



**STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY  
Southwest Region Office**

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

December 23, 2024

Debra Breen  
1109 108<sup>th</sup> Avenue East  
Edgewood, WA 98372

Re: Administrative Order No. **23376** to permanently fill/impact 0.02 acres of non-federally regulated wetlands, which are waters of the state, to construct the Breen Access Driveway in Pierce County, Washington

Dear Debra Breen:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on June 6, 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 Zach Meyer at 360-481-9885 or [zachary.meyer@ecy.wa.gov](mailto:zachary.meyer@ecy.wa.gov). The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

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

Order No. 23376, Corps No. NWS-2023-447

Aquatics No. 143906

December 23, 2024

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Enclosure (1)

By certified mail: 9489 0090 0027 6094 0259 70

Sent via email to: [dlbh1956@gmail.com](mailto:dlbh1956@gmail.com)

E-cc: Mae Ancheta, U.S. Army Corps of Engineers, Mae.P.Ancheta@usace.army.mil

Morgan Dorner, City of Edgewood, morgan@cityofedgewood.org

Kelly DeLaat-Maher, SMITH ALLING P.S, kelly@smithalling.com

Tom Deming, Habitat Technologies, tom@habitattechnologies.net

Erin Hanlon Brown, Ecology

Zach Meyer, Ecology

[ECYREFEDPERMITS@ECY.WA.GOV](mailto:ECYREFEDPERMITS@ECY.WA.GOV)

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

Debra Breen  
1109 108<sup>th</sup> Avenue East  
Edgewood, WA 98372

<b>Order No.</b>	23376
<b>Corps Reference No.</b>	NWS-2023-447
<b>Site Location</b>	Breen Access Driveway Improvements, located in Wetlands, Edgewood, Pierce County, Washington.

This is an Administrative Order requiring Debra Breen 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 28, 2024, concluding that wetlands onsite are not waters of the U.S. On June 6, 2024, Ecology received a request to impact 0.02 acres of non-federally regulated wetlands, which are waters of the state, to construct Breen Access Driveway in Pierce County. The project is located at 1105 108th Ave E, Edgewood, WA 98372, Section 03, Township 20 North, Range 04 East, Pierce County, and Water Resource Inventory Area (WRIA) 9 Puyallup-White.

This Administrative Order authorizes 0.02 acres of Category III wetland impacts at the project location. Mitigation for this proposal will consist of 1,335 sq ft of wetland enhancement and 6,029 sq ft of buffer enhancement for a total area of mitigation of 7,364 sq ft and all other actions as proposed in the Compensatory Mitigation Program for Unavoidable Wetland and Buffer Impacts dated October 11, 2023 in the approximate location of 1105 108th Ave E, Edgewood, WA 98372.

For purposes of this Order, the term "Project Proponent" shall mean Debra Breen 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 June 6, 2024 and the Compensatory Mitigation Program for Unavoidable Wetland and Buffer Impacts, prepared by Habitat Technologies, and dated October 11, 2023 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](mailto:fednotification@ecy.wa.gov) and cc to [zachary.meyer@ecy.wa.gov](mailto:zachary.meyer@ecy.wa.gov). Any submittals shall reference Order No. 23376.
3. The Project Proponent 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 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 project requires 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 Compensatory Mitigation Program for Unavoidable Wetland and Buffer Impacts, prepared by Habitat Technologies, and dated October 11, 2023, or as required by this Order or revised and approved by Ecology.
2. The Project Proponent 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.
3. The Project Proponent shall have a wetland professional at the wetland mitigation site to supervise during construction and planting.
4. Unless otherwise approved by Ecology in writing, the Project Proponent shall begin the compensatory mitigation project before, or concurrent with, impacting wetlands or Ecology may require additional compensation to account for additional temporal loss of wetland functions.
5. The Project Proponent shall follow the steps below to record a deed notification (see Attachment A: Wetland Notice for Deed Notification for an example) or other approved legal site protection mechanism for the Breen Access Driveway Mitigation Site:
  - a. Send the draft site protection mechanism 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 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.
6. The Project Proponent shall water and maintain all mitigation site plantings so as to meet the Mitigation Plan's performance standards. If an irrigation system is installed, it shall be removed by the end of year three unless permission is received in writing from Ecology to allow the system to remain for a longer period.
7. The Project Proponent shall monitor and maintain the mitigation areas as described on page(s) 17-20 of the Mitigation Plan.
8. The Project Proponent shall submit to Ecology monitoring reports documenting mitigation site conditions for years 1, 2, 3, 5, 7, and 10, unless an early end to monitoring is otherwise approved by Ecology. The monitoring reports must:
  - a. Be submitted by December 31 of each monitoring year.
9. If the Project Proponent has not met all conditions, including performance standards, for the mitigation site at the end of the monitoring period, Ecology may require additional monitoring, additional mitigation, or both.

#### **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 Chapter 43.21B.001(2) RCW.

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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 371-08 WAC.

### Address and Location Information

#### Filing with the PCHB

For the most current information regarding filing with the PCHB, visit: [eluhho.wa.gov](http://eluhho.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](mailto:ecologyappeals@ecy.wa.gov)

### Contact information

Please direct all questions about this Order to:

Zach Meyer  
Department of Ecology  
360-481-9885  
[zachary.meyer@ecy.wa.gov](mailto:zachary.meyer@ecy.wa.gov)

### More information

- **Pollution Control Hearings Board Website**  
<https://elaho.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 23 day of December, 2024 at the Department of Ecology, Lacey, Washington.



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



**Attachment A**

**Wetland Notice for Deed Notification  
(See Condition C.5)**

{Insert Name of Project}  
Ecology Administrative Order # {\_\_\_\_\_}

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. This property also contains wetland mitigation areas required by the following Ecology Order.

Ecology Order #: \_\_\_\_\_, issued on \_\_\_\_\_, 20\_\_  
To (Responsible Party Name): \_\_\_\_\_  
For (Project Name): \_\_\_\_\_

Restrictions on use or alteration of the wetlands, wetland mitigation areas, and their buffers may exist due to permit requirements, natural conditions of the property and resulting regulations, or both. A site map indicating the location of wetlands, wetland mitigation areas, and their buffers is attached hereto.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

State of Washington)  
County of \_\_\_\_\_)

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 \_\_\_\_\_, 20 \_\_\_\_.

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NOTARY PUBLIC in and for the state of Washington,  
residing at \_\_\_\_\_.  
(Amended by Ord. 11200 § 50 (part), 1996)