



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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June 7, 2011

Ms. Muffy Walker, Chief
U.S. Army Corps of Engineers, Seattle District
Regulatory Branch, CENWS-OD-RG
PO Box 3755
Seattle, WA 98124-3755

RE: Section 401 Water Quality Certification and Coastal Zone Management Federal Consistency Determination for the U.S. Army Corps of Engineers (Corps) Seattle District Regional General Permit - United States Forest Service Aquatic Restoration Program within the State of Washington (Public Notice Reference CENWS-OD-RG-RGP-8)

Dear Ms. Walker:

On August 5, 2010, the US Army Corps of Engineers Seattle Districts issued a public notice for the proposed regional general permit (RGP) that would authorize proposed projects that are designed to maintain, enhance, and/or restore watershed functions to benefit fish species, other aquatic organisms, water quality, riparian areas, floodplains, and wetlands on National Forest System Lands located in Washington. National Forests located solely in Washington include:

- Colville National Forest (NF)
- Gifford Pinchot NF
- Mt Baker-Snoqualmie NF
- Okanagan-Wenatchee NF
- Olympic NF
- Umatilla NF
- Columbia Gorge National Scenic Area.
- In addition, some work will be done on non-federal lands when a culvert removal or replacement leads to passage of fish onto Forest Service administered lands.

The following thirteen restoration activities in waters of the U.S. are designed to maintain, enhance, and restore watershed functions that affect aquatic species. Activities, occurring waterward of the Ordinary High Water Mark (OHWM) eligible for authorization under this modified RGP are described below:



1. Large Wood, Boulder, and Gravel Placement- Placing of large wood (LW) and or boulders and gravel in stream channels and adjacent floodplains to increase channel stability, rearing habitat, pool formation, spawning gravel deposition, channel complexity, hiding cover, low velocity areas, improve spawning habitat and floodplain function. Live and dead trees may be removed from riparian areas to provide LW for restoration projects, provided shade, bank stability and sediment buffering is not compromised.
2. Reconnection of Existing Side Channels and Alcoves - Reconnect or restore existing side channels and alcoves to increase rearing habitat for juvenile fish and high flow refuge areas for all life stages of fish.
3. Bank Restoration - Restore eroding stream banks to reduce chronic bank erosion, improve water quality, restore natural channel cross-section, allow for natural channel adjustments, expand floodplain area, promote growth of riparian vegetation, and where appropriate (*e.g.*, outside meander bends) create undercut banks for adult and juvenile fish hiding cover.
4. Head-cut Stabilization and Associated Fish Passage - Stabilize active or potentially active head-cuts to prevent further channel degradation (upstream migration of head-cut) and promote downstream aggradations.
5. Estuary Restoration - Restore estuary functions through removal of dikes, berms, levees, culverts and tiles, drainage systems, or portions thereof, including tide gates, which block tidal waters from flooding historic estuaries.
6. Irrigation Screen Installation and Replacement - Installation and replacement includes installing, replacing, or upgrading off-channel screens to improve fish passage or prevent fish entrapment in irrigation canals. The work also includes removal of diversion structures that are less than six feet high, or that impound less than 15 acre-feet of water.
7. Fish Passage Culvert and Bridge Projects - Remove or replace existing road-stream crossing structures (culverts and bridges) that restrict fish passage and natural flows with stream simulation structures to restore up- and downstream fish passage for all life stages of native fish.
8. Floodplain Overburden Removal - Remove anthropogenic overburden and fill such as dredged mine tailings, railroad or road beds, dikes, berms, levees, and other fill types from floodplains to restore natural floodplain functions.
9. Reduction of Recreational Impacts - To close or better control recreation use along streams and within riparian areas. This includes removal of designated campgrounds, dispersed camp sites, and foot trails as well as decommissioning of off-road vehicle (ORV) trails in riparian areas.

10. Road Treatments - Decommissioning or obliteration of roads to restore watershed function, moving roads out of the flood plain/CMZ or upgrading roads to current standards.
11. Removal of Legacy Structures - Remove large wood, boulders, rock gabions, and other in-channel structures that were constructed to improve fish habitat but were installed in a manner that was, and continues to be, inappropriate for the given stream type.
12. Riparian Exclusion Fencing that include Stream Crossings and Water Gaps - Construct and replace fences around riparian areas to restrict or eliminate human and livestock use to maintain or restore stream channel, riparian vegetation, and floodplain functions.
13. Riparian Juniper Treatments - Fell juniper trees occurring in riparian areas and placing stem into the stream channel and floodplain to provide aquatic benefits.

On behalf of the State of Washington, we have no objection to the Corps of Engineers Regional General Permit provided that the RGP includes the following conditions:

- A. Project construction, operation, and maintenance shall be done in compliance with chapter 173-201A WAC.
- B. Projects in forested areas follow the best management practices at a minimum contained in 222 WAC as per the Memorandum of Agreement with the USFS and Ecology (2000), including but not limited to pesticide use, road construction, reconstruction, maintenance and decommissioning (abandonment). Any road used for a project is required to meet current road standards, including fish passage.
- C. When possible the instream work shall be conducted in isolation. The project areas will be dewatered using one of the following methods:
 - i. Divert flow with pumps or structures such as cofferdams constructed with non-erosive devices such as sandbags, bladder bags or other means that divert water. Diversion dams constructed with material mined from the stream or floodplain is not permitted.
 - ii. The temporary bypass system may consist of non-erosive techniques, such as a pipe or plastic-lined channel, both of which must be sized large enough to accommodate the predicted peak flow rate during construction. In cases of channel rerouting, water can be diverted to one side of the existing channel.
 - iii. Dissipate flow at the outfall of the bypass system to diffuse the erosive energy of the flow. Place the outflow in an area that minimizes or prevents damage to riparian vegetation. If the diversion inlet is not screened to allow for downstream

passage of fish into the stream channel, place the diversion outlet in a location that facilitates the safe reentry of fish into the channel.

- iv. When necessary, pump water from the dewatered work area to a temporary storage and treatment site or into upland areas and filter through vegetation prior to reentering the stream channel.
 - v. Any water intake structure (pump) authorized under this permit must have a fish screen installed, operated, maintained, and in accordance with National Marine Services (NMFS) fish screen criteria as contained in "Anadromous Salmonid Passage Facility Design" NMFS, 2008.
- D. If a project impacts more than ½ acre of wetlands, the USFS shall notify Ecology's Headquarters Office, Attn: 401/CZM Federal Permit Coordinator, P.O. Box 47600 Olympia, WA 98504-7600.
- E. Prior to clearing and grading, adjacent wetlands and their buffers shall be protected from construction impacts. Construction fencing or flagging (using brightly colored tape at no more than twenty-five foot (25') intervals) of the existing wetlands and stream channels to be protected shall be completed prior to clearing.
- F. All project staff shall be trained to recognize construction fencing or flagging that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channels or associated buffers to the extent that bank stability, shade or sediment buffering will be compromised, if not authorized to be filled.
- G. Planting and re-vegetation shall be done in all disturbed areas.
- H. Plant new vegetation or replace any existing vegetation where disturbance occurs as a result of these projects in order to restore the function and stability of the landscape and habitat.
- I. Plant disturbed areas with native plants and trees in all cases except where the use of nonnative plants may be essential for erosion control.
- J. The standard for success is 80% cover for native plant species by year three from the date of planting for native plant species. Temporary fencing off of planted areas may be required to ensure success.
- K. Riparian exclusion fencing shall be constructed to exclude livestock completely from Riparian Reserves except for necessary crossings designed to eliminate discharges to surface water. Offstream watering shall be provided wherever feasible to eliminate livestock access to surface waters and riparian areas. When necessary, water gaps shall be constructed to allow only one animal at a time access to the water and designed to prevent loafing or standing in the water. Water gaps shall be located at stable locations

and must provide fish passage. Water gaps and fjord type crossings shall not be constructed in critical fish habit or where construction or animal use may impair fish habit.

- L. All projects proposed shall be constructed as defined in the "Memorandum of Understanding between Washington State Department of Fish and Wildlife and USDA Forest Service, Pacific Northwest Region Regarding Hydraulic Projects Conducted by USDA Forest Service, Pacific Northwest Region"(MOU) January 2005. The Addendum that extended the expiration date until January 31, 2012 is also included.
- i. Any new MOU negotiated shall be included in this condition with the following exception: All culvert replacements shall be designed according to the sizing contained in the "Biological Opinion for WSDA Forest Service Aquatic Restoration Activities in Eastern Oregon and Washington 2004-2008"
http://www.nwr.noaa.gov/Salmon-Hydropower/FERC/upload/Fish_Passage_Design.pdf.
 - ii. All in-water work shall comply with the WDFW/USFS "Freshwater Work Window MOU" dated September 22, 2009.
- M. If any projects include use of cost-share roads, the landowner will be notified so that any maintenance or upgrades to the roads can be agreed to prior to the project being initiated.
- N. Spills into state waters, spills onto land with a potential for entry into state waters, or other significant water quality impacts, shall be reported immediately to Ecology's Regional Spill Response Office.
- Northwest Regional Office - 425-649-7000
Southwest Regional Office - 360-407-6300
Central Regional Office - 509-575-2490
Eastern Regional Office - 509-456-2966
- O. Ecology is to have access to the site with notice.
- P. Certification of this Regional General permit will expire on October 1, 2015.

If you have any questions regarding this Certification, please contact me at (360) 407-6976 or Helen Pressley at (360) 407-6076.

Ms. Muffy Walker

June 7, 2011

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Sincerely,



Brenden McFarland, Section Manager
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Department of Ecology - Headquarters

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