



**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

Southwest Region Office

PO Box 47775, Olympia, WA 98504-7775 • 360-407-6300

May 26, 2022

Josiah and Lauren Brown
206 Garden Club Rd
Nordland, WA 98358

Re: Administrative Order No. 21171 to permanently fill 285 square feet of non-federally regulated wetlands, which are waters of the state, to construct a residential driveway in Jefferson County, Washington

Dear Josiah and Lauren Brown:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on April 20, 2022, requesting authorization 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 Rebecca Rothwell at Rebecca.rothwell@ecy.wa.gov or 360-810-0025. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Maria Sandercock, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enc: Administrative Order

ec: Pam Sanguinetti, U.S. Army Corps of Engineers
Donna Frosthalm, Jefferson County
ecyrefedpermits@ecy.wa.gov



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF ISSUING AN) Order No. 21171
ADMINISTRATIVE ORDER TO) Corps Ref. No. NWS-2021-728
Josiah and Lauren Brown) Brown driveway, wetlands, located in
pursuant to RCW 90.48.120 and WAC 173-201A) Jefferson County, Washington.

TO: Josiah and Lauren Brown
206 Garden Club Road
Nordland, Washington 98358

This is an Administrative Order requiring Josiah and Lauren Brown 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 August 12, 2021, concluding that Wetland A is not a water of the U.S. On April 20, 2022, Ecology received a request to impact 285 square feet of a non-federally regulated wetland, which is a water of the state, to construct a residential driveway. The project is located at 413 Gybe Road, Nordland, Jefferson County, NW ¼ S9 T29N R1E WM, WRIA 17 Quilcene/Snow.

This Administrative Order authorizes 285 square feet of Category 3 wetland impacts at the project location. Onsite mitigation for this proposal will consist of 570 square feet of wetland creation and 5,600 square feet of buffer enhancement, for a total mitigation area of of 6,170 square feet, and all other actions as proposed in the Wetland Mititgation Plan dated March 17, 2022. The mitigation will occur contiguous to Wetland A.

For purposes of this Order, the term “Applicant” shall mean Josiah and Lauren Brown and their 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 April 20, 2022, 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 Rebecca.rothwell@ecy.wa.gov. Submittals shall reference Order No. 21171.
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 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 above immediately following a violation of the state water quality standards or when the project is out of compliance with any condition of this Order

C. Wetland Mitigation Conditions:

1. The Applicant shall mitigate wetland impacts as described in the Wetland Mitigation Plan prepared by Ecological Land Services, and dated March 17, 2022 (hereafter called the "Mitigation Plan"), or as required by this Order or revised and approved by Ecology.
2. Unless otherwise approved by Ecology in writing, the Applicant shall begin the compensatory mitigation project as soon as is feasible after the driveway is constructed. If wetland mitigation is delayed beyond one year from the time of wetland impacts, Ecology may require additional compensation to account for additional temporal loss of wetland functions.

3. 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.
4. The Applicant shall follow the steps below to record a deed notification for the wetland mitigation site:
 - a. Send a draft deed notification (see Attachment A: Wetland Notice for Deed Notification for 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 within 180 days of this Order, unless otherwise approved by Ecology.

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.

Address and location information.

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
360-810-0025
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>

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- **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 May 26, 2022, at Olympia, Washington.



Maria Sandercock, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Attachment A
Wetland Notice for Deed Notification

Josiah and Lauren Brown Wetlands
Administrative Order No. 21171

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: Ecology Order #21171, issued on June __, 2022, to Josiah and Lauren Brown for residential driveway development.

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 _____, 2022.

State of Washington)
County of Jefferson)

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 _____, 2022.

NOTARY PUBLIC in and for the state of
Washington, residing at

(Amended by Ord. 11200 § 50 (part), 1996)