



**DEPARTMENT OF THE ARMY**  
CORPS OF ENGINEERS, PORTLAND DISTRICT  
EUGENE FIELD OFFICE  
1600 EXECUTIVE PARKWAY SUITE 210  
EUGENE OR 97401-2156

REPLY TO  
ATTENTION OF:

March 21, 2013

Operations Division  
Regulatory Branch  
Corps No. NWP-1997-618/6

Tara Davis  
Calapooia Watershed Council  
P.O. Box 844  
Brownsville, Oregon 97327-0844

Dear Ms. Davis:

The U.S. Army Corps of Engineers (Corps) has received Calapooia Watershed Council's (Council) permit application requesting Department of the Army authorization to remove a concrete dam. The project is located in Cox Creek, River Mile 1.0, near Albany, Linn County, Oregon. The site is in Section 5 of Township 11 South, Range 3 West.

The Council will remove up to 40 cubic yards of concrete and streambed material in 0.1-acres from the channel of Cox Creek. The structure will be broken up and the site dredged to restore flows through the project site. An additional 390 cubic yards of material will be discharged along 120 feet the creek for the construction of two rock riffles with one located upstream and one downstream of the former dam location. Permanent impacts include the removal of the Cox Creek Dam, stabilizing an existing rock retaining wall, protecting an existing sewer line, and constructing two rock riffles. The project is shown on the enclosed drawings (Enclosure 1).

This letter verifies Council's project is authorized under the terms and limitations of Nationwide Permit (NWP) No. 27 (Aquatic Restoration, Establishment, and Enhancement). Council's activities must be conducted in accordance with the conditions found in NWP Regional Conditions, Portland District (Enclosure 2), NWP General Conditions (Enclosure 3), Oregon Department of Environmental Quality (DEQ) 401 Water Quality Compliance Conditions (Enclosure 4), and the project specific conditions lettered (a) through (g) below. **Failure to comply with any of the listed conditions could result in the Corps initiating an enforcement action.**

a. Permittee shall notify the Regulatory Branch with the date activities in waters of the United States are scheduled to begin. Notification shall be sent by email to [cenwp.notify@usace.army.mil](mailto:cenwp.notify@usace.army.mil) or mailed to the following address:

U.S. Army Corps of Engineers  
CENWP-OD-GC  
Permit Compliance, Linn County  
PO Box 2946  
Portland, Oregon 97208-2946

The subject line of the message shall contain the name of the county in which the project is located followed by the Corps of Engineers permit number.

b. Permittee shall retain 5 feet of the Cox Creek Dam wing wall on both sides (river right and river left) of the creek to retain the historical presence of the creek-spanning structure (Enclosure 1 page 8).

c. Permittee shall provide photographic evidence the above-mentioned five feet of walls on both sides of the creek have been retained as required by special condition (b) above. The documentation shall be provided within 30 days of the project completion to the Corps at the address listed on the letterhead and to the Oregon State Historic Preservation Office at the address listed below.

Oregon State Historic Preservation Office  
SHPO Case #10-0704  
725 Summer Street NE, Ste C  
Salem, Oregon 97301-1266

d. Permittee shall notify and provide the Confederated Tribes of the Siletz the proposed work schedule a minimum of two weeks prior to beginning work. Permittee shall allow the Tribes access during construction to monitor for potential cultural resources. The Tribes can be contacted at the address and phone number below.

Confederated Tribes of the Siletz  
Mr. Robert Kentta  
P.O. Box 549  
Siletz, Oregon 97380-0549  
Ph. 1-800-922-1399 ext. 1244

e. Permittee shall dredge and discharge all accumulated materials from the pool of the dam in an upland location and adequately contained to ensure contaminants in the silts do not return to the waterway.

The Corps has determined the proposed project may affect Upper Willamette River chinook salmon and Upper Willamette River steelhead, species protected by the Endangered Species Act, and Essential Fish Habitat for salmon species as designated under the Magnuson-Stevens Fishery Conservation and Management Act. The Corps utilized a programmatic biological opinion (BiOp) to assess compliance with these laws and provide coverage for incidental take. The BiOp is titled *Revisions to the Standard Local Operating Procedures for Endangered Species to Administer Stream Restoration and Fish Passage Improvement Activities Authorized or Carried Out by the U.S. Army Corps of Engineers in Oregon (SLOPES IV Restoration)*, dated February 25, 2008. The Corps recommends that Council review the SLOPES opinion in its entirety, which Council may obtain on-line at: <http://www.nwp.usace.army.mil/regulatory/home.asp>.

The programmatic consultation also requires that we provide Council with the following notice:

If a sick, injured or dead specimen of a threatened or endangered species is found, the finder must notify NMFS' Office of Law Enforcement at 503-231-6240 or 206-526-6133. The finder must take care in handling of sick or injured specimens to ensure effective treatment, and 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 to carry out instructions provided by the Office of Law Enforcement to ensure that evidence intrinsic to the specimen is not disturbed unnecessarily.

f. Permittee shall fully implement all applicable nondiscretionary Terms and Conditions of the Reasonable and Prudent Measures of the SLOPES IV Restoration programmatic opinion. General Construction conditions applicable to the permitted activity are numbered 16, 17, 19, 20, 21, 24, 25, 26, 27, 28, 29, 30, 41, 42, 43, 45, 46, and 48 (Enclosure 5).

g. Permittee shall notify the Corps if the project changes in scope or is otherwise modified. The Corps is required to reinitiate consultation on this action where discretionary Federal involvement or control over the action has been retained or is authorized by law and (a) the amount or extent of taking specified in the Incidental Take Statement is exceeded, (b) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered, (c) the identified action is subsequently modified in a manner that has an effect to the listed species or critical habitat that was not considered in the biological opinion; or (d) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16).

We direct Council's attention to NWP General Condition 25 that requires the transfer of this permit if the property is sold, and NWP General Condition 26 that requires Council to submit a signed certificate when the work is completed. A "Compliance Certification" is provided (Enclosure 6).

We have prepared a Preliminary Jurisdictional Determination (JD), which is a written indication that wetlands and waterways within Council's project area may be waters of the United States (Enclosure 7). Such waters have been treated as jurisdictional waters of the United States for purposes of computation of impacts and compensatory mitigation requirements. If Council concurs with the findings of the Preliminary JD, please sign it and return it to the letterhead address within two weeks. If Council believes the Preliminary JD is inaccurate, an Approved JD may be requested, which is an official determination regarding the presence or absence of waters of the United States. If Council would like an Approved JD, one must be requested prior to starting work within waters of the United States. Once work within waters of the United States has been started, the opportunity to request an Approved JD will no longer be available.

This authorization does not obviate the need to obtain other permits where required. Permits, such as those required from the Oregon Department of State Lands (ODSL) under Oregon's Removal /Fill Law, must also be obtained before work begins.

This verification is valid for a period of two years from the date of this letter unless the NWP expires, is modified, or revoked prior to that date. The nationwide permits are scheduled to expire on March 18, 2017. If Council commences or is under contract to commence this activity before the date the NWP expires, is modified, or revoked, Council will have 12 months from the date of the expiration, modification, or revocation to complete the activity under the present terms and conditions of the current NWP.

We would like to hear about Council's experience working with the Portland District, Regulatory Branch. Please complete a customer service survey form at the following address: <http://per2.nwp.usace.army.mil/survey.html>

If Council has any questions regarding this NWP verification, please contact Mr. Benny A. Dean Jr. at the letterhead address, by telephone at (541) 465-6769, or email [Benny.A.Dean@usace.army.mil](mailto:Benny.A.Dean@usace.army.mil).

FOR THE COMMANDER, JOHN W. EISENHAUER, P.E., COLONEL, CORPS OF ENGINEERS, COMMANDER and DISTRICT ENGINEER:

  
Sgt Shawn H. Zinszer  
Chief, Regulatory Branch

Enclosures

Copy Furnished:

Oregon Department of State Lands (Kiryuta)  
Oregon Department of Environmental Quality (401 WQC Coordinator)  
Consultant (Denise Hoffert-Hay)