



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

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March 28, 2001

via fax 425-883-7977 and U.S. Mail

Mr. Don Scarberry
Novadyne Engineering
16600 NE 80th St, Suite 205
Redmond, WA 98052

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| Post-It® Fax Note 7671 | | Date 3/29/01 | # of pages 1 |
| To JILSON JAMES | From DON SCARBERY | | |
| Co./Dept. | Co. | | |
| Phone # 706 467 7654 | Phone # 425 683 8338 | | |
| Fax # 706 633 7072 | Fax # | | |

Dear Mr. Scarberry:

Mr. Kevin Fetherston has asked me to clarify the Department of Ecology's policy regarding the regulatory status of lands classified as "prior converted croplands" by the US Army Corps of Engineers.

The Department of Ecology regulates areas designated as "prior converted croplands" if they meet the technical criteria of wetlands in the 1996 Washington State Wetland Delineation and Identification Manual. The 1995 Washington State Legislature passed Engrossed Senate Bill 5776, which directed the Department of Ecology to "adopt a manual for the delineation of wetlands..." that was consistent with the 1987 federal delineation manual. This state manual is required to be used by all state agencies in the application of any state laws and regulations as well as by any city or county in the implementation of any regulations under the Growth Management Act. You can find the manual at <http://www.ecy.wa.gov/programs/sea/pubs/96-94.html>

"Prior converted croplands" are historic wetlands that have been put into agricultural use. The Food Security Act (FSA) excludes wetland areas from Section 404 of the Clean Water Act if they meet certain cropping history and modified wetland hydrology criteria. The Food Security Act does not apply to state law. Thus there are cases where wetlands meeting the state wetland delineation manual criteria (and the Corps of Engineers delineation manual criteria) are excluded from federal regulation but not state regulation.

I hope this answers the question you asked Mr. Fetherston to investigate. If you have any further questions please feel free to call me at 425-649-7061.

Sincerely,

Erik C. Stockdale

Erik C. Stockdale
Senior Wetlands Specialist
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ES:SA

cc: Mr. Kevin Fetherston
Ann Kenny
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