands A and B, and a roadside ditch are not waters of the U.S. On August 9, 2021, Ecology received a request to impact 1,239 ft<sup>2</sup> of non-federally regulated wetlands, which are waters of the state, to construct the McElroy Road Fire Station in Snohomish County. The site is located at 17827 McElroy Road, Section 19, Township 31N., Range 6E., Snohomish County, in WRIA 5-Stillaquamish.

This Administrative Order authorizes 1,239 ft<sup>2</sup> of Category III wetland impacts at the project location. On-site mitigation for this proposal will consist of 1,239 ft<sup>2</sup> of wetland creation and 5,381 ft<sup>2</sup> of wetland enhancement.

For purposes of this Order, the term “Applicant” shall mean Snohomish County Fire District 21 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 August 9, 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. 20254.
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. 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:**

1. The Applicant shall provide written notification to Ecology in accordance with condition A.2 above for the following activities:
  - a. Immediately following a violation of the state water quality standards or when the project is out of compliance with any condition of this Order.
  - b. At least seven (7) days prior to conducting work activities in wetlands.
  - c. Within seven (7) days of completing work activities in wetlands.

**C. Wetland Mitigation Conditions:**

1. The Applicant shall mitigate wetland impacts as described in the *Final Mitigation Plan Sheets for Snohomish County Fire District #21 McElroy Road Fire Station 50*, prepared by Wetland Resources, Inc., dated January 26, 2022, (hereafter called the "Mitigation Plan") or as required 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 qualified 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 and landward of 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 sites 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 sites at any time, unless otherwise 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 sites, unless otherwise approved by Ecology.
10. If weed-barrier fabric is used on the site, the Applicant shall use only water-permeable, fully biodegradable, non-toxic weed-barrier fabric for the 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 place signs at the mitigation area's boundaries, including buffers, every 100 feet to mark the area as a wetland mitigation site.
15. After completing construction and planting of the mitigation site, the Applicant shall submit to Ecology (see A.2) an as-built report, including plan sheets, documenting site conditions at Year Zero. The as-built report must:
  - a. Be submitted within 90 days of completing construction and planting.
  - b. Include the information listed in Attachment B (Information Required for As-built Reports).

- c. Include documentation of the recorded legal mechanism required in Condition C.18.
16. The Applicant shall provide Ecology with documentation of a recorded Wetland Notice for the on-site wetland mitigation area. The Applicant shall:
  - a. Send a draft Wetlands Notice (see Attachment C: Wetland Notice for Deed Notification) to Ecology for review and approval prior to recording,
  - b. Record the approved Wetland Notice with the County Recording Office, Registrar of Deeds, or other official responsible for maintaining records for, or interest in, real property,
  - c. Record the Wetland Notice with the site map from the final wetland mitigation plan showing the location of wetlands and their buffers, and
  - d. Send a copy of the recorded Wetland Notice to Ecology.

### **Monitoring and Maintenance**

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.
18. The Applicant shall monitor the mitigation site for a minimum of 10 years. The Applicant shall use the monitoring methods described on Sheet 3 of the Mitigation Plan.
19. The Applicant shall submit to Ecology (see A.2) monitoring reports documenting mitigation site conditions for years 1, 2, 3, 5, 7, and 10. The monitoring reports must:
  - a. Be submitted by December 31 of each monitoring year.
  - b. Include the information listed in Attachment D (Information Required for Monitoring Reports).
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.
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 contingency measures.
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 current or upcoming planting season and note species, numbers, and approximate locations of all replacement plants in the subsequent monitoring report.
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.
24. The Applicant's obligation to compensate for wetland impacts under Condition C.1 is not met until the applicant has received written notice from Ecology that the obligation is met.

**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 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:

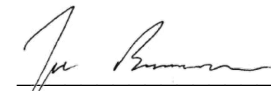
Doug Gresham  
Department of Ecology  
Northwest Regional Office  
(425) 429-1846  
Doug.Gresham@ecy.wa.gov

## 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>

## SIGNATURE

DATED this 15th day of February, 2022, at Shoreline, Washington.



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

**Attachment A**  
**Statement of Understanding**  
**Administrative Order Conditions**

McElroy Road Fire Station  
Snohomish County Fire District 21  
Administrative Order No. 20254

I, \_\_\_\_\_, state that I will be involved as an agent or contractor for Snohomish County Fire District 21 in the site preparation and/or construction of McElroy Road Fire Station located near 17827 McElroy Road in Snohomish County, Washington. I further state that I have read and understand the relevant conditions of Washington Department of Ecology Administrative Order No. 20254 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

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 As-built Reports**

McElroy Road Fire Station  
Administrative Order No. 20254  
and  
Corps Reference # NWS-2020-1003

Ecology requires the following information for as-built 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 as-built report. Also, if different from the person preparing the report, include the names of:
  - a) The applicant
  - b) The landowner
  - c) Wetland professional on site during construction of the mitigation site(s).
- 4) Date the report was produced.

#### **Mitigation Project Information**

- 5) Brief description of the **final** mitigation project with any changes from the approved plan made during construction. Include:
  - a) **Actual** acreage of Cowardin classes and mitigation type(s) (re-establishment, rehabilitation, creation, enhancement, preservation, upland, buffers).
  - b) Important dates, including:
    - i. Start of project construction.
    - ii. When work on the mitigation site began and ended.
    - iii. When different activities such as grading, removal of invasive plants, installing plants, and installing habitat features began and ended.
- 6) Description of any problems encountered and solutions implemented (with reasons for changes) during construction of the mitigation site(s).
- 7) List of any follow-up actions needed, with a schedule.
- 8) Vicinity map showing the geographic location of the site(s) with landmarks.
- 9) Mitigation site map(s), 8-1/2" x 11" or larger, showing the following:
  - a) Boundary of the site(s).
  - b) Topography (with a description of how elevations were determined).
  - c) Installed planting scheme (quantities, densities, sizes, and approximate locations of plants, as well as the source(s) of plant material).
  - d) Location of habitat features.
  - e) Location of permanent photo stations and any other photos taken.Include the month and year when each map was produced or revised. The site map(s) should reflect on-the-ground conditions after the site work is completed.
- 10) Photographs taken at permanent photo stations and other photographs, as needed. Photos must be dated and clearly indicate the direction from which each photo was taken. Photo pans are recommended.
- 11) A copy of any deed notifications, conservation easements, or other approved site protection mechanism.

**Attachment C**  
**Wetland Notice for Deed Notification**  
**(See Condition C.17)**

McElroy Road Fire Station  
Administrative Order No. 20254  
and  
Corps Reference # NWS-2020-1003

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)

## **Attachment D Information Required for Monitoring Reports**

McElroy Road Fire Station  
Administrative Order No. 20254  
and  
Corps Reference # NWS-2020-1003

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.