



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • PO Box 330316 • Shoreline, Washington 98133-9716 • (206) 594-0000
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March 18, 2022

Harbour Homes, LLC
Attn: Jamie Waltier
18329 98th Avenue NE,
Suite 300
Bothell, WA 98011

Re: Administrative Order No. 21081 to permanently fill/impact 1,550 square feet of non-federally regulated wetlands, which are waters of the state, to construct Covington-Wivag Subdivision in King County, Washington

Dear Jamie Waltier:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on November 11, 2021 requesting an Administrative Order (Order) for proposed work in non-federally regulated wetlands, which are waters of the state. 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 Leah Beckett at (425) 324-5590 or Leah.Beckett@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 "Joe Burcar".

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

Enclosure

cc: Amanda Nadjkovic, U.S. Army Corps of Engineers
Jon Pickett, Soundview Consultants, LLC
ECYREFEDPERMITS@ECY.WA.GOV

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF ISSUING AN) ORDER No. 21081
ADMINISTRATIVE ORDER TO) Corps Ref. No. NWS-2021-844
HARBOUR HOMES, LLC) Covington-Wivag Subdivision, Wetlands
pursuant to RCW 90.48.120 and WAC 173-201A) King County, Washington.

TO: Harbour Homes, LLC
Attn: Jamie Waltier
18329 98th Avenue NE, Suite 300
Bothell, WA 98011

This is an Administrative Order requiring Harbour Homes, 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(2) authorizes Ecology to issue Administrative Orders (Order) 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 November 4, 2021, concluding that Wetlands A and B are not waters of the U.S. On November 11, 2021 Ecology received a request to impact 1,550 square feet of non-federally regulated wetlands, which are waters of the state, to construct Covington-Wivag Subdivision at the subject address located in King County, Washington. The project is located at 156th Avenue SE (adjacent to 25810 156th Avenue SE), Covington, Section 26, Township 22 North, Range 5 East, King County, WRIA 9—Duwamish-Green.

This Order authorizes 1,550 square feet of Category IV wetland impacts at the project location. Mitigation for this proposal will consist of the purchase of In-Lieu Fee credits from the King County Mitigation Reserves Program as proposed in the Conceptual Mitigation Plan - Covington dated February 12, 2021, revised May 7, 2021.

For purposes of this Order, the term “Applicant” shall mean Harbour Homes, LLC 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 November 11, 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 and cc to Leah.Beckett@ecy.wa.gov. Any submittals shall reference Order No. 21081.
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. 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 Conceptual Mitigation Plan - Covington (hereafter called the "mitigation plan") prepared by Soundview Consultants, LLC, dated February 12, 2021 and revised May 7, 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 1.60 credits for this impact project (see A.2). The Applicant shall submit a copy of the Statement of Sale to Ecology (see A.2) before impacting wetlands. 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 before the impacts to wetlands occur, or Ecology may require additional compensation to account for temporal loss of wetland functions.
5. If the Applicant has not purchased credits within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of
 - a. Covington – Wivag Subdivision
 - 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 Covington-Wivag Subdivision 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:

Leah Beckett
Department of Ecology
Northwest Regional Office
(425) 324-5590
Leah.Beckett@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 March 18, 2022 at Shoreline, Washington.



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