



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

May 29, 2024

LDC Corp
ATTN: Ross Jarvis
20210 142nd Avenue Northeast
Woodinville, WA 98072

Re: Administrative Order No. **22873** to permanently fill 0.049 acres of non-federally regulated wetlands, which are waters of the state, to construct McDonald's parking in Skagit County, Washington

Dear Ross Jarvis:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on February 27, 2024, 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 Chris Luerkens at (360) 410-4807 or chris.luerkens@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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

McDonalds Drive Through Development
Administrative Order No. 22873, Corps No. NWS-2023-963
Aquatics ID No. 143605
May 29, 2024
Page 2 of 2

Enclosure (1)

By certified mail: 9489 0090 0027 6381 5320 44

Sent via email to: Rjarvis@LDCcorp.com

E-cc: Kristin Murray, U.S. Army Corps of Engineers
Jon Pickett, Soundview Consultants LLC
Marianne Manville-Ailles, City of Mount Vernon
Chris Luerkens, Ecology
ECYREFEDPERMITS@ECY.WA.GOV

In The Matter of Issuing an Administrative Order
to LDC Corp
pursuant to RCW 90.48.120 and WAC 173-201A

LDC Corp
Attn: Ross Jarvis
20210 142nd Avenue Northeast
Woodinville, WA 98072

Order No.	22873
Corps Reference No.	NWS-2023-963
Site Location	McDonald's parking lot, located within wetlands, Mount Vernon, Skagit County, Washington.

This is an Administrative Order requiring LDC Corp 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 14, 2024, concluding that Wetland A is not a water of the United States. On February 27, 2024, Ecology received a request to impact 0.049 acres of non-federally regulated wetlands, which are waters of the state, to construct parking for McDonald's in Skagit County. The project is located at 2200 and 2220 East College Way, Section 16, Township 34N, Range 4E, Skagit County, and WRIA 3 Lower Skagit/Samish.

This Administrative Order authorizes 0.049 acres of Category IV wetland impacts at the project location. Mitigation for this proposal will consist of purchase of 0.042 wetland bank credits from the Skagit Environmental Wetland Mitigation Bank and all other actions as proposed in the Mitigation Bank Use Plan, McDonald's, dated September 26, 2023.

For purposes of this Order, the term "Project Proponent" shall mean LDC Corp 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 Project Proponent shall comply with the following:

A. General Conditions:

1. The Project Proponent shall construct and operate the project in a manner consistent with the project description contained in the JARPA received by Ecology on February 27, 2024 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 chris.luerkens@ecy.wa.gov. Any submittals shall reference Order No. 22873.
3. The Project Proponent 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 Project Proponent 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.
7. The Project Proponent is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, local or tribal authorities.
8. To transfer this Order to a new owner or operator the Project Proponent shall:
 - Complete a Request for Transfer of Order with a specific transfer date of the Order's obligations, coverage, and liability and submit it to Ecology per condition A.2. Link to form: <https://apps.ecology.wa.gov/publications/SummaryPages/ECY070695.html>;
 - Provide a copy of this Order to the new owner or operator; and

- The transfer is not considered valid until the Project Proponent receives written notification from Ecology that the transfer has been approved.

B. Notification Requirements:

1. The Project Proponent 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.

C. Wetland Mitigation Conditions:

1. The Project Proponent shall mitigate wetland impacts as described in the Mitigation Bank Use Plan, McDonald's (Mitigation Plan) by Soundview Consultants LLC, and dated September 26, 2023, or as required by this Order or revised and approved by Ecology.
2. The Project Proponent shall submit to Ecology documentation from the bank sponsor verifying the purchase of credits as specified in the Mitigation Plan. 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.
3. Unless otherwise authorized by this Order, the Project Proponent shall complete the purchase of credits before impacting wetlands. Otherwise, Ecology may require the Project Proponent to provide additional compensation to account for additional temporal loss of wetland functions.

D. Timing

1. This Order is valid until the Project Proponent meets all its requirements and the Project Proponent 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. The appeal process is governed by RCW 43.21B and WAC 371-08. "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 notice of appeal and a copy of this Order with the PCHB (see filing information below). “Filing” means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. “Notice of appeal” is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this Order on the Department of Ecology by mail, in person, or by email (see addresses below).

You must also comply with other applicable requirements in RCW 43.21B and WAC 371-08.

Filing an appeal

Filing with the PCHB

For the most current information regarding filing with the PCHB, visit: <https://eluh0.wa.gov/> or call: 360-664-9160.

Service on Ecology

Street Addresses:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Mailing Addresses:

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

E-Mail Address:

ecologyappeals@ecy.wa.gov

Contact information

Please direct all questions about this Order to:

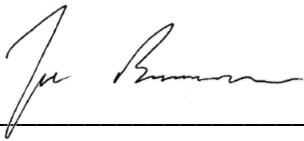
Chris Luerkens
Department of Ecology
(360) 410-4807
chris.luerkens@ecy.wa.gov

More information

- **Pollution Control Hearings Board Website**
[https:// eluhwa.gov/](https://eluhwa.gov/)
- **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>

Signature

Dated this 29th day of May 2024 at the Department of Ecology, Shoreline, Washington.



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