



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

July 17, 2025

Ninth Street Partners, LLC
Attn: Dale Kern, Chuck Kingsley, Mike Kingsley
202 NW Sixth Street
Corvallis, OR 97339

Re: Administrative Order No. 23817 to permanently fill/impact 1.459 acres and indirectly impact 1.050 acres of non-federally regulated wetlands, which are waters of the state, to construct Waldron Wood North project in Whatcom County, Washington

Dear Dale Kern, Chuck Kingsley, and Mike Kingsley:

The Department of Ecology (Ecology) received your Joint Aquatic Resources Permit Application (JARPA) on 10/22/2024, 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

Enclosure

Ninth Street Partners, LLC (Dale Kern, Chuck Kingsley, Mike Kingsley)
Administrative Order 23817
July 17, 2025
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By certified mail: 9171 9690 0935 0233 1817 19

Sent via email to: dale@commericalassociates.org
chuck@commercialassociates.org
kindsley@windermere.com

E-cc: Lydia Baldwin, U.S. Army Corps of Engineers
Molly Porter, NW Ecological Services
Amy Dearborn, City of Bellingham
Chris Luerkens, Ecology
ECYREFEDPERMITS@ECY.WA.GOV

In The Matter of Issuing an Administrative Order
to Ninth Street Partners, LLC (Dale Kern, Chuck Kingsley, Mike Kingsley)
pursuant to RCW 90.48.120 and WAC 173-201A

Ninth Street Partners, LLC
Attn: Dale Kern, Chuck Kingsley, Mike Kingsley
202 NW Sixth Street, PO Box 906
Corvallis, OR 97339

Order No.	23817
Corps Reference No.	NWS-2024-875
Site Location	Waldron Woods North, located within wetlands, Bellingham, Whatcom County, Washington.

This is an Administrative Order requiring Ninth Street Partners, LLC (Dale Kern, Chuck Kingsley, Mike Kingsley) 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 10/25/2024, concluding that Wetlands E, F, G, J, and K, and Ditches 1 and 2 are not waters of the U.S. On 4/29/2025, the Corps issued a jurisdictional determination concluding that Wetland H is not a waters of the U.S. On 10/22/2024, Ecology received a request to fill 1.437 acres of non-federally regulated wetlands, which are waters of the state, to construct Waldron Woods North in Whatcom County. The project is located at west of WA State Highway 539 (Guide Meridian Street) and north of Tremont Avenue, Bellingham, Section 1, Township 38 N, Range 2 E, Whatcom County, and within Water Resources Inventory Area (WRIA) 1 - Nooksack.

This Administrative Order authorizes fill of 0.451 acres of Category III and 1.008 acres of Category IV wetlands, and indirect wetland impacts to 1.050 acres of Category III wetlands at the project location. Mitigation for this proposal will consist of purchasing 1.833 credits from the Lummi Nation Wetland and Habitat Mitigation Bank and all other actions as proposed in the *Wetland Mitigation Report/Bank Use Plan, Waldron Woods Residential North*, dated April 2025.

For purposes of this Order, the term “Project Proponent” shall mean Ninth Street Partners, LLC (Dale Kern, Chuck Kingsley, Mike Kingsley) 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 request (JARPA and attachments) received by Ecology on 10/22/2024 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 a cc to chris.luerkens@ecy.wa.gov. Any submittals shall reference Order No. 23817.
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 project engineers, contractors, and other workers at the project site with authority to direct work have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Project Proponent shall provide Ecology a signed statement (see Attachment A for an example) before construction begins.
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 above 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.
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 the *Wetland Mitigation Report/Bank Use Plan, Waldron Woods Residential North* prepared by NW Ecological Services, dated Updated April 2025 (hereafter called the "Mitigation Plan"), or as modified by this Order or revised and approved by Ecology.
2. The Project Proponent 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. Prior to impacting wetlands, the Project Proponent shall submit to Ecology documentation from the bank sponsor verifying the purchase of 1.833 mitigation bank credits (credits) from the Lummi Nation Wetland and Habitat 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.
4. The Project Proponent 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.

5. If the Project Proponent has not purchased credits within 13 months of the date of this Order, the Project Proponent shall inform Ecology, in writing, of the status of:
 - a. The work activities in wetlands at Waldron Woods North.
 - b. When bank credits will be purchased.

With the:

- c. Reason for the delay.
- d. Expected date of completion.

The Project Proponent shall submit an updated written notification every 12 months thereafter until the wetland impacts at Waldron Woods North is complete and the required credits are purchased.

6. Until the Project Proponent has received written notice from Ecology that the Mitigation Plan has been fully implemented, the Project Proponent's obligation under Condition C.1 to mitigate for wetland impacts is not met.

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 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 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 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://eluhw.wa.gov/> or call: 360-664-9160.

Service on Ecology

Street Address:

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

Mailing Address:

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
Bellingham Field Office
(360) 410-4807
Chris.luerkens@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 173.204 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 17 day of July, 2025 at the Department of Ecology, Shoreline, Washington



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

Ninth Street Partners, LLC (Dale Kern, Chuck Kingsley, Mike Kingsley)

Order No. 23817, Aquatics ID No. 144142

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Attachment A

Statement of Understanding Administrative Order Conditions

Waldron Woods North

Administrative Order No. 23817

As the Project Proponent for Waldron Woods North project, I have read and understand the conditions of Washington State Department of Ecology Order No. 23817, and any permits, plans, documents, and approvals referenced in the Order. I have and will continue to ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this Order and any permits, plans, documents, and approvals referenced in the Order.

Signature

Date

Title

Phone

Company