



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

December 10, 2024

Port of Moses Lake
Attn: Milton Miller
7810 Andrews St NE
Moses Lake, WA 98837

Re: Administrative Order No. 23360 to permanently fill/impact 1.159 acres of wetlands, which are waters of the state, to construct the Northern Columbia Basin Railroad (NCBR) Segment 1 in Grant County, Washington

Dear Milton Miller:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on August 21, 2024, requesting authorization for proposed work in 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 Jeremy Sikes at 509-481-1913 or jeremy.sikes@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Loree' Randall, Section Manager
Aquatic Permitting and Protection Section
Shorelands and Environmental Assistance Program

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December 10, 2024
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Enclosure (1)

By certified mail: 9489 0090 0027 6391 8523 09

Sent via email: mmiller@portofmoseslake.com

E-cc: Jess Jordan, U.S. Army Corps of Engineers
Jennifer Bader, Jacobs Engineering Group Inc.
Jeremy Sikes, Ecology
Erin Hanlon Brown, Ecology
ecyrefedpermits@ecy.wa.gov

In The Matter of Issuing an Administrative Order
to Port of Moses Lake
pursuant to RCW 90.48.120 and WAC 173-201A

Port of Moses Lake
Attn: Milton Miller
7810 Andrews St NE
Moses Lake, WA 98837

Order No.	23360
Corps Reference No.	NWS-2020-1068
Site Location	Northern Columbia Basin Railroad (NCBR) Segment 1, located within Wetlands A and B, near Moses Lake, Grant County, Washington.

This is an Administrative Order requiring Port of Moses Lake 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.

On August 21, 2024, Ecology received a request to impact 1.159 acres of wetlands, which are waters of the state, to construct the Northern Columbia Basin Railroad (NCBR) Segment 1 in Grant County. The project is located in central Washington, approximately 8.5 miles north of Interstate 90, and lies partially in the city of Moses Lake and partially in unincorporated areas of Grant County within Sections 19 and 20, Township 19N, Range 29E and Sections 13, 14, and 24, Township 19N, Range 28E, and Water Resource Inventory Area (WRIA) 41 Lower Crab.

This Administrative Order authorizes 1.159 acres of Category III wetland impacts at the project location. Mitigation for this proposal will consist of the purchase of mitigation credits from the WSDOT Wetland Mitigation Bank and all other actions as proposed in the *Wetland Mitigation Bank Use Plan, Northern Columbia Basin Railroad Project, Port of Moses Lake, Washington*, dated November 5, 2021. The mitigation bank is located approximately 1.3 miles south of the impacted wetlands within WRIA 41.

For purposes of this Order, the term “Project Proponent” shall mean the Port of Moses Lake 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 August 21, 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 jeremy.sikes@ecy.wa.gov. Any submittals shall reference Order No. 23360.
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. To transfer this Order to a new owner or operator the Project Proponent shall:
 - a. 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>;
 - b. Provide a copy of this Order to the new owner or operator; and
 - c. The transfer is not considered valid until the Project Proponent receives written notification from Ecology that the transfer has been approved.

8. The Project Proponent is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, local or tribal authorities.

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.
2. If U.S. Army Corps of Engineers (Corps) determines the proposed impacts to Wetlands A and B require a Federal permit, the Project Proponent shall inform Ecology immediately in order to receive the appropriate authorization.

C. Wetland Mitigation Conditions:

1. The Project Proponent shall mitigate wetland impacts as described in the Wetland Mitigation Bank Use Plan, Northern Columbia Basin Railroad Project, Port of Moses Lake, Washington (Mitigation Plan) by Jacobs, and dated November 5, 2021, 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 expires 5 years from the date of this Order, unless otherwise approved by 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. The appeal process is governed by RCW 43.21B and WAC 371-08. "Date of receipt" is defined in Chapter 43.21B.001(2) RCW.

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 Chapter 371-08-305 WAC and -335. "Notice of appeal" is defined in Chapter 371-08-340 WAC.
- 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 Chapter 43.21B RCW and Chapter 371-08 WAC.

Address and location information

Filing with the PCHB

For the most current information regarding filing with the PCHB, visit: <https://elaho.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:

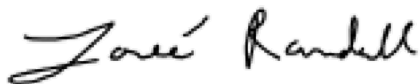
Jeremy Sikes
Department of Ecology
509-481-1913
jeremy.sikes@ecy.wa.gov

More information

- **Pollution Control Hearings Board Website**
[https:// eluhho.wa.gov/](https://eluhho.wa.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 10th day of December 2024 at the Department of Ecology, Lacey, Washington.



Loree' Randall, Section Manager
Aquatic Permitting and Protection Section
Shorelands and Environmental Assistance Program