DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, PORTLAND DISTRICT
P.O. BOX 2946
PORTLAND, OR 97208-2946

June 6, 2025

Regulatory Branch
Corps No. NWP-2025-150

Exhibit 5_Corps Permit_Engineering Services for Pier 3 Boatyard Haul Out Piers Rehabilitation

Mr. Matt McGrath
Port of Astoria
422 Gateway Ave., Suite 100
Astoria, Oregon, 97103
mmcgrath@portofastoria.com

Dear Mr. McGrath:

The U.S. Army Corps of Engineers (Corps) received your request for Department of the Army authorization to reinforce your boat haulout by installing new concrete decking and additional pilings. The project is proposed in the Columbia River located at Pier 3 at the Port of Astoria near Astoria, Clatsop County, Oregon (Latitude/Longitude: 46.1872°, -123.8622 °). This letter verifies your project as depicted on the enclosed drawings (Enclosure 1) is authorized by Nationwide Permit (NWP) No. 3, Maintenance (Federal Register, December 27, 2021, Vol. 86, No. 245).

You are authorized to conduct work below the mean high water mark (MHWM) of the Columbia River to reinforce an existing boat haulout by replacing the existing, concrete runway and approach slabs. You will add 16 new, 16-inch diameter steel pilings, discharge up to 12 cubic yards of concrete within 144-square-foot area below the MHWM of the Columbia River for associated concrete pile-caps.

You are authorized to remove 21 existing, 16-inch diameter wooden pilings as mitigation for the installation of the new steel support pilings. You will utilize a vibratory hammer to install and remove pilings and may utilize an impact hammer for proofing the pilings if necessary. The Installation and removal of pilings would be completed from a waterborne barge-mounted crane.

In order for this authorization to be valid, you must ensure the work is performed in accordance with the enclosed Nationwide Permit 3 Terms and Conditions (Enclosure 2); the Oregon Department of Environmental Quality (DEQ) Section 401 Water Quality Certification Conditions (Enclosure 3); the Oregon Department of Land Conservation and Development (DLCD) Coastal Zone Management Conditions (Enclosure 4); and the following special conditions:

a. All in-water work shall be performed during the in-water work period October 1 to November 30 to minimize impacts to aquatic species. Impact hammer use is restricted

to the work period of November 1 to November 30.

b. You must comply with the mandatory terms and conditions that apply to the activity within the Corps' jurisdiction to implement the reasonable and prudent measures associated with "incidental take" of those species identified in the enclosed excerpts from the National Marine Fisheries Service (NMFS), SLOPES IV In-water Over-water Structures Programmatic Biological Opinion (NMFS Reference Number 2011/05585, April 5, 2021, Enclosure 4). The Corps' jurisdiction is limited to activities that require Department of the Army authorization. All of the mandatory terms and conditions in the Programmatic Biological Opinion apply to the activity. The NMFS has the final authority to determine compliance with the terms and conditions of its Programmatic Biological Opinion and with the Endangered Species Act.

c. Permittee shall fully implement all applicable Proposed Design Criteria (PDC) of the *SLOPES IV In-water Over-water Structures* programmatic biological opinion. A detailed list of the PDCs are enclosed (Enclosure 4). The applicable PDCs for the project include numbers: 5-7, 11, 17-18, 21-22, 24-25.

d. Permittee shall complete and submit an *Action Completion Form*, which is provided in Enclosure 4, within 60 days of completing all work below ordinary high water. Submit the form by email to cenwp.notify@usace.army.mil and include the Corps project number and county in the email subject line.

e. You must comply with the mandatory terms and conditions that apply to the activity within the Corps' jurisdiction to implement the reasonable and prudent measures associated with "incidental take" of those species identified in the enclosed excerpts from the U.S. Fish and Wildlife Service (USFWS) Programmatic Biological Opinion titled *Formal Consultation for Standard Local Operating Procedures for Endangered Species to Administer Stream Restoration; Stormwater, Transportation, or Utilities Actions; and In-Water or Over-Water Structure Actions and Effects to Bull Trout and Bull Trout Critical Habitat,* dated (USFWS Reference Number 01EOFW00-2017-F-0370, June 29, 2017, Enclosure 5). The Corps' jurisdiction is limited to activities that require Department of the Army authorization. All of the mandatory terms and conditions in the Programmatic Biological Opinion apply to the activity. The USFWS has the final authority to determine compliance with the terms and conditions of its Programmatic Biological Opinion, and with the Endangered Species Act.

f. Permittee shall fully implement all applicable Project Design Criteria (PDC) of the USFWS Bull Trout SLOPES. A detailed list of the PDCs are enclosed (Enclosure 5). The applicable PDCs for the project include numbers: 7G, 16G and 17G.

g. Permittee shall complete and submit an *Action Completion Form*, which is provided in Enclosure 5, within 60 days of completing all work below ordinary high water. Submit the form by email to cenwp.notify@usace.army.mil and include the Corps project number and county in the email subject line.

We have reviewed your project pursuant to the requirements of the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act and the National Historic Preservation Act. We have determined the project complies with the requirements of these laws provided you comply with all of the permit general and special conditions. The requirements of the Endangered Species Act were met through a programmatic biological opinion as listed in the special condition above. The complete text of the biological opinion is available for your review on our website (https://www.nwp.usace.army.mil/environment/).

The DEQ has issued a Section 401 Water Quality Certification for this project and the project appears to comply with the DLCD Coastal Zone Management Act concurrence for this NWP. No further coordination with DEQ or DLCD is required provided the work is performed in accordance with all of the enclosed conditions.

Please note, Portland District NWP Regional General Condition 3, *Cultural Resources and Human Burials-Inadvertent Discovery Plan*, describes procedures should an inadvertent discovery occur. You must ensure that you comply with this condition during the construction of your project.

The Columbia River is a water of the United States. If you believe this is inaccurate, you may request a preliminary or approved jurisdictional determination (JD). If one is requested, please be aware that we may require the submittal of additional information to complete the JD and work authorized in this letter may not occur until the JD has been completed.

The verification of this NWP is valid until March 14, 2026, unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date and you have commenced or are under contract to commence this activity before March 14, 2026, you will have until March 14, 2027, to complete the activity under the enclosed terms and conditions of this NWP. If the work cannot be completed by March 14, 2027, you will need to obtain a new NWP verification or authorization by another type of Department of the Army permit.

Our verification of this NWP is based on the project description and construction methods provided in your permit application. If you propose changes to the project, you must submit revised plans to this office and receive our approval of the revisions prior to performing the work. Failure to comply with all terms and conditions of this NWP

verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. You must also obtain all local, state, and other federal permits that apply to this project.

Upon completing the authorized work, you must fill out and return the enclosed *Certification of Compliance with Department of the Army Permit* form (Enclosure 6). We would like to hear about your experience working with the Portland District, Regulatory Branch. Please complete a customer service survey form available on our website (https://regulatory.ops.usace.army.mil/customer-service-survey/).

If you have any questions regarding this NWP verification, please contact Mr. Tyler Krug by telephone at (541) 756-2097 or by email at tyler.j.krug@usace.army.mil.

FOR THE COMMANDER, LARRY D. CASWELL, JR., PE, PMP, COLONEL, U.S. ARMY, DISTRICT COMMANDER and DISTRICT ENGINEER:

Tyler Krug

For: William D. Abadie
Chief, Regulatory Branch

Enclosures

cc:
Campbell Environmental, LLC (Eric Campbell, eric@campbellenviro.com)
Oregon Department of State Lands (Heather Dimke, heather.dimke@dsl.oregon.gov)
Oregon Department of Environmental Quality (401certifications@deq.oregon.gov)
Corps, Waterways Maintenance Section (Casey O'Donnell, casey.p.odonnell@usace.army.mil) (with drawings)

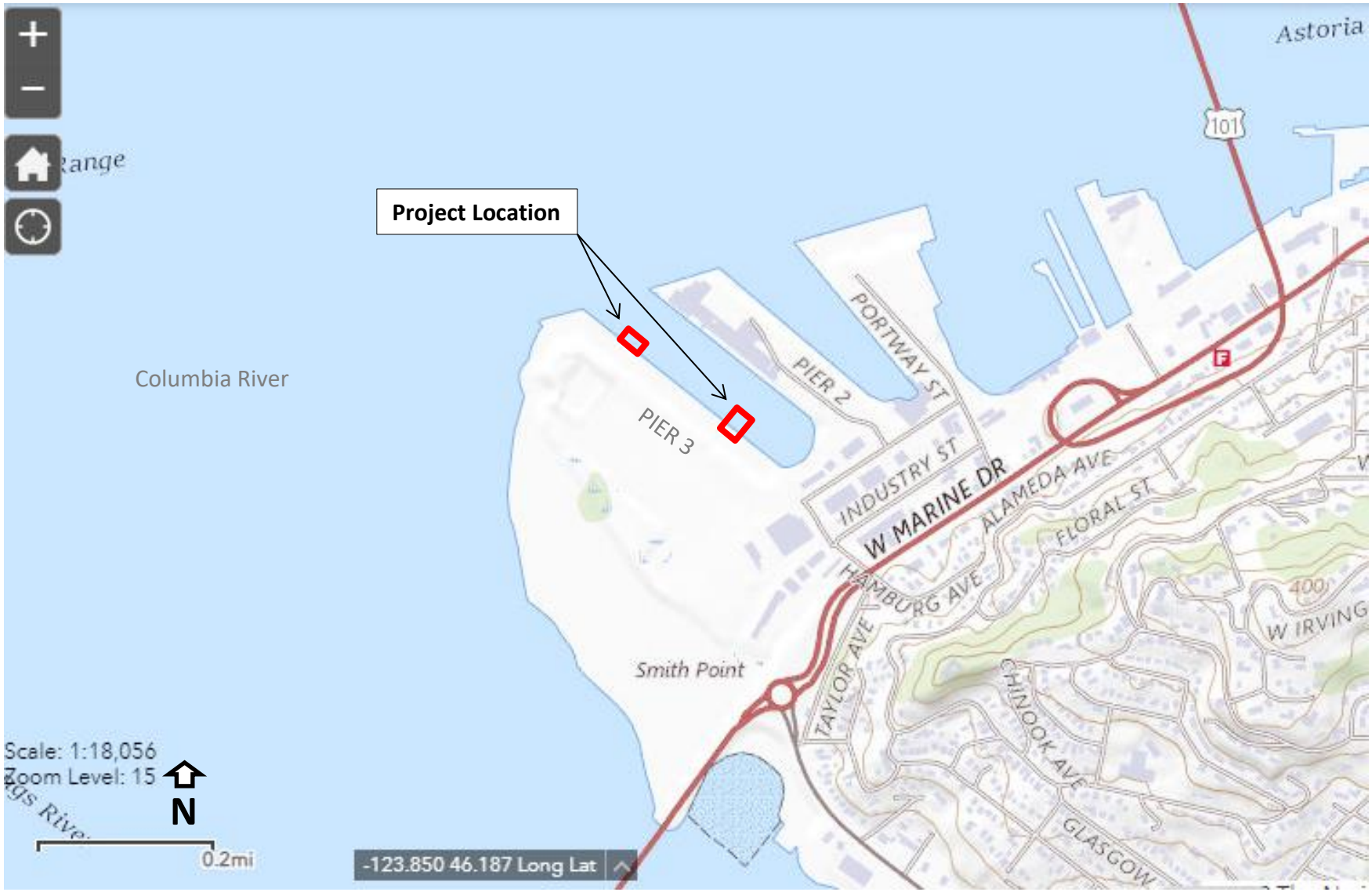


FIGURE 1: USGS Topographic Map

Port of Astoria

Pier 3 Boat Haulout Reinforcement

(USGS 2023)

Applicant: Matt McGrath, Port of Astoria
Project Name: Pier 3 Boat Haulout Reinforcement
Location: Astoria, OR
Lat/Long: 46.1872 N / -123.8622 W (WGS84)
TRS: T:8N / R:10W / S:12

FIGURE 2: Tax Lot Map

Port of Astoria

Pier 3 Boat Haulout Reinforcement

(ORMAP 2023)

Applicant: Matt McGrath, Port of Astoria
Project Name: Pier 3 Boat Haulout Reinforcement
Location: Astoria, OR
Lat/Long: 46.1872 N / -123.8622 W (WGS84)
TRS: T:8N / R:10W / S:12

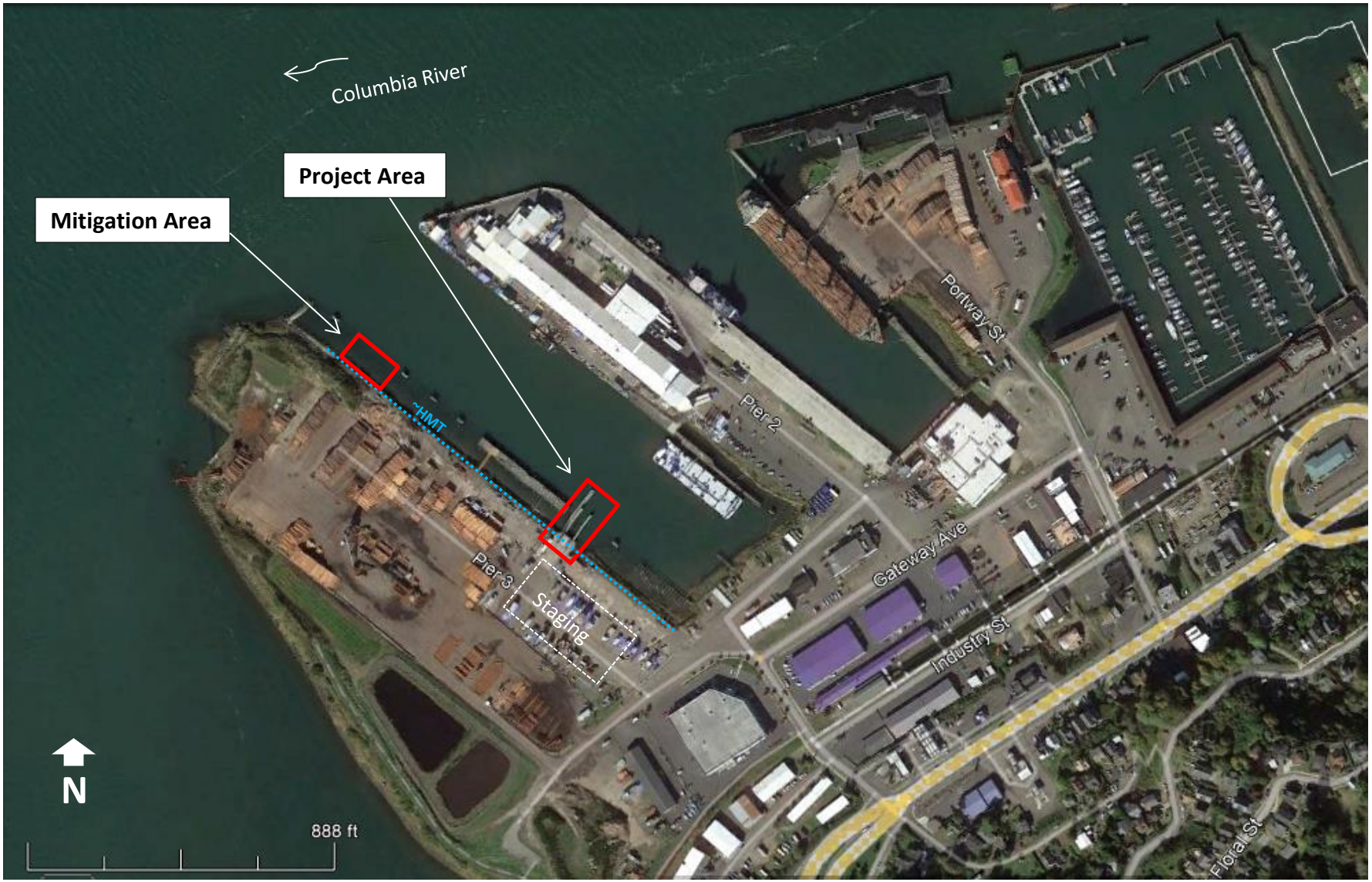


FIGURE 3: Aerial Photograph

Port of Astoria

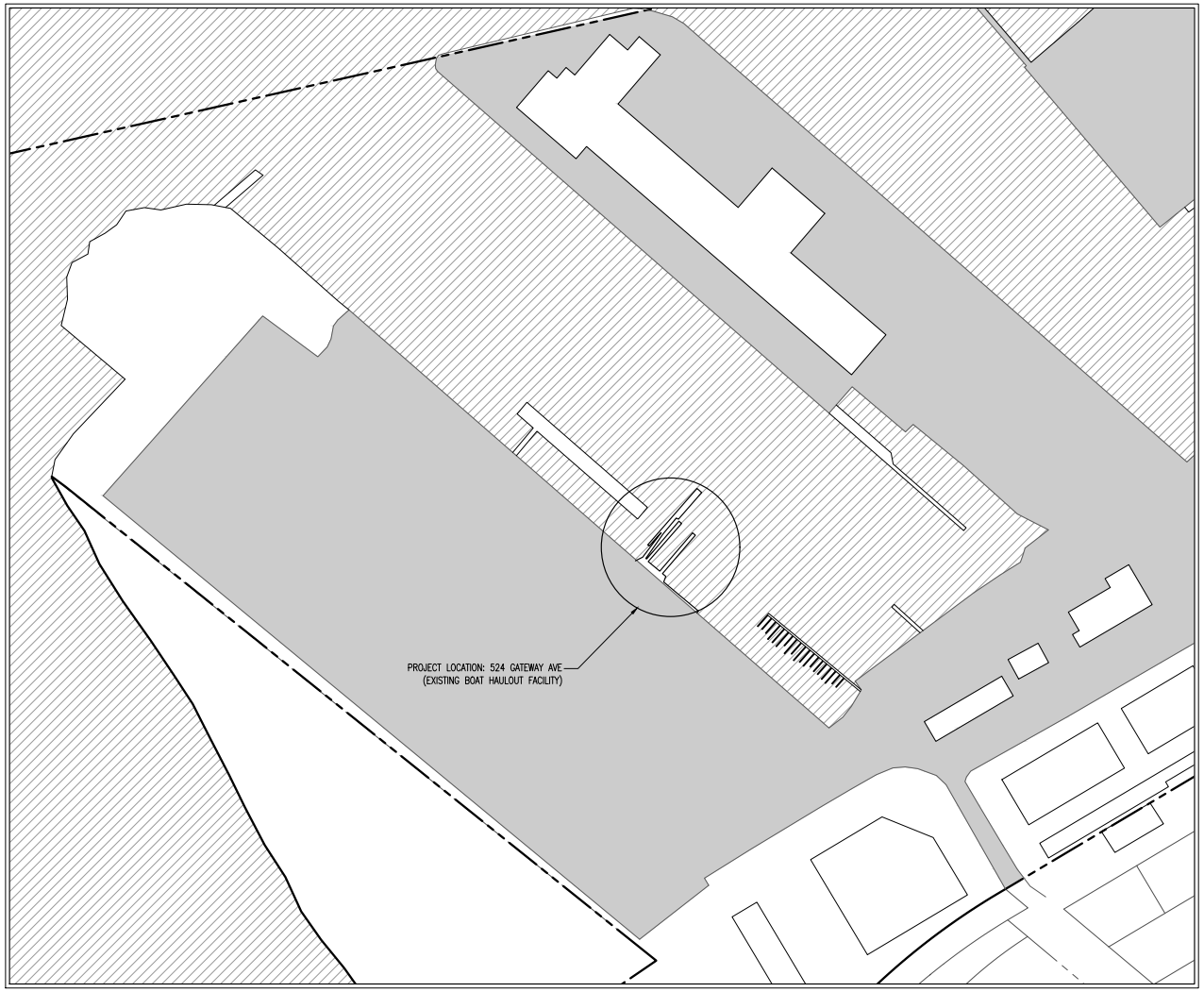
Pier 3 Boat Haulout Reinforcement

(GoogleEarth 2023)

Applicant: Matt McGrath, Port of Astoria
Project Name: Pier 3 Boat Haulout Reinforcement
Location: Astoria, OR
Lat/Long: 46.1872 N / -123.8622 W (WGS84)
TRS: T:8N / R:10W / S:12

BOAT HAULOUT EVALUATION

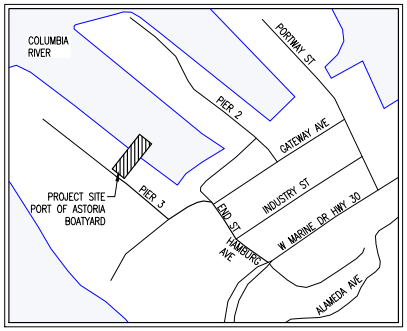
524 GATEWAY AVE
ASTORIA, OR 97103
PORT OF ASTORIA



EXISTING SITE PLAN
SCALE: 1" = 100'

NORTH

100' 50' 0' 100' 200' 300' 400' 500'



NORTH

VICINITY MAP
SCALE: NTS

DRAWING INDEX	
SHEET NUMBER	SHEET NAME
G-1	COVER SHEET
G-2	GENERAL NOTES
S-1	EXISTING CONDITIONS PLAN
S-2	EXISTING SECTION VIEWS
S-3	SECTIONS AND DETAIL VIEWS
S-4	PROPOSED CONDITIONS
S-5	PROPOSED SECTION VIEWS
S-6	PROPOSED SECTIONS & DETAILS

NOTE:
THE PURPOSE OF THESE PLANS IS TO SHOW THE EXISTING PIER SYSTEM DESIGNED FOR AN 80-METRIC TON LIFT, AND THE REQUIRED STRUCTURAL MODIFICATIONS NEEDED TO SUPPORT AN 150-TON LIFT.

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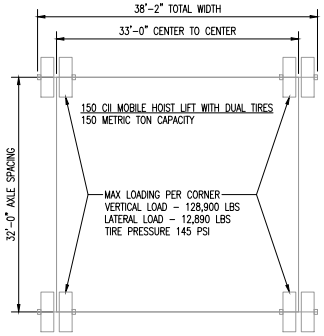
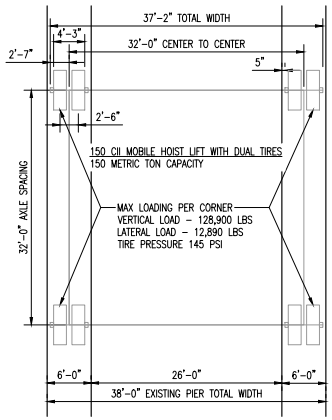
Lower Columbia Engineering
St. Helens, Oregon
(503) 366-0399

PROJ. NO.	3553	COVER SHEET	
DWG. BY	RM2	BOAT HAULOUT EVALUATION	
APPR. BY		PORT OF ASTORIA	SHEET G-1
FILE	D-3553-G-1-A	DATE 02/12/2024	



NOTE: THE INFORMATION PROVIDED HERE IS BASED ON THE SPECIFICATIONS FROM MARINE TRAVELIFT, INC. MANUFACTURE STATES WIDTH CAN BE MODIFIED TO CUSTOMER SPECIFICATIONS. LCE RECOMMENDS ORDERING A LIFT DESIGNED WITH A WHEEL CENTER TO CENTER OF 32', TO FIT THE EXISTING 38' WIDE LIFT SUPPORT PIERS. SEE MODIFIED DIAGRAM ON DETAIL 2/G-2.

1 / G-2 **NEW LIFT LOADING DIAGRAM**
SCALE: 1/8" = 1'-0"



NOTE: THE INFORMATION PROVIDED HERE IS BASED ON THE SPECIFICATIONS FROM MARINE TRAVELIFT, INC. MANUFACTURE STATES WIDTH CAN BE MODIFIED TO CUSTOMER SPECIFICATIONS. LCE RECOMMENDS ORDERING A LIFT DESIGNED WITH A WHEEL CENTER TO CENTER OF 32', TO FIT THE EXISTING 38' WIDE LIFT SUPPORT PIERS.

2 / G-2 **NEW LIFT LOADING DIAGRAM WITH MODIFIED WIDTH**
SCALE: 1/8" = 1'-0"

STEEL NOTES

1. ALL STEEL SHALL BE NEW DOMESTIC STOCK. HOT ROLLED SHAPES AND PLATES SHALL CONFORM TO ASTM A36 WITH A MINIMUM YIELD STRENGTH OF 36,000 PSI. SQUARE AND RECTANGULAR TUBING SHALL BE COLD FORMED, ELECTRIC RESISTANCE WELDED AND CONFORM TO ASTM A500-GRADE B, WITH A MINIMUM YIELD STRENGTH OF 46,000 PSI. ROUND PIPE SHALL CONFORM TO ASTM A53-GRADE B, WITH A MINIMUM YIELD STRENGTH OF 35,000 PSI.

2. ALL WELDING SHALL BE OF SIZE AND TYPE APPROPRIATE FOR THE MEMBERS BEING WELDED PER APPROPRIATE AWS SPECIFICATIONS USING E70XX ELECTRODES. IN GENERAL ALL JOINTS SHALL BE FULLY WELDED WITH A FILLET WELD THAT IS 1/16" LESS THAN THE THINNEST MEMBER BEING JOINED, UNLESS NOTED OTHERWISE. CONTACT ENGINEER WITH ANY UNCERTAINTIES PRIOR TO PROCEEDING. TAKE EXTREME CARE TO NOT OVERHEAT EMBEDS IN CONCRETE.

3. ALL TEMPORARY SHORING FOR CONSTRUCTION PURPOSES AND SAFETY PROCEDURES ARE THE RESPONSIBILITY OF THE CONTRACTOR.

4. ALL STRUCTURAL STEEL SHALL BE HOT DIPPED GALVANIZED OR PRIMED WITH 3.5 MILS OF RUST INHIBITIVE PRIMER AFTER CLEANING OF OIL, DIRT, LOOSE SCALE AND FOREIGN MATTER AND RECEIVE A FINISH COAT PER OWNER. EXPOSED STEEL SHALL BE TOUCHED UP TO PREVENT CORROSION.

5. ALL BOLT ASSEMBLIES SHALL INCLUDE BOLT, NUT AND LARGE HARDENED FLAT WASHER. BOLTS SHALL CONFORM TO ASTM A325, UNLESS NOTED OTHERWISE. TIGHTEN ALL BOLTS UTILIZING THE "TURN-OF-NUT" METHOD.

6. ALL DIMENSIONS SHALL BE VERIFIED BY CONTRACTOR PRIOR TO PROCEEDING. CONTRACTOR IS RESPONSIBLE FOR DEVELOPING FABRICATION SHOP DRAWINGS. SUCH DRAWINGS SHALL BE APPROVED BY THE ENGINEER PRIOR TO PROCEEDING.

PILING NOTES

TOTAL PILING COUNT = 16

ALL PILING ARE 16" x 0.5" STANDARD PIPE (ASTM A252 GR. 3) FILLED WITH 4,000 PSI CONCRETE, CAPPED WITH A 16" DIA. X 1" THICK CAP PLATE WELDED TO BOTTOM.

DRIVE ALL PILING TO 200 KIPS.

PILING WILL BE INSTALLED BY _____. PER SUBMITTAL #_____. THIS PLAN SHALL BE MADE AVAILABLE FOR ANY COUNTY/CITY QA/QC PERSONNEL UPON REQUEST. PILING INSTALLATION TO BE OBSERVED AND DOCUMENTED BY CONTRACTED GEOTECHNICAL CONSULTANT.

PILING SHALL BE SPECIALLY INSPECTED PER OSSC 1705.7 AND TABLE 1705.7

PRESTRESSED SLAB NOTES

PRESTRESSED SLABS TO BE A DEFERRED SUBMITTAL, DESIGNED BY MANUFACTURE TO WITHSTAND AN UNFACTORED WHEEL LOAD OF 128,900 LBS. DETAILS INCLUDED HERE PROVIDED FOR REFERENCE. ACTUAL DESIGN MAY DIFFER DEPENDING ON MANUFACTURES DESIGN. NEW PANELS WILL NEED TO FIT BETWEEN EXISTING STRUCTURAL ELEMENTS. DIMENSIONS TO BE VERIFIED BY CONTRACTOR PRIOR TO FABRICATION.

GENERAL NOTES

1. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITION OF THE OSSC, OFC, OMSC, OPSC, AISC, AND ACI.
2. ALL DRAWINGS MUST BE APPROVED FOR CONSTRUCTION PRIOR TO ANY WORK BEGINNING. DO NOT SCALE DRAWINGS.
3. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS PRIOR TO FABRICATION.
4. ALL CONCRETE USED IN THE CONSTRUCTION OF THE STRUCURE FOUNDATIONS SHALL ATTAIN A MINIMUM COMPRESSIVE STRENGTH OF 4,000 PSI AFTER 28 DAYS. ALL EPOXY ANCHORS OR REBAR SHALL BE SPECIAL INSPECTED.
5. ALL REINFORCING STEEL SHALL CONFORM TO ASTM A615 GRADE 60, BILLET STEEL DEFORMED BARS.
6. ALL REINFORCING SHALL BE SPLICED AND/OR BENT TO FULLY DEVELOP THE CAPACITY OF THE BAR (38 x BAR DIAMETER FOR 4,000 PSI CONCRETE).
7. ALL CONCRETE MIX POURED IN A NON-CONTROLLED ENVIRONMENT SHALL CONTAIN 5% AIR ENTRAINMENT PER ASTM C260. ALL WALKING SURFACES SHALL RECEIVE A SLIP RESISTANT SURFACE.
8. ALL FOUNDATIONS SHALL BE SUPPORTED PER GEOTECHNICAL ENGINEERING REPORT BY _____ DATED _____.
9. ALL BACKFILL SHALL BE EVENLY PLACED IN LAYERS NOT EXCEEDING 8" IN DEPTH AND COMPACTED TO 95% OF THE MAXIMUM DRY DENSITY. REMOVE ANY STANDING WATER PRIOR TO BACKFILLING.
10. CONTRACTOR IS RESPONSIBLE FOR PROPERLY LOCATING ALL SPECIFIED ANCHOR BOLTS.
11. VERIFY WITH ALL PARTIES THAT ALL APPROPRIATE UTILITIES HAVE BEEN INSTALLED PRIOR TO EACH PHASE OF WORK.
12. ALL SITE DESIGN ISSUES, INCLUDING PROPER DRAINAGE AND VERIFICATION OF ALLOWABLE GEOTECHNICAL DESIGN VALUES AND ANY NECESSARY SLOPE STABILITY ANALYSIS ARE THE RESPONSIBILITY OF OTHERS. CONTACT ENGINEER WITH ANY UNCERTAINTIES PRIOR TO PROCEEDING.
13. ANY UNCERTAINTIES SHALL BE ADDRESSED PRIOR TO PROCEEDING. LOWER COLUMBIA ENGINEERING IS NOT RESPONSIBLE FOR THE PROPER IMPLEMENTATION OF THE SPECIFICATIONS CONTAINED ON THESE DRAWINGS.
14. ALL WEATHER PROOFING, CODE COMPLIANCE, AND SAFETY PROGRAMS ARE THE RESPONSIBILITY OF THE CONTRACTOR/OWNER.
15. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL TEMPORARY SUPPORT OF STRUCTURES AND EMBANKMENTS.

STATEMENT OF SPECIAL INSPECTION

- PRESTRESSED CONCRETE PER OSSC TABLE 1705.3.
- REINFORCED CONCRETE SHALL BE PERIODICALLY TESTED IN ACCORDANCE WITH THE STANDARDS OF ASTM C192 AND ACI 318.
- PERFORM CONTINUOUS SPECIAL INSPECTION OF ALL FIELD WELDING AND EPOXY ANCHORS.
- PILING SHALL BE INSPECTED PER OSSC 1705.7 AND TABLE 1705.7
- CONTRACTOR IS RESPONSIBLE FOR COORDINATING ALL REQUIRED INSPECTIONS/OBSERVATIONS.

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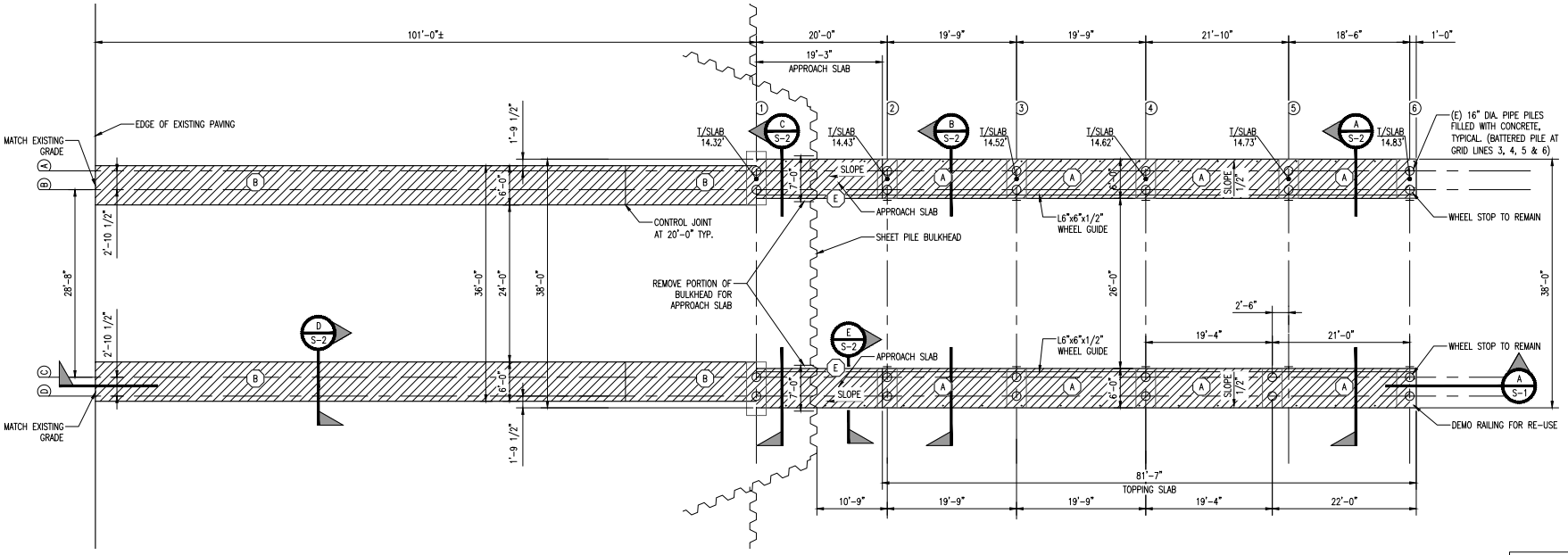
(503) 366-0399

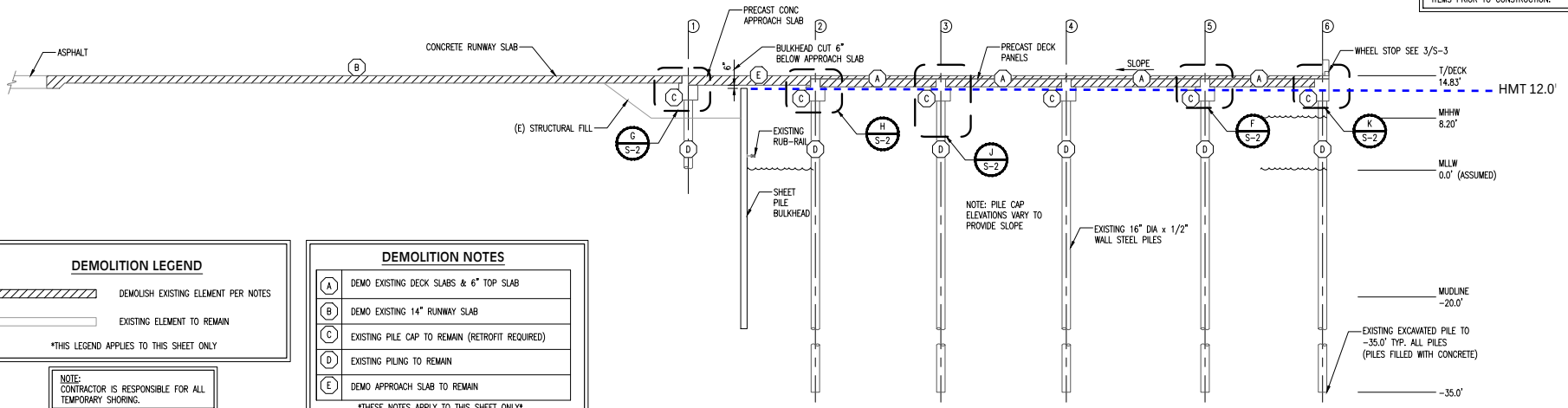
PROJ. NO.	3553	GENERAL NOTES	
DWG. BY	RM2	BOAT HAULOUT EVALUATION	
APPR. BY		PORT OF ASTORIA	SHEET G-2
FILE	D-3553-G-2-A	DATE 02/12/2024	



EXISTING HAUL-OUT PIER PLAN

SCALE: 1/8" = 1'-0"

NOTE:
INFORMATION PROVIDED HERE IS BASED ON THE ORIGINAL DESIGN PLANS BY EISI CONSULTING ENGINEERS, LAST REVISED 6/2/04. NOT ALL AS-BUILT DIMENSIONS AND ELEVATIONS HAVE BEEN VERIFIED. CONTRACTOR TO VERIFY ITEMS PRIOR TO CONSTRUCTION.



DEMOLITION LEGEND

- DEMOLISH EXISTING ELEMENT PER NOTES
- EXISTING ELEMENT TO REMAIN

*THIS LEGEND APPLIES TO THIS SHEET ONLY

NOTE:
CONTRACTOR IS RESPONSIBLE FOR ALL TEMPORARY SHORING.

DEMOLITION NOTES

A	DEMO EXISTING DECK SLABS & 6" TOP SLAB
B	DEMO EXISTING 14" RUNWAY SLAB
C	EXISTING PILE CAP TO REMAIN (RETROFIT REQUIRED)
D	EXISTING PILING TO REMAIN
E	DEMO APPROACH SLAB TO REMAIN

THESE NOTES APPLY TO THIS SHEET ONLY

A / S-1 **EXISTING HAUL-OUT PIER SECTION**

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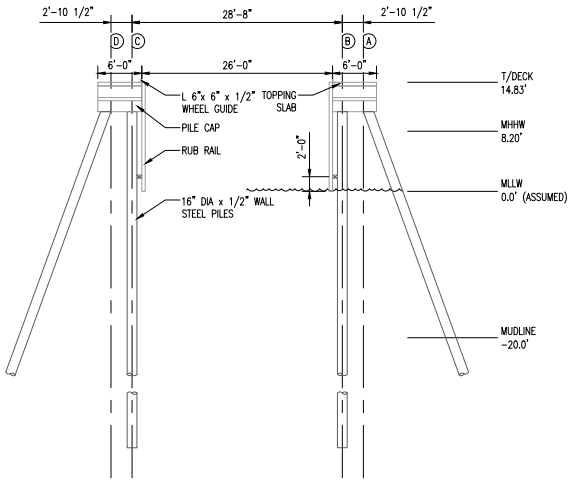
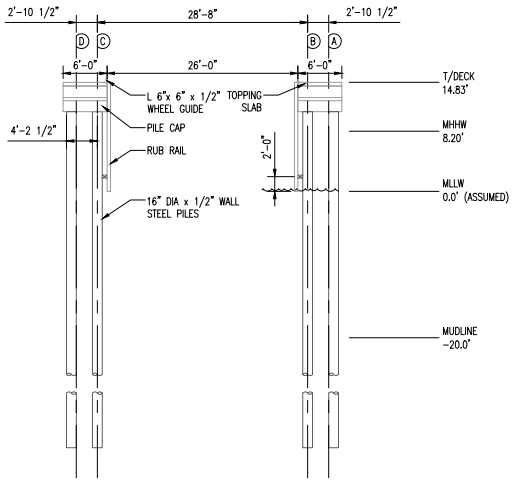
PROJ. NO.	3553	EXISTING CONDITIONS PLAN	
DWG. BY	RM2	BOAT HAULOUT EVALUATION	
APPR. BY		PORT OF ASTORIA	SHEET S-1
FILE	D-3553-S-1-A	DATE 02/12/2024	



A S-2 **SECTION**
SCALE: 1/8" = 1'-0"



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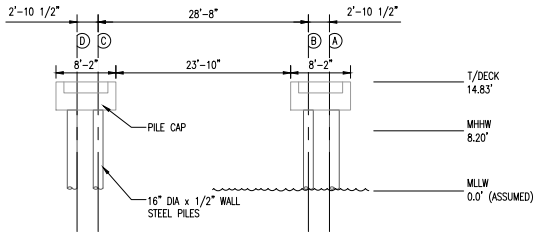

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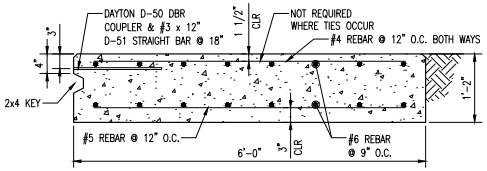

D S-2 **EXISTING RUNWAY SECTION**
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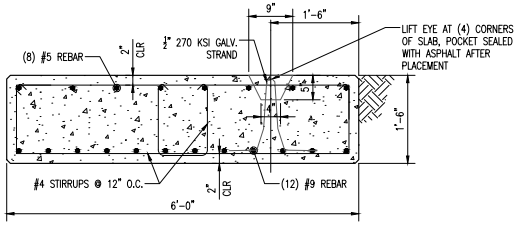

E S-2 **EXISTING APPROACH SLAB SECTION**
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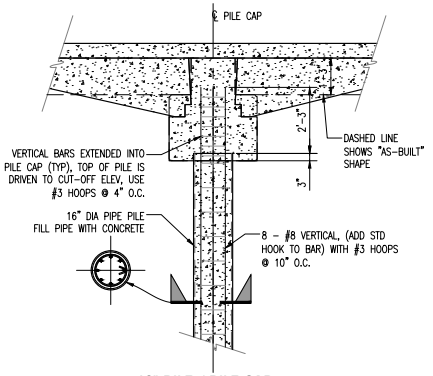
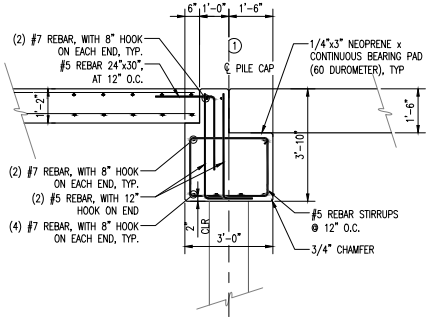


F S-2 **16" PILE / PILE CAP EXISTING CONNECTION DETAIL**
SCALE: 1/2" = 1'-0"



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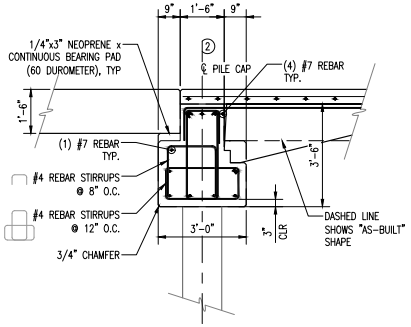
SCALE: 1/2" = 1'-0"



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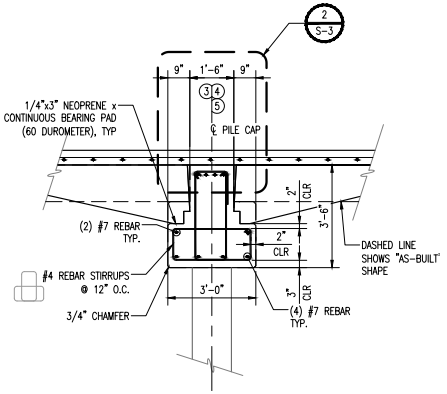

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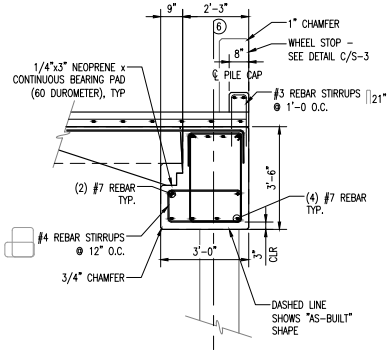

K S-2 **SECTION**
SCALE: 1/2" = 1'-0"

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DATE: 01/22/2025
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NON-PRESTRESSED CONCRETE SPEC'S.
EXISTING REBAR TIES #4 OR SMALLER ARE GRADE 40.
ALL OTHER NON-PRESTRESSED REBAR ARE GRADE 60.
MIN. DESIGN CONCRETE STRENGTH = 4,000 PSI.

NOTE:
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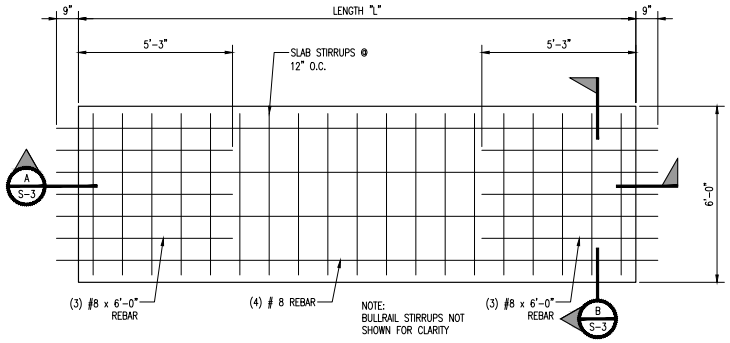
REV.	REVISION RECORD	DATE

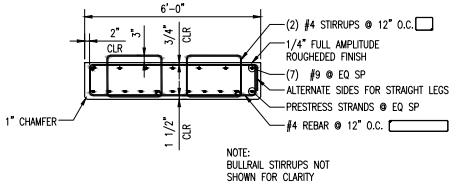
Lower Columbia Engineering
St. Helens, Oregon
(503) 366-0399

PROJ. NO.	3553	EXISTING SECTION VIEWS	
DWG. BY	RM2	BOAT HAULOUT EVALUATION	
APPR. BY		PORT OF ASTORIA	SHEET S-2
FILE	D-3553-S-2-A	DATE 02/12/2024	

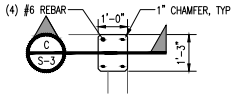


EXISTING PRESTRESSED PRECAST DECK PANEL - PLAN
SCALE: 1/2" = 1'-0"

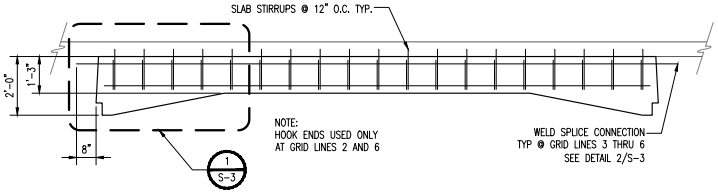
EXISTING PRECAST DECK PANELS	
PANEL	LENGTH "L"
P1	18'-3"
P2	18'-3"
P3	16'-6"
P4	19'-0"
P5	20'-4"
P6	17'-9"



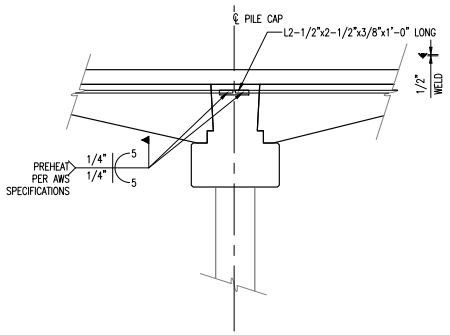
B S-3 EXISTING PRESTRESSED PRECAST DECK PANEL - SECTION
SCALE: 1/2" = 1'-0"



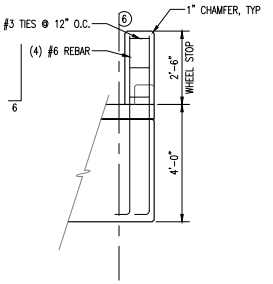
3 S-3 WHEEL STOP DETAIL
SCALE: 1/2" = 1'-0"



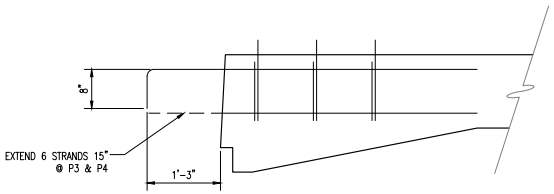
A S-3 EXISTING PRESTRESSED PRECAST DECK PANEL - SECTION
SCALE: 1/2" = 1'-0"



2 S-3 EXISTING PRESTRESSED PRECAST DECK PANEL CONNECTION DETAIL
SCALE: 1/2" = 1'-0"



C S-3 WHEEL STOP SECTION
SCALE: 1/2" = 1'-0"



1 S-3 EXISTING PRESTRESSED PRECAST DECK PANEL - DETAIL
SCALE: 1" = 1'-0"

EXISTING PLANS - FOR REFERENCE ONLY

DATE: 01/22/2025
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NOTE:
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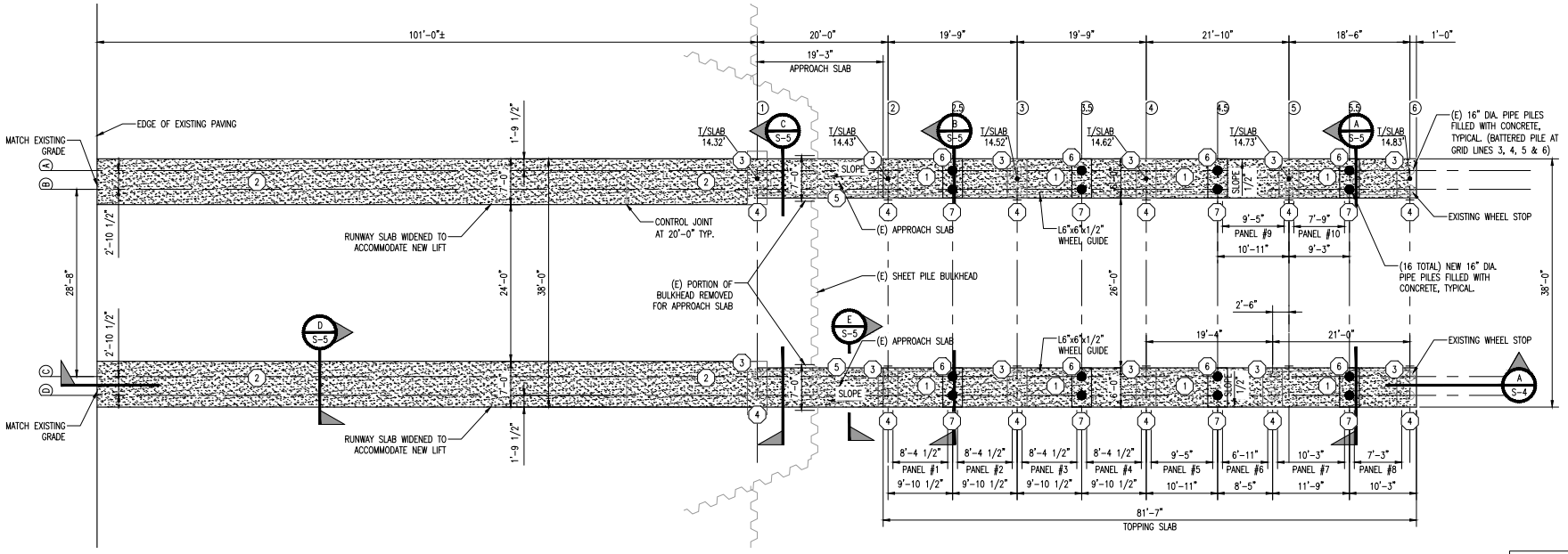
REV.	REVISION RECORD	DATE

Lower Columbia Engineering
St. Helens, Oregon
(503) 366-0399

PROJ. NO.	3553	EXISTING SECTIONS AND DETAIL VIEWS	
DWG. BY	RM2	BOAT HAULOUT EVALUATION	
APPR. BY		PORT OF ASTORIA	SHEET S-3
FILE	D-3553-S-3-A	DATE 02/12/2024	



NOTE:
NEW PIER SYSTEM IS DESIGNED TO SUPPORT AN 150-METRIC TON LIFT.

PROPOSED HAUL-OUT PIER PLAN

SCALE: 1/8" = 1'-0"

NOTE:
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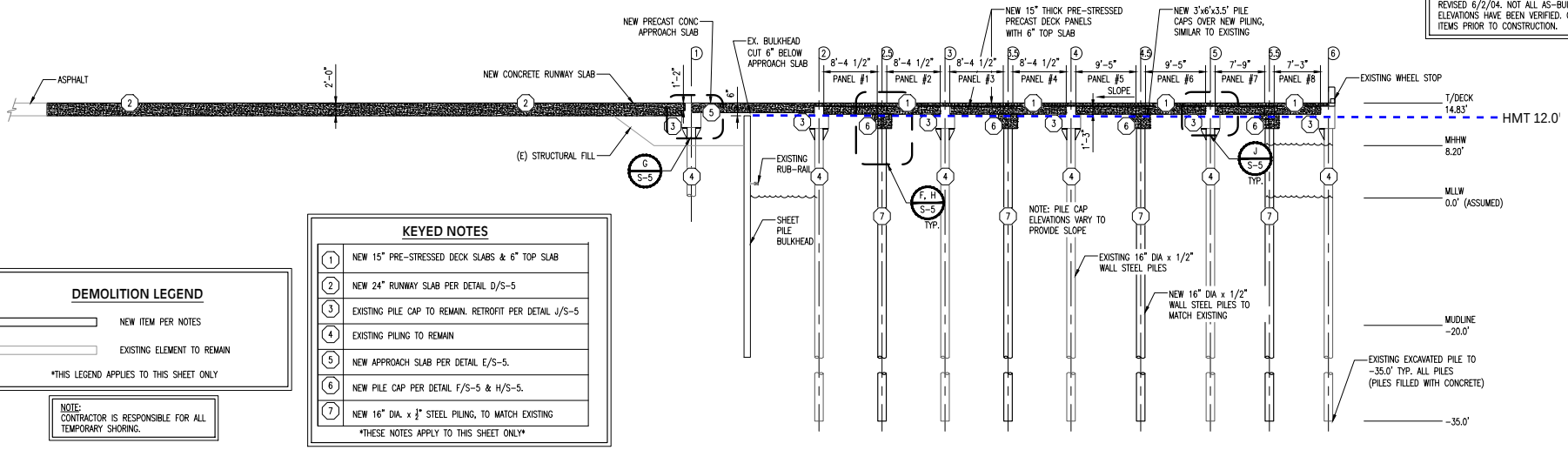

DEMOLITION LEGEND

NEW ITEM PER NOTES

EXISTING ELEMENT TO REMAIN

*THIS LEGEND APPLIES TO THIS SHEET ONLY

NOTE:
CONTRACTOR IS RESPONSIBLE FOR ALL TEMPORARY SHORING.

KEYED NOTES

1	NEW 15" PRE-STRESSED DECK SLABS & 6" TOP SLAB
2	NEW 24" RUNWAY SLAB PER DETAIL D/S-5
3	EXISTING PILE CAP TO REMAIN. RETROFIT PER DETAIL J/S-5
4	EXISTING PILING TO REMAIN
5	NEW APPROACH SLAB PER DETAIL E/S-5.
6	NEW PILE CAP PER DETAIL F/S-5 & H/S-5.
7	NEW 16" DIA. x ½" STEEL PILING, TO MATCH EXISTING

THESE NOTES APPLY TO THIS SHEET ONLY

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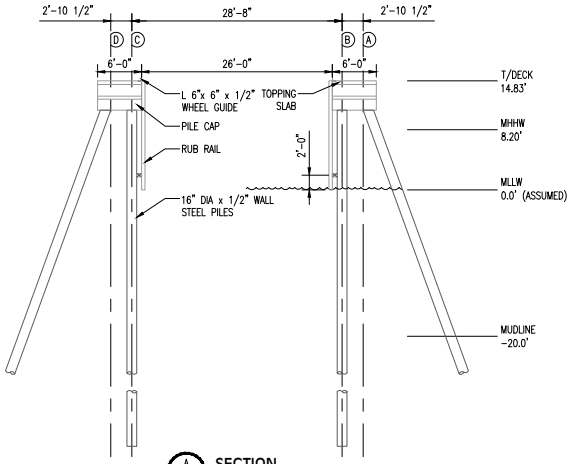
A S-4 **PROPOSED HAUL-OUT PIER SECTION**
SCALE: 1/8" = 1'-0"

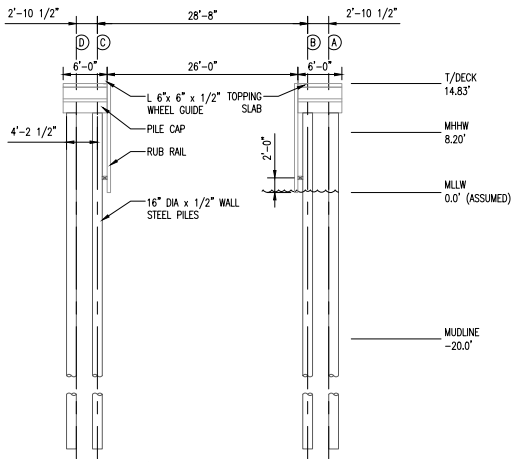
REV.	REVISION RECORD	DATE

Lower Columbia Engineering
St. Helens, Oregon
(503) 366-0399

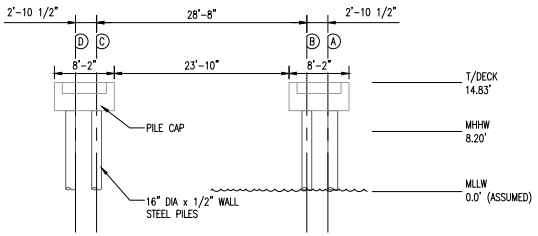
PROJ. NO.	3553	PROPOSED CONDITIONS	
DWG. BY	RM2	BOAT HAULOUT EVALUATION	
APPR. BY		PORT OF ASTORIA	SHEET S-4
FILE	D-3553-S-4-A	DATE 02/12/2024	



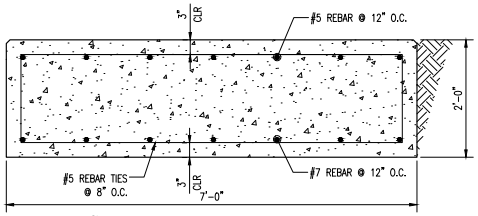
A S-5 SECTION
SCALE: 1/8" = 1'-0"



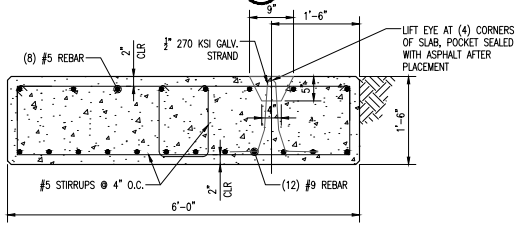
B S-5 SECTION
SCALE: 1/8" = 1'-0"



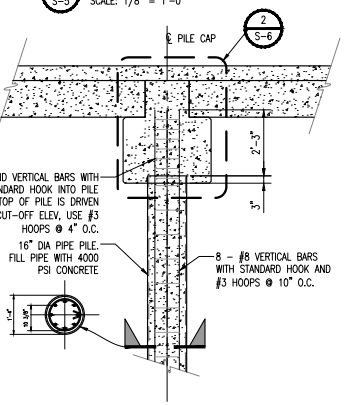
C S-5 SECTION
SCALE: 1/8" = 1'-0"



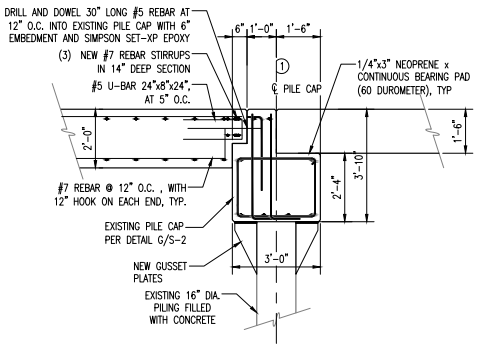
D S-5 PROPOSED 24" RUNWAY SECTION
SCALE: 1" = 1'-0"



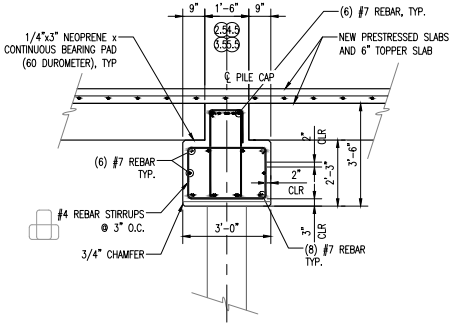
E S-5 PROPOSED APPROACH SLAB SECTION
SCALE: 1" = 1'-0"



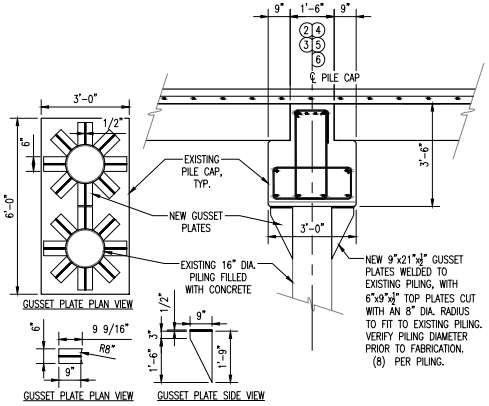
16" PILE / PILE CAP
F S-5 PROPOSED CONNECTION DETAIL
SCALE: 1/2" = 1'-0"



G S-5 SECTION
SCALE: 1/2" = 1'-0"



H S-5 SECTION
SCALE: 1/2" = 1'-0"



J S-5 EXISTING PILECAP - RETROFIT SECTION
SCALE: 1/2" = 1'-0"

DATE: 01/22/2025
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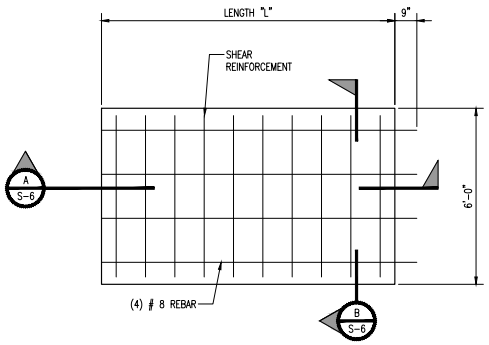
REV.	REVISION RECORD	DATE

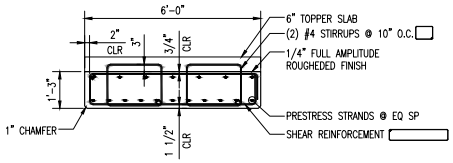
Lower Columbia Engineering
St. Helens, Oregon
(503) 366-0399

PROJ. NO.	3553	PROPOSED SECTION VIEWS	
DWG. BY	RM2	BOAT HAULOUT EVALUATION	
APPR. BY		PORT OF ASTORIA	SHEET S-5
FILE	D-3553-S-5-A	DATE 02/12/2024	



EXISTING PRECAST DECK PANELS	
PANEL #	LENGTH "L"
1	8'-4 1/2"
2	8'-4 1/2"
3	8'-4 1/2"
4	8'-4 1/2"
5	9'-5"
6	6'-11"
7	10'-3"
8	7'-3"
9	9'-5"
10	7'-9"

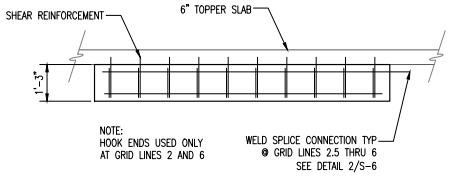
PRECAST DECK PANEL - PLAN
SCALE: 1/2" = 1'-0"



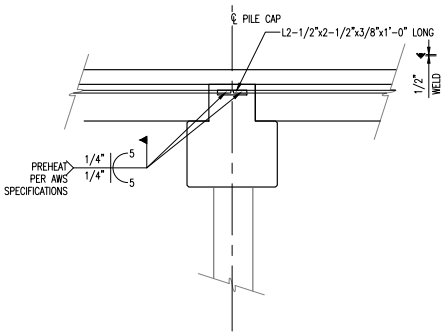
B S-6 **PRECAST DECK PANEL - SECTION**
SCALE: 1/2" = 1'-0"

PRESTRESSED SLAB NOTES

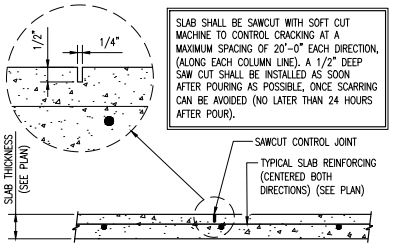
PRESTRESSED SLABS TO BE A DEFERRED SUBMITTAL, DESIGNED BY MANUFACTURE TO WITHSTAND AN UNFACTORED WHEEL LOAD OF 128,900 LBS. DETAILS INCLUDED HERE PROVIDED FOR REFERENCE. ACTUAL DESIGN MAY DIFFER DEPENDING ON MANUFACTURES DESIGN. NEW PANELS WILL NEED TO FIT BETWEEN EXISTING STRUCTURAL ELEMENTS. DIMENSIONS TO BE VERIFIED BY CONTRACTOR PRIOR TO FABRICATION.



A S-6 **PRECAST DECK PANEL - SECTION**
SCALE: 1/2" = 1'-0"



2 S-6 **PRECAST DECK PANEL CONNECTION DETAIL**
SCALE: 1/2" = 1'-0"



SAW CUT CRACK CONTROL JOINT DETAIL
SCALE: NTS

NOTE - FOR REFERENCE ONLY - PRESTRESSED DESIGN BY OTHERS

DATE: 01/22/2025
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St. Helens, Oregon
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PROJ. NO.	3553	PROPOSED SECTIONS & DETAILS	
DWG. BY	RM2	BOAT HAULOUT EVALUATION	
APPR. BY		PORT OF ASTORIA	SHEET S-6
FILE	D-3553-S-6-A	DATE 02/12/2024	

US Army Corps of Engineers ®
Portland District

Nationwide Permit 3
Terms and Conditions

Effective Date: February 25, 2022

In addition to any special conditions that may be required on a case-by-case basis by the District Engineer, the following terms and conditions must be met, as applicable, for a Nationwide Permit authorization to be valid in Oregon.

A. Description of Activities Authorized by Nationwide Permit (NWP) 3

3. *Maintenance*. (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP also authorizes the removal of previously authorized structures or fills. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project. This NWP also authorizes the removal of accumulated sediment and debris within, and in the immediate vicinity of, the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris outside the immediate vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend farther than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or

restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization.

(c) This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After conducting the maintenance activity, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation. This NWP does not authorize beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 32). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Authorities: Sections 10 and 404)

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

B. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. *Navigation*. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. *Aquatic Life Movements*. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. *Spawning Areas*. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. *Migratory Bird Breeding Areas*. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. *Shellfish Beds*. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. *Suitable Material*. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. *Water Supply Intakes*. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. *Adverse Effects from Impoundments*. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. *Management of Water Flows*. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. *Fills Within 100-Year Floodplains*. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. *Equipment*. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. *Soil Erosion and Sediment Controls*. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. *Removal of Temporary Structures and Fills*. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. *Proper Maintenance*. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. *Single and Complete Project*. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. *Wild and Scenic Rivers*. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for

such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. *Tribal Rights*. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. *Endangered Species*. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA Section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of “effects of the action” for the purposes of ESA Section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA Section 7 regarding “activities that are reasonably certain to occur” and “consequences caused by the proposed action.”

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA Section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under Section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical

habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA Section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA Section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA Section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA Section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA Section 7

consultation conducted for the ESA Section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA Section 7 consultation for the ESA Section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA Section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA Section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA Section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. *Migratory Birds and Bald and Golden Eagles*. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. *Historic Properties*. (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under Section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with Section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of,

or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of Section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA Section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. If NHPA Section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that Section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties

of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. *Discovery of Previously Unknown Remains and Artifacts*. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. *Designated Critical Resource Waters*. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. *Mitigation*. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless

the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is

provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. *Safety of Impoundment Structures*. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. *Water Quality*. (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA Section 401, a CWA Section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA Section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. *Coastal Zone Management*. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. *Regional and Case-By-Case Conditions*. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA Section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. *Use of Multiple Nationwide Permits*. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1⁄3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. *Transfer of Nationwide Permit Verifications*. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification

must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

_____
(Transferee)

_____
(Date)

30. *Compliance Certification*. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. *Activities Affecting Structures or Works Built by the United States*. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires Section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the Section

408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. *Pre-Construction Notification*. (a) *Timing*. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit

a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for Section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification*: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination*: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the

terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

C. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or

cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for

compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

D. Further Information

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

E. Portland District Regional Conditions

1. *Notification:* For permittees that received written NWP approval, upon starting the authorized activities, you shall notify the U.S. Army Corps of Engineers, Portland District, Regulatory Branch that the work has started. Notification shall be provided by e-mail to cenwp.notify@usace.army.mil and the email subject line shall include: Corps project number and the project location by county.

2. *Aquatic Resources of Special Concern*: Pre-construction notification to the District Engineer is required for all activities proposed in waters of the U.S. within, or directly affecting, an aquatic resource of special concern. Aquatic resources of special concern are resources that are difficult to replace, unique, and/or have high ecological function. For the purpose of this regional condition, aquatic resources of special concern are native eel grass (Zostera marina) beds, mature forested wetlands, bogs, fens, vernal pools, alkali wetlands, wetlands in dunal systems along the Oregon coast, estuarine wetlands, Willamette Valley wet prairie wetlands, marine gardens, marine reserves, kelp beds, and rocky substrate in tidal waters.

In addition to the content requirements of NWP General Condition (GC) 32, the pre-construction notification must include a statement explaining why the effects of the proposed activity are no more than minimal. Written approval from the District Engineer must be obtained prior to commencing work.

Note: If the District Engineer determines that the adverse effects of the proposed activity are more than minimal, then the District Engineer will notify the applicant that either:

a. the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;

b. the activity is authorized under the NWP subject to submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or

c. the activity is authorized under the NWP with specific modifications or conditions.

3. *Cultural Resources and Human Burials-Inadvertent Discovery Plan*: In addition to the requirements in NWP GCs 20 and 21, the permittee shall immediately notify the District Engineer if, at any time during the course of the work authorized, human burials, cultural items, or historic properties, as defined by the National Historic Preservation Act and Native American Graves Protection and Repatriation Act, are discovered. The permittee shall implement the following procedures as outlined on the Inadvertent Discovery Plan posted on the Portland District Regulatory website at *https://www.nwp.usace.army.mil/Missions/Regulatory/Nationwide.aspx*

Notify the Portland District Engineer as soon as possible following discovery but in no case later than 24 hours. Notification shall be sent electronically

(cenwp.notify@usace.army.mil) and shall identify the Corps project number and clearly specify the purpose is to report a cultural resource discovery. The permittee shall also notify the Corps representative (by email and telephone) identified in the verification letter.

4. *Essential Fish Habitat:* Activities which may adversely affect essential fish habitat, as defined under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), are not authorized by NWP until essential fish habitat requirements have been met by the applicant and the Corps. Non-federal permittees must submit a pre-construction notification to the District Engineer if essential fish habitat may be affected by, or is in the vicinity of, a proposed activity and shall not begin work until notified by the District Engineer that the requirements of the essential fish habitat provisions of the MSA have been satisfied and the activity is authorized. The notification must identify the type(s) of essential fish habitat (e.g., Pacific coast salmon, Pacific coast groundfish, and/or Coastal-pelagic species) managed by a Fishery Management Plan that may be affected. Information about essential fish habitat is available at NOAA's website: *http://www.westcoast.fisheries.noaa.gov*

5. *Bank Stabilization:* Permittee shall include the use of bioengineering techniques and natural materials in the project design to the maximum extent practicable and shall minimize the use of rock. Bioengineering bank stabilization techniques are those that increase the strength and structure of soils with a combination of biological and mechanical elements (e.g., vegetation, root wads and woody debris, rock structures). Riparian plantings shall be included in all project designs unless the permittee can demonstrate that such plantings are not practicable.

6. *Work Area Isolation and Dewatering:* Appropriate best management practices shall be implemented to prevent erosion and to prevent sediments from entering waters of the U.S.

a. All in-water work shall be isolated from the active channel or conducted during low seasonal stream flows to the maximum extent practicable.

b. Cofferdams shall be constructed of non-erosive material, such as concrete jersey barriers, sand and gravel bag dams, or water bladders. Constructing a cofferdam by pushing material from the streambed or sloughing material from the streambanks is not authorized.

c. Sand and gravel bag dams shall be lined with a plastic liner or geotextile fabric to reduce permeability and prevent sediments and/or construction materials from entering waters of the U.S.

d. Upstream and downstream flows shall be maintained by routing flows around the construction site.

e. When dewatering is necessary for construction, a sediment basin, or other

applicable method, shall be used to settle sediments prior to releasing the water back into the waterbody. Settled water shall be returned to the waterbody in such a manner as to avoid erosion. Sediment basins shall be placed in uplands.

f. Fish and other aquatic species must be salvaged (i.e., safely captured and relocated away from the project or development site) prior to dewatering. Contact ODFW for additional information regarding fish salvage.

7. *Dredging:* For NWP-authorized activities that involve removal of sediment from waters of the U.S., the permittee shall ensure that any necessary sediment characterization regarding size, composition, and potential contaminants is conducted and reviewed prior to dredging. Sediment characterization must be conducted per the Sediment Evaluation Framework for the Pacific Northwest (available at: *http://www.nwp.usace.army.mil/Missions/Environmental-Stewardship/DMM.aspx*).

Note: The return water from a contained disposal area is defined as a discharge of dredged material by 33 CFR part 323.2(d) and requires separate authorization from the District Engineer (*e.g.*, by NWP 16).

8. *Mechanized Equipment:* In addition to the requirements in NWP GC 11, permittee shall implement the following practices to prevent or minimize impacts to the aquatic environment from mechanized equipment:

a. Operate equipment from the top of a streambank and conduct work outside of the active stream channel, unless specifically authorized by the District Engineer.

b. Spill prevention and containment materials shall be maintained and be readily accessible at vehicle staging areas. The amount of spill response materials (such as straw matting/bales, geotextiles, booms, diapers, and other absorbent materials, shovels, brooms, and containment bags) maintained on-site must be appropriate for the size of the authorized activity.

Note: See Regional Condition 10 regarding timeframes for temporary fills.

9. *Erosion Control:* During construction and until the site is stabilized, the permittee shall ensure all practicable measures are implemented and maintained to prevent erosion and runoff. Temporary stockpiles of excavated or dredged material shall be stabilized to prevent erosion. Once soils or slopes have been stabilized, permittee shall completely remove and properly dispose of or re-use all non-biodegradable components of installed control measures.

10. *Temporary Fills and Impacts:* To ensure no more than minimal adverse environmental effects from temporary fills and impacts to waters of the U.S:

a. Temporary fills and/or impacts to waters of the U.S. shall not exceed six months unless otherwise approved by the District Engineer.

b. No more than one-half (½) acre of waters of the U.S. may be temporarily filled or impacted unless otherwise approved by the District Engineer (temporary fills and impacts do not affect specified limits for loss of waters associated with specific nationwide permits).

c. Native soils and/or sediments removed from waters of the U.S. for project construction shall be stockpiled and used for site restoration to the maximum extent practicable.

d. Site restoration of temporarily filled or impacted areas shall include returning the area to pre-project ground surface contours. The permittee shall appropriately revegetate temporarily filled or impacted areas with native, noninvasive herbs, shrubs, and/or tree species sufficient in number, spacing, and diversity to replace affected aquatic functions.

Note: The Corps will determine compensatory mitigation requirements for temporary fills and impacts on a case-by-case basis depending on the duration and nature of the temporary fill or impact and the type of aquatic resource affected.

11. *Contractor Notification of Permit Requirements:* The permittee must provide a copy of the Nationwide Permit verification letter, conditions, and permit drawings to all contractors and any other parties performing the authorized work, prior to the commencement of any work in waters of the U.S.

12. *Inspection of the Project Site:* The permittee shall allow representatives of the District Engineer to inspect the authorized activity to confirm compliance with nationwide permit terms and conditions. A request for access to the site will normally be made sufficiently in advance to allow a property owner or representative the option to be on site during the inspection.

Oregon
Tina Kotek, Governor

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Northwest Region
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Portland, OR 97232
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June 5, 2025

Matt McGrath
Port of Astoria
422 Gateway Ave., Suite 100
Astoria, OR 97103

RE: 401 Water Quality Certification Approval for 2025-150, Pier 3 Boat Haulout Reinforcement

The US Army Corps of Engineers (USACE) has determined that your project will be authorized under Nationwide Permit (NWP) category #3. As described in the application package received and reviewed by the Oregon Department of Environmental Quality (DEQ), the project qualifies for the expedited 401 Water Quality Certification (WQC), subject to the conditions outlined below. If you cannot meet all conditions of this 401 WQC, you may apply for a standard individual certification. A standard individual certification will require additional information, a public notice, and a higher review fee.

Certification Decision: Based on information provided by the USACE and the Applicant, DEQ has determined that implementation eligible activities under the proposed NWP will be consistent with water quality requirements including applicable provisions of Sections 301, 302, 303, 306, and 307 of the federal Clean Water Act, state water quality standards set forth in Oregon Administrative Rules Chapter 340 Division 41, and other appropriate requirements of state law, provided the following conditions are incorporated into the federal permit and strictly adhered to by the Applicant.

Duration of Certificate: This 401 WQC for impacts to waters, including dredge and fill activities, is valid for the duration of the USACE Section 404 permit. A new 401 WQC must be requested with any modification of the USACE 404 permit.

In addition to all USACE national and regional permit conditions, the following 401 WQC conditions apply to all NWP categories that qualify for the Nationwide 401 WQC.

401 GENERAL CERTIFICATION CONDITIONS

1) **Responsible parties:** This 401 WQC applies to the Applicant. The Applicant is responsible for the work of its contractors and sub-contractors, as well as any other entity that performs work related to this WQC.
Rule: *40 CFR 121, OAR 340-048-0015*
Justification: *DEQ must be aware of responsible parties to ensure compliance.*

2) **Work Authorized:** Work authorized by this 401 WQC is limited to the work described in the Permit Application and additional application materials (hereafter “the permit application materials”), unless otherwise authorized by DEQ. If the project is operated in a manner not consistent with the project description contained in the permit application materials, the Applicant is not in compliance with this 401 WQC and may be subject to enforcement.

Rule: *OAR 340-048-0015*
Justification: *To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.*

3) **401 WQC on Site:** A copy of this 401 WQC must be kept on the job site and readily available for reference by the Applicant and its contractors and subcontractors, as well as by DEQ, USACE, National Marine Fisheries Service (NMFS), Oregon Department of Fish and Wildlife (ODFW), and other state and local government inspectors.
Rule: *OAR 340-012*
Justification: *All parties must be aware of and comply with the 401 WQC, including on-site contractors.*

4) **Project Changes:** DEQ may modify or revoke this 401 WQC, in accordance with OAR 340-048-0050, if the project changes or project activities are having an adverse impact on state water quality or beneficial uses, or if the Applicant is otherwise in violation of the conditions of this certification.
Rule: *OAR 340-048-0050*
Justification: *To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.*

5) **Land Use Compatibility Statement:** In accordance with OAR 340-048-0020(2) (i), each Applicant must submit findings prepared by the local land use jurisdiction that demonstrates the activity's compliance with the local comprehensive plan. Such findings can be submitted using Section 11 of the Joint Permit Application, signed by the appropriate local official and indicating:

   a. "This project is consistent with the comprehensive plan and land use regulations;" or,

   b. "This project will be consistent with the comprehensive plan and land use regulations when the following local approvals are obtained," accompanied by the obtained local approvals.

   c. Rarely, such as for federal projects on federal land, "this project is not regulated by the comprehensive plan" will be acceptable.

   In lieu of submitting the appropriate section of the USACE & Department of State Lands (DSL) Joint Permit Application, the Applicant may use DEQ's Land Use Compatibility Statement form found at: http://www.oregon.gov/deq/FilterDocs/lucs.pdf
   Rule: *OAR 340-048-0020(2) (i), OAR 340-018*
   Justification: *DEQ must ensure compliance with water quality land use laws at the local level.*

6) **Access:** The Applicant and its contractors must allow DEQ access to the project site with or without prior notice, including staging areas, and mitigation sites to monitor compliance with these 401 WQC conditions, including:

   a. Access to any records, logs, and reports that must be kept under the conditions of this 401 WQC;

   b. To inspect best management practices (BMPs), monitoring or equipment or methods; and

   c. To collect samples or monitor any discharge of pollutants.

   Rule: *OAR 340-012*
   Justification: *DEQ must inspect facilities for compliance with all state rules and laws.*

7) Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.
Rule: *OAR 340-012*
Justification: *If the project is not being constructed or operated as proposed, it may not be consistent with water quality requirements.*

FOR PROJECTS THAT PROPOSE CONSTRUCTION, THE FOLLOWING GENERAL CONDITIONS APPLY

8) **Erosion and Sediment Control**: During construction, erosion control measures must be implemented to prevent or control movement of soil into waters of the state. The Applicant is required to develop and implement an effective erosion and sediment control plan. A project that disturbs more than one acre may be required to obtain a National Pollutant Discharge Elimination System (NPDES) 1200-C construction stormwater general permit**.** Contact the DEQ Stormwater Program for more information at: https://www.oregon.gov/deq/wq/wqpermits/Pages/Stormwater-Construction.aspx

In addition, the Applicant must:

a. Maintain an adequate supply of materials necessary to control erosion at the project construction site.

b. Prohibit erosion of stockpiles. Deploy compost berms, impervious materials, or other effective methods during rain events or when stockpiles are not moved or reshaped for more than 48 hours.

c. Inspect erosion control measures daily and maintain erosion control measures as often necessary to ensure the continued effectiveness of measures. Erosion control measures must remain in place until all exposed soil is stabilized;

i. If monitoring or inspection shows that the erosion and sediment controls are ineffective, Applicant must mobilize immediately to make repairs, install replacements, or install additional controls as necessary.

ii. If sediment has reached 1/3 of the exposed height of a sediment or erosion control, Applicant must remove the sediment to its original contour.

d. Use removable pads or mats to prevent soil compaction at all construction access points through, and staging areas in, riparian or wetland areas to prevent soil compaction, unless otherwise authorized by DEQ.

e. Flag or fence off wetlands not specifically authorized to be impacted to protect from disturbance and/or erosion.

f. Place dredged or other excavated material on upland areas with stable slopes to prevent materials from eroding back into waterways or wetlands.

g. Place clean aggregate at all construction entrances, and utilize other BMPs, including, but not limited to as truck or wheel washes, when earth moving equipment is leaving

the site and traveling on paved surfaces. The tracking of sediment off site by vehicles is prohibited.

Rule: *OAR 340-041-0007(8), ORS 468B.050, CWA Section 402, OAR 340-045*
Justification: *DEQ must ensure that pollution does not enter waterways.*

9) **Deleterious Waste Materials:** The Applicant is prohibited from placing biologically harmful materials and construction debris where they could enter waters of the state, including wetlands (wetlands are waters of the state). This includes, but is not limited to: petroleum products; chemicals; cement cured less than 24 hours; welding slag and grindings; concrete saw cutting by-products; sandblasted materials; chipped paint; tires; wire; steel posts; asphalt; and waste concrete.

The following specific requirements apply:

a. Cure concrete, cement, or grout for at least 24 hours before any contact with flowing waters;

b. Use only clean fill, free of waste and polluted substances;

c. Employ all practicable controls to prevent discharges of spills of harmful materials to surface or groundwater;

d. Maintain at the project construction site, and deploy as necessary, an adequate supply of materials needed to contain deleterious materials during a weather event;

e. Remove all foreign materials, refuse, and waste from the project area

Rule: *OAR 340-041-0007(8), ORS 468B.050, CWA Section 402*
Justification: *DEQ must ensure that pollution does not enter waterways.*

10) **Spill Prevention:** The Applicant must fuel, operate, maintain and store vehicles, and must store construction materials, in areas that will not disturb habitat directly or result in potential discharges.
Rule: *ORS 468B.025(1)(a)*
Justification: *DEQ must ensure that pollution does not enter waterways.*

11) **Spill & Incident Reporting:**

a. In the event that deleterious materials are discharged into state waters, or onto land with a potential to enter state waters, the discharge must be promptly reported to the Oregon Emergency Response Service (OERS, 1-800-452-0311) within 24 hours. Containment and cleanup must begin immediately and be completed as soon as possible.

b. If the project operations cause a water quality problem that results in distressed or dying fish, the operator must immediately: cease operations; take appropriate corrective measures to prevent further environmental damage; collect fish specimens and water samples; and notify DEQ, ODFW, NMFS, and US Fish and Wildlife Service (USFW).

Rule: *ORS 466.645(1); OAR 340-142-0030(1)(b)(B), OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways and must be protective of beneficial uses, including fish.*

12) **Vegetation Protection and Site Restoration:**

a. The Applicant must protect riparian, wetland, and shoreline vegetation in the authorized project area from disturbance through one or more of the following:

i. Minimization of project and impact footprint;

ii. Designation of staging areas and access points in open, upland areas;

iii. Fencing and other barriers demarking construction areas; and

iv. Use of alternative equipment (e.g., spider hoe or crane).

b. If authorized work results in vegetative disturbance and the disturbance has not been accounted for in planned mitigation actions, the Applicant must successfully reestablish vegetation to a degree of function equivalent or better than before the disturbance.

c. Pesticides (including herbicides) and fertilizers must be applied per manufacturer's instructions by a professionally licensed applicator. If chemical treatment is necessary, the Applicant is responsible for ensuring that pesticide application laws, including with the NPDES System 2300-A general permit, are met. Please review the information on the following website for more information: https://www.oregon.gov/deq/wq/wqpermits/Pages/Pesticide.aspx

i. For pesticide application within stormwater treatment facilities or within 150 feet of waters of the state, the Applicant must adopt an Integrated Pest Management (IPM) plan that describes pest prevention, monitoring and control techniques with a focus on prevention of inputs to waters of the state, or coverage under an NPDES permit, if required.

ii. Pesticide application should be applied during the dry season and avoid direct water application;

iii. Unless otherwise approved in writing by DEQ, applying surface fertilizer within stormwater treatment facilities or within 50 feet of any stream channel is prohibited.

Rule: *OAR 340-041, OAR 340-012, OAR 340-041-0033*
Justification: *Riparian, wetland, and shoreline vegetation help ensure excess sediment does not enter a waterway, and helps offset potential temperature impacts. DEQ must ensure that pollution does not enter waterways.*

13) **Buffers:** The Applicant shall avoid and protect from harm, all wetlands and provide a 50 foot buffer to waters of the state, unless proposed, necessary, and approved as part of the project. If a local jurisdiction has a more stringent buffer requirement, that requirement will take the place of this certification requirement.
Rule: *OAR 340-041, OAR 340-012*
Justification: *Riparian, wetland, and shoreline buffers help ensure excess sediment does not enter a waterway, and helps offset potential temperature impacts. DEQ must ensure that pollution does not enter waterways.*

14) **Previously Contaminated Soil and Groundwater:** If any contaminated soil or groundwater is encountered, it must be handled and disposed of in accordance with the soil and groundwater management plan for the site, as well as local, state and federal regulations. The Applicant must notify the Environmental Cleanup Section of DEQ at 1-800-452-4011.
Rule: *OAR 340-041, OAR 340-012, OAR 340-122, OAR 340-040*
Justification: *DEQ must ensure that pollution does not enter waterways. As sediments are disturbed, pollutants could become redistributed.*

FOR PROJECTS THAT PROPOSE IN-STREAM WORK IN JURISDICTIONAL WATERS

15) **Fish protection/ Oregon Department of Fish and Wildlife timing:** The Applicant must perform in-water work only within the ODFW preferred time window as specified in the *Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources*, or as

authorized otherwise under a USACE permit and/or DSL removal/fill permit. Exceptions to the timing window must be recommended by ODFW, NMFS and/or the USFW as appropriate, and approved by DSL when applicable.
Rule: *OAR 340-041-0011*
Justification: *DEQ must be protective of all water quality standards, including beneficial uses such as fish.*

16) **Aquatic life movements:** Any activity that may disrupt the movement of aquatic life living in the water body, including those species that normally migrate through the area, is prohibited. The Applicant must provide unobstructed fish passage at all times during any authorized activity, unless otherwise approved in the approved application.
Rule: *OAR 340-041-0016; OAR 340-041-0028*
Justification: *DEQ must be protective of all water quality standards, including beneficial uses such as fish.*

17) **Isolation of in-water work areas:** The Applicant must isolate in-water work areas from the active flowing stream, unless otherwise authorized as part of the approved application, or authorized by DEQ.
Rule: *OAR 340-041, OAR 340-012, OAR 340-045*
Justification: *DEQ must ensure that pollution does not enter waterways.*

18) **Cessation of Work:** The Applicant must cease project operations under high-flow conditions that will result in inundation of the project area. Only efforts to avoid or minimize turbidity or other resource damage as a result of inundation of the exposed project area are allowed during high-flow conditions.
Rule: *OAR 340-041, OAR 340-012*
Justification: *DEQ must ensure that pollution does not enter waterways*.

19) **Turbidity**: The Applicant must implement BMPs to minimize turbidity during in-water work. Any activity that causes turbidity to exceed 10% above natural stream turbidities is prohibited except as specifically provided below:

a. **Monitoring**: Turbidity monitoring must be conducted and recorded as described below. Monitoring must occur at two-hour intervals each day when in-water work is being conducted. A properly calibrated turbidimeter is required **unless another monitoring method is proposed and authorized by DEQ**.

i. **Representative Background Point**: The Applicant must take and record a turbidity measurement every two hours during in-water work at an undisturbed area. A background location shall be established at a representative location approximately 100 feet up-current of the in water activity unless otherwise authorized by DEQ. The background turbidity, location, date, tidal stage (if applicable) and time must be recorded immediately prior to monitoring down-current at the compliance point described below.

ii. **Compliance Point:** The Applicant must monitor every two hours. A compliance location shall be established at a representative location approximately 100 feet down-current from the disturbance at approximately mid-depth of the waterbody and within any visible plume. The turbidity, location, date, tidal stage (if applicable) and time must be recorded for each measurement.

b. **Compliance**: The Applicant must compare turbidity monitoring results from the compliance points to the representative background levels taken during each two – hour monitoring interval. Pursuant to OAR 340-041-0036, short term exceedances are allowed as followed:

MONITORING WITH A TURBIDIMETER *EVERY 2 HOURS*	
TURBIDITY LEVEL	***Restrictions to Duration of Activity***
0 to 4 NTU above background	No Restrictions
5 to 29 NTU above background	Work may continue maximum of 4 hours. If turbidity remains 5-29 NTU above background, stop work and modify BMPs. Work may resume when NTU is 0-4 above background.
30 to 49 NTU above background	Work may continue maximum of 2 hours. If turbidity remains 30-49 NTU above background, stop work and modify BMPs. Work may resume when NTU is 0-4 above background.
50 NTU or more above background	Stop work immediately and inform DEQ

c. **Reporting**:
   i. Record all turbidity monitoring required by subsections (a) and (b) above in daily logs which must include: calibration documentation; background NTUs; compliance point NTUs; comparison of the points in NTUs; and location; date; time; and tidal stage (if applicable) for each reading.

   ii. A narrative must be prepared discussing all exceedances with subsequent monitoring, actions taken, and the effectiveness of the actions. Applicant must make available copies of daily logs for turbidity monitoring to regulatory agencies including DEQ, USACE, NMFS, USFWS, and ODFW upon request.

   iii. Keep records on file for the duration of the permit cycle.

d. **BMPs to Minimize In-stream Turbidity:** The Applicant must implement the following BMPs, unless accepted in writing by DEQ:

   i. Sequence/Phasing of work – The Applicant must schedule work activities so as to minimize in-water disturbance and duration of in-water disturbances.

   ii. Bucket control - All in-stream digging passes by excavation machinery and placement of fill in-stream using a bucket must be completed so as to minimize turbidity. All practicable techniques such as employing an experienced equipment operator, not dumping partial or full buckets of material back into the wetted stream, adjusting the volume, speed, or both of the load, or using a closed-lipped environmental bucket must be implemented;

   iii. The Applicant must limit the number and location of stream-crossing events. Establish temporary crossing sites as necessary at the least sensitive areas and amend these crossing sites with clean gravel or other temporary methods as appropriate;

   iv. Machinery may not be driven into the flowing channel, unless authorized in writing by DEQ; and

v. Excavated material must be placed so that it is isolated from the water edge or wetlands, and not placed where it could re-enter waters of the state uncontrolled.

vi. Containment measures such as silt curtains, geotextile fabric, and silt fences must be in place and properly maintained in order to minimize in-stream sediment suspension and resulting turbidity.

Rule: *OAR 340-041-0036, OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways.*

SPECIFIC CONDITIONS FOR POST-CONSTRUCTION STORMWATER MANAGEMENT

20) **Post Construction Stormwater Management:** For projects which propose new impervious surfaces or the redevelopment of existing surfaces, the Applicant must submit a post-construction stormwater management plan to DEQ. The plan must be reviewed and approved prior to construction to ensure compliance with water quality standards. The Applicant must implement BMPs as proposed in the stormwater management plan, including construction, operation, and maintenance. If proposed stormwater facilities change due to site conditions, the Applicant must notify DEQ in writing.

In lieu of a complete stormwater management plan, the Applicant may submit documentation of acceptance of the stormwater into a DEQ permitted NPDES Phase I Municipal Separate Storm Sewer System (MS4).
Rule: *ORS 468B.050, OAR 340-045, OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways.*

21) **Stormwater Management & System Maintenance:** The Applicant is required to implement effective operation and maintenance practices for the lifetime of the proposed facility. Long-term operation and maintenance of stormwater treatment facilities will be the responsibility of the applicant or the entity listed in the approved post-construction stormwater management plan.

Maintenance of stormwater treatment facilities subject to an MS4 permit is regulated by the permit.
Rule: *OAR 340-041, OAR 340-012, OAR 340-045*
Justification: *DEQ must ensure that pollution does not enter waterways.*

22) **Corrective Action May Be Required:** DEQ retains the authority to require corrective action in the event the stormwater management facilities are not built or performing as described in the plan.
Rule: *OAR 340-041, OAR 340-012*
Justification: *DEQ must ensure that pollution does not enter waterways.*

CATEGORY SPECIFIC CONDITIONS

In addition to all national and regional conditions of the USACE permit and the 401 Water Quality Certification general conditions above, the following conditions apply to the noted specific categories of authorized activities.

NWP 7 – Outfall Structures and Associated Intake Structures:

7.1) The following actions are denied certification:

a. Discharge outfalls that are not subject to an NPDES permit; and

b. Outfalls that discharge stormwater without pollutant removal demonstrated to meet water-quality standards prior to discharge to waters of the state.

Rule: *OAR 340-041, OAR 340-012, OAR 340-048, OAR 340-045*
Justification: *DEQ must ensure that pollution does not enter waterways. Untreated stormwater is considered pollution.*

7.2) If an Applicant cannot obtain an NPDES permit or submit an approvable stormwater management plan per DEQ's Guidelines found at: http://www.oregon.gov/deq/FilterDocs/401wqcertPostCon.pdf the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.
Rule: *OAR 340-041, OAR 340-012, OAR 340-048, OAR 340-045*
Justification: *DEQ must ensure that pollution does not enter waterways. Untreated stormwater is considered pollution.*

NWP 13 – Bank Stabilization:

13.1) Projects that do not include bioengineering are denied certification, unless a registered professional engineer provides a written statement that non-bioengineered solutions are the only means of protection.
Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways. Hard armoring can increase erosion upstream and downstream of the structure.*

13.2) Projects that propose permanent fill in adjacent wetlands are denied certification.
Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways. Water adjacent wetlands provide water quality benefits.*

13.3) To apply for certification for a project without bioengineering, the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.
Rule: *OAR 340-041-0059*
Justification: *DEQ must ensure that pollution does not enter waterways. Hard armoring can increase erosion upstream and downstream of the structure.*

NWP 14 – Linear Transportation:

14.1) For projects that include bank stabilization, bioengineering must be a component of the project, unless a registered professional engineer provides a written statement that non-bioengineered solutions are the only means of protection.
Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways. Hard armoring can increase erosion upstream and downstream of the structure.*

14.2) To apply for certification for a project without bioengineering, the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.
Rule: *OAR 340-041-0059*
Justification: *DEQ must ensure that pollution does not enter waterways. Hard armoring can increase erosion upstream and downstream of the structure.*

NWP 16 - Return Water from Contained Upland Disposal Areas: Water-quality criteria and guidance values for toxics, per OAR 340-041-0033, are available in Tables 30, 31, and 40 at: https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=68746.

16.1) Discharge of return water from contaminated dredged material that exceeds a chronic or acute toxicity water quality standard is prohibited.
Rule: *OAR 340-041-0053(b)(A), OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways.*

16.2) Water removed with contaminated dredged material that could or does exceed chronic water-quality criteria must be contained and disposed of at an appropriately sized and sealed upland facility by evaporation or infiltration.
Rule: *OAR 340-041-0053(b)(A), OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways.*

16.3) If a Modified Elutriate Test (MET) is performed for the known contaminants of concern (CoCs) and CoC concentrations are below DEQ chronic water-quality criteria, return water discharge is not limited.

a. The MET must be performed before dredging.
a. DEQ must approve the list of CoCs and analytical method prior to the Applicant performing the MET.
b. DEQ must review the results and provide approval of discharge from return water, in writing, prior to dredging.

Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways.*

NWP 20 – Response Operations for Oil and Hazardous Waste:

20.1) Coordination with DEQ's Emergency Response program is required. See: http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/Emergency-Response.aspx.
Rule: *OAR 340-142-0130(3), OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways.*

NWP 22 – Removal of Vessels:

22.1) Coordination with DEQ's Emergency Response program is required. See: http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/Emergency-Response.aspx.
Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways. Vessels may contain various fuels, lubricants, and other possible sources of pollution.*

NWP 31 – Maintenance of Existing Flood Control Facilities:

31.1) Projects in streams with temperature TMDLs which result in a net reduction of riparian shade are prohibited.
Rule: *OAR 340-041-0028, OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways.*

NWP 38 – Cleanup of Hazardous and Toxic Waste:

38.1) For removal of contaminated material from waters, dredging method is limited to diver assisted hydraulic suction, hydraulic suction, closed-lipped environmental bucket, or excavation in the dry, unless otherwise authorized by DEQ.

a. For in-water isolation measures, the Applicant is referred to Appendix D of DEQ's Oregon Erosion and Sediment Control Manual, April 2005 (or most current version), at: DEQ Erosion and Sediment Control Manual
Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways.*

38.2) Discharge to waters of the state resulting from dewatering during dredging or release of return water from an upland facility is prohibited except as provided below.

a. All water removed with sediment must be contained and disposed of at an appropriately sized and sealed upland facility by evaporation or infiltration; or,

b. A Modified Elutriate Test (MET) may be performed for the known Contaminants of Concern (CoCs) and if CoC concentrations are below DEQ chronic water-quality criteria; return water discharge is not limited.

i. The MET must be performed before dredging.
ii. DEQ must approve the list of CoCs and analytical method prior to the Applicant performing the MET.
iii. DEQ must review the results and provide approval of discharge from dewatering and return water in writing prior to dredging.

Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways.*

38.3) Dredged material must be disposed of in compliance with DEQ Rules governing Hazardous Waste (see: http://www.oregon.gov/deq/Hazards-and-Cleanup/hw/Pages/default.aspx) or Solid Waste (see: http://www.oregon.gov/deq/mm/swpermits/Pages/Solid-Waste-Disposal-Sites-and-Landfill.aspx).
Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways.*

38.4) The new in-water surface must be managed to prevent exposure or mobilization of contaminants.
Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways.*

NWP 41 - Reshaping Existing Drainage Ditches:

41.1) To the extent practicable, the Applicant must work from only one bank in order to minimize disturbance to existing vegetation, preferably the bank with the least existing vegetation;
Rule: *OAR 340-041, OAR 340-012, OAR 340-048*

Justification: *DEQ must ensure that pollution does not enter waterways.*

41.2) Following authorized work, the Applicant must establish in-stream and riparian vegetation on reshaped channels and side-channels using native plant species wherever practicable. Plantings must be targeted to address water-quality improvement (e.g., provide shade to water to reduce temperature or provide bank stability through root systems to limit sediment inputs). Planting options may include clustering or vegetating only one side of a channel, preferably the side which provides maximum shade.
Rule: *OAR 340-041-0004(5)(a)*
Justification: *Riparian, wetland, and shoreline buffers help ensure excess sediment does not enter a waterway and helps offset potential temperature impacts. DEQ must ensure that pollution does not enter waterways.*

NWP 42 – Recreational Facilities:

42.1) For facilities that include turf maintenance actions, the permittee must develop and implement an Integrated Pest Management Plan (IPM) that describes pest prevention, monitoring and control techniques with a focus on prevention of chemical and nutrient inputs to waters of the state, including maintenance of adequate buffers for pesticide application near salmonid streams, or coverage under an NPDES permit, if required (information is available at: http://www.oregon.gov/deq/wq/wqpermits/Pages/Pesticide.aspx).
Rule: *OAR 340-041-0033, OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways, including excess pesticides and fertilizers.*

NWP 43 – Stormwater Management Facilities:

43.1) Projects that propose the following elements are denied expedited certification:
a. In-stream stormwater facilities;
b. Discharge outfalls not subject to an MS4 NPDES permit; and,
c. Proposals that do not demonstrate pollutant removal to meet water quality standards prior to discharge to waters of the state.
Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways; stormwater is considered a pollutant.*

43.2) To apply for certification for a project with in-stream stormwater facilities, without an NPDES permit, or without submittal of an approvable stormwater management plan per DEQ's Guidelines (at: http://www.oregon.gov/deq/FilterDocs/401wqcertPostCon.pdf), the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.
Rule: *OAR 340-041-0059*
Justification: *DEQ must ensure that pollution does not enter waterways; stormwater is considered a pollutant.*

NWP 44 – Mining Activities:

44.1) Projects that do not obtain an NPDES 700-PM or Individual permit are denied expedited certification.
Rule: *OAR 340-045-0033, OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways. Excess turbidity can be considered pollution.*

44.2) To apply for certification for a project without an NPDES permit, the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.
Rule: *OAR 340-041-0059*
Justification: *DEQ must ensure that pollution does not enter waterways*.

44.3) The State of Oregon requires an In-Water Blasting Permit be obtained per OAR, 635-425-0000. Permittee is advised to contact the nearest ODFW office for further information at: https://www.dfw.state.or.us/lands/inwater/
Rule: *OAR 340-041-0011*
Justification: *DEQ must be protective of all water quality standards, including beneficial uses such as fish.*

NWP 51 – Land-Based Renewable Energy Generation Facilities:

51.1) For associated utility lines with directionally-bored stream or wetland crossings proposed, condition D.1 must be applied.
Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways*

NWP 53 – Removal of Low-Head Dams:

53.1) Projects that do *not* go through a PSET review if sediments are being dispersed are denied certification.
Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways. Sediments can be a carrier of contaminants.*

53.2) To apply for certification for a project without a PSET, the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.
Rule: *OAR 340-041-0059*
Justification: *DEQ must ensure that pollution does not enter waterways. Sediments can be a carrier of contaminants.*

NWP 54 – Living Shorelines:

54.1) Projects that do not include bioengineering are denied certification, unless a registered professional engineer provides a written statement that non-bioengineered solutions are the only means of protection.
Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways. Hard armoring can increase erosion in the system.*

NWP 58 – Utility Lines:

58.1) For proposals that include directionally-bored stream or wetland crossings:

a. All drilling equipment, drill recovery and recycling pits, and any waste or spoil produced, must be completely isolated, recovered, then recycled or disposed of to prevent entry into waters of the state. Recycling using a tank instead of drill recovery/recycling pits is preferable;

b. In the event that drilling fluids enter a water of the state, the equipment operator must stop work, immediately initiate containment measures and report the spill to the Oregon Emergency Response System (OERS) at 1-800-452-0311.

c. An adequate supply of materials needed to control erosion and to contain drilling fluids must be maintained at the project construction site and deployed as necessary.

d. The Applicant must have a contingency plan in place prior to construction for the inadvertent return of drilling lubricant.

Rule: *OAR 340-142-0030, OAR 340-142-0040(1)*
Justification: *Drilling equipment and fluids that enter a waterbody would likely cause contamination of that waterbody.*

58.2) For proposals that include utility lines through wetlands, include anti-seep collars or equivalent technology to prevent draining the wetlands.

Rule: *OAR 340-041, OAR 340-012, OAR 340-048*
Justification: *DEQ must ensure that pollution does not enter waterways*

If the Applicant is dissatisfied with the conditions contained in this certification, a hearing may be requested. Such request must be made in writing to DEQ's Office of Compliance and Enforcement at 700 NE Multnomah St, Suite 600, Portland Oregon 97232, within 20 days of the mailing of this certification.

The DEQ hereby certifies that this project complies with the Clean Water Act and state rules, with the above conditions. If you have any questions, please contact Delia Negru, at 503-593-2493, by email at delia.negru@deq.oregon.gov, or at the address on this letterhead.

Sincerely,

Theresa Burcsu (Jun 5, 2025 14:41 CDT)

Theresa Burcsu,
Water Quality Manager
Northwest Region

ec: Tyler Krug USACE
Heather Dimke, DSL
Eric Campbell, Campbell Environmental, LLC
Anna Roller, DLCD

State of Oregon
DEQ Department of Environmental Quality

401 Water Quality Certification Turbidity Monitoring Report

Project Name:	USACE Project #	DSL Project #

Name of Inspector(s):	Turbidimeter Model:	Calibration Standard Type (Circle One) Formazin Solution or Gelex	Calibration Standard Expiration Date:

Sampling Date:	Calibration Values:	*Upstream (Background) Point Location:	*Downstream (Compliance) Point Location:
	_____NTU (Standard) = _____NTU (Reading) _____NTU (Standard) = _____NTU (Reading) _____NTU (Standard) = _____NTU (Reading)	Latitude: Longitude:	Latitude: Longitude:

In-Water Work Start Time:	In-Water Work End Time:	Description of In-Water Work:

Upstream Sample		Downstream Sample		Change in Turbidity (NTU)	Observation of waterbody		NOTES (Describe any modifications made to BMPs)
Time	Turbidity (NTU)	Time	Turbidity (NTU)		Tidal Stage	Note any plume, sheen, floatables, color	

** Include a figure with the turbidity sampling forms showing the sampling locations.*

Turbidity: The Applicant must implement appropriate Best Management Practices (BMPs) to minimize turbidity during in-water work. Any activity that causes turbidity to exceed 10% above natural stream turbidity is prohibited except as specifically provided below:

Monitoring: Turbidity monitoring must be conducted and recorded as described below. Monitoring must occur at two hour intervals each day during daylight hours when in-water work is being conducted, including while dewatering or work area isolation measures are in place. A properly calibrated turbidimeter is required unless another monitoring method is proposed and authorized by DEQ.

Representative Background Point: The Applicant must take and record a turbidity measurement every two hours during in-water work at an undisturbed area. A background location shall be established at a representative location approximately 100 feet upcurrent of the in water activity unless otherwise authorized by DEQ. The background turbidity, location, date, tidal stage (if applicable) and time must be recorded immediately prior to monitoring downcurrent at the compliance point described below.

Compliance Point: The must monitor every two hours. A compliance location shall be established at a representative location approximately 100 feet downcurrent from the disturbance at approximately mid-depth of the waterbody and within any visible plume. The turbidity, location, date, tidal stage (if applicable) and time must be recorded for each measurement.

MONITORING WITH A TURBIDIMETER *EVERY 2 HOURS*	
TURBIDITY LEVEL	***Restrictions to Duration of Activity***
0 to 4 NTU above background	No Restrictions
5 to 29 NTU above background	Work may continue maximum of 4 hours. If turbidity remains 5-29 NTU above background, stop work and modify BMPs. Work may resume when NTU is 0-4 above background.
30 to 49 NTU above background	Work may continue maximum of 2 hours. If turbidity remains 30-49 NTU above background, stop work and modify BMPs. Work may resume when NTU is 0-4 above background.
50 NTU or more above background	Stop work immediately and inform DEQ

Compliance: The Applicant must compare turbidity monitoring results from the compliance points to the representative background levels taken during each two – hour monitoring interval. Pursuant to OAR 340-041-0036, short term exceedances of the turbidity water quality standard are allowed as shown in the monitoring table shown here.

Reporting: The Applicant must record all turbidity monitoring required by subsections (a) and (b) above in daily logs, kept on file for the duration of the permit cycle. The daily logs must include calibration documentation; background NTUs; compliance point NTUs; comparison of the points in NTUs; location; date; time; and tidal stage (if applicable) for each reading. Additionally, a narrative must be prepared discussing all exceedances with subsequent monitoring, actions taken, and the effectiveness of the actions. Applicant must make available copies of daily logs for turbidity monitoring to DEQ, USACE, NMFS, USFWS, and ODFW upon request.

BMPs to Minimize In-stream Turbidity: The Applicant must implement the following BMPs, unless otherwise accepted by DEQ:

i. Sequence/Phasing of Work – The Applicant must schedule work activities so as to minimize in-water disturbance and duration of in-water disturbances;
ii. Bucket control - All in-stream digging passes by excavation machinery and placement of fill in-stream using a bucket must be completed so as to minimize turbidity. All practicable techniques such as employing an experienced equipment operator, not dumping partial or full buckets of material back into the wetted stream, adjusting the volume, speed, or both of the load, or using a closed-lipped environmental bucket must be implemented;
iii. The Applicant must limit the number and location of stream-crossing events. Establish temporary crossing sites as necessary in the least sensitive areas and amend these crossing sites with clean gravel or other temporary methods as appropriate;
iv. Machinery may not be driven into the flowing channel, unless authorized by DEQ; and
v. Excavated material must be placed so that it is isolated from the water edge or wetlands, and not placed where it could re-enter waters of the state uncontrolled.

Oregon Department of Land Conservation And Development

Standard Oregon Coastal Management Program Coastal Zone Conditions for the 2021 U.S. Army Corps of Engineers Nationwide Permits

The federal Coastal Zone Management Act provides that federal actions affecting any use or resource of the coastal zone[1], including projects permitted by the U.S. Army Corps of Engineers (USACE), must be consistent with the enforceable policies of a State's federally approved coastal management program. Oregon's approved program, the Oregon Coastal Management Program (OCMP), is a "networked" program that integrates authorities of local governments and other state agencies. The coastal zone conditions contained in this document reflect the networked nature or the OCMP, and reference the specific applicable enforceable policies.

In addition to all USACE national and regional permit conditions, permitted projects in Oregon's coastal zone must comply with the following coastal zone conditions.

If an applicant chooses not to follow one or more of the coastal zone conditions, the Department of Land Conservation and Development (DLCD) will object to the permit issuance pursuant to 15 CFR § 930.63(e). In that instance, the permittee may appeal the state's objection by requesting that the Secretary of Commerce override the objection pursuant to 15 CFR 930, subpart H, within 30 days of receipt of the letter informing the applicant of the OCMP's objection. In order to grant an override request, the Secretary must find that the activity is consistent with the objectives or purposes of the Coastal Zone Management Act, or is necessary in the interest of national security, and that either of these findings outweigh the adverse coastal zone effects of the proposed project. Acopy of the request and supporting information must be sent to the OCMP and the USACE. The Secretary may collect fees from the permittee for administering and processing the override request.

CZ Condition 1. Consistency with Local Comprehensive Plans

(1) Permitted projects must be consistent with or not subject to the applicable local comprehensive plan and implementing land use regulations, including the applicable estuary management plan, or the statewide land use planning goals where applicable. Permittee must obtain required permits or other authorizations from the applicable local government before initiating work under any USACE permit. Permittees are encouraged to provide USACE and the OCMP with verification of the local jurisdiction's approval in the form of a completed block eleven (11) of the Joint Permit

[1] Oregon's coastal zone generally includes the area lying between the Oregon/Washington border on the north, to the Oregon/California border on the south, seaward to the extent of the state's jurisdiction as recognized by federal law, and inland to the crest of the Coast Range Mountains, excepting:

(a) The Umpqua River basin, where the coastal zone extends to Scottsburg;

(b) The Rogue River basin, where the coastal zone extends to Agness; and

(c) The Columbia River basin, where the coastal zone extends to the downstream end of Puget Island.

Application. All appeals of the local jurisdiction's decision(s) must be resolved before any regulated work may begin.

(2) All conditions placed on an authorization or permit by the local government are incorporated by reference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 197, Comprehensive Land Use Planning Coordination]

CZ Condition 2. Consistency with Removal-Fill Law

(1) Permitted projects must be consistent with or not subject to the state requirements governing removal-fill in waters of the state. Permittee must obtain required permits or other authorizations from the Oregon Department of State Lands (DSL) before any regulated work maybegin.

(2) Projects requiring a DSL Removal-Fill permit must compensate for reasonably expected adverse impacts by complying to the full extent with DSL's compensatory mitigation requirements.

(3) Where DSL finds a project not subject to the Removal-Fill Law, permittee must submit toDSL any changes in project design or implementation that may reasonably be expected to require application of the Removal-Fill Law.

(4) All conditions placed on a Removal-Fill permit by DSL are incorporated by reference into theOCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 196, Removal of Material; Filling]

CZ Condition 3. Leases of State Lands

(1) Permitted projects must be consistent with or not subject to state requirements governinguse of state lands. Permittee must obtain any required lease, license, or other authorization forthe use of state lands or waters from the Oregon Department of State Lands (DSL) before anyregulated work may begin.

(2) All conditions placed on a lease, license, or authorization by DSL are incorporated byreference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 274, Submersible and Submerged Lands]

CZ Condition 4. Department of Environmental Quality

(1) Permitted projects must be consistent with or not subject to the state requirements governing water quality. Permittee must obtain certification, if required, from the Oregon Department of Environmental Quality (DEQ) through its 401 Water Quality Certification processbefore any regulated work may begin.

(2) All conditions placed on a license, permit, or authorization by DEQ are incorporated byreference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 468B, Water Quality]

CZ Condition 5. Fish and Aquatic Life Passage

(1) Where applicable, all authorized projects shall be in conformance with ODFW standards forfish passage (http://www.dfw.state.or.us/fish/passage/). Decisions to abrogate ODFW fish passage standards shall be accompanied by written approval from ODFW.

(2) No work shall be authorized that does not provide for adequate passage of "aquatic life."Aquatic life shall be interpreted to include amphibians, reptiles, and mammals whose natural habitat includes waters of this state and which are generally present in or around, or pass through the project site.

(3) This condition is effective only where ODFW regulations apply.

[Enforceable Policy: ORS chapter 509, Additional Fishery Requirements]

CZ Condition 6. Ocean Shore

(1) Permitted projects must be consistent with or not subject to state requirements governing use of the ocean shore. Permittee must obtain, if required, an ocean shore permit from the Oregon Parks and Recreation Department (OPRD) before any regulated work may begin.

(2) All conditions placed on an Ocean Shore permit by OPRD are incorporated by referenceinto the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 390, Ocean Shores]

CZ Condition 7. Fish Screening

(1) Where applicable, all authorized projects shall be in conformance with ODFW standards for fish screening and bypass devices. Decisions to abrogate ODFW fish passage standards shall be accompanied by written approval from ODFW.
(2) This condition is effective only where ODFW regulations apply.

[Enforceable Policy: ORS chapter 498, Fish Screening]

Endangered Species Act - Section 7 Formal Programmatic Opinion, Letter Of Concurrence

and

Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation

Revisions to Standard Local Operating Procedures for Endangered Species to Administer Actions Authorized or Carried Out by the U.S. Army Corps of Engineers in Oregon (SLOPES IV In-water Over-water Structures)

NMFS Consultation Number: 2011/05585

Federal Action Agency: Army Corps of Engineers
Portland District, Operations and Regulatory Branches

Date Issued: April 5, 2012

Affected Species and Determinations

ESA-Listed Species	ESA Status	Is the action likely to adversely affect this species or it critical habitat?	Is this Action likely to jeopardize this species?	Is this Action likely to destroy or adversely modify critical habitat for this species?
Lower Columbia River Chinook salmon	T	Yes	No	No
Upper Willamette River Chinook salmon	T	Yes	No	No
Upper Columbia River spring-run Chinook salmon	E	Yes	No	No
Snake River spring/summer run Chinook salmon	T	Yes	No	No
Snake River fall-run Chinook salmon	T	Yes	No	No
Columbia River chum salmon	T	Yes	No	No
Lower Columbia River coho salmon	T	Yes	No	N/A
Oregon Coast coho salmon	T	Yes	No	No
Southern Oregon/Northern California coasts coho salmon	T	Yes	No	No
Snake River sockeye salmon	E	Yes	No	No
Lower Columbia River steelhead	T	Yes	No	No
Upper Willamette River steelhead	T	Yes	No	No
Middle Columbia River steelhead	T	Yes	No	No
Upper Columbia River steelhead	T	Yes	No	No
Snake River Basin steelhead	T	Yes	No	No
Southern green sturgeon	T	Yes	No	No
Eulachon	T	Yes	No	No
Steller sea lion	T	No	No	N/A

Fishery Management Plan that Describes EFH in the Action Area	Would the action adversely Affect EFH?	Are EFH conservation Recommendation provided?
Coastal Pelagic Species	Yes	Yes
Pacific Coast Groundfish	Yes	Yes
Pacific Coast Salmon	Yes	Yes

Excerpt from SLOPES IV In-water Over-water Structures General Construction April 5, 2012 Proposed Design Criteria

1.3.1.1 Administrative

6. **Salvage Notice.** If a sick, injured or dead specimen of a threatened or endangered species is found during construction and within the action area, the finder must notify NMFS' Office of Law Enforcement at 503-231-6240 or 206-526-6133. The finder must take care in handling dead specimens to preserve biological material in the best possible condition for later analysis of cause of death. The finder also has the responsibility for carrying out instructions provided by the Office of Law Enforcement to ensure that evidence intrinsic to the specimen is not disturbed unnecessarily.

1.3.1.2 General Construction

11. **Pollution and erosion control.** Any action that will require earthwork and may increase soil erosion and cause runoff with visible sediment into surface water, or that will require the use of materials that are hazardous or toxic to aquatic life (such as motor fuel, oil, or drilling fluid), must have a pollution and erosion control plan that is developed and carried out by the applicant, and commensurate with the scale of the action.
    a. The plan must include practices to minimize erosion and sedimentation associated with all aspects of the project (*e.g.*, staging areas, stockpiles, grading); to prevent construction debris from dropping or otherwise entering any stream or waterbody; and to prevent and control hazardous material spills.
    b. During construction, erosion controls and streams must be monitored and maintained daily during the rainy season and weekly during the dry season as necessary to ensure controls are properly functioning.
    c. If monitoring shows that the erosion controls are ineffective at preventing visible sediment discharge, the project must stop to evaluate erosion control measures. Repairs, replacements or the installation of additional erosion control measures must be completed before the project resumes.
    d. Proper maintenance includes removal of sediment and debris from erosion controls like silt fences or hay bales once it has reached on-third of the exposed height of the control.

12. **Stormwater management.** Any action that will expand, recondition, reconstruct, or replace pavement, replace a stream crossing, otherwise increase the contributing impervious surface within the project area, or create a new stormwater conveyance or discharge facility, must have a stormwater management plan that is developed and carried out by the applicant, commensurate with the scale of the action, and approved by NMFS. The stormwater plan submitted for approval must include all of the information called for by the "Checklist for Submission of a Stormwater Plan" (ODEQ 2008, or most recent version), or an explanation of why any missing information is not applicable to a specific project.

13. **Site restoration.** Any action that results in significant disturbance of riparian vegetation, soils, streambanks, or stream channel must have a site restoration plan that is developed and carried out by the permittee (or Corps), that is commensurate with the scale of the action. The goal of the plan is to ensure that riparian vegetation, soils, streambanks, and stream channel are cleaned up and restored after the action is complete. No single criterion is sufficient to measure restoration success, but the intent is that the following features should be present in the upland parts of the project area, within reasonable limits of natural and management variation:
    a. Human and livestock disturbance, if any, are confined to small areas necessary for access or other special management situations.

b. Areas with signs of significant past erosion are completely stabilized and healed, bare soil spaces are small and well-dispersed.
c. Soil movement, such as active rills and soil deposition around plants or in small basins, is absent or slight and local.
d. Native woody and herbaceous vegetation, and germination microsites, are present and well distributed across the site.
e. Plants are native species and have normal, vigorous growth form, and a high probability of remaining vigorous, healthy and dominant over undesired competing vegetation.
f. Vegetation structure is resulting in rooting throughout the available soil profile.
g. Plant litter is well distributed and effective in protecting the soil with little or no litter accumulated against vegetation as a result of active sheet erosion ("litter dams").
h. A continuous corridor of shrubs and trees appropriate to the site are present to provide shade and other habitat functions for the entire streambank.
i. Streambanks are stable, well vegetated, and protected at margins by roots that extend below baseflow elevation, or by coarse-grained alluvial debris.

14. **Compensatory mitigation.** Any action that will permanently displace riparian or aquatic habitats or otherwise prevent development of properly functioning condition of natural habitat processes will require compensatory mitigation to fully offset those impacts.
    a. Examples of actions requiring compensatory mitigation include construction of a new or enlarged boat ramp or float, the addition of scour protection to a boat ramp, or construction of new impervious surfaces without adequate stormwater treatment.
    b. For displaced riparian and aquatic habitat, the primary habitat functions of concern are related to the physical and biological features essential to the long-term conservation of listed species. Those are water quality, water quantity, channel substrate, floodplain connectivity, forage, natural cover, space, and free passage. Examples of acceptable mitigation for riparian losses includes planting trees or other woody vegetation in the riparian area, removal of existing overwater structures or restoration of shallow-water, off-channel, or beach habitat by adding features such as submerged or overhanging large wood, aquatic vegetation, large rocks and boulders, side channels and undercut banks.
    c. For new impervious surfaces with inadequate stormwater treatment, the primary habitat functions of concern are water quality and water quantity. Examples of acceptable mitigation for inadequate stormwater management includes providing adequate stormwater treatment at an alternate site where it did not exist before or retrofitting an existing but substandard stormwater facility to provide capacity necessary to infiltrate and retain the proper volume of stormwater.
    d. As part of NMFS's review under clause 3 above, NMFS will determine if the proposed compensatory mitigation fully offsets permanent displacement of riparian or aquatic habitats and/or impacts that prevent development of properly functioning processes.

15. **Preconstruction activity.** Before alteration of the action area, flag the boundaries of clearing limits associated with site access and construction to minimize soil and vegetation disturbance, and ensure that all temporary erosion controls are in place and functional.

16. **Site preparation.** During site preparation, conserve native materials for restoration, including large wood, vegetation, topsoil and channel materials (gravel, cobble and boulders) displaced by construction. Whenever practical, leave native materials where they are found and in areas to be cleared, clip vegetation at ground level to retain root mass and encourage reestablishment of native vegetation. Building and related structures may not be constructed inside the riparian management area.

17. **Heavy equipment.** Heavy equipment will be selected and operated as necessary to minimize adverse effects on the environment (*e.g.*, minimally-sized, low pressure tires, minimal hard turn paths for tracked vehicles, temporary mats or plates within wet areas or sensitive soils); and all vehicles and other heavy equipment will be used as follows:
    a. Stored, fueled and maintained in a vehicle staging area placed 150 feet or more from any waterbody, or in an isolated hard zone such as a paved parking lot.
    b. Inspected daily for fluid leaks before leaving the vehicle staging area for operation within 50 feet of any waterbody.Steam-cleaned before operation below ordinary high water, and as often as necessary during operation to remain free of all external oil, grease, mud, seeds, organisms and other visible contaminants.
    c. Generators, cranes and any other stationary equipment operated within 150 feet of any waterbody will be maintained and protected as necessary to prevent leaks and spills from entering the water.

18. **In-water work period.** All work within the active channel will be completed in accordance with the Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife resources (ODFW 2000, or the most recent version), except as follows:
    a. All in-water work in the Willamette River mainstem between Willamette Falls and the confluence with the Columbia River must be completed between July 1 and October 31.
    b. All in-water work in the Columbia River mainstem below Bonneville Dam, except pile driving, must be completed between November 1 and December 31.
    c. Pile driving in the Columbia River mainstem below Bonneville Dam must be completed between October 1 and November 31.
    d. Hydraulic and topographic measurements and encased geotechnical drilling may be completed at any time, if a fish biologist determines that no adult fish are congregating for spawning and no redds are occupied by eggs or pre-emergent alevins within 300 feet of the work site.

19. **Actions that require work area isolation.** Any action that involves excavation (other than access management), backfilling, embankment construction, or similar work below ordinary high water where adult or juvenile fish are reasonably certain to be present, or 300 feet or less upstream from spawning habitats, must be effectively isolated from the active stream.

20. **Fish capture and removal.** Whenever work isolation is required and ESA-listed fish are likely to be present, the applicant must attempt to capture and remove the fish as follows:
    a. A fishery biologist experienced with work area isolation and competent to ensure the safe capture, handling and release of all fish will supervise this part of the action, and complete the fish salvage form from Appendix C that will be submitted with the action completion report.
    b. Any fish trapped within the isolated work area must be captured and released using a trap, seine, electrofishing, or other methods as prudent to minimize the risk of injury, then released at a safe release site.
    c. If electrofishing is used to capture fish, that work must consistent with NMFS' electrofishing guidelines (NMFS 2000).

21. **Piling installation.** Pilings may be concrete, steel round pile 24 inches in diameter or smaller, steel H-pile designated as HP24 or smaller, or wood that has not been treated with preservatives or pesticides. Any proposal to use wood pilings treated with preservatives or pesticides is not covered by this consultation and will require individual consultation.
    a. When practical, use a vibratory hammer for piling installation. For pile driving in the Columbia River in the month of October, only a vibratory hammer may be used.

b. Jetting may be used for piling installation in areas with coarse, uncontaminated sediments.

22. **Pile driving with an impact hammer.** When using an impact hammer to drive or proof steel piles, one of the following sound attenuation methods must be used:
    a. Completely isolate the pile from flowing water by dewatering the area around the pile.
    b. If water velocity is 1.6 feet per second or less, surround the piling being driven by a confined or unconfined bubble curtain (see NMFS and USFWS 2006, Wursig *et al*. 2000, and Longmuir and Lively 2001) that will distribute small air bubbles around 100% of the piling perimeter for the full depth of the water column.
    c. If water velocity is greater than 1.6 feet per second, surround the piling being driven by a confined bubble curtain (*e.g.*, a bubble ring surrounded by a fabric or non-metallic sleeve) that will distribute air bubbles around 100% of the piling perimeter for the full depth of the water column.

23. **Pile driving where Steller sea lions may be present.** If the action area is between Bonneville Dam and the mouth of the Columbia River, or outside of the Columbia River but within 10-miles of a Steller sea lion haul-out[1], the following conditions apply:
    a. A biologist qualified in marine mammal identification will be on site during all pile driving and will notify the operator to cease operations if a Steller sea lion enters the 1,200 foot radius of the pile.
    b. Pile driving may not begin if Steller sea lions are within 1,200 feet of the pile being driven.
    c. Pile driving must cease if Steller sea lions approach to within 1,200 feet of the pile being driven.

24. **Pile removal.** Use the following steps to minimize creosote release, sediment disturbance and sediment resuspension:
    a. Install a floating surface boom to capture floating surface debris.
    b. Keep all equipment (*e.g.*, bucket, steel cable, vibratory hammer) out of the water, grip piles above the waterline, and complete all work during low water and low current conditions.
    c. Dislodge the piling with a vibratory hammer, when possible; never intentionally break a pile by twisting or bending.
    d. Slowly lift the pile from the sediment and through the water column.
    e. Place the pile in a containment basin on a barge deck, pier, or shoreline without attempting to clean or remove any adhering sediment – a containment basin for the removed piles and any adhering sediment may be constructed of durable plastic sheeting with sidewalls supported by hay bales or another support structure to contain all sediment and return flow which may otherwise be directed back to the waterway.
    f. Fill the holes left by each piling with clean, native sediments immediately upon removal.
    g. Dispose of all removed piles, floating surface debris, any sediment spilled on work surfaces, and all containment supplies at a permitted upland disposal site.

25. **Broken or intractable piling.** When a pile breaks or is intractable during removal, continue removal as follows:
    a. Make every attempt short of excavation to remove each piling, if a pile in uncontaminated sediment is intractable, breaks above the surface, or breaks below the surface, cut the pile or stump off at least 3 feet below the surface of the sediment.
    b. If dredging is likely where broken piles are buried, use a global positioning system (GPS) device to note the location of all broken piles for future use in site debris characterization.

[1] Haul outs are located at 3 Arches Rock, Orford Reed, Rogue Reef, Sea Lion Caves, Cape Arago State Park, Oregon Islands National Wildlife Refuge and South Jetty Columbia River.

26. **Pesticide-treated wood installation.** Use of lumber, pilings, or other wood products treated or preserved with pesticidal compounds may not be used below ordinary high water, or as part of an in-water or overwater structure[2].

27. **Pesticide-treated wood removal.** When it is necessary to remove pesticide-treated wood, the following conditions apply.

    a. Ensure that, to the extent possible, no wood debris falls into the water. If wood debris does fall into the water, remove it immediately.
    b. After removal, place wood debris in an appropriate dry storage site until it can be removed from the project area.
    c. Do not leave wood construction debris in the water or stacked on the streambank at or below the ordinary high water.
    d. Evaluate wood construction debris removed during a project, including pesticide-treated wood pilings, to ensure proper disposal of debris.

1.3.1.3 Types of Actions In-water or Over-water Structures

28. **Boat ramps.** All boat ramps must consist of pre-cast concrete slabs below ordinary high water, and may be cast-in-place above ordinary high water if completed in the dry. Rock may be used to prevent scouring, down-cutting, or failure at the boat ramp, provided that the rock is no larger than necessary and does not extend further than 4-feet from the edge of the ramp in any direction.

29. **Educational signs.** To educate the public about pollution from boating activities and its prevention, the Corps shall install (Corps project) or require the following information or its equivalent to be posted on a permanent sign that will be maintained at each permitted facility that is used by the public (*e.g.,* a public boat ramp or marina):
    a. A description of the ESA-listed species which are or may be present in the project area.
    b. Notice that adults and juveniles of these species are protected by the ESA and other laws so that they can successfully migrate, spawn, rear, and complete other behaviors necessary for their recovery.
    c. Therefore, all users of the facility are encouraged or required to: (i) Follow procedures and rules governing use of sewage pump-out facilities; (ii) minimize the fuel and oil released into surface waters during fueling, and from bilges and gas tanks; (iii) avoid cleaning boat hulls in the water to prevent the release of cleaner, paint and solvent; (iv) practice sound fish cleaning and waste management, including proper disposal of fish waste; and (v) dispose of all solid and liquid waste produced while boating in a proper facility away from surface waters.

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[2] For alternatives sources of structural lumber and pilings designed for industrial and marine applications, but not based on pesticide-treated wood, including silica-based wood preservation, improved recycled plastic technology, and environmentally safe wood sealer and stains, see, *e.g.*, Resco Plastics (Coos Bay, Oregon; ph. 541.269.5485) and American Plastic Lumber (Shingle Springs, California; ph. 530.677.7700) for lumber from recycled plastic; Plastic Pilings, Inc. (Rialto, California; ph. 909.874.4080) for structural and non-structural lumber from recycled plastic; Timbersil (Placentia, California; ph. 714.223.1804) for outdoor lumber treated with silica; Kebony (ph. 888.914.9995) for outdoor lumber impregnated with a resin from furfuryl alcohol, a byproduct of sugar production; and Timber Pro Coatings (Portland, Oregon; ph. 503.232.1705) for a silica-based internal wood stabilizer, and a low-VOC wood sealer/stain. The use of trade, firm, or corporation names in this Opinion is for the information and convenience of the action agencies, and does not constitute an official endorsement or approval by the U.S. Department of Commerce or NMFS of any product or service to the exclusion of others that may be suitable.

30. Flotation material. All synthetic flotation material must be permanently encapsulated to prevent breakup into small pieces and dispersal in water.

31. New or replacement floats. Any new or replacement float must be placed at least 50 feet from the shoreline (100-feet from the shoreline in the Columbia River) as measured at ordinary low water or mean lower low water and may not be placed in an estuarine area with submerged aquatic vegetation. Any float wider than 6-feet must also include (a) an open area of grating that is at least 50% of the total surface area,; or (b) be placed where current velocity is at least 0.7 feet per second year-round. Floats may not exceed 10' in width or 40' in length or a total of 400 square feet.

32. Piscivorous birds. All float pilings, mooring buoys, and navigational aids must be fitted with devices to prevent perching by piscivorous birds.

33. Relocation of existing structures in a marina. Any existing structure that is relocated in a marina must remain within the existing overall footprint, but no closer than 50 feet of the shoreline (100 feet in the Columbia River) as measured at ordinary low water or mean lower low water.

34. Repair or replacement of wall and roof components for a covered moorage or boat house. Any replacement for a roof, wall, or garage door of a covered moorage or boat house must be made of translucent materials or incorporate skylights to allow light penetration.

Dredging

35. Dredging to Maintain Vessel Access. When dredging to maintain access to previously authorized docks, wharfs, mooring structures, and boat ramps, the following conditions apply:

a. All dredged materials and subsequent leave surface must be suitable and approved for in-water disposal using newly acquired or historical data based on criteria in the Sediment Evaluation Framework ((USACE *et al.* 2009).
b. All dredged sediment and debris must be side cast or returned to the channel within the ordinary high-water line downstream from the dredging site where it will be recruited by the next annual high flow and continue to provide aquatic habitat functions.
c. The dredging must not alter the character, scope, size, or location of the project area or previously authorized dredge prism.

36. Dredging to Maintain Functionality. When discharging or excavating to maintain the functionality of a channel, culvert, intake, or outfall, the following conditions apply:

a. Either the discharge or excavation may not exceed 25 cubic yards, or include any water intake or point of diversion that does not have a fish screen that is installed, operated and maintained according to NMFS fish screen criteria and meet NMFS fish passage criteria.
b. All dredged materials and subsequent leave surface must be suitable and approved for in-water disposal using newly acquired or historical data based on criteria in the Sediment Evaluation Framework.
c. All dredged sediment and debris must be side cast or returned within the annual high flow channel downstream from the dredging site where it will continue to provide aquatic habitat functions.
d. The dredging must not alter the character, scope, size, or location of the project area.

SLOPES IV PROGRAMMATIC – IN-WATER OVER-WATER STRUCTURES ACTION COMPLETION FORM

Within 60 days of completing all work below ordinary high water (OHW) as part of an action completed under the SLOPES IV In-water Over-water Structures programmatic opinion, the permittee must submit a completed action completion form with the following information to the U.S. Army Corps of Engineers, Regulatory Branch at: cenwp.notify@usace.army.mil

Corps Permit #:

Corps Contact: _____

Action Title _____

_____

Start and End Dates for the completion of in-water work: ***Start***: _____ ***End***: _____

Any Dates work ceased due to high flows: _____ _____

_____ _____

_____ _____

_____ _____

Include With This Form:

1. Photos of habitat conditions before, during, and after action completion
2. Evidence of compliance with fish screen criteria for any pump used
3. A summary of the results of pollution and erosion control inspections, including any erosion control failure, contaminant release, and correction effort
4. Number, type, and diameter of any pilings removed or broken during removal
5. A description of any riparian area cleared within 150 feet of OHW
6. Linear feet of bank alteration
7. A description of site restoration
8. A completed Salvage Reporting Form from Appendix D for any action that requires fish salvage
9. As-Built drawings for any action involving riprap revetment, stormwater management facility, or bridge rehabilitation or replacement.

SLOPES IV PROGRAMMATIC – IN-WATER OVER-WATER STRUCTURES SALVAGE REPORTING FORM

If Applicable: Within 10 days of completing a capture and release as part of an action completed under the SLOPES IV In-water Over-water Structures programmatic opinion, submit a completed Salvage Reporting Form, or its equivalent, with the following information to the Corps at cenwp.notify@usace.army.mil.

Corps Permit #:

Corps Contact: _____

Action Title _____

Date of Fish Salvage Operation: _____

Supervisory Fish Biologist (name, address & telephone number): _____

_____

_____

Include With This Form: _____

1. A description of methods used to isolate the work area, remove fish, minimize adverse effects on fish, and evaluate their effectiveness.
2. A description of the stream conditions before and following placement and removal of barriers.
3. A description of the number of fish handled, condition at release, number injured, and number killed by species.

SLOPES IV PROGRAMMATIC –IN-WATER OVER-WATER STRUCTURES RESTORATION/ COMPENSATORY MITIGATION REPORTING FORM

By December 31 of any year in which the Corps approves that the site restoration or compensatory mitigation is complete, submit a completed Site Restoration/Compensatory Mitigation Reporting Form, or its equivalent, with the following information to the Corps at cenwp.notify@usace.army.mil.

Corps Permit #: _____

Corps Contact: _____

Action Title _____

Type of Activity: _____

_____

Include With This Form:

1. Photos of habitat conditions before, during, and after action completion
2. Start and end date for the work
3. A summary of the results of mitigation or restoration work completed

Excerpts from the Bull Trout *(Salvelinus confluentus)* biological opinion dated June 29, 2017 titled *Programmatic Biological Opinion for Standard Local Operating Procedures for Endangered Species to Administer Stream Restoration; Stormwater, Transportation, or Utilities Actions; and In-Water or Over-Water Structure Actions and Effects to Bull Trout and Bull Trout Critical Habitat*. [FWS reference: 01EOFW00-2017-F-0370].

1.1 Project Design Criteria - General Construction Measures (G)

1G. Project Design.

a. Use the best available scientific information regarding the likely effects of climate change on resources in the project area, including projections of local stream flow and water temperature, to ensure that the project will be adaptable to those changes.
b. Obtain all applicable regulatory permits and official project authorizations before beginning construction.
c. Minimize the extent and duration of earthwork, *e.g.*, compacting, dredging, drilling, excavation, and filling.
    i. Avoid use of heavy equipment, vehicles or power tools below bankfull elevation unless project specialists determine such work is necessary, or would result in less risk of sedimentation or other ecological damage than work above that elevation.
    ii. Complete earthwork in wetlands, riparian areas, and stream channels as quickly as possible.
d. Cease project operations when high flows may inundate the project area, except for efforts to avoid or minimize resource damage.

2G. Site contamination assessment.

a. The level of detail and resources committed to such an assessment will be commensurate with the level and type of past or current development at the site. An applicant's assessment may include the following:
    i. Review available records, such as former site use and records of any prior contamination events.
    ii. If the project site was used for industrial processes (*i.e.*, mining or manufacturing with chemicals), inspect to determine the environmental condition of the property.
    iii. Interview people who are knowledgeable about the site, *e.g.*, site owners, operators, and occupants, neighbors, or local government officials.
b. Consult with the Service if ground disturbance to accomplish the proposed project would potentially release contaminants to aquatic habitat that supports listed fish species.

3G. Site layout and flagging.

a. Before any significant ground disturbance or entry of mechanized equipment

or vehicles into the construction area, clearly flag that area to identify:
   i. Sensitive areas, *e.g.*, wetlands, water bodies, ordinary high water, spawning areas.
   ii. Equipment entry and exit points.
   iii. Road and stream crossing alignments.
   iv. Staging, storage, and stockpile areas.
b. Before use of herbicides, clearly flag all buffer areas, including any no-application zones.

4G. Staging, storage, and stockpile areas.

a. Designate and use staging areas to store hazardous materials, or to store, fuel, or service heavy equipment, vehicles and other power equipment with tanks larger than 5 gallons, that are at least 150 feet from any natural water body or wetland, or on an established paved area, such that sediment and other contaminants from the staging area cannot be deposited in the floodplain or stream.
b. Natural materials that are displaced by construction and reserved for restoration, *e.g.*, large wood, gravel, and boulders, may be stockpiled within the 100-year floodplain.
c. Dispose of any material not used in the project and not native to the floodplain outside of the functional floodplain.
d. After construction is complete, obliterate all staging, storage, or stockpile areas, stabilize the soil, and re-vegetate the area.[3]

5G. Erosion control.

a. Use site planning and site erosion control measures commensurate with the scope of the project to prevent erosion and sediment discharge from the project site.
b. Before significant earthwork begins, install appropriate, temporary erosion controls downslope to prevent sediment deposition in the riparian area, wetlands, or water body.
c. During construction, if eroded sediment appears likely to be deposited in the stream during construction, install additional sediment barriers as necessary.
d. Temporary erosion control measures may include fiber wattles, silt fences, jute matting, wood fiber mulch and soil binder, or geotextiles and geosynthetic fabric.
e. Soil stabilization using wood fiber mulch and tackifier (hydro-applied) may be used to reduce erosion of bare soil, if the materials are free of noxious weeds and nontoxic to aquatic and terrestrial animals, soil microorganisms, and vegetation.
f. Remove sediment from erosion controls if it reaches 1/3 of the exposed height of the control.
g. Whenever surface water is present, maintain a supply of sediment control

[3] Road and path obliteration refers to the most comprehensive degree of decommissioning and involves decompacting the surface and ditch, pulling the fill material onto the running surface, and reshaping to match the original contour.

materials and an oil-absorbing floating boom at the project site.

h. Remove temporary erosion controls after construction is complete and the site is fully stabilized.

6G. Hazardous material spill prevention and control.

a. At the project site:
   i. Post written procedures for notifying environmental response agencies, including an inventory and description of all hazardous materials present, and the storage and handling procedures for their use.
   ii. Maintain a spill containment kit, with supplies and instructions for cleanup and disposal, adequate for the types and quantity of hazardous materials present.
   iii. Train workers in spill containment procedures, including the location and use of the spill containment kits.

b. Temporarily contain any waste liquids generated under an impervious cover, such as a tarpaulin, in the staging area until the wastes can be properly transported to, and disposed of, at an approved receiving facility.

7G. Equipment, vehicles, and power tools.

a. Select, operate and maintain all heavy equipment, vehicles, and power tools to minimize adverse effects on the environment, *e.g.*, low pressure tires, minimal hard-turn paths for track vehicles, use of temporary mats or plates to protect wet soils.

b. Before entering wetlands or within 150 feet of a waterbody, replace all petroleum-based hydraulic fluids with biodegradable products.[4]

c. Invasive species prevention and control.
   i. Before entering the project site, power wash all heavy equipment, vehicles and power tools, allow them to fully dry, and inspect them to make certain no plants, soil, or other organic material adhering to the surface.
   ii. Before entering the water, inspect any watercraft, waders, boots, or other gear to be used in or near water and remove any plants, soil, or other organic material adhering to the surface.

d. Inspect all equipment, vehicles, and power tools for fluid leaks before they leave the staging area.

e. Before operation within 150-feet of any waterbody , and as often as necessary during operation, thoroughly clean all equipment, vehicles, and power tools to keep them free of external fluids and grease and to prevent leaks and spills from entering the water.

[4] For additional information and suppliers of biodegradable hydraulic fluids, motor oil, lubricant, or grease. See, Environmentally Acceptable Lubricants by the USEPA (2011); *e.g.*, mineral oil, polyglycol, vegetable oil, synthetic ester; Mobil® biodegradable hydraulic oils, Total® hydraulic fluid, Terresolve Technologies Ltd.® bio-based biodegradable lubricants, Cougar Lubrication® 2XT Bio engine oil, Series 4300 Synthetic Bio-degradable Hydraulic Oil, 8060-2 Synthetic Bio-Degradable Grease No. 2, etc. The use of trade, firm, or corporation names in this opinion is for the information and convenience of the action agency and applicants and does not constitute an official endorsement or approval by the U.S. Department of Interior or the Service of any product or service to the exclusion of others that may be suitable.

f. Generators, cranes or other stationary heavy equipment operated within 150-feet of any waterbody must be maintained and protected as necessary to prevent leaks and spills from entering the water.

8G. Drilling and Boring

a. If drilling or boring are used, isolate drilling operations in wetted stream channels using a steel casing or other appropriate isolation method to prevent drilling fluids from contacting water.
b. If drilling through a bridge deck is necessary, use containment measures to prevent drilling debris from entering the channel.
c. Sampling and directional drill recovery/recycling pits, and any associated waste or spoils will be completely isolated from surface waters, off-channel habitats and wetlands.
d. All waste or spoils will be covered if precipitation is falling or imminent.
e. All drilling fluids and waste will be recovered and recycled or disposed to prevent entry into flowing water.
f. If a drill boring case breaks and drilling fluid or waste is visible in water or a wetland, make all possible efforts to contain the waste and contact the Service within 48 hours.
g. Waste containment
    i. All drilling equipment, drill recovery and recycling pits, and any waste or spoil produced, will be contained and then completely recovered and recycled or disposed of as necessary to prevent entry into any waterway. Use a tank to recycle drilling fluids.
    ii. When drilling is completed, remove as much of the remaining drilling fluid as possible from the casing (*e.g.*, by pumping) to reduce turbidity when the casing is removed.

9G. Temporary access roads and paths.

a. Whenever reasonable, use existing access roads and paths preferentially.
b. Minimize the number and length of temporary access roads and paths through riparian areas and floodplains.
c. Minimize removal of riparian vegetation.
d. When it is necessary to remove vegetation, cut at ground level (no grubbing).
e. Do not build temporary access roads or paths where grade, soil, or other features suggest slope instability.
f. After construction is complete, obliterate all temporary access roads and paths, stabilize the soil, and revegetate the area.
g. Temporary roads and paths in wet areas or areas prone to flooding must be obliterated by the end of the in-water work window. Decompact road surfaces and drainage areas, pull fill material onto the running surface, and reshape to match the original contours.

10G. Dust abatement.

a. Employ dust abatement measures commensurate with soil type, equipment use, wind conditions, and the effects of other erosion control measures.

b. Sequence and schedule work to reduce the exposure of bare soil to wind erosion.
c. Maintain spill containment supplies on-site whenever dust abatement chemicals are applied.
d. Do not use petroleum-based products.
e. Do not apply dust-abatement chemicals, e.g., magnesium chloride, calcium chloride salts, ligninsulfonate, within 25 feet of water or a stream channel.
f. Do not apply ligninsulfonate at rates exceeding 0.5 gallons per square yard of road surface, assuming a 50:50 solution of ligninsulfonate to water.
g. Do not apply dust abatement chemicals at stream crossings, within 25 feet of a water body, or in other areas where they may runoff directly into a wetland or water body.

11G. Temporary stream crossings.

a. No stream crossing may occur at active spawning sites, when holding adult listed fish are present, or when eggs or alevins are in the gravel.
b. Do not place temporary crossings in areas that may increase the risk of channel re-routing or avulsion, or in potential spawning habitat, e.g., pools and pool tailouts.
c. Minimize the number of temporary stream crossings; use existing stream crossings whenever reasonable.
d. Install temporary bridges and culverts to allow for equipment and vehicle crossing over perennial streams during construction.
e. Wherever possible, vehicles and machinery must cross streams at right angles to the main channel.
f. Equipment and vehicles may cross the stream in the wet only where the streambed is bedrock, or where mats or off-site logs are placed in the stream and used as a crossing.
g. Obliterate all temporary stream crossings as soon as they are no longer needed, and restore any damage to affected stream banks or channel.

12G. Barge Use.

Any barge used as a work platform to support construction will be:

a. Large enough to remain stable under foreseeable loads and adverse conditions.
b. Inspected before arrival to ensure vessel and ballast are free of invasive species.
c. Secured, stabilized and maintained as necessary to ensure no loss of balance, stability, anchorage, or other condition that can result in the release of contaminants or construction debris.

13G. Surface water withdrawal and construction discharge water.

a. Surface water may be diverted to meet construction needs, but only if developed sources are unavailable or inadequate.
b. Diversions may not exceed 10% of the available flow and must have a juvenile fish exclusion device that is consistent with NMFS's criteria (2011 or

current version), site-specific designs as approved by USFWS and NMFS (if a minor variance is requested), or meets the Service's bull trout specific screening and passage criteria when developed.

c. Treat all construction discharge water using the best management practices applicable to site conditions to remove debris, sediment, petroleum products, and any other pollutants likely to be present, (e.g., green concrete, contaminated water, silt, welding slag, sandblasting abrasive, grout cured less than 24 hours, drilling fluids) to ensure that no pollutants are discharged from the construction site. Pump seepage water from the de-watered work area to a temporary storage and treatment site or into upland areas and allow water to filter through vegetation prior to reentering the stream channel. Treat water used to cure concrete until pH stabilizes to background levels.

14G. Fish passage.

a. Provide fish passage for any adult or juvenile ESA-listed fish likely to be present in the action area during construction, unless passage did not exist before construction or the stream is naturally impassable at the time of construction.

b. After construction, provide fish passage for any adult or juvenile ESA-listed fish that meets NMFS's fish passage criteria (2011 or current version), site-specific designs as approved by USFWS and NMFS (if a minor variance is requested), or meets the Service's bull trout specific screening and passage criteria when developed, for the life of the action.

c. If the provision of temporary fish passage during construction will increase negative effects on aquatic species of interest or their habitat, a variance can be requested from the Service's Field Office Supervisor. Pertinent information, such as the species affected, length of stream reach affected, proposed time for the passage barrier, and alternatives considered, will be included in the variance request.

15G. Fish Screens.

a. Submit to the Service for review and approval fish screen designs for surface water diverted by gravity or by pumping at a rate that exceeds 3 cubic feet per second (cfs).

b. All other diversions will have a fish screen that meets the following specifications:

   i. An automated cleaning device with a minimum effective surface area of 2.5 square feet per cubic foot per second, and a nominal maximum approach velocity of 0.4 feet per second, or no automated cleaning device, a minimum effective surface area of 1 square foot per cubic foot per second, and a nominal maximum approach rate of 0.2 foot per second; and

   ii. A round or square screen mesh that is no larger than 2.38 millimeters (mm) (0.094") in the narrow dimension, or any other shape that is no larger than 1.75 mm (0.069") in the narrow dimension.

c. Each fish screen will be installed, operated, and maintained according to

NMFS's fish screen criteria (2011 or current version), site-specific designs as approved by USFWS and NMFS (if a minor variance is requested), or meets the Service's bull trout specific screening and passage criteria when developed.

16G. In-water work timing.

a. Unless the in-water work is part of a natural hazard response, complete all work within the wetted channel during dates listed in the most recent version of Oregon Guidelines for Timing of In-water Work to Protect Fish and Wildlife Resources (ODFW, 2008).
b. Hydraulic and topographic measurements and placement of large wood or gravel may be completed anytime, provided the affected area is not occupied by adult fish congregating for spawning, or in an area where redds are occupied by eggs or pre-emergent alevins.

17G. Pile Installation.

a. Pile may be concrete, or steel round pile, steel H-pile, or wood
b. Unless a registered professional engineer provides a written statement describing how it is the only practicable method, impact pile driving is not allowed under this proposed action. In those cases that require an impact hammer a project specific variance must also be obtained from the appropriate Service Field Office Supervisor.
c. When using an impact hammer to drive or proof a steel pile, one of the following sound attenuation methods will be used:
    i. Completely isolate the pile from flowing water by dewatering the area around the pile.
    ii. If water velocity is 1.6 feet per second or less, surround the pile being driven by a confined or unconfined bubble curtain that will distribute small air bubbles around 100% of the pile perimeter for the full depth of the water column. See, e.g., NMFS and USFWS (1998), Wursig et al. (2000), and Longmuir and Lively (2001).
    iii. If water velocity is greater than 1.6 feet per second, surround the pile being driven with a confined bubble curtain (e.g., surrounded by a fabric or non-metallic sleeve) that will distribute air bubbles around 100% of the pile perimeter for the full depth of the water column.
    iv. Provide the Service with information regarding the timing of in-water work, the number of impact hammer strikes per pile and the estimated time required to drive piles, hours per day pile driving will occur, depth of water, and type of substrate, hydroacoustic assumptions, and the pile type, diameter, and spacing of the piles.
    v. Jetting may be used to install pile in areas with coarse, uncontaminated sediments that meet criteria for unconfined in-water disposal (USACE Northwest Division, 2009).

18G. Work area isolation.

a. Isolate any work area within the wetted channel from the active stream

whenever ESA-listed fish are reasonably certain to be present, or if the work area is less than 300-feet upstream from known spawning habitats.

b. Engineering design plans for work area isolation must include all isolation elements and fish release areas.
c. Dewater the shortest linear extent of work area practicable, unless wetted in-stream work is deemed to be minimally harmful to fish, and is beneficial to other aquatic species.[5]
    i. Use a coffer dam and a by-pass culvert or pipe, or a lined, non-erodible diversion ditch to divert flow around the dewatered area. Dissipate flow energy to prevent damage to riparian vegetation or stream channel and provide safe downstream reentry of fish, preferably into pool habitat with cover.
    ii. Where gravity feed is not possible, pump water from the work site to avoid rewatering. Maintain a fish screen on the pump intake to avoid juvenile fish entrainment.
    iii. Pump seepage water to a temporary storage and treatment site, or into upland areas, to allow water to percolate through soil or to filter through vegetation before reentering the stream channel with a treatment system comprised of either a hay bale basin or other sediment control device.
    iv. Monitor below the construction site to prevent stranding of aquatic organisms.
    v. When construction is complete, re-water the construction site slowly to prevent loss of surface flow downstream, and to prevent a sudden increase in stream turbidity.
d. Whenever a pump is used to dewater the isolation area and ESA-listed fish may be present, a fish screen must be used that meets the most current version of NMFS's fish screen criteria (2011 or current version), or site-specific designs as approved by USFWS and NMFS (if a minor variance is requested). Service approval is required for pumping that exceeds 3 cfs.

19G. Fish capture.

a. If practicable, allow listed fish species to migrate out of the work area or remove fish before dewatering; otherwise remove fish from an exclusion area as it is slowly dewatered with methods such as hand or dip-nets, seining, and trapping with minnow traps (or gee-minnow traps).
b. Fish capture must be supervised by a qualified fisheries biologist, with experience in work area isolation and competent to ensure the safe handling of all fish.
c. Conduct fish capture activities during periods of the day with the coolest air and water temperatures possible, normally early in the morning to minimize stress and injury of species present.
d. Monitor the nets needed to isolate a site frequently enough to ensure they stay secured to the banks and free of organic accumulation.

[5] For instructions on how to dewater areas occupied by lamprey, see USFWS (2010).

e. Electrofishing may only be used after other means of fish capture are determined to be not feasible or ineffective during the coolest time of day.
    i. To minimize impacts to bull trout, electrofishing activities shall be conducted according to the NMFS guidelines (2000) including use of only direct current (DC) or pulsed direct current within the following ranges:
        (1) If conductivity is less than 100 µs, use 900 to 1100 volts.
        (2) If conductivity is between 100 to 300 µs, use 500 to 800 volts.
        (3) If conductivity greater than 300 µs, use less than 400 volts.
    ii. Do not intentionally contact fish with the anode.
    iii. Begin electrofishing with a minimum pulse width and recommended voltage, then gradually increase to the point where fish are immobilized.
    iv. Immediately discontinue electrofishing if fish are killed or injured, i.e., dark bands visible on the body, spinal deformations, significant de-scaling, torpid or inability to maintain upright attitude after sufficient recovery time. Recheck machine settings, water temperature and conductivity, and adjust or postpone procedures as necessary to reduce injuries.
    v. Electrofishing equipment shall be operated at the lowest possible effective settings to minimize injury or mortality to bull trout.
    vi. Electrofishing shall be avoided in areas, such as the mouths of streams or deep pools, when adult bull trout may be staging as part of their spawning migration.
    vii. Electrofishing shall not be conducted when the water conditions are turbid and visibility is poor. This condition may be experienced when the sampler cannot see the stream bottom in one foot of water.
    viii. Electrofishing in spawning/rearing habitat must be approved by the appropriate Service Field or Division Supervisor and may only occur from May 1 (or after emergence occurs) to July 15 in known bull trout spawning areas. No electrofishing will occur in any bull trout habitat after August 15. Electrofishing during the spring in bull trout habitat and spawning areas runs the risk of injuring or killing alevins or fry that remain in or near the gravels. If salmonid alevins or fry are seen during spring electrofishing, the electrofishing activity shall immediately cease until the alevins or fry can be identified. If they are determined to be bull trout, electrofishing shall be terminated at the site until after the fry have fully emerged.
    ix. During the bull trout spawning season (typically August 15 to December 1), a cursory observation of the survey reach shall be completed before electrofishing. Electrofishing shall only be performed in areas where adult bull trout or their redds are not observed. If an adult bull trout is subsequently shocked, electrofishing at that site shall be suspended.
    x. Electrofishing activities shall be minimized where larger, fluvial bull trout might be captured.

xi. Bull trout must not be handled when water temperatures exceed 15ºC.
xii. Nets, hands, etc. must be free of insect repellant, sunscreen or any other substance that might harm fish.
xiii. Ice packs will be used to keep capture water <15ºC.

f. If buckets are used to transport fish:
   i. Minimize the time fish are in a transport bucket.
   ii. Keep buckets in shaded areas or, if no shade is available, covered by a canopy.
   iii. Limit the number of fish within a bucket; fish will be of relatively comparable size to minimize predation.
   iv. Use aerators or replace the water in the buckets at least every 15 minutes with cold clear water.
   v. Release fish in an area upstream with adequate cover and flow refuge; downstream is acceptable provided the release site is below the influence of construction.
   vi. Be careful to avoid mortality counting errors.
g. Monitor and record fish presence, handling, and injury during all phases of fish capture and submit a fish salvage report to the Corps and the Service within 60 days.
h. Submit any take or salvage of individuals/specimens resulting in mortality to the appropriate designated fish repository listed below:

The Department of Fisheries and Wildlife, Nash Hall, Room #104, Oregon State University (OSU), Corvallis, Oregon 97331-3803.

Contact Brian Sidlauskas, Curator OSU Ichthyology Collection, by telephone at 541-737-1939, fax at 541-737-3590, or email at brian.sidlauskas@oregonstate.edu for specific instructions on preserving and shipping aquatic specimens to OSU. The following information should also be included with the specimen submission: date, time, and place of collection; name of authorized collector(s)/permittee(s); geographic coordinates of collection location; habitat associated with collection location; and weather conditions at the time of collection.

20G. Site restoration.

a. Restore any significant disturbance of riparian vegetation, soils, stream banks or stream channel.
b. Remove all project related waste; e.g., pick up trash, sweep roadways in the project area to avoid runoff-containing sediment, etc.
c. Obliterate all temporary access roads, crossings, and staging areas.
d. Loosen compacted areas of soil when necessary for revegetation or infiltration.
e. Although no single criterion is sufficient to measure restoration success, the intent is that the following features should be present in the upland parts of the project area, within reasonable limits of natural and management variation:

i. Human and livestock disturbance, if any, are confined to small areas necessary for access or other special management situations.
ii. Areas with signs of significant past erosion are completely stabilized and healed, bare soil spaces are small and well-dispersed.
iii. Soil movement, such as active rills and soil deposition around plants or in small basins, is absent or slight and local.
iv. Native woody and herbaceous vegetation, and germination microsites, are present and well distributed across the site; invasive plants are absent.
v. Plants have normal, vigorous growth form, and a high probability of remaining vigorous, healthy and dominant over undesired competing vegetation.
vi. Plant litter is well distributed and effective in protecting the soil with little or no litter accumulated against vegetation as a result of active sheet erosion ("litter dams").
vii. A continuous corridor of shrubs and trees appropriate to the site are present to provide shade and other habitat functions for the entire streambank.

21G. Revegetation.

a. Plant and seed disturbed areas before or at the beginning of the first growing season after construction.
b. Use species that will achieve shade and erosion control objectives, including forb, grass, shrub, or tree species that are appropriate for the site and native to the project area or region.
c. Short-term stabilization measures may include use of non-native sterile seed mix if native seeds are not available, weed-free certified straw, jute matting, and similar methods.
d. When feasible, use vegetation salvaged from local areas scheduled for clearing due to development.
e. Do not apply surface fertilizer within 50 feet of any wetland of water body.
f. Install fencing as necessary to prevent access to revegetated sites by livestock or unauthorized persons.
g. Do not use invasive or non-native species for site restoration.
h. Remove or control invasive plants until native plant species are well-established.

22G. Invasive and non-native plant control.

a. ***Non-herbicide methods*.** Limit vegetation removal and soil disturbance within the riparian zone by limiting the number of workers there to the minimum necessary to complete manual and mechanical plant control (*e.g.*, hand pulling, clipping, stabbing, digging, brush-cutting, mulching or heating with radiant heat, pressurized hot water, or heated foam).
b. ***Herbicide Label.*** Herbicide applicators must comply with all label instructions.
c. ***Power equipment.*** Refuel gas-powered equipment with tanks larger than 5

gallons in a vehicle staging area placed 150-feet or more from any natural waterbody, or in an isolated hazard zone such as a paved parking lot.

d. ***Maximum herbicide treatment area.*** For the total area treated with herbicides within riparian areas, do not exceed 10-acres above bankfull elevation and 2 acres below bankfull elevation, per 1.6-mile reach of a stream, per year.
e. ***Herbicide applicator qualifications.*** Herbicides may only be applied by an appropriately licensed applicator using an herbicide specifically targeted for a particular plant species that will cause the least impact. The applicator will be responsible for preparing and carrying out the herbicide transportation and safely plan, as follows.
f. ***Herbicide transportation and safety plan.*** The applicator will prepare and carry out an herbicide safety/spill response plan to reduce the likelihood of spills or misapplication, to take remedial actions in the event of spills, and to fully report the event.
g. ***Herbicides.*** The only herbicides proposed for use under this Opinion are (some common trade names are shown in parentheses):[6]
    i. aquatic imazapyr (*e.g.*, Habitat)
    ii. aquatic glyphosate (*e.g.*, AquaMaster, AquaPro, Rodeo)
    iii. aquatic triclopyr-TEA (*e.g.*, Renovate 3)
    iv. chlorsulfuron (*e.g.*, Telar, Glean, Corsair)
    v. clopyralid (*e.g.*, Transline)
    vi. imazapic (*e.g.*, Plateau)
    vii. imazapyr (*e.g.*, Arsenal, Chopper)
    viii. metsulfuron-methyl (*e.g.*, Escort)
    ix. picloram (*e.g.*, Tordon)
    x. sethoxydim (*e.g.*, Poast, Vantage)
    xi. sulfometuron-methyl (*e.g.*, Oust, Oust XP)
h. ***Herbicide adjuvants.*** The only adjuvants proposed for use under this Opinion are as follows, with mixing rates described in label instructions (Table 2). Polyethoxylated tallow amine (POEA) surfactant and herbicides that contain POEA (*e.g.*, Roundup) will not be used.

Table 1. Herbicide adjuvants, trade names, and application areas.

Adjuvant Type	Trade Name	Application Areas
Surfactants	Agri-Dex	Riparian
	LI 700	Riparian
Drift Retardants	41-A	Riparian
	Vale	Upland

i. ***Herbicide carriers.*** Herbicide carriers (solvents) are limited to water or specifically labeled vegetable oil. Use of diesel oil as an herbicide carrier is

[6] The use of trade, firm, or corporation names in this opinion is for the information and convenience of the action agency and applicants and does not constitute an official endorsement or approval by the U.S. Department of Interior or Service of any product or service to the exclusion of others that may be suitable.

prohibited.

j. ***Herbicide mixing.*** Mix herbicides more than 150-feet from any natural waterbody to minimize the risk of an accidental discharge.

k. ***Dyes.*** Use a non-hazardous indicator dye (*e.g.*, Hi-Light or Dynamark) with herbicides within 100-feet of live water. The presence of dye makes it easier to see where the herbicide has been applied and where or whether it has dripped, spilled, or leaked. Dye also makes it easier to detect missed spots, avoid spraying a plant or area more than once, and minimize over-spraying (SERA 1997).

l. ***Spill Cleanup Kit.*** Provide a spill cleanup kit whenever herbicides are used, transported, or stored. At a minimum, cleanup kits will include, Material Safety Data Sheets, the herbicide label, emergency phone numbers, and absorbent material such as cat litter to contain spills.

m. ***Herbicide application rates.*** Apply herbicides will be applied at the lowest effective label rates.

n. ***Herbicide application methods.*** Apply liquid or granular forms of herbicides as follows:
    i. Broadcast spraying – hand held nozzles attached to back pack tanks or vehicles, or by using vehicle mounted booms.
    ii. Spot spraying – hand held nozzles attached to back pack tanks or vehicles, hand-pumped spray, or squirt bottles to spray herbicide directly onto small patches or individual plants using.
    iii. Hand/selective – wicking and wiping, basal bark, fill (“hack and squirt”), stem injection, cut-stump.
    iv. Triclopyr – will not be applied by broadcast spraying.
    v. Keep the spray nozzle within 4-feet of the ground; 6-feet for spot or patch spraying more than 15-feet of the high water mark (HWM) if needed to treat tall vegetation.
    vi. Apply spray in swaths parallel towards the project area, away from the creek and desirable vegetation, i.e., the person applying the spray will generally have their back to the creek or other sensitive resource.
    vii. Avoid unnecessary run off during cut surface, basal bark, and hack-squirt/injection applications.

o. ***Washing spray tanks.*** Wash spray tanks 300-feet or more away from any surface water.

p. ***Minimization of herbicide drift and leaching.*** Minimize herbicide drift and leaching as follows:
    i. Do not spray when wind speeds exceed 10 miles per hour, or are less than 2 miles per hour.
    ii. Be aware of wind directions and potential for herbicides to affect aquatic habitat area downwind.
    iii. Keep boom or spray as low as possible to reduce wind effects.
    iv. Increase spray droplet size whenever possible by decreasing spray pressure, using high flow rate nozzles, using water diluents instead of oil, and adding thickening agents.
    v. Do not apply herbicides during temperature inversions, or when ground

temperatures exceed 80 degrees Fahrenheit.

vi. Wind and other weather data will be monitored and reported for all broadcast applications.

q. ***Rain.*** Do not apply herbicides when the soil is saturated or when a precipitation event likely to produce direct runoff to salmon bearing waters from the treated area is forecasted by the NOAA National Weather Service or other similar forecasting service within 48 hours following application. Soil-activated herbicides may follow label instructions. Do not conduct hack-squirt/injection applications during periods of heavy rainfall.

r. ***Herbicide buffer distances.*** Observe the following no-application buffers, measured in feet and are based on herbicide formula, stream type, and application method, during herbicide applications (Table 3). Use the most conservative buffer for any herbicide included in a combination of approved herbicides. Buffer widths are in feet, measured as map distance perpendicular to the bankfull elevation for streams, the upland boundary for wetlands, or the upper bank for roadside ditches. Before herbicide application begins, flag or mark the upland boundary of each applicable herbicide buffer to ensure that all buffers are in place and functional during treatment.

Table 2. Herbicide buffer distances by herbicide formula, stream type, and application method.

Herbicide	**No Application Buffer Width (feet)**					
	Streams and Roadside Ditches with flowing or standing water present and Wetlands			Dry Streams, Roadside Ditches, and Wetlands		
	Broadcast Spraying	Spot Spraying	Hand Selective	Broadcast Spraying	Spot Spraying	Hand Selective
Labeled for Aquatic Use						
Aquatic Glyphosate	100	waterline	waterline	50	None	none
Aquatic Imazapyr	100	15	waterline	50	None	none
Aquatic Triclopyr-TEA	**Not Allowed**	15	waterline	**Not Allowed**	None	none
Low Risk to Aquatic Organisms						
Imazapic	100	15	bankfull elevation	50	None	none
Clopyralid	100	15	bankfull elevation	50	None	none
Metsulfuron-methyl	100	15	bankfull elevation	50	None	none
Moderate Risk to Aquatic Organisms						
Imazapyr	100	50	bankfull elevation	50	15	bankfull elevation
Sulfometuron-methyl	100	50	5	50	15	bankfull elevation
Chlorsulfuron	100	50	bankfull elevation	50	15	bankfull elevation
High Risk to Aquatic Organisms						
Picloram	100	50	50	100	50	50
Sethoxydim	100	50	50	100	50	50

23G. Actions That Require Compensatory Mitigation.

a. The Corps will rely on 33 CFR 332 when considering appropriate mitigation. The first option for an applicant is to purchase credits from an appropriate mitigation bank. The second option is to purchase credits from an approved in-lieu-fee sponsor. The third option is permittee-responsible mitigation. The fourth option is a combination of some or all of the above options that collectively satisfies the mitigation requirements.

24G. Cessation of work.

b. Project operations will cease under the following conditions:
   i. High flow conditions that may result in inundation of the project area, except for efforts to avoid or minimize resource damage;
   ii. When allowable water quality impacts, as defined by the state CWA section 401 water quality certification, have been exceeded; or
   iii. When "incidental take" limitations have been reached or exceeded.

1.4 Project Design Criteria III - Types of In-Water Over-Water Actions (I)

1I. Boat ramps.

All boat ramps must consist of pre-cast concrete slabs below ordinary high water, and may be cast-in-place above ordinary high water if completed in the dry. Rock may be used to prevent scouring, down-cutting, or failure at the boat ramp, provided that the rock is no larger than necessary and does not extend further than necessary from the edge of the ramp in any direction.

2I. Educational signs.

a. To educate the public about pollution from boating activities and its prevention, the Corps shall install (Corps project) or require the following information or its equivalent to be posted on a permanent sign that will be maintained at each permitted facility that is used by the public (*e.g.,* a public boat ramp or marina):
   i. A description of the ESA-listed species which are or may be present in the project area.
   ii. Notice that adults and juveniles of these species are protected by the ESA and other laws so that they can successfully migrate, spawn, rear, and complete other behaviors necessary for their recovery.
   iii. Therefore, all users of the facility are encouraged or required to:
      (1) Follow procedures and rules governing use of sewage pump-out facilities;
      (2) Minimize the fuel and oil released into surface waters during fueling, and from bilges and gas tanks;
      (3) Avoid cleaning boat hulls in the water to prevent the release of cleaner, paint and solvent;
      (4) Practice sound fish cleaning and waste management, including proper disposal of fish waste; and
      (5) Dispose of all solid and liquid waste produced while boating in a proper facility away from surface waters.

3I. Flotation material.
All synthetic flotation material must be permanently encapsulated to prevent breakup into small pieces and dispersal in water.

4I. New or replacement floats.
a. Any float wider than 6-feet must also include:
   i. An open area of grating that is at least 50% of the total surface area; or
   ii. Be placed where current velocity is at least 0.7 feet per second year-round.
   iii. Floats shall be kept to the minimum footprint necessary to achieve the project purpose.

5I. Piscivorous birds.
All float pilings, mooring buoys, and navigational aids must be fitted with devices to prevent perching by piscivorous birds.

6I. Relocation of existing structures in a marina.
Any existing structure that is relocated in a marina must remain within the existing overall footprint.

7I. Dredging to Maintain Vessel Access.
a. When dredging to maintain access to previously authorized docks, wharfs, mooring structures, and boat ramps, the following conditions apply:
   i. All dredged materials and subsequent leave surface must be suitable and approved for in-water disposal using newly acquired or historical data based on criteria in the Sediment Evaluation Framework (USACE Northwest Division, 2009).
   ii. Unless the project is in an accretion zone or otherwise waived by the Service, all dredged sediment and debris must be side cast or returned to the channel within the ordinary high-water line downstream from the dredging site where it will be recruited by the next annual high flow and continue to provide aquatic habitat functions.
   iii. The dredging must not alter the character, scope, size, or location of the project area or previously authorized dredge prism.

8I. Dredging to Maintain Functionality.
a. When discharging or excavating to maintain the functionality of a channel, culvert, intake, or outfall, the following conditions apply:
   i. Either the discharge or excavation may not include any water intake or point of diversion that does not have a fish screen that is installed, operated and maintained according to NMFS (2011 or current version), site-specific designs as approved by USFWS and NMFS (if a minor variance is requested), or meets the Service's bull trout specific screening and passage criteria when developed. The Service may waive this requirement if a mutually agreeable plan is developed to

install and/or upgrade appropriate fish screens meeting the criteria.

ii. All dredged materials and subsequent leave surface must be suitable and approved for in-water disposal using newly acquired or historical data based on criteria in the Sediment Evaluation Framework.

iii. Unless the project is in an accretion zone or otherwise waived by the Service, all dredged sediment and debris must be side cast or returned within the annual high flow channel downstream from the dredging site where it will continue to provide aquatic habitat functions.

iv. The dredging must not alter the character, scope, size, or location of the project area.

SLOPES BT PROGRAMMATIC
ACTION COMPLETION FORM

Within 60 days of completing all work below ordinary high water (OHW) as part of an action completed under the SLOPES Bull Trout programmatic opinion, the permittee must submit a completed action completion form with the following information to the U.S. Army Corps of Engineers, Regulatory Branch at: cenwp.notify@usace.army.mil

Corps Permit #: _____

Corps Contact: _____

Action Title:

	Start:	***End***:
Start and End Dates for the completion of in-water work:	_____	_____
Any Dates work ceased due to high flows:	_____	_____
	_____	_____
	_____	_____
	_____	_____

☐ ***If a fish salvage was implemented during this action, I submitted a completed Fish Salvage Reporting Form to the Corps <u>within 60 days</u> of the action being completed.***

Include With This Form:

1. Photos of habitat conditions before, during, and after action completion
2. Evidence of compliance with fish screen criteria for any pump used
3. A summary of the results of pollution and erosion control inspections, including any erosion control failure, contaminant release, and correction effort
4. Number, type, and diameter of any pilings removed or broken during removal
5. A description of any riparian area cleared within 150 feet of OHW
6. Linear feet of bank alteration
7. A description of site restoration
8. A completed Fish Salvage Reporting Form from Appendix D for any action that requires fish salvage
9. As-Built drawings for any action involving riprap revetment, stormwater management facility, or bridge rehabilitation or replacement

SLOPES BT PROGRAMMATIC
FISH SALVAGE REPORTING FORM

If applicable: Within 60 days of completing a capture and release as part of an action completed under the SLOPES Bull Trout programmatic opinion: the permittee must submit a completed Fish Salvage Reporting Form, or its equivalent, to the U.S. Army Corps of Engineers, Regulatory Branch at: cenwp.notify@usace.army.mil

Corps Permit #: _____

Corps Contact: _____

Action Title: _____

Date of Fish Salvage Operation: _____

Supervisory Fish Biologist (name, address & telephone number): _____

Include With This Form:

1. A description of methods used to isolate the work area, remove fish, minimize adverse effects on fish, and evaluate their effectiveness.
2. A description of the stream conditions before and following placement and removal of barriers.
3. A completed Table 1 which describes the total numbers and fish condition at time of release which includes the number of fish handled, condition at release, number injured, and number killed by species.

Water Temperature: _____

Air Temperature: _____

Time of Day: _____

Table 1. Bull trout take incurred during action (s) covered by SLOPES programmatic BO.

ESA-Listed Species	Number Handled		Number Injured		Number Killed	
	Juvenile	Adult	Juvenile	Adult	Juvenile	Adult
Bull Trout						