

Developer Pleads Guilty to Illegally Filling Wetlands in Southwest Washington **Local News**

Posted by: David Haviland

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OLYMPIA, Wash. - Philip A. Smith, 53, of Chehalis, Washington, pleaded guilty Monday morning in U.S. District Court in Tacoma to damaging approximately 98 acres of wetlands in southwest Washington by using mechanized land clearing equipment in an effort to prepare the site for future commercial development. The admitted conduct violated the Clean Water Act prohibition on discharging pollutants into waters of the United States without first obtaining a permit. SMITH is scheduled to be sentenced by U.S. District Court Judge Benjamin H. Settle on January 10, 2011. The maximum criminal penalties for the felony violation include up to three years in prison and a fine of not more than \$50,000 per day of violation. "We will not allow developers to violate environmental laws to line their pockets," said U.S. Attorney Jenny A. Durkan. "These vital wetlands were damaged in a failed bid to make a substantial profit. We will work with local, state and federal regulatory agencies to prosecute those who damage our treasured public resources for their personal gain." "Washington's wetlands deserve vigilant protection," said Tyler Amon, Special Agent-in-Charge for EPA's Office of Criminal Enforcement in Seattle. "A collaborative enforcement effort between EPA and the Washington Department of Ecology led to today's conviction. We will continue to vigorously pursue and prosecute criminals that destroy these invaluable northwest resources."

"Mr. Smith deliberately chose to ignore environmental laws that other developers and contractors in the state abide by," said Ecology Director Ted Sturdevant. "Today's plea agreement is a consequence of his decision to bulldoze dozens of acres of wetlands and a creek." SMITH admits in his plea agreement to knowingly engaging in land clearing activities that included excavating wetlands and stream channels and redepositing or discharging the excavated materials into waters of the United States. The activities occurred on property he owned near Winlock, Washington. SMITH's land clearing operations spanned a period of over two years, beginning in August 2005 and concluding in October 2007 when inspectors discovered the illegal activity. In early 2008, the Environmental Protection Agency issued an order to SMITH requiring him to restore the wetlands. He did not comply with the order and a separate civil case was filed requiring restoration of the damaged wetlands. The civil case is being handled separately from the criminal case.

According to records in the case, 65 percent of the 190 acres SMITH owned near Winlock were covered in wetlands and small streams that drain into Lacamas Creek. The creek flows into the Cowlitz River and ultimately empties into the Columbia River. The wetlands at issue cannot be filled without a permit from the U.S. Army Corps of Engineers. Neither SMITH nor anyone associated with the property ever applied for the required permit. In all, 98 acres of wetlands were cleared and disturbed between 2005 and 2007. While SMITH had a permit to log part of the property, he had no state or federal permits to disturb the wetlands. In 2007, SMITH had sought to strike a deal with the Southwest Washington Regional Equestrian Center to build a \$70 million facility on the site. After being fined by the Washington State Department of Ecology for filling the wetlands, the deal fell through. The case was investigated by the Environmental Protection Agency (EPA), the U.S. Army Corps of Engineers, and the Washington

State Department of Ecology. The case is being prosecuted by Assistant United States Attorney Jim Oesterle who heads the U.S. Attorney's Office working group on environmental crimes. For additional information please contact Emily Langlie, Public Affairs Officer for the United States Attorney's Office, at (206) 553-4110 or Emily.Langlie@USDOJ.Gov.