



**US Army Corps
of Engineers**
Portland District

**DEPARTMENT OF THE ARMY PERMIT
REGIONAL GENERAL PERMIT
FOR
Bonneville Power Administration
Funded Habitat Improvement Projects
Within the Columbia River Basin in Oregon (RGP-6)**

Permit No.: NWP-2011-127-1

Effective Date: This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Expiration Date: July 31, 2023

Issuing Office: U.S. Army Corps of Engineers, Portland District, Regulatory Branch (Corps)

This regional general permit (RGP) authorizes project proponents who receive funding through the Bonneville Power Administration (BPA) to place fill material and certain structures in waters of the United States (subject to the terms and conditions herein) for the purpose of habitat improvement. This general permit is issued upon the recommendation of the Chief of Engineers as provided by 33 CFR 325.2(e)(2), pursuant to Section 404 of the Clean Water Act (P.L. 95-217) and Section 10 of the Rivers and Harbors Act of 1899.

Project proponents should contact the Corps if questions arise regarding compliance with any of the terms and conditions of this RGP. Project proponents should also contact the Corps if there are questions about whether a specific activity is exempt from regulation or is outside of the Corps' jurisdiction.

PROJECT LOCATION

Projects will occur within waters of the U.S., as defined in 33 CFR 328.3, in the Columbia River Basin in Oregon. This geographic scope encompasses the Columbia River estuary and main stem, as well as tributary watersheds.

PURPOSE OF RGP

The purpose of the RGP is to expedite the authorization of recurring activities that are similar in nature and have minor individual and cumulative adverse impacts on the aquatic environment. Use of the RGP is intended to reduce the amount of paperwork and time required to authorize qualifying projects by referencing, where appropriate, environmental compliance work completed by BPA. The RGP makes use of applicable programmatic Endangered Species Act and Essential Fish Habitat consultations and is the subject of programmatic State water quality certification and coastal zone

management consistency concurrence.

BPA RESPONSIBILITIES PERTINENT TO THIS RGP

Endangered Species Act Consultation. Pursuant to Section 7 of the Endangered Species Act of 1973 (ESA, 16 U.S.C. 1531 et seq.), BPA is required to consult with National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) to ensure that actions it funds are not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat.

Magnuson-Stevens Fishery Conservation and Management Act. BPA is required to consult with NMFS on activities that may adversely affect essential fish habitat, under the Magnuson Stevens Fishery Conservation and Management Act of 1996 (Public Law 104-267).

Cultural Resources/Tribal Coordination. Pursuant to its responsibilities under Section 106 of the National Historic Preservation Act (NHPA, 16 U.S.C. 470) and 36 CFR 800, BPA is required to consult with the appropriate tribes and State Historic Preservation Office for projects that have the potential to cause effects on historic properties. BPA is the primary lead Federal agency for Section 106 consultation. BPA will also consult with the appropriate tribes to ensure that no activity or its operation will impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights

National Wild and Scenic Rivers Act. Pursuant to its responsibilities under the National Wild and Scenic Rivers Act (16 USC 1271 et seq.), the BPA will ensure that the project proponent has consulted with the appropriate federal agency responsible for management of the designated Wild and Scenic River to ensure that funded projects will not adversely affect the outstanding values for which the river or component was designated or considered.

Columbia River Gorge National Scenic Act. The Columbia River Gorge National Scenic Area Act of 1986 established the Columbia River Gorge National Scenic Area and established standards by which projects and developments proposed within the scenic area are reviewed and approved. BPA is required to comply with those standards and must coordinate with the Forest Service, who is responsible for reviewing activities within the Gorge Scenic area.

ACTIVITIES AUTHORIZED BY RGP

This RGP authorizes project proponents to implement BPA funded habitat improvement projects that will be conducted within waters of the U.S. These activities are subject to review by BPA, the Northwest Power and Conservation Council, and an Independent Scientific Review Panel, and are designed to maintain, enhance, create, and/or restore watershed functions to benefit fish species, other aquatic organisms, water quality, water quantity, riparian areas, floodplains, and wetlands.

The activities proposed for inclusion in the RGP are predictable as to their effects, and consistent with large scale conservation strategies and the best available science. The proposed activities are similar in nature and will not cause more than minimal individual and cumulative effects.

The habitat improvement categories are as follows:

1. Fish Passage Restoration.

Profile Discontinuities.

- a. Dams, Water Control Structures, or Legacy Structures Removal.
- b. Consolidate, or Replace Existing Irrigation Diversions.
- c. Headcut and Grade Stabilization.
- d. Low Flow Consolidation.
- e. Provide Fish Passage at an Existing Facility.

Transportation Infrastructure.

- f. Bridge and Culvert Removal or Replacement.
- g. Bridge and Culvert Maintenance.
- h. Installation of Fords.

2. River, Stream, Floodplain, and Wetland Restoration.

- a. Improve Secondary Channel and Floodplain Interactions.
- b. Set-back or Removal of Existing, Berms, Dikes, and Levees.
- c. Protect Streambanks Using Bioengineering Methods.
- d. Install Habitat-Forming Natural Material Instream Structures.
- e. Riparian and Wetland Vegetation Planting.
- f. Channel Reconstruction.
- g. Beaver Habitat Restoration

3. Invasive Plant Control.

- a. Manage Vegetation using Physical Control.
- b. Manage Vegetation using Herbicides (River Systems).
- c. Manage Vegetation using Herbicides (Estuarine Systems).
- d. Juniper Removal.

4. Piling Removal.

5. Road and Trail Maintenance and Decommissioning.

- a. Road Maintenance.
- b. Road Decommissioning.

6. In-channel Nutrient Enhancement.

7. Irrigation and Water Delivery/Management Actions.

- a. Convert Delivery System to Drip or Sprinkler Irrigation.
- b. Convert Water Conveyance from Open Ditch to Pipeline.

- c. Convert from Instream Diversions to Groundwater Wells for Primary Water Sources.
- d. Install or Replace Return Flow Cooling Systems.
- e. Install Irrigation Water Siphon Beneath Waterway.
- f. Livestock Watering Facilities.
- g. Install, Upgrade, or Maintain Fish Exclusion Devices and Bypass.

8. Fisheries, Hydrologic, and Geomorphologic Surveys.

9. Special Actions (for Terrestrial Species).

- a. Install/Develop Wildlife Structures.
- b. Construct Fencing for Grazing Control.
- c. Plant Vegetation.
- d. Tree Removal for Large Wood Projects.

The General Aquatic Conservation Measures Applicable to All Actions, Project Descriptions, and Project-Specific Conservation Measures are found in Attachment 1.

PROCEDURES FOR USE OF THIS RGP

Projects authorized by this RGP are categorized into one of four "levels" according to potential environmental consequences and the applicability of programmatic evaluations. Notification requirements and review timelines vary between the four project levels. Level 1 requires post construction notification, while Levels 2, 3, and 4 require pre-construction notification. See Table 1 in Attachment 2 for a summary of the level requirements.

Basic Information Requirements

Regardless of which level is used, the following information must be provided (via a permit application and an accompanying Corps RGP-6 Notification Form, Attachment 2) for all projects that utilize this RGP:

- **Contact Information:** Project proponent contact name, email address, mailing address, and phone number.
- **Project Location:**
 - Detailed vicinity map
 - 6th field Hydrologic Unit Code (HUC) name and number, stream name, river mile, and county.
 - For specific project sites, provide Township/Range/Section, and latitude and longitude (decimal degrees).
 - For linear projects, - provide Township/Range/Section, and latitude and longitude (decimal degrees) for start and end points.
- **Timing:** Project start and completion dates.
- **Activity Type:** Activity categories that apply.
- **Project Description:** Brief narrative of the project and objectives, appropriate plan view and cross-section drawings, fill and/or removal volume estimates, acreage impacts, BPA project number, contract

number, and work element.

- **Extent:** Number of stream miles or acres to be treated.
- **Tribal Coordination:** Document the list of tribes contacted, review time provided or date coordination process started, whether there were issues (yes/no), and issue resolution.
- **Section 106 NHPA compliance:** Provide effects determination and all documentation showing Section 106 compliance.
- **Species Affected:** Listed fish and wildlife species, critical habitat, and/or Essential Fish Habitat (EFH), or non-listed fish species affected by the project.

Level 1 Projects

Applicability: Level 1 is intended for projects that are within the scope of the most recent version of the BPA Habitat Improvement Program (HIP) Handbook and do not require review under related laws prior to the Corps issuing an authorization. To qualify for Level 1 Notification, a project must meet the General Aquatic Conservation Measures Applicable to All Actions, Project Descriptions, and Project-Specific Conservation Measures in Attachment 1, in addition to all of the conditions listed below:

- Does not affect ESA species or designated critical habitat protected under the Endangered Species Act (ESA), Magnuson-Stevens Act (MSA), or the Marine Mammal Protection Act (MMPA); AND
- Does not affect reserved treaty rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights; AND
- Does not have the potential to cause effects to historic properties listed or eligible for listing in the National Register of Historic Places pursuant to Section 106 of the National Historic Preservation Act; AND
- Does not affect designated or nominated Wild and Scenic River corridors; AND
- Does not occur in a state's coastal zone; AND
- Meets conditions of the Water Quality Certification (WQC) issued by Oregon Department of Environmental Quality (Attachment 3); AND
- Does not cause the loss of more than 0.1 acre of wetlands nor 300 linear feet of stream; AND
- Does not cause conversion of a stream or natural wetland to another aquatic habitat type; AND
- Does not alter, occupy, or use a Corps civil works project.

Notification Requirements: Within 60 days of completion of the work performed in waters of the U.S., the project proponent must submit a post-construction report of completed activities. In addition to the basic information requirements, the post-construction report will include the following:

- Documentation of "no effect" for ESA, "no potential to affect" for NHPA Section 106, and no impairment to reserved treaty rights.

Level 2 Projects

Applicability: Level 2 is intended for projects that are within the scope of the most recent version of the BPA Habitat Improvement Program (HIP) Handbook but require review under related laws prior to the Corps issuing an authorization, as detailed below.

To qualify for Level 2 Notification, a project must meet the General Aquatic Conservation Measures Applicable to All Actions, Project Descriptions, and Project-Specific Conservation Measures in Attachment 1 (or have a variance approved, as appropriate) and meet **all** of the conditions listed below:

- Impacts to ESA species and EFH are addressed through use of the most recent BPA HIP Handbook; AND
- BPA has completed NHPA Section 106 review and consultation with the State Historic Preservation Office (SHPO) and interested tribes; AND
- If applicable, has coverage under an existing Section 7(a) written determination for effects to designated or nominated Wild and Scenic River corridors; AND
- Has local land use approval; AND
- Meets the standard Coastal Zone Management (CZM) conditions required by this RGP (if project occurs in state's coastal zone)(Attachment 4); AND
- Meets conditions of the WQC issued by Oregon Department of Environmental Quality (Attachment 3); AND
- Does not alter, occupy, or use a Corps civil works project, or has received Section 408 permission for such activity.

Notification Requirements: Project proponents must notify the Corps at least 45 days prior to the planned start of the project.

In addition to the basic information requirements, for Level 2 projects the project notification will include the following (attached to the Corps RGP-6 Notification Form):

- Documentation of ESA consultation and NHPA Section 106 compliance.
- Documentation of no impairment to reserved treaty rights.
- The BPA Project Notification Form from the current HIP.
- If applicable, documentation of an approved variance from BPA.
- If applicable, documentation of Section 408 permission.
- If there are proposed impacts to wetlands, a wetland delineation may be required by the Corps.

Corps Review Process: In addition to evaluating the project for consistency with this RGP, the Corps will review Level 2 projects to ensure adequate documentation of compliance with related laws, including, but not limited to:

- Documentation from BPA archaeologist regarding lack of response from SHPO in 30-day consultation timeframe (36 CFR 800.4(c)(1)), or concurrence on determination of effects made in compliance with Section 106 of the National Historic Preservation Act (36 CFR 800), or a memorandum of agreement pursuant to 36 CFR 800.6(b), or a programmatic agreement (36 CFR 800.14(b)(2)). If applicable, documentation of coordination/consultation with Treaty Tribes to ensure project will not impair reserved treaty rights.
- The current HIP Handbook, incorporation of HIP Conservation Measures, and completion of RRT Review Process for Med-High Risk Projects.
- If applicable, a project-specific non-conditioned Section 7(a) written determination for effects to a designated or nominated Wild and Scenic River corridor; or coverage under a prior submitted programmatic MOA/Section 7(a) written determination for effects to designated or nominated Wild and Scenic River corridors.
- The WQC conditions required by this RGP (Attachment 3).
- If applicable, the standard CZM conditions required by this RGP (Attachment 4).

Work in waters of the U.S. may proceed according to the terms of the RGP provided the Corps does not object to the proposed project within 45 days from the date the Corps receives the Level 2 Notification. The Corps may require Level 2 Projects to be evaluated as Level 4 Projects, if determined by the Corps Project Manager.

Level 3 Projects

Applicability: Level 3 is intended for projects that are within the scope of a current programmatic consultation or are the subject of a completed or ongoing individual consultation, and need no further review under related laws prior to the Corps issuing an authorization.

To qualify for Level 3 Notification, a project must meet conservation measures from the programmatic consultation, in addition to **all** of the conditions listed below:

- Impacts to ESA species and EFH are addressed through a current non-BPA/non-Corps programmatic consultation or are the subject of a completed individual consultation; AND
- BPA has completed NHPA Section 106 review and consultation with SHPO and interested tribes; AND
- If applicable, has coverage under an existing Section 7(a) written determination for effects to designated or nominated Wild and Scenic River corridors; AND
- Has local land use approval; AND

- Meets the standard CZM conditions required by this RGP (if project occurs in state's coastal zone) (Attachment 4); AND
- Meets conditions of WQC issued by Oregon Department of Environmental Quality (Attachment 3); AND
- Does not alter, occupy, or use a Corps civil works project, or has received Section 408 permission for such activity.

Notification Requirements: Project proponents must notify the Corps at least 45 days prior to the planned start of the project. In addition to the basic information requirements, for Level 3 projects the project notification will include the following (attached to the Corps RGP-6 Notification Form):

- Documentation showing the applicability of an individual or programmatic Biological Opinion.
- Documentation of ESA consultation and NHPA Section 106 compliance.
- Documentation of no impairment to reserved treaty rights.
- The BPA Project Notification Form.
- Documentation that project meets all conservation measures.
- If applicable, documentation of an approved variance from BPA.
- If applicable, documentation of Section 408 permission.
- If there are proposed impacts to wetlands, a wetland delineation may be required by the Corps.

Corps Review Process: In addition to evaluating the project for consistency with this RGP, the Corps will review a Level 3 project to ensure adequate documentation of compliance with related laws, including, but not limited to:

- Programmatic coverage established in existing Biological Opinions, including, but not limited to, the following Biological Opinions:
 - Programmatic Restoration Opinion for Joint Ecosystem Conservation by the Services (PROJECTS) by the U.S. Fish and Wildlife Service Using the Partners for Fish and Wildlife, Fisheries, Coastal, and Recovery Programs and NOAA Restoration Center Using the Damage Assessment, Remediation and Restoration Program (DARRP), and Community-Based Restoration Program (CRP) in the States of Oregon, Washington, and Idaho, December 3, 2013.
 - Reinitiation of the Endangered Species Act Section 7 Formal Programmatic Conference and Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Aquatic Restoration Activities in the States of Oregon and Washington (ARBO II), April 25, 2013.
- Other review requirements will be the same as for Level 2 projects.

Work in waters of the U.S. may proceed according to the terms of the RGP and other

relevant approvals provided the Corps does not object to the proposed project within 45 days from the date the Corps receives the Level 3 Notification. Any required individual ESA consultation must be complete before a project can be authorized under this RGP. The Corps may require Level 3 Projects to be evaluated as Level 4 Projects, if determined by the Corps Project Manager.

Level 4 Projects

Applicability: Level 4 is intended for projects that require a project-specific determination that environmental impacts are no more than minimal individually and cumulatively or that have outstanding issues regarding related laws that must be addressed prior to the Corps issuing a permit.

Level 4 review is triggered if ANY one of the following apply:

- Affects a designated or nominated Wild and Scenic River corridors and does not have coverage under an existing Section 7(a) written determination; OR
- Does not have local land use approval(s); OR
- The project occurs in a state's coastal zone and does not meet the standard CZM conditions required by this RGP (Attachment 4); OR
- The project is inconsistent with the applicable Section 401 Water Quality Certification associated with this RGP (Attachment 3), or the project is not covered by an existing Section 401 Water Quality Certification; OR
- Alters, occupies, or uses a Corps civil works project, and Section 408 permission has not been granted prior to submittal of an application to the Corps.

Notification Requirements: Project proponents will notify the Corps prior to commencing work in waters of the U.S. Work in waters of the U.S. and **shall not proceed until a Notice-to-Proceed written verification is obtained from the Corps.** The project applicant must provide pre-construction notification to the Corps under a Level 4 Notification. In addition to the basic information requirements, for Level 4 projects the project notification will include the following (attached to the Corps RGP-6 Notification Form):

- The BPA Project Notification Form.
- Documentation of no impairment to reserved treaty rights.
- Documentation that project meets all conservation measures (checklist).
- If there are proposed impacts to wetlands, a wetland delineation may be required by the Corps.

Additional information may be required. The Corps will request this information from the project proponent after completing an initial review of the Corps RGP-6 notification form.

POST-SUBMITTAL VARIANCES

The Corps will receive notification of any variances that occur after Corps approval of a project. Documentation that the variance has been reviewed and approved by the appropriate entities shall be submitted to the Corps in a timely manner and prior to start of work.

ANNUAL MONITORING REPORT

By May 1st of each year, the BPA shall provide an annual program report to the Corps describing projects implemented under the RGP during the previous construction season.

ANNUAL REVIEW

Upon request and as needed, the BPA shall implement an annual coordination meeting with the Corps to discuss the annual program report and any actions that will improve conservation under RGP-6 or make the program more efficient and/or accountable. Representatives from other federal and state agencies and representatives of Native American Tribes may also be invited to attend this meeting.

GENERAL PERMIT CONDITIONS

A. MAINTENANCE. The project proponent must maintain individual projects authorized by this RGP in good condition and in conformance with the terms and conditions of this RGP. A project proponent is not relieved of this requirement if they abandon the individual projects, although they may make a good faith transfer to a third party in compliance with Condition (B), below.

B. PROPERTY TRANSFER. If the permittee sells properties associated with this RGP, the permittee may transfer the verification(s) to the new owner(s) by submitting a letter to the Corps to validate the transfer of the authorization(s). Documentation of the specific authorization must be attached to the letter, and the letter must contain the following statement and signature:

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

(Transferee)

(Date)

C. CONSERVATION MEASURES AND PROJECT DESCRIPTION. Project proponents shall ensure individual projects implemented under this RGP meet the

requirements of the General Aquatic Conservation Measures Applicable to All Actions, Project Descriptions, and Project-Specific Conservation Measures, in Attachment 1. If terms and conditions identified in the programmatic biological opinions or from an individual biological opinion are more restrictive, then the terms and conditions from the biological opinion shall take precedence.

D. WATER QUALITY CERTIFICATION. The project proponent must comply with the applicable programmatic or individual Water Quality Certification conditions issued by Oregon Department of Environmental Quality (Attachment 3).

E. COASTAL ZONE CONSISTENCY. The project proponent must comply with the conditions of the applicable programmatic or individual concurrence letter issued by Oregon Department of Land Conservation and Development, as appropriate (Attachment 4).

F. ENDANGERED SPECIES ACT COMPLIANCE. No activity is authorized under this permit which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed. Project proponents shall comply with the terms and conditions of the appropriate programmatic or individual biological opinion utilized for the specific project.

G. CULTURAL RESOURCES AND HISTORIC PROPERTIES. BPA is the lead Federal agency for complying with federal cultural resources and historic preservation laws and regulations for the projects within the scope of this RGP, including the National Historic Preservation Act (NHPA). BPA will individually review projects to determine if activities may be located on property registered or eligible for registration in the latest published version of the National Register of Historic Places (NRHP). No individual project shall proceed under the RGP until requirements under federal cultural resources and historic preservation laws and regulations are met. BPA shall take all required actions (including notifying the appropriate tribes) should human burials, cultural resources, or historic properties be discovered during project construction. Project proponents must provide documentation to the Corps, as part of a complete pre or post construction notification, demonstrating BPA's compliance with NHPA Section 106.

H. 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.

I. WILD AND SCENIC RIVERS. No 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.

J. NAVIGATION.

a. No activity may cause more than a minimal adverse effect on navigation.

b. The permittee understands and agrees that if future operations by the United States require the removal, relocation, or other alteration of the structure of work herein authorized, or if in the opinion of the Secretary of the Army or their 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.

K. COMPLIANCE INSPECTIONS. Compliance inspections may be conducted to ensure that work performed under this general permit is in compliance with its terms and conditions. The District Engineer or their authorized representative will request permission from the property owner for access to the work site. A request for access will be specific as to the date and time of access, and opportunity will be provided for the property owner or his representative to be onsite during the inspection.

L. DISCRETIONARY AUTHORITY. The District Engineer reserves the right to assert discretionary authority on a case-by-case basis when it is determined that individual projects may result in more than minimal impacts, individually or cumulatively, or are otherwise not in the public interest.

M. 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).

LIMITS OF THIS AUTHORIZATION

- a. This general permit does not obviate the need to obtain other Federal, state or local authorizations required by law.
- b. This general permit does not grant any property rights or exclusive privileges.
- c. This general permit does not authorize any injury to the property or rights of others.
- d. This general permit does not authorize interference with any existing or proposed Federal project.

LIMITS OF FEDERAL LIABILITY

In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to any persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

REEVALUATION OF PERMIT DECISION

This general permit will be reviewed by the Corps within one year of its effective date to determine whether the projects authorized by this general permit result in no more than minimal effects, both individually and cumulatively, and to ensure that the terms and conditions of this permit are being met. The District Engineer will invite other interested Federal and state agencies and representatives of Native American Tribes to participate in this review. If this review concludes that changes in permit term or conditions are warranted, modification of the permit will be proposed as provided in 33 CFR 325.7, including public notice and opportunity for comment.

The District Engineer may reevaluate this general permit at any time, and, if appropriate, suspend, modify, or revoke this permit as provided 33 CFR 325.7. The District Engineer may also suspend, modify, or revoke authorization under this general permit for any specific geographic area, class of activities, or class of waters within the state of Oregon. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. Project proponent fails to comply with the terms and conditions of this RGP.
- b. The information provided by BPA and/or project proponent in support of the RGP application proves to have been false, incomplete, or inaccurate.
- c. Significant new circumstances or information becomes available relevant to environmental concerns and bearing on the proposed action which the Corps did not consider in reaching the original public interest decision.

Such reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.5. These procedures also apply to a third party.

EXPIRATION, MODIFICATION OR REVOCATION OF THIS PERMIT

Activities authorized under this general permit that are under construction or under contract for construction in reliance upon this authorization will remain authorized provide the activity is completed within 12 months of the date of this general permit's expiration, modification, or revocation, unless the District Engineer has exercised his discretionary authority to modify, suspend, or revoke the authorization of a specific project in accordance with Corps regulations.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:



Aaron L. Dorf
Colonel, Corps of Engineers
District Commander

2018-07-31
(Date)

List of Attachments to RGP-6:

ATTACHMENT 1 - GENERAL CONSERVATION MEASURES, PROJECT DESCRIPTIONS, AND DESIGN CRITERIA

ATTACHMENT 2 – CORPS RGP-6 PROJECT NOTIFICATION FORM

(Includes **TABLE 1 – FACTORS FOR DETERMINING THE LEVEL OF NOTIFICATION AND EVALUATION REQUIRED FOR INDIVIDUAL PROJECTS**)

ATTACHMENT 3 - RGP 6 AREA MAP

ATTACHMENT 4 – DLCD LETTER – COASTAL ZONE MANAGEMENT CONSISTENCY

ATTACHMENT 5 – DEQ LETTER – 401 CERTIFICATION

ATTACHMENT 1

RGP-6

GENERAL CONSERVATION MEASURES, PROJECT DESCRIPTIONS, AND PROJECT-SPECIFIC CONSERVATION MEASURES

Please use the following link to find the current version of the Bonneville Power Administration's Habitat Improvement Program Programmatic Biological Opinions (HIP) and Handbook to access the general conservation measures, project descriptions, and project-specific conservation measures.

www.bpa.gov/goto/ESA

Corps RGP-6 Notification Form

Regional General Permit 6 for BPA-Funded Habitat Improvement Projects within the Columbia River Basin

To be filled out by project proponent:

To be filled out by Corps:

Project Proponent:	Corps #: NWP - -
Project Name:	Date Received:

Note: This form provides supplemental information necessary for the Corps to quickly review projects. This form must be accompanied by one of the following permit applications:

- U.S. Army Engineering Form 4345 (<http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>)
- Joint Permit Application (JPA) (<http://www.oregon.gov/dsl/WW/Documents/JPA121217Final.docx>)

Required Information

Items noted by ● required information or documentation in addition to that provided on the permit application

Contact Information Proponent's Contact Info (*provide on accompanying permit application*)
 Name of BPA Environmental Compliance Lead:
 Phone Number:

Project Location Location Description (*provide on accompanying permit application*)
 Location Map

Project Summary Project Description (*provide on accompanying permit application*)
 Legible and accurate plan and profile drawings

Regional General Permit Requirements ● Does the project meet the general and project-specific conservation measures described in Attachment 1 of the RGP (*or is an approved variance attached*)?
 Yes
 No → **RGP Level 4 ***
 ● Do you propose to alter, occupy, or use a Corps civil works project?
 No
 Yes → **RGP Level 4 ***

Endangered Species Act (ESA) ● Select from the following options:
 No Effect (*provide "No Effect" determination memo or email from BPA Environmental Compliance Lead*)
 Within scope of **Habitat Improvement Project (HIP) BiOp** → **RGP Level 2**
 Date of BPA Review:
 Other ESA coverage → **RGP Level 3**
 Programmatic Consultation(s)
 Title(s):
 Individual Consultation(s) (*BiOp(s) attached*) → **RGP Level 3**

Cultural Resources & Coordination ● Provide documentation of completed Section 106 from BPA (*provide concurrence or other letters from SHPO and/or effects determination letter/memo from BPA*)
 Provide documentation of completed coordination with interested Tribes, including documentation of no impairment to reserved treaty rights

Corps RGP-6 Notification Form

Regional General Permit 6 for BPA-Funded Habitat Improvement Projects within the Columbia River Basin

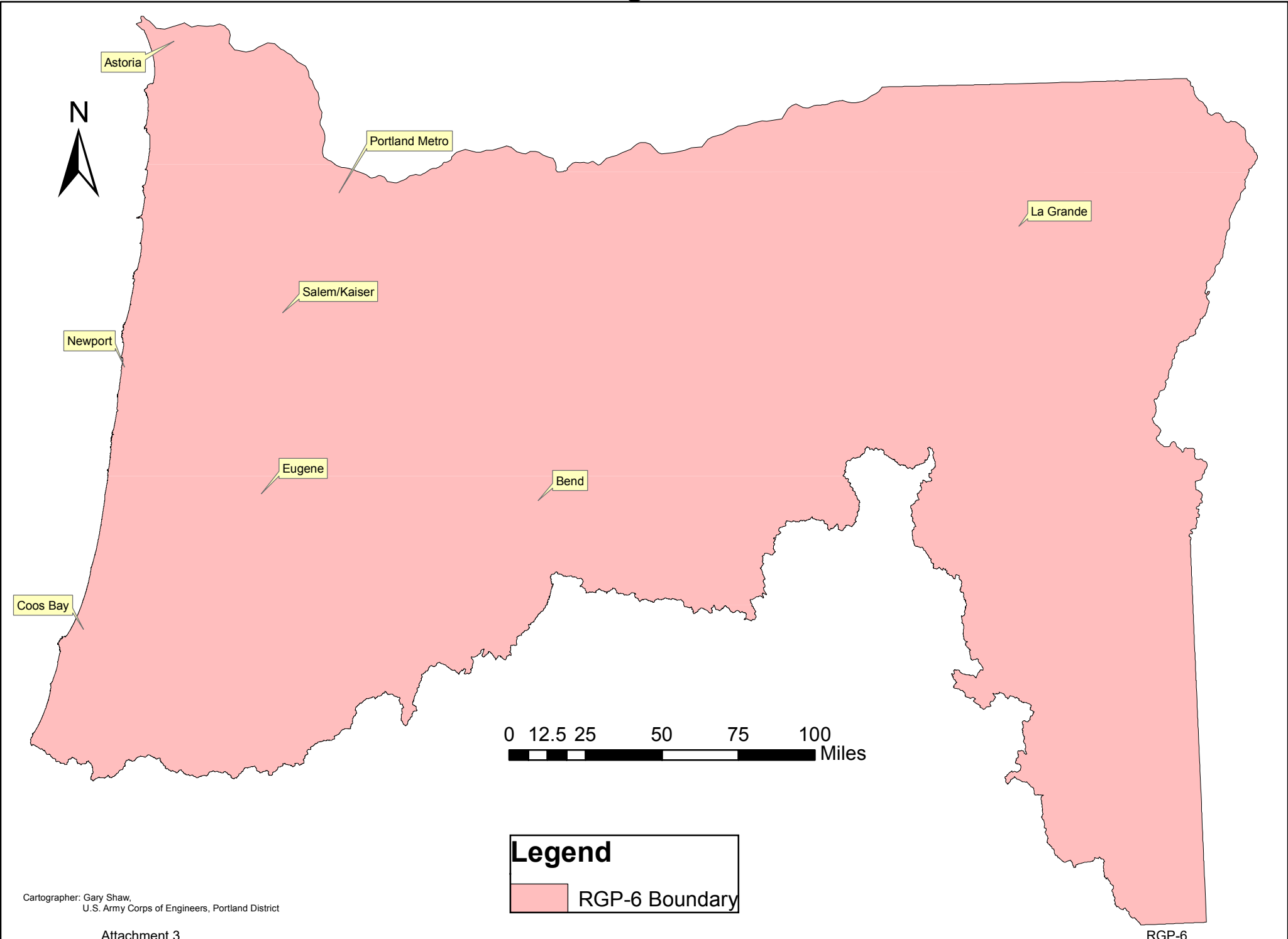
Wild and Scenic Rivers Act	<ul style="list-style-type: none">• Select <u>one</u> of the following options:<ul style="list-style-type: none"><input type="checkbox"/> The project is <u>not</u> in a Wild and Scenic River corridor<input type="checkbox"/> BPA completed consultation with the managing agency (<i>documentation attached</i>)
Land Use Compatibility <input type="checkbox"/> Check this box if the project is within the Columbia River Gorge National Scenic Area	<ul style="list-style-type: none">• For projects within the State of Oregon only, select <u>one</u> of the following options: (<i>provide appropriate documentation with signatures from local land use authority</i>)<ul style="list-style-type: none"><input type="checkbox"/> Land use compatibility is documented in the Joint Permit Application (Block 11)<input type="checkbox"/> Land use compatibility has not yet been determined → RGP Level 4 *

* Note: Projects for which ESA or § 106 documentation is not provided will be treated as Level 4 reviews. Projects subject to Level 4 review shall not proceed until the Corps has issued a project-specific authorization.

Table 1. Factors for determining the level of notification and evaluation required for individual projects.

	Level 1	Level 2	Level 3	Level 4
Activity Types	<p>Only applies to projects that:</p> <ul style="list-style-type: none"> • Do <u>not</u> impact > 0.1 ac of wetland nor > 300 linear ft of stream • Do <u>not</u> convert a stream or natural wetland to another aquatic habitat type 	No specific limits other than those prescribed by conditions of the RGP		Required for projects that cannot implement applicable conservation measures and practices
Endangered Species Act / Essential Fish Habitat	No effect	Effects addressed via use of the current BPA HIP Biological Opinion	Effects addressed via a current non-BPA/non-Corps programmatic consultation or an individual consultation	Effects addressed via a programmatic consultation or individual consultation
Cultural Resources	No effect	Documentation of completed § 106 consultation provided with RGP Notification Form		§ 106 consultation has <u>not</u> been completed
Wild and Scenic Rivers (WSR) Act	No effect	Documentation of completed § 7(a) determination is provided with RGP Notification Form (if applicable)		Affects a WSR corridor, and § 7(a) determination has not been completed
Coastal Zone Management Act	Not within coastal zone	Meets standard CZM conditions (if applicable)		Occurs in a state's coastal zone and does <u>not</u> meet the standard CZM conditions; or advance concurrence is not available
Land Use Compatibility	Not applicable	Has local land use approval		Does not have local land use approval
Section 401 Water Quality Certification	Meets conditions of applicable Water Quality Certification (WQC; issued by Oregon Dept. of Environmental Quality)			No applicable WQC, or does not meet conditions of applicable WQC

USACE, Portland District Regional General Permit 6 Area



Cartographer: Gary Shaw,
U.S. Army Corps of Engineers, Portland District

Legend

RGP-6 Boundary

Standard Oregon Coastal Management Program (OCMP) Coastal Zone Conditions

The federal Coastal Zone Management Act provides that federal actions affecting any use or resource of the coastal zone,* 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 of 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, DLCDC 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. A copy 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.

*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.

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. Permittee must provide USACE and the OCMP with verification of the local jurisdiction's approval in the form of a completed block seven (7) of the Joint Permit 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 may begin.

(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 to DSL 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 the OCMP 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 governing use of state lands. Permittee must obtain any required lease, license, or other authorization for the use of state lands or waters from the Oregon Department of State Lands (DSL) before any regulated work may begin.

(2) All conditions placed on a lease, license, or authorization by DSL are incorporated by reference 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 process before any regulated work may begin.

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

[Enforceable Policy: ORS chapter 390, Ocean Shores]

CZ Condition 7. Aquaculture

(1) Permitted projects must be consistent with or not subject to state requirements governing commercial aquaculture or mariculture cultivation of oysters, clams, and mussels. Permittee must obtain, if required, authorization from the Oregon Department of Agriculture (ODA) for use of state submerged and submersible lands for aquaculture purposes.

(2) All conditions placed on an aquaculture or mariculture operation by the ODA are incorporated by reference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 622, Shellfish]



April 6, 2018

Daniel Gambetta –ECF4
Bonneville Power Administration
905 NE 11th Avenue
Portland, OR 97232

RE: 401 Water Quality Certification for Reissuance of Regional General Permit #6 with Modifications for Bonneville Power Administration Funded Habitat Improvement Projects - USACE #2011-00127-1

Dear Mr. Gambetta:

The Department of Environmental Quality (DEQ) has reviewed the US Army Corps of Engineers (USACE) public notice materials on the above noted proposal, submitted for evaluation for 401 Water Quality Certification (WQC), and received on January 18, 2017. Project proponents will be funded by Bonneville Power Administration (BPA) to undertake recurring actions, with minor individual and cumulative impacts to waters of the state, that are designed to maintain, enhance, create, and/or restore watershed functions to benefit fish, aquatic organisms, water quality, riparian areas, floodplains, and wetlands in the Columbia River Basin of Oregon.

Project Location: The project activity is limited to the Columbia River Basin within the State of Oregon.

Project Background: The Regional General Permit (RGP) 6 was first issued a water quality certification on June 2, 2011. Originally, the RGP included the following categories:

- Surveying, Construction, Operation, and Maintenance Activities:
- Planning and Habitat Protection Actions
- Instream Habitat Actions
- Livestock Impact Reduction
- Irrigation and Water Delivery/Management Actions

The original RGP is being modified to expand and clarify the habitat restoration activities to follow the categories from the BPA Habitat Improvement Program biological opinions issued from the National Marine Fisheries Service and the U.S. Fish and Wildlife Service.

Nine categories are being proposed:

1. Fish Passage Restoration
 - Profile Discontinuities
 - a. Dams, water control, or legacy structure removal
 - b. Consolidate or replace existing irrigation diversions

- c. Headcut and grade stabilization
- d. Low flow consolidation
- e. Providing fish passage at an existing facility

Transportation Infrastructure

- f. Bridge and culvert removal and replacement
- g. Bridge and culvert maintenance
- h. Installation of fords

2. River, Stream, and Wetland Restoration
 - a. Improve secondary channel and floodplain interactions
 - b. Set-back or removal of existing berms, dikes, and levees
 - c. Protect streambanks using bioengineering methods
 - d. Install habitat-forming natural instream structures (large wood, boulders, and spawning gravel)
 - e. Riparian vegetation planting
 - f. Channel reconstruction
 - g. Beaver habitat restoration
3. Invasive and Non-Native Plant Control
 - a. Manage vegetation using physical controls
 - b. Manage vegetation using herbicides (Riverine)
 - c. Manage vegetation using herbicides (Estuarine)
 - d. Juniper removal
4. Road and Trail Erosion Control, Maintenance, and Decommissioning
 - a. Maintain roads
 - b. Decommission roads
5. Piling Removal
6. In-Channel Nutrient Enhancement
7. Irrigation and Water Delivery/Management Actions
 - a. Convert delivery system to drip or sprinkler irrigation
 - b. Convert water conveyance from open ditch to pipeline or line leaking ditches or canals
 - c. Convert from instream diversions to groundwater well for primary water sources
 - d. Install or replace return flow cooling systems
 - e. Install irrigation water siphon beneath waterway
 - f. Livestock watering facilities
 - g. Install, upgrade, or maintain fish exclusion devices and bypass
8. Fisheries, Hydrologic, and Geomorphologic Surveys
9. Special Actions (for Terrestrial Species)
 - a. Install/develop wildlife structures
 - b. Fencing construction for livestock control
 - c. Implement erosion control practices
 - d. Plant vegetation

e. Tree removal for large woody projects

Individual project proposals will be further categorized into one of four levels based on potential environmental consequences. Each project level will have specific notification requirements to initiate USACE review and varying requirements related to endangered species protection based on the terms and conditions of a an existing programmatic or individual biological opinion. Further conditions may be placed on a project due to requirements of Section 106 of the National Historic Preservation Act.

Status of Affected Waters: Activities proposed as part of this RGP #6 could affect any water of the state in the Columbia River Basin; waters of the state are defined in ORS 468B.005 as lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.

High Quality Waters include the Clackamas River, the North Santiam River, and the McKenzie River (above river mile 15), as described in DEQ's Three Basin Rule (OAR 340-041-0350). Water Quality Limited Waters include all waterbodies listed as impaired, including those for which a Total Maximum Daily Load (TMDL) has been developed to address impairments.

All other streams in the Columbia River Basin and the Willamette River Subbasin are not Outstanding or High Quality waters; rather, they are classified as Water Quality Limited under the federal Clean Water Act (CWA). US Environmental Protection Agency (EPA) approved TMDLs have been developed for several parameters and many streams remain on the CWA Section 303(d) list of impaired waterbodies. A detailed listing of water quality limiting parameters can be found at <http://www.deq.state.or.us/wq/assessment/rpt2012/search.asp#db>.

The Portland Harbor Superfund Site has been designated by EPA, initiating an assessment and remediation process to address widespread legacy contamination present in the lower reaches of the Willamette River. Areas targeted for cleanup span from approximately river mile 0 to 12, with areas of interest continuing to approximately river mile 14.

Beneficial Use Designations: In the Columbia River and the Willamette River, these include: Water Supply (Public, Private, Industrial); Livestock Watering; Irrigation; Fish and Aquatic Life (salmonid rearing; anadromous fish passage; resident fish and aquatic life); Wildlife and Hunting; Fishing; Boating; Water Contact Recreation; Aesthetic Quality; and Commercial Navigation & Transportation, and all but Commercial Navigation & Transportation also apply to the other streams within the subbasins.

The Lower Columbia River and its side channels are designated by DEQ as salmon and steelhead migration corridors from the mouth at the Pacific Ocean to river mile 309, with regard to application of the water quality standard for temperature. Areas above river mile 140 are also designated as salmon and steelhead spawning and shad and sturgeon spawning and rearing fish uses. Other streams within the subbasin are designated for salmon and trout rearing and migration.

The Lower Willamette River is designated as a salmon and steelhead migration corridor and other streams within the subbasin are designated for salmon and trout rearing and migration.

Certification Decision: Based on information provided by BPA and USACE, DEQ is reasonably assured that implementation of the proposed restoration actions will be consistent with applicable provisions of Sections 301, 302, 303, 306, and 307 of the federal CWA, state water quality standards set forth in Oregon Administrative Rules (OAR) Chapter 340 Division 41, and other appropriate requirements of state law, provided the applicant strictly adheres to the procedures, conditions and best management practices as described in the public notice and subsequent materials and the following conditions are made part of the federal permit and strictly adhered to by the project proponents.

CONDITIONS

- 1) **Duration of Certificate:** This 401 WQC is valid for five years from the date of issuance of the USACE 404 permit. A new 401 WQC must be obtained prior to any substantial modification of the USACE 404 permit.
- 2) **Work Authorized:** Work authorized by this 401 WQC is limited to the work described in the USACE Public Notice dated January 18, 2017 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.
- 3) In accordance with OAR 340-048-0050, DEQ may modify or revoke this 401 WQC if 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.
- 4) The Applicant and its contractors must allow DEQ access to the project site, 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 operational equipment or methods; and
 - c. To collect samples or monitor any discharge of pollutants.
- 5) 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.
- 6) **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 the appropriate section of the USACE & DSL 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 & DSL Joint Permit Application, the Applicant may use DEQ's Land Use Compatibility Statement form found at:

<http://www.deq.state.or.us/pubs/permithandbook/lucs.pdf>

- 7) **Erosion and Sediment Control:** During construction, erosion and sediment control measures must be implemented to prevent or control movement of sediment, soil or pollutants into waters of the state. The Applicant is required to develop and implement an effective erosion and sediment control plan. **Any project that disturbs more than one acre is required to obtain an NPDES 1200-C construction stormwater permit from DEQ.** In addition, the Applicant (or responsible party) must:
 - a. Where practicable, 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.
 - b. Demarcate wetlands not specifically authorized to be impacted to protect from disturbance and/or erosion.
 - c. Place dredged or other excavated material on upland areas with stable slopes to prevent materials from eroding back into waterways or wetlands. Place BMPs as necessary to stabilize and prevent erosion.
- 8) **Spill Prevention:** Applicant must fuel, operate, maintain and store vehicles, and must store construction materials, in areas that will not impact water quality either directly or due to potential discharges.
- 9) **Spill & Incident Reporting:**
 - a. In the event that petroleum products, chemicals, or any other deleterious materials are discharged into state waters, the discharge must be promptly reported to the Oregon Emergency Response Service (OERS, 1-800-452-0311). Containment and cleanup must begin immediately and be completed as soon as practicable.
 - b. If the project operations result in distressed or dying fish, the operator must immediately: cease operations; take appropriate corrective measures to prevent further environmental damage; and immediately notify DEQ and ODFW.
- 10) **Vegetation Protection and Site Restoration:**
 - a. 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 any 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.

- 11) The Applicant shall avoid and protect from harm, all wetlands and riparian areas located within 50 feet of USACE jurisdictional waters, unless proposed, necessary, and approved as part of the project. If a local jurisdiction has a more stringent buffer requirement, that requirement will override this certification requirement.

FOR PROJECTS THAT PROPOSE IN-STREAM WORK IN JURISDICTIONAL WATERS

- 12) **Fish protection/Oregon Department of Fish and Wildlife timing:** The Applicant must perform in-water work only within the Oregon Department of Fish and Wildlife 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 Department of State Lands removal/fill permit. Exceptions to the timing window must be recommended by Oregon Department of Fish and Wildlife, the National Marine Fisheries Services and/or the US Fish and Wildlife as appropriate.
- 13) **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.
- 14) **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:
 - a. **Monitoring:** Turbidity monitoring must be conducted and recorded as described below. Monitoring must occur at four hour intervals each day during daylight hours 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:** Applicant must take and record a turbidity measurement every four 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.
 - ii. **Compliance Point:** The Applicant must monitor every four hours. A compliance location shall be established at a representative location:
 - a) 50 feet downstream for streams that are less than 30 feet wide;
 - b) 100 feet downstream for streams between 30 and 100 feet wide;
 - c) 200 feet downstream for streams greater than 100 feet wide; and
 - d) 300 feet from the discharge point or nonpoint source for locations subject to tidal or coastal scour.
 - iii. 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 four –

hour monitoring interval. Pursuant to OAR 340-041-0036, short term exceedances of the turbidity water quality standard are allowed as follows:

MONITORING WITH A TURBIDIMETER EVERY 4 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 0-5 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 0-5 above background.
50 NTU or more above background	Stop work immediately and inform DEQ

- c. **Reporting:** Applicant must record all turbidity monitoring required by subsections (a) and (b) above in daily logs. 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 BPA, DEQ, USACE, NMFS, USFWS, and ODFW upon request.
- d. **BMPs to Minimize In-stream Turbidity:** The Applicants 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.

**FOR PROJECTS THAT INCLUDE NEW IMPERVIOUS SURFACES OR REDEVELOPMENT
OF EXISTING SURFACES, THE FOLLOWING CONDITIONS APPLY**

- 15) **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 for review and approval prior to construction, in order to ensure compliance with water quality standards. The Applicant must implement BMPs as proposed in the stormwater management plan, including operation and maintenance. If proposed stormwater facilities change due to site conditions, the Applicant must notify DEQ.

In lieu of a complete stormwater management plan, the Applicant may submit documentation of acceptance of the stormwater into a DEQ permitted National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Separate Storm Sewer System (MS4).

- 16) **Stormwater Management & System Maintenance:** The Applicant is required to implement effective operation and maintenance practices for the lifetime of the proposed facility.

If USACE or BPA 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 811SW 6th Avenue, Portland Oregon 97204, within 20 days of the mailing of this certification.

If you have any questions, please contact Sara Christensen at (541) 633-2007, or by email at: christensen.sara@deq.state.or.us.

Sincerely,



Steve Mrazik
Water Quality Manager
Northwest Region

ec: Carrie Bond, USACE
Jamie Davis, USACE
Liz Ruther, DLCD