



May 16, 2024

Mark Scheibmeir  
Hearings Examiner  
Lewis County  
~~351 NW North Street~~ 2025 NE Kresky Ave.  
~~Chehalis, WA 98532~~ Chehalis, WA 98532

RE: Petition for Appeal from Final Decision of Lee Napier Regarding Becky Rieger

Dear Hearings Examiner,

I am writing to you on behalf of my client, Becky Rieger, who is a wetlands specialist performing critical areas assessments and critical area mitigation plans through her business, Environmental Design, LLC. On May 7, 2024, she received a letter from Lee Napier, Director of Lewis County Development, informing her of a final determination that she would not be deemed a qualified professional under LCC 17.10.170 and that that office would no longer be accepting her assessments. The letter informed her that she had 13 days from the date of this letter to appeal under the process identified in LCC 17.05.040. A copy of the letter is attached. Please accept this letter as a petition for appeal.

Pursuant to LCC 2.25.130, the following is submitted pursuant to the requirements for the petition:

- (i) **Specific identification of the order, permit, decision, determination or other action being appealed (including the county's file or application number where applicable). A complete copy of the document or written decision being appealed must be filed with the appeal;**

The letter dated May 7, 2024 from Lee Napier, which provided the final determination that is being appealed, is attached.

- (ii) **Specific identification of the county code provision which authorizes the appeal;**

As noted in the letter, this appeal is authorized under LCC 17.05.040 as well as LCC 2.25.130.



- (iii) **The specific grounds upon which the petitioner relies, including a concise statement of the factual reason for the appeal and, if known, identification of the policies, statutes, codes, or regulations that the petitioner claims are violated. In the case of appeals involving SEPA, shorelines and floodway hazard permits, a specific listing of the sections and elements alleged to be inadequately or inappropriately addressed and the reasons therefor shall be included;**

Since 2007, my client has operated Environmental Design, LLC, providing services as a wetlands specialist conducting critical area assessments and critical area mitigation plans. On May 7, 2024, my client was asked to meet with Lee Napier who is the Director of Community Development for Lewis County. At the time, Ms. Napier provided Ms. Rieger a letter stating she was no longer considered a qualified professional for critical areas and that the county will no longer be accepting her work, effective immediately. This was devastating to her personally and professionally. She has dozens of projects currently in the process of review and received no prior notice of the decision and no means of ameliorating it.

During her years of experience, she has always provided exceptional service, and her reports meet or excel professional standards for the industry. When questions have arisen with the county regarding aspects of the reports, she has always worked to answer their questions and resolve any issues presented – even making changes to reports when requested. She has completed training to be kept up to date on the latest information pertinent to her work. Despite this, the county has essentially cut off her ability to earn a living from her profession.

Chapter 17.10.170 provides the definition of a qualified professional. It states:

*17.10.170 “Q” definitions.*

*“Qualified critical area professional” means a person or a team of persons with experience, education, and professional degrees and/or training pertaining to the critical area in question, and with experience in performing delineations, analyzing critical area functions and values, analyzing critical area impacts, and recommending critical area mitigation and restoration. The administrator may require professionals to demonstrate the basis for qualifications and shall make final determination as to qualifications.*

*(a) A qualified professional for wetlands must have a degree in biology, ecology, soil science, botany, or a closely related field and demonstrate professional experience in wetland identification, delineation, and assessment in the Pacific Northwest. Qualified professionals preparing wetland mitigation plans must have, in addition to the qualifications above, demonstrated professional experience in hydrology and other disciplines essential to the success*



*of mitigation plans. This expertise may be provided in a team of qualified professionals each of which has expertise in relevant areas.*

My client meets the qualifications described above. A copy of my client's resume is attached with this petition.

The county's actions here violate several constitutional and legal requirements.

1. Constitutional issues: The rule cited in the letter contains no identifiable definition and Ms. Napier fails to cite any criteria she is using to define a "qualified professional." She ignores the actual requirements of the rule, cited above, with which my client complies. Even assuming *arguendo* that the limited authority under the rule for the director to verify compliance with the qualifications somehow allows her to invent new ones, the rule is void for vagueness and the actions of the county here are also the very definition of arbitrary and capricious – especially in any absence of similar treatment to any other practitioners of my client's profession.

In addition, the fact that the decision was made without notice and opportunity to be heard violates procedural due process.

2. Other legal issues: The letter relies upon incorrect factual conclusions regarding my client's past reports and they are not well-founded. My client reserves the right to amend this petition to include additional arguments as facts and law presented in this on-going matter require.

**(iv) The full name, mailing address, daytime telephone number of each petitioner, together with the signature of at least one of the petitioners, or the attorney for the petitioner(s), if any;**

Becky Jo Rieger  
901 L Street  
Centralia, WA 98531  
(360) 219-3343

**(v) (v) The name, mailing address, daytime phone and signature of the petitioner's attorney, if any; and**

Jackson Maynard  
111 21<sup>st</sup> Ave SW  
Olympia, WA 98501  
(850) 519-3495  
(signature below)



**(vi) The required filing fee.**

The \$100 filing fee is attached.

Thank you for your time and attention to this matter. Please feel free to contact me should you have any questions or require anything further.

Sincerely,



Jackson Maynard  
Maynard Law PLLC  
111 21<sup>st</sup> Ave SW  
Olympia, WA 98501  
(850) 519-3495

[jackson@maynardlawpllc.com](mailto:jackson@maynardlawpllc.com)





## Community Development

2025 NE Kresky Avenue  
Chehalis WA 98532

May 7, 2024

Becky Rieger, Wetlands Specialist  
Environmental Design, LLC  
becky@environmentaldesignllc.com

Dear Mrs. Rieger,

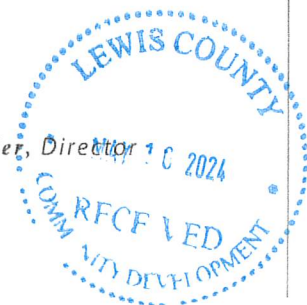
The Lewis County Director of Community Development has made a final determination that you are not a qualified professional as defined in LCC 17.10.170 which states:

*LCC 17.38.110 requires the types of reports identified to be completed by a "qualified professional." The administrator shall make final determinations as to qualifications. LCC 17.10.010 defines "Administrator" as the director of Community Development.*

Based on this decision, Lewis County will no longer accept from you the following types of reports: critical areas assessments and critical area mitigation plans which include wetland assessments, wetland mitigation plans, aquatic habitat area assessments, aquatic habitat mitigation plans, other related studies, and /or site investigations used for the purposes of identifying critical areas. The effective date of this determination is May 7, 2024.

This determination is based on a history of incomplete, inaccurate or insufficient studies starting in 2019 and continuing through the most recent report submitted for MSR24-0172 on April 16, 2024. These inaccuracies have resulted in significant permit processing setbacks, including the need for multiple corrections, site visits from various agencies, and delays in permit reviews. Your repeated inability to provide accurate assessments causes delays and confusion for our customers, necessitating prompt action to address the situation.

Community Development and Washington State Department of Ecology Staff have worked closely with you over the past several years to attempt to improve your quality of work and reporting. Basic reporting requirements are still unmet in every report submitted by you to Community Development for review. As a result, planning staff can no longer trust that the reports are accurate.



Recent reports regarding parcels 017166011000, 011859004004, 011966006001, 011966006002, 014589002017, 035185001000, 014587010002, 012705005004 and 023875000000 were incomplete or inaccurate. This is not a complete list of reports or projects where inadequate wetland ratings, critical area assessments or site exploration has occurred. A discussion of a recent report and site visit for 280 and 240 Nicholson Rd, Ethel on parcels 014589002016 and 014589002017 is attached to this letter.

If you feel that this determination has been made in error you may appeal this decision, a code interpretation, to the hearing examiner according to the process identified in LCC 17.05.040 by **4pm on (within 13 days of the date of this letter)**.

Regards,

*Lee Napier*

Lee Napier  
Director, Lewis County Community Development

Attached: Site Example, SUP23-0001 & SEP23-0024 Hold Letter, SUP23-0001 Site Visit Summary



Example: A wetland report was submitted for parcels 014589002017 (-17) and 014589002016 (-16). The wetland study was for proposed residential development including septic installation, a single-family residence, accessory dwelling unit, and shared well on -17. It also included an unpermitted airstrip on -16. The report identified a Category 4 wetland that was generally in the middle of the field on both parcels but several hundred feet from any development on either lot. During the SEPA review of the special use permit for the airstrip, staff was made aware from Fish and Wildlife of a potential critical area violation within a stream buffer on -17. This was not addressed in the wetland report and a site visit was scheduled with Ecology, the US Army Corps of Engineers, and Fish and Wildlife to determine if any violations had occurred.

While on site, we observed a much more expansive wetland than what was delineated in the report. The home sites which were several hundred feet from the wetland in the report were actually built in a wetland that was not identified. When the consultant was asked about this, the consultant stated that the client built where they weren't supposed to. This is correct, but the client actually built further away from the wetland than the consultant had delineated, not closer to it.

Additionally, a large pit, several acres in size, was dug for the construction of the airstrip. If proper delineation methods had been followed this pit would have been discovered and addressed by the consultant. When the consultant was asked about the pit for the approval of the development on -17, planning staff were told that there was nothing on site and it had returned to pasture grasses and photos were provided. This pit is in fact located within the wetland that was inaccurately delineated by the consultant. When asked about this on site the consultant stated that they did not delineate that area of the property and did not know about it. That is a perfectly acceptable way of delineation when the wetland is very large. However, in the report the consultant identified clear boundaries of the wetland which would have required them to walk the perimeter of the wetland for the testing and the pit would have been discovered. It was evident that the consultant had not delineated the boundary of the wetland as written and shown in the report submitted to Community Development.

Our preliminary findings on site suggest that this wetland is a potential Category 1 wetland which is tens of acres larger than shown by the report. The consultant states that all the work was done after they were on site to do the delineation. Again, this is untrue as aerial images show work being done on both sites in 2019 and the report was written in 2023. Attached is a letter sent by Community Development for the wetland violations on both sites and a summary of the site visit by Ecology.





## Community Development

2025 NE Kresky Avenue  
Chehalis WA 98532

April 8, 2024

KELLER, DENNIS D & CAROL M  
8200 W CIRCULO DE LOS MORTEROS  
TUCSON, AZ 85743

**RE: Development Review Application # SUP23-0001, SEP23-0024 & MSR23-0498  
Parcel #: 014589002016 & 014589002017**

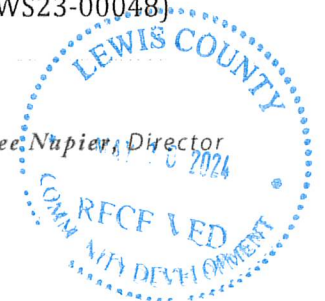
Dear Applicant:

During the comment period for your Special Use Permit (SUP23-0001) Lewis County planning staff received comments from the Washington State Department of Fish and Wildlife raising concerns over a potential pit that had been dug within the 150' buffer of Baker Creek located on tax parcel number 014589002017. This pit appears to have been used for construction of your unpermitted airstrip. Using aerial imagery, staff was able to confirm that disturbance to the critical area had occurred and a site visit was scheduled with the Washington State Departments of Ecology, and Fish and Wildlife, the United States Army Corps of Engineers, Lewis County staff and your consultant, Becky Reiger of Environmental Design.

During our site visit on March 4, 2024 multiple violations of local, state and federal wetland codes were observed, see attached summary from Ecology. The extent and impacts of the wetland and other critical area violations are currently unclear as the wetland report prepared by Becky Rieger of Environmental Design LLC on June 6, 2023 is inaccurate and incorrectly identifies the entire extent of the wetlands on your properties. This includes the area where your single-family residence and ADU were approved under MSR23-0498 which are in wetland habitat that was not delineated in the report.

The following proposals and projects will be placed on hold until all of the critical area violations on the properties have been resolved.

- Special Use Permit (SUP23-0001)
- State Environmental Policy Act Determination of Non-Significance (DNS) (SEP23-0024) will be withdrawn as the extent of environmental impacts is unknown.
- All approved items for MSR23-0498. No permits associated with this approval will be accepted and the septic permit (S23-00400), and wellsite inspection (WS23-00048) will be placed on hold.





A qualified consultant will need to prepare a full, complete and accurate delineation of all wetlands within 300' of your unpermitted airstrip, hanger, access routes used for their construction, the excavated pit within the stream buffer, and your home sites on 240 Nicholson Rd. The report will be utilized to determine the extent of any impacts to the wetlands, wetland buffers and stream buffers. A mitigation and restoration plan prepared by a qualified consultant will also be required to correct or mitigate any impacts that your development has caused.

This is not a complete list of all items required for your site. Other permits and applications may be required which will be determined after completion of your wetland delineation report, and the mitigation and restoration plan.

If these items are not submitted **within 90 days of the date of this letter**, your application will automatically lapse per Chapter 17.05.070(B)(1) Lewis County Code and will not be processed. Your project is an active code enforcement case with Lewis County, if your applications lapse, the code enforcement case will seek other remedies for resolving the violations on your parcels.

Please contact me directly at [Karen.Witherspoon@lewiscountywa.gov](mailto:Karen.Witherspoon@lewiscountywa.gov), if you are unclear as to how to proceed with resolution.

*Karen Witherspoon*

Karen Witherspoon  
Senior Project Planner

*P. Pinkston*

Preston Pinkston  
Planner

Attached: Site Visit Summary

Cc: Zach Meyer, Washington State Department of Ecology  
Brad Johnson, United States Army Corps of Engineers  
Elliot Johnson, Washington State Department of Fish and Wildlife  
Lee Napier, Lewis County Community Development Director  
Meja Handlen, Lewis County Public Health & Social Services Director  
Becky Rieger, Environmental Design LLC



**RECEIVED**

By K. Witherspoon at 11:55 am, Mar 06, 2024

**Karen Witherspoon**

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**From:** Meyer, Zachary (ECY) <ZMEY461@ECY.WA.GOV>  
**Sent:** Wednesday, March 6, 2024 11:47 AM  
**To:** Preston Pinkston; Karen Witherspoon  
**Cc:** Johnson, Brad A CIV USARMY CENWS (USA); Johnson, Elliot (DFW)  
**Subject:** Site visit summary, 280 Nicholson Rd

Hi Preston,

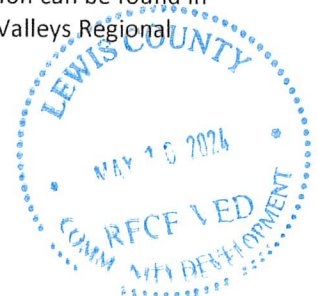
Thank you for the site visit to 280 Nicholson Rd, Ethel, TPN 014589002016 and TPN 014589002017. Lewis County, WDFW, Ecology, and Corps met with the property owners agent/consultant Becky Reiger of Environmental Design. The purpose of our site visit was to determine accuracy of wetland reporting (June 6, 2023 Critical Area Report prepared by Environmental Design) as it relates to after-the-fact permitting of an airstrip that was constructed without the appropriate approvals.

While onsite, we observed significant inaccuracies with the wetland report (wetlands substantially under-delineated and under-rated) and a number of illegal actions the property owner has taken in and near wetlands. Of note, two residences and associated fill (approx. 0.6 acres) along Nicholson Rd were observed in wetland (46°31'39.99"N, 122°47'41.68"W), an excavated approx. 0.6 area pond within wetland (46°31'44.72"N, 122°47'37.13"W), and an airstrip and storage building/hanger of approx. 2.5 acres bisecting multiple slope wetlands (46°31'49.22"N, 122°48'1.11"W). Additionally, multiple ditches (located at 46°31'39.48"N, 122°47'37.96"W; and 46°31'39.74"N, 122°47'42.43"W) were observed to recently have been dug in wetland to attempt to illegally drain this wetland. One ditch is notably causing erosion on Nicholson Rd. Equipment tracks were observed throughout the wetland between Nicholson Rd and the base of the airstrip. This unpermitted development and associated wetland impacts is in violation of RCW 90.48 WA Water Pollution Control Act and the Lewis County Critical Area Ordinance. Portions of this site (wetlands associated with Baker Creek, headwaters of Lacamas Creek) are within shoreline jurisdiction and thus a violation of RCW 90.58 WA Shoreline Management Act and the Lewis County Shoreline Master Program. All soil disturbance, excavation, and fill as described above in a wetland would have required permitting from Dept. of Ecology, which was not obtained.

Wetland conditions were observed immediately adjacent to Nicholson Rd (46°31'38.97"N, 122°47'38.17"W) extending to the base of the airstrip (46°31'47.45"N, 122°47'42.79"W) and beyond (surface hydrology, gleyed hydric soils, and hydrophytic vegetation including *Carex obnupta* (OBL), *Juncus effusus* (FACW), *Spirea Douglasii* (FACW), and *Phalaris arundinacea* (FACW)). Similar conditions existed bisecting the airstrip in multiple locations, and directly adjacent to the storage building/hanger. Photo and video evidence can be provided. While onsite, we observed at least 18 acres of wetland but this wetland unit is likely larger extending up the baker creek valley. Site conditions were not remotely accurate as described in the Environmental Design wetland report for the proposal.

These violations of state law can come with penalties from Dept of Ecology of up to \$10,000 a day the violations exist. Ecology does prefer to receive voluntary compliance from the applicant to address the illegal actions (restoration), but reserve the right of formal enforcement should the site not come into compliance. We should set up a time to discuss how to proceed. Ecology may issue a formal notice of violation to the property owner depending on if/how the County is able to address these significant violations.

The property owner here will need to prepare a restoration plan to restore unpermitted impacts to wetlands and wetland buffers, this will start with an accurate wetland delineation that shows site conditions before illegal/unpermitted fill/grading/excavation occurred onsite. Methodology for this forensic delineation can be found in the 1987 Army Corps Wetland Delineation Manual and 2010 Army Corps Western Mountains and Valleys Regional Supplement. A qualified wetland consultant will be need to be retained to address this violation.



Ecology as well as the other agencies involved may have more to add as we digest what was observed onsite.

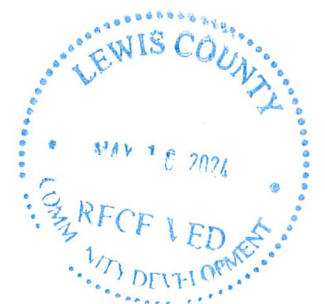
Please let me know if you have any questions.

Zach Meyer  
Shorelands Technical and Regulatory Lead  
Shorelands & Environmental Assistance Program  
Washington State Department of Ecology  
Southwest Regional Office, Lacey, WA  
360-481-9885



External Email - Remember to think before you click!

This message may contain links with malware, viruses, etc. Please ensure the message is legitimate before opening it.



# Becky Rieger

Home Address:  
901 L Street  
Centralia, WA 98531

Phone: (360) 219-3343

## Education

Associates Degree in Arts  
Centralia Community College  
Date of Graduation: June 2007  
Centralia, Washington

Associates Degree in Applied Science  
Major in Geographic Information Systems  
Grays Harbor Community College  
Date of Graduation: June 2002  
Aberdeen, Washington

## Continuing Education / Awards / Organizations

Coastal Training Program

- o Certificate in Using the Revised Wetland Rating System (2014)
- o Certificate in Identifying Hydric Soils (2012)
- o Certificate in Using the Revised Wetland Rating System (2007)

Oregon State University (2006)

- o Certificate in Soil Identification

Portland State University Wetland Program (2006)

- o Certificate in Wetland Delineation Course
- o Certificate in Advanced Hydric Soils and Hydrology Course
- o Certificate in Hydrophytic Vegetation Identification Course

Licensed On-Site Wastewater Designer (2009-Current) License # 5100369

Olympia Master Builders

- o Lewis County Chapter Vice President
- o Olympia Master Builders Associate Vice President

Washington On-Site Sewage Association

- o SW Washington Designer Rep. (2018 – Current)

## Professional Experience

**Licensed Designer / Wetland Specialist / Owner** May 5, 2010 - Current  
Environmental Design, LLC

- Complete Site and Soil Evaluations, Site Consultations, Topography Field Work
- Complete Septic Designs and mapping projects using MicroSurvey
- Complete Wetland and other Critical Area Reports per regulations in multiple jurisdictions
- Perform presentations to educate people about wetlands and septic systems

**Assistant Designer / Certified Wetland Specialist** Feb. 24, 2005 – Oct. 30, 2007  
Goode & Associates Supervisor: Jeannie Yackley

- Complete designs of on-site wastewater designs for county submittal
- Communicate with county regulators, installers, and clients
- Conduct wetland determinations, delineations, mitigations and consultations
- Research projects, apply for permits, and conduct final inspections on installed septic systems
- Perform presentations to educate people about wetlands and septic systems

