



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Region Office
PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

June 29, 2022

Pacific Ridge – DRH LLC
Attn: John Mirante
17921 Bothell Everett Highway, Suite 100
Bothell, WA 98012

Re: Administrative Order No. **21213** to permanently fill/impact 0.265 acres of non-federally regulated wetlands for Benton Square in Snohomish County, Washington

Dear John Mirante:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on May 11, 2022 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 or by email at Doug.Gresham@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Tim Gates on behalf of Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office

Pacific Ridge – DRH LLC

June 29, 2022

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Enclosure (1)

Sent via email to: JVMirante@drhorton.com

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

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF ISSUING AN) ORDER No. 21213
ADMINISTRATIVE ORDER TO) Corps Ref. No. NWS-2022-380
PACIFIC RIDGE–DRH LLC) Benton Square, Wetlands A and B
Pursuant to RCW 90.48.120 and WAC 173-201A) located in Snohomish County

TO: Pacific Ridge–DRH LLC
Attn: John Mirante
17921 Bothell Everett Highway, Suite 100
Bothell, WA 98012

This is an Administrative Order requiring Pacific Ridge–DRH 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 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 May 17, 2022, concluding that Wetlands A and B are not waters of the U.S. On May 11, 2022, Ecology received a request to impact 0.265 acres of non-federally regulated wetlands, which are waters of the state, to construct Benton Square in Snohomish County.

The project is located northwest of the intersection between 100th Street SW and 18th Avenue W in Everett, Snohomish County, Section 14, Township 28N., Range 4E., and WRIA 8-Cedar/Sammamish.

This Administrative Order authorizes 0.265 acres of Category III wetland impacts at the project location. Mitigation for this impact involves: purchasing 0.265 credits from the Keller Farm Mitigation Bank.

For purposes of this Order, the term “Applicant” shall mean Pacific Ridge-DRH 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 May 11, 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 cc to Doug.Gresham@ecy.wa.gov. Any submittals shall reference Order No. 21213.
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 the *Mitigation Bank Use Plan for Benton Square* prepared by Soundview Consultants, dated April 1, 2022 (hereafter called the “Mitigation Plan”), 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 revisions to the mitigation plan before implementing the changes.
3. 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.
4. Prior to impacting wetlands, the Applicant shall submit to Ecology documentation from the bank sponsor verifying the purchase of 0.256 mitigation bank credits (credits) from the Keller Farm Mitigation Bank. This documentation must include the Ecology Order number, Order issuance date, impact acreage, the amount of credits required by the Order, and date of credit purchase.
5. 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.
6. 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. Benton Square
 - b. When bank 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 the Benton Square is complete and the required credits are purchased.

D. Timing

1. This Order will expire when all its conditions have been met.

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>
- **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>

SIGNATURE

Dated this 29 day of June, 2022 at the Department of Ecology, Shoreline, Washington

A handwritten signature in blue ink, appearing to read 'Tim Gates', written over a horizontal line.

Tim Gates on behalf of Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office