



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

February 10, 2020

Regulatory Branch  
Corps No. NWP-2019-450

Sherilyn Lombos  
City of Tualatin  
18880 SW Martinazzi Avenue  
Tualatin, OR 97062  
slombos@tualatin.gov

Dear Ms. Lombos:

The U.S. Army Corps of Engineers (Corps) received your request for Department of the Army authorization to replace a culvert. The project is in Hedges Creek and Wetland A in Tualatin, Washington County, Oregon at Latitude and Longitude 45.3651, -122.7851. This letter verifies your project as depicted on the enclosed drawings (Enclosure 1) is authorized by Nationwide Permit (NWP) No. 13, Bank Stabilization and No. 14, Linear Transportation Projects (*Federal Register, January 6, 2017, Vol. 82, No. 4*).

The project includes the discharge of 455 cubic yards of fill over 0.12 acre below the ordinary high water mark (OHWM) of Hedges Creek to replace an existing culvert beneath SW 105th Avenue. The design of the new culvert will require a slight realignment of the existing stream channel at the culvert inlet. Construction of the new culvert will require removal of existing sections of rock wall located along the stream channel. These sections will be replaced with vegetated rock/riprap and large wood. The project will include a new stormwater outfall. A new 120-foot long segment of a shared-use path will be constructed, impacting 0.02 acre of Wetland A. Temporary fill below the OHWM of Hedges Creek includes 0.01 acre for construction access oak mats and stream isolation.

In order for this authorization to be valid, you must ensure the work is performed in accordance with the enclosed Nationwide Permits 13 and 14 Terms and Conditions (Enclosures 2a and 2b); the Oregon Department of Environmental Quality (DEQ) 401 Water Quality Certification Conditions (Enclosure 3); and the following special conditions:

a. All in-water work shall be performed during the in-water work period of July 15 to September 30, to minimize impacts to aquatic species. Exceptions to this time period requires specific approval from the Corps and the National Marine Fisheries Service.

b. This Corps permit does not authorize you to take an endangered species in particular those species identified in Enclosure 4. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a biological opinion under ESA Section 7, with “incidental take” provisions with which you must comply). The National Marine Fisheries Service (NMFS) Stormwater, Transportation and Utilities programmatic biological opinion dated March 14, 2014 (NMFS Reference Number NWR-2013-10411), contains the mandatory terms and conditions to implement the reasonable and prudent measures that are provided in the “incidental take” statement associated with the opinion. Your authorization under this Corps permit is conditional upon your compliance with all of the applicable mandatory terms and conditions associated with the incidental take statement. Failure to comply with the applicable terms and conditions associated with incidental take of this opinion, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute noncompliance with your Corps permit. The NMFS is the appropriate authority to determine compliance with the terms and conditions of its opinion and with the ESA.

c. Permittee shall fully implement all applicable Project Design Criteria (PDC) of the SLOPES V Stormwater, Transportation and Utilities programmatic biological opinion. A detailed list of the PDCs are enclosed (Enclosure 4). The applicable PDCs for the project include numbers: 5-7, 13-14, 18, 23, 25-27, 30, 34, 36(a), 41(a)(iii), 42(a) and (e), and 43(d)-(e).

d. If human remains or cultural resources are discovered during the performance of the authorized work the permittee shall implement the Inadvertent Discovery Plan procedures (Enclosure 5) and immediately notify the U.S. Army Corps of Engineers, Portland District, Regulatory Branch.

e. Permittee shall obtain 0.02 credit from the Butler Mitigation Bank. Prior to performing work in waters of the U.S. authorized by this permit, permittee shall submit documentation of the completed mitigation bank transaction to the U.S. Army Corps of Engineers, Portland District, Regulatory Branch.

f. Permittee shall re-vegetate disturbed areas at the project site during the earliest appropriate planting season after activity is completed and follow the planting plan in Enclosure 1 (Pages 30 to 33). The vegetation shall consist of native, non-invasive herbs, shrubs, and trees.

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 at <https://www.nwp.usace.army.mil/environment/>. Please note, you must submit an *Action*

*Completion Report* and *Fish Salvage Report* form which are provided in Enclosure 4. Please submit the reports and any other reports associated with this permit to either the letterhead address above or by email to [cenwp.notify@usace.army.mil](mailto:cenwp.notify@usace.army.mil). For submittals by email, the email subject line shall include the Corps project number listed above and the name of the county where the project is located.

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 DEQ has issued a 401 Water Quality Certification for this project. No further coordination with DEQ 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, details procedures should an inadvertent discovery occur. You must ensure that you comply with this condition during the construction of your project.

The Corps did not prepare a jurisdictional determination for this project. The Corps has treated the aquatic resource(s) to be affected by this project as jurisdictional waters of the U.S. for purposes of computing impacts and compensatory mitigation requirements. If you believe the Corps does not have jurisdiction over some or all of the aquatic resources at the project site, you may request an Approved Jurisdictional Determination (AJD). If one is requested, please be aware that we may require the submittal of additional information to complete the AJD and work authorized in this letter may not occur until the Corps completes the AJD.

The verification of this NWP is valid until March 18, 2022, 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 18, 2022, you will have until March 18, 2023, to complete the activity under the enclosed terms and conditions of this NWP. If the work cannot be completed by March 18, 2023, 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. 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 *Compliance Certification* 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 at the following address:  
[http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey).

If you have any questions regarding this NWP verification, please contact Ms. Carrie Bond by telephone at (503) 808-4387, or by email at [Carrie.L.Bond@usace.army.mil](mailto:Carrie.L.Bond@usace.army.mil).

FOR THE COMMANDER, AARON L. DORF, COLONEL, CORPS OF ENGINEERS,  
DISTRICT COMMANDER:

*Melody White*

Date: 2020.02.10  
15:26:10 -08'00'

For: William D. Abadie  
Chief, Regulatory Branch

Enclosures

cc:

Oregon Department of State Lands (Huffman)  
Oregon Department of Environmental Quality ([401applications@deq.state.or.us](mailto:401applications@deq.state.or.us))  
Campbell Environmental, LLC (Eric Campbell, [eric@campbellenviro.com](mailto:eric@campbellenviro.com))