



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

July 30, 2014

Operations Division
Regulatory Branch
Corps No.: NWP-2014-183

Mr. Matthew Tipton
City of Lake Oswego Engineering Division
380 A Avenue, 3rd Floor
Lake Oswego, OR 97034

Dear Mr. Tipton:

The U.S. Army Corps of Engineers (Corps) has received the City of Lake Oswego's permit application requesting Department of the Army authorization to replace an existing 76-foot timber pedestrian bridge and sanitary sewer line. The Iron Mountain Trail Pedestrian Bridge crosses Tryon Creek within Tryon Creek State Park in Lake Oswego, Clackamas County, Oregon. The site is in Section 3, Township 2 South, Range 1 East.

The proposed project consists of replacing an existing 76-foot, three-span, sawn timber pedestrian bridge with a weathering steel girder bridge in the same footprint as the existing bridge. The installation of a new sewer line will not impact any wetlands or waters of the U.S. The replacement of the bridge will result in 19 cubic yards of temporary fill and removal within 136 square feet below the Ordinary High Water Mark of Tryon Creek. The project is shown on the enclosed drawings (Enclosure 1).

This letter verifies that your project is authorized under the terms and limitations of Nationwide Permit (NWP) No. 3 (Maintenance). Your 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 (e) 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 e-mail to cenwp.notify@usace.army.mil or mailed to the following address:

U.S. Army Corps of Engineers
CENWP-OD-GC
Permit Compliance, Clackamas County
P. O. 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 immediately notify the Corps at the letterhead address if at any time during the authorized work, human remains and/or cultural resources are discovered within the permit area. We also draw your attention to Regional Condition 2.

c. Permittee shall perform all in-water work, including temporary fills or structures, during the in-water work window of July 15 to September 30 to minimize impacts to aquatic species unless coordinated with and subsequently approved by the Corps. We also draw your attention to Regional Condition 3.

The Corps has determined the proposed project may affect Lower Columbia River steelhead and Lower Columbia River coho, a 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 to assess compliance with these laws and provide coverage for incidental take. The biological opinion is titled *Revisions to the Standard Local Operating Procedures for Endangered Species to Administer Maintenance or Improvement of Stormwater, Transportation or Utilities Authorized or Carried Out by the U.S. Army Corps of Engineers in Oregon (SLOPES V Stormwater, Transportation, Utilities)*, dated March 14, 2014. The Corps recommends that you review the SLOPES opinion in its entirety. Please contact us for a copy of the SLOPES opinion.

The programmatic consultation also requires that we provide you 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.

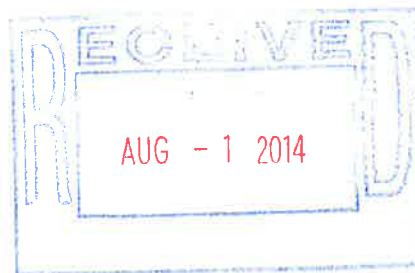
d. Permittee shall fully implement all applicable nondiscretionary Terms and Conditions of the Reasonable and Prudent Measures of the SLOPES V Stormwater, Transportation and Utilities programmatic opinion. General Construction conditions applicable to the permitted activity are numbered 13, 14, 15, 16, 17, 18, 19, 23, 24, 25, 26, 27, 29, 30, 31, 34, 37, 38 (Enclosure 5).

e. Permittee shall notify the Corps if the project changes in scope or is otherwise modified. The Corps is required to reinstate 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 your attention to NWP Regional Condition 16 (Enclosure 2) and General Condition 29 (Enclosure 3) that requires the transfer of this permit if the property is sold, and NWP General Condition 30 that requires you 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 your 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 you concur with the findings of the Preliminary JD, please sign it and return it to the letterhead address within two weeks. If you believe 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 you 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.



The DEQ water quality certification conditions (Enclosure 4) require you to obtain DEQ approval of your stormwater management plan prior to initiating construction. Please contact the 401 Water Quality Certification Coordinator, Oregon Department of Environmental Quality, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon, 97201-4987, by telephone at (503) 229-6030, or visit <http://www.deq.state.or.us/wq/sec401cert/removalfill.htm>.

The nationwide permits expire on March 18, 2017. This verification is valid until March 18, 2017 unless the NWP is modified or revoked prior to that date. If you commence or are under contract to commence this activity before the date the NWP expires, is modified, or revoked, you 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 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.

If you have any questions regarding this NWP verification, please contact Chelsea Bowman at the letterhead address, by telephone at (503) 808-4383, or via e-mail at Chelsea.B.Bowman@usace.army.mil.

FOR THE COMMANDER, JOSE L. AGUILAR, COLONEL, CORPS OF ENGINEERS,
DISTRICT COMMANDER:

Jaimee Davis
Team Leader, Regulatory Branch

Enclosures

Copy Furnished:

Oregon Department of State Lands (Redon, 56346-GP)
Oregon Department of Environmental Quality (Christensen)
MB&G (Daniel Covington)