



US Army Corps
of Engineers
Seattle District

Proposed Department of the Army Regional General Permit



Installation of New Residential Overwater Structures and Replacement, Repair and Modification of Existing Residential Overwater Structures in the Mid-Columbia and Lower Okanogan Rivers within the State of Washington

Effective Date:

Expiration Date:

Permit Number: CENWS-OD-RG-RGP-5-2002

Authority: In accordance with 33 CFR 325.2(e)(2), the U.S. Army Corps of Engineers (Corps) is proposing a regional general permit (RGP) that would authorize certain activities in or affecting waters of the United States, including navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

Issuing Office: U.S. Army Corps of Engineers, Seattle District
Regulatory Branch, CENWS-OD-RG
P.O. Box 3755
Seattle, Washington 98124-3755
Telephone: (206) 764-3495

Purpose: The purpose of this RGP is to authorize new residential overwater structures and/or replacement, repair, or modification of existing residential overwater structures in the mid-Columbia and lower Okanogan Rivers.

Use of this RGP: To use this RGP, a prospective permittee must first notify the Corps of the proposed work in accordance with the application procedures in this RGP. The proposed project is not authorized under this RGP, and work may not commence, until the District Engineer or his designee has issued written notification that the proposed project appears to meet the requirements of this RGP and is authorized. The permittee is responsible for ensuring that the authorized structures and/or activities comply with all applicable provisions of this RGP, including any project-specific special conditions that may be added by the District Engineer. Failure to abide by the requirements of this RGP may constitute a violation of the Clean Water Act and/or Rivers and Harbors Act. For purposes of this RGP, the term “permittee” shall include all successors in interest.

This RGP contains provisions intended to protect the environment, endangered species, and cultural resources. Work that will not comply with these provisions is not authorized by this RGP and may require Department of the Army authorization by a standard individual permit. Moreover, compliance with the provisions of this RGP does not itself guarantee that the work is authorized by this RGP.

Activities that appear to comply with the provisions of this RGP but would have an unacceptable adverse impact on the public interest are not authorized.

Definitions: *Overwater structures* include piers, ramps, floats, and their associated structures. Associated structures include chain and anchors for floats, ladders, and swim steps.

Private use overwater structures are constructed and utilized by a single residential waterfront property owner.

Joint-use overwater structures are constructed and utilized by more than one contiguous residential waterfront property owner or by a homeowner's association.

Freeboard height is the distance from the top of the float decking to the water surface.

The *opening size* of grating is the area enclosed between the rectangular bars and cross rods in bar grating, or the area enclosed between the bonds and strands in expanded grating. The *percent open area* is a relative measure of the degree light can pass through grating. The manufacturer often provides this value. Otherwise, it can be calculated by dividing the opening size by the sum of the opening size and the surface area of a single unit of rectangular bars and cross rods.

Skirting is vertical boards extending downward along the edge of an overwater structure.

The *Ordinary High Water* (OHW) mark for the Columbia River is at an elevation of 781 feet between Wells and Chief Joseph dams, 707 feet between Rocky Reach and Wells dams, and 613 feet between Rock Island and Rocky Reach dams (Corps of Engineers datum). For the Okanogan River, it is the visible line on the banks where the presence and action of waters are so common as to leave a mark upon the soil or vegetation.

The *footprint* of an overwater structure is the total surface area (square feet) of all the structure's components (e.g., pier, ramp and/or floats).

Heavy equipment includes but is not limited to bulldozers, back-end loaders, barges, jack hammers, and cement mixers.

A *Spill Prevention Control and Countermeasures Plan* (SPCC plan) is a comprehensive description of containment and countermeasures that would prevent an oil spill from occurring as well as procedures to respond to and clean up an oil spill that does occur. The Clean Water Act requires preparation of a SPCC plan by any facility that stores, transports, or handles oil and could reasonably be expected to discharge oil in a harmful quantity to navigable water.

In the State of Washington, the Columbia River (entire length) and the Okanogan River (from McLaughlin Falls to mouth) are *navigable waters* of the United States.

Location of Authorized Activities: This RGP is applicable in the Columbia River between Rock Island and Chief Joseph dams, and in the Okanogan River between River Mile 5 and its mouth at the Columbia River.

Activities Authorized by this RGP (Conservation Measures and Construction Specifications): Work authorized by this RGP is limited to the activities described below. This RGP authorizes the

following work in or affecting navigable waters of the United States and discharges of dredged or fill material into waters of the United States.

This permit authorizes installation, replacement, repair or modification of a residential overwater structure consisting of a pier and/or ramp and/or float(s). A modified structure may be different in kind from the existing structure. For example, an existing float may be modified to a pier, ramp and float. This permit authorizes the installation, replacement, repair or modification of one overwater structure per upland residential waterfront property owner or one joint-use overwater structure for two or more adjacent waterfront property owners. The activity must comply with the following conservation measures and construction specifications:

1. Piling. Piling shall be white in color. Piling shall be spaced at least 18 feet apart from one another on the same side of any component of the structure. Piling diameter shall not exceed four inches, or five inches if encased in a polyvinylchloride (PVC) sleeve.
2. Floats. Floats shall not exceed dimensions of 8- by 20-feet. Freeboard height on the float shall be at least 10 inches. Float materials contacting the water shall be white in color or translucent. Grating or clear translucent material (e.g., acrylic or high density polyethylene) must be installed on at least 60 percent of the surface area of the float. Grating must have at least 60 percent open area. Clear translucent material must have greater than 90 percent light transmittance as rated by the manufacturer. Skirting is prohibited on the float. On joint-use structures, two floats may be installed.
 - a. Permanent Floats. The landward end of any float shall be located in water that has a depth of at least 25 feet below the plane of OHW. To determine water depth, a depth finder or plumb bob may be utilized.
 - b. Temporary Floats. A temporary float may be installed in locations where water depth at the landward end of the float is less than 25 feet but at least 8 feet below the plane of OHW. The temporary float must be installed in a location where the water depth fronting the property is greatest. Temporary floats shall be removed from the water annually before March 1 and shall not be installed until after June 30.
3. Piers and ramps. Piers and ramps shall be no more than four feet wide and shall be elevated at least two feet above the plane of OHW. Where pertinent information is submitted to the Corps, a greater width is allowed to accommodate persons with disabilities. Piers with a float or floats shall extend a minimum of 20 feet waterward from the OHW line. Grating or clear translucent material shall cover the entire surface area of the pier and ramp. The grating must have at least 60 percent open area. Clear translucent material must have greater than 90 percent light transmittance as rated by the manufacturer. Skirting is prohibited on piers and ramps.
4. Preservatives. Any paint, stain or preservative applied to components of the overwater structure must be completely dried or cured prior to installation. Creosote and pentachlorophenol preserved wood are prohibited from use on overwater structures authorized by this permit.
5. Construction Timing. In order to protect Columbia River bull trout, upper Columbia River steelhead, upper Columbia River spring chinook, and the bald eagle, work shall comply with one of the following work windows. The main work window for fish species is July 1 through February 28. Variations in this work window are based on the distance of the proposed project

to the nearest bald eagle nest and wintering concentration (see below). The Corps will coordinate with the U.S. Fish and Wildlife Service to determine the appropriate work window once an application is submitted. The prospective permittee agrees to abide by the following work window established by the Corps.

- 1a Piles will be installed
 - 2a Pile installation will be done manually (e.g., with a sledge hammer) or with a vibratory pile driver
 - 3a Wintering bald eagle concentration is within ¼ mile of the project site
 - 4a Bald eagle nest is within ½ mile of the project site: Aug 16 – Oct 30
 - 4b No bald eagle nests within ½ mile of the project site: Jul 1 – Oct 30
 - 3b No wintering bald eagle concentrations are within ¼ mile of the project site
 - 5a Bald eagle nest is within ½ mile of the project site: Aug 16 – Dec 31
 - 5b No bald eagle nests within ½ mile of the project site: Jul 1 – Feb 28
 - 2b Pile installation will be done with an impact hammer (e.g., diesel, hydraulic)
 - 6a Wintering bald eagle concentration is within 1 mile of the project site
 - 7a Bald eagle nest within 1 mile of project site: Aug 16 – Oct 30
 - 7b No bald eagle nest within 1 mile of the project site: Jul 1 – Oct 30
 - 6b No wintering bald eagle concentrations within 1 mile of the project site
 - 8a Bald eagle nest within 1 mile of the project site: Aug 16 – Dec 31
 - 8b No bald eagle nest within 1 mile of the project site: Jul 1 – Feb 28
- 1b No piles will be installed
 - 9a Bald eagle wintering concentration within ¼ mile of the project site
 - 10a Bald eagle nest within ¼ mile of the project site: Aug 16 – Oct 30
 - 10b No bald eagle nest within ¼ mile of the project site: Jul 1 – Oct 30
 - 9b No bald eagle wintering concentration within ¼ mile of the project site
 - 11a Bald eagle nest within ¼ mile of the project site: Aug 16 – Dec 31
 - 11b No bald eagle nest within ¼ mile of the project site: Jul 1 – Feb 28

- 6. Habitat Features. Existing habitat features (e.g., large and small woody debris, substrate material, etc.) shall not be removed from the riparian or aquatic environment. If invasive weeds (e.g., milfoil) are present, removal may occur by non-chemical means only with authorization from the Washington State Department of Fish and Wildlife.
- 7. Mitigation Measures. While the above-described construction measures will minimize impacts to the aquatic environment due to the individual structures, because of cumulative impacts of numerous structures to be authorized under this RGP, mitigation measures must be implemented. Overwater structures have the potential to degrade or destroy important habitat for threatened or endangered fish species. These mitigation measures will restore or create important fish habitat to offset the impact of the project.

The number of “Mitigation Units” required is dependent upon the scope of the proposed work and the existing environmental conditions.

One Mitigation Unit consists of one of the following categories of activities, which are ranked below in order of preference by the Corps. If the first category cannot be met, the applicant must justify to the Corps why it cannot be met. Category 1 and 2 mitigation is important because the permanent removal of shoreline vegetation for bulkhead construction or unobstructed views may affect the forage base of ESA-listed salmonids by reducing litter and nutrient inputs to the

aquatic environment. Category 3 mitigation is important because existing man made structures can degrade the natural habitat by increasing shading, displacing the substrate, or leaching contaminants.

1	Planting overhanging vegetation along the shoreline immediately landward of OHW in a plot 20-feet long by 10-feet wide OR
2	Removal of 10 linear feet of hardened shoreline and planting overhanging vegetation in the removal area OR
3	Removal of 100 square feet of existing in-water human-made structures (e.g., pier, piling, human-made debris, concrete, asphalt, etc.) or an equivalent of what is being constructed (e.g., proposed driving of 6 piles, removal of 6 derelict piles).

The following list identifies how many Mitigation Units are required for different situations. The units do not have to be in the same category. For example, if 2 mitigation units are required, the applicant can propose to remove 100 square feet of an existing pier and plant one (1) plot of overhanging vegetation.

- a. One unit of mitigation is required for all new overwater structures authorized by this RGP.
 - b. One unit of mitigation is required if the RGP is used to repair, replace, or modify an existing structure and the footprint of the proposed structure is larger than the footprint of the original structure.
 - c. No mitigation is required if the RGP is used to repair, replace, or modify an existing structure and the footprint of the proposed structure is smaller than or equal to the footprint of the original structure.
 - d. One unit of mitigation is required on any site where Corps-required mitigation has been removed.
8. **Mitigation Planting.** The purpose of mitigation planting is to establish a riparian plant community and associated food web that can be utilized by migrating salmonids as they pass through the project area. To this end, the prospective permittee is required to establish and preserve mitigation plantings at the project site for the duration that the overwater structure is in place. The mitigation planting will include native shrubs (*Salix sitchensis*, *S. scouleriana*, *S. exigua*, *S. prolixa*, *S. lasiandra*, *Cornus stolonifera*) and trees (*Populus trichocarpa*, *Pseudotsuga menzeisii*). The shrubs will be planted at intervals of 3-feet on center, and the trees will be planted at intervals of 10-feet on center. At least two trees will be included in each unit of mitigation planting. Prior to issuance of an RGP, the Corps must approve the prospective permittee's mitigation plan. The mitigation planting must be constructed within 12 months of the Corps' issuance of an RGP to the permittee.
9. **Mitigation Planting Performance Standards.** One hundred percent survival of all planted trees and shrubs is required during the first and second years after planting the mitigation units. During the third through fifth years after planting, 80 percent survival is required. The permittee must protect the mitigation units against predation—the Corps recommends fencing. Individual plants that die must be replaced with native shrubs and trees taken from the species list above.

10. Mitigation Reports. Mitigation reports must be submitted to the Corps for all projects as follows:
 - a. A status report on mitigation construction, including as-built drawings, must be submitted to the Corps 12 months from the date the Corps issues an RGP to the permittee. Status reports on mitigation construction will be due annually to the Corps until the Corps accepts the as-built drawings. The permittee can meet this reporting requirement by submitting to the Corps a completed *Status Report for Mitigation Construction*, found in Appendix A.
 - b. For mitigation planting, monitoring reports will be due annually for 5 years from the date the Corps accepts the as-built drawings. The mitigation monitoring report will include written and photographic documentation on tree and shrub mortality and replanting efforts. The permittee can meet this reporting requirement by submitting to the Corps a completed *Mitigation Monitoring Report*, found in Appendix B.
11. Heavy Equipment. If heavy equipment is used to accomplish the work, the equipment shall be clean and free of external oil, fuel, or other potential pollutants. All equipment shall be inspected daily prior to use to ensure the equipment has no fluid leaks. Should a leak develop during use, the leaking equipment shall be removed from the site immediately and not used again until it has been adequately repaired. No equipment may be stored or fueled so close to a surface water that the activity could adversely affect the waterbody.
12. Operation of Equipment. Heavy equipment shall be operated from on-shore staging areas, with the exception of an excavator arm or bucket. Pile drivers shall use constructed work platforms (e.g., a barge).
13. Spill Prevention, Control and Containment (SPCC) Plan. If heavy equipment is used to accomplish the work, a SPCC plan must be implemented. A copy of the SPCC plan must be submitted to the Corps prior to construction.

Application Procedure: Authorization under this RGP requires that a prospective permittee notify the Corps of the proposed work in accordance with the application procedures described in this section and not proceed with the proposed work until the District Engineer or his designee issues written notification that the proposed project appears to meet the requirements of this RGP and is authorized. To notify the Corps of a proposed project that may qualify for authorization under this RGP, the prospective permittee must submit the following information:

1. A complete written application that fully describes the proposed work and clearly demonstrates to the Corps that the work would meet the requirements of this RGP. The Corps recommends using Appendix C as the application form but the applicant may also use the Joint Aquatic Resources Permit Application (JARPA) form approved for use in Washington State. (Both forms with instructions are available on the Internet at the Corps' Regulatory Branch homepage, <http://www.nws.usace.army.mil>, scroll down the menu of the left side of the screen to Regulatory – Permitting) A “complete application” also includes appropriate plan, profile, and cross-section drawings of the proposed work and structures, as well as estimates of the volume of each type of material that would be discharged (temporarily or permanently) into waters of the United States. For assistance with preparation of the drawings, an information sheet is provided on the Corps'

webpage cited above. If using the JARPA, include in the application the title or permit number of the RGP being requested to authorize the project.

2. For activities that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places, the notification must include a description of each historic property that may be affected by the proposed work and a map indicating the location of the property.
3. Any other relevant information, such as information on local hydrology, photographs of the project area, and a description of any offsite borrow or disposal site that would be used.

Water Quality Certification: The Corps will request that the Washington Department of Ecology (Ecology), pursuant to Section 401 of the CWA and Chapters 173-225 of the Washington Administrative Code (WAC), and the Environmental Protection Agency pursuant to Section 401 of the CWA, certify that those activities authorized by this RGP for which these agencies are responsible, will not violate established State water quality standards. Any requirement that the agencies require as a condition of water quality certification will be included in this RGP, when issued.

Endangered Species: The Endangered Species Act of 1973 (ESA), as amended, requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or the U.S. Fish and Wildlife Service (FWS), pursuant to Section 7 of the ESA, on any action, or proposed action, permitted, funded, or undertaken by the agency that may affect a species listed as threatened or endangered under the ESA, or its designated critical habitat. The Corps has determined that activities that would be authorized by this RGP may affect federally listed species and, therefore, will consult with the NMFS and FWS.

Essential Fish Habitat: The Magnuson-Stevens Fishery Conservation and Management Act (MSA), as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). If the Corps determines that issuance of this RGP may adversely affect EFH for federally managed fisheries in Washington waters, the Corps will initiate consultation with the NMFS.

Permit Conditions: Department of the Army authorization under this RGP is subject to the following general conditions:

GENERAL CONDITIONS

1. Reliance on Permittee's Information. In verifying a permittee's authorization under this RGP, the Department of the Army has relied, in part, on the information provided by the permittee. If this information proves to be false, incomplete, or inaccurate, the permittee's authorization may be modified, suspended, or revoked, in whole or in part.
2. Compliance with Terms and Conditions. Projects authorized by this RGP shall comply with all terms and conditions herein and any case-specific conditions added by the Corps, State, or Environmental Protection Agency or a tribe as a result of a water quality certification. Failure to abide by these terms and conditions invalidates this authorization and may result in a violation of Federal law, which may require that the permittee restore the site or take other remedial action. Activities requiring Department of the Army authorization that are not specifically authorized by this RGP are prohibited unless authorized by another Department of the Army permit.

3. Contractor's Copy of Permit. The permittee shall provide complete copies of this permit and the Corps verification letter for the authorized project to each contractor involved in the project and keep copies of this permit and Corps verification letter available for inspection at the project site.
4. Compliance Certification. Every permittee shall submit to the Corps, within 30 days of completing the authorized work, certification that the work, including any required mitigation, was conducted in accordance with the provisions of this RGP, including case-specific special conditions. The permittee must use the Statement of Compliance Form (Appendix D) of this RGP.
5. Access for Inspection. The permittee shall allow the District Engineer or his authorized representative to inspect the project whenever deemed necessary to ensure that the activity is in compliance with the terms and conditions prescribed herein.
6. Limits of Authorization. This permit does *not*:
 - a. Obviate the requirement to obtain all other Federal, State, or local authorizations required by law for the activity authorized herein, including any authorization required from Congress.
 - b. Convey any property rights, either in real estate or material, or any exclusive privileges.
 - c. Authorize any injury to property, invasion of rights, or any infringement of Federal, State, or local laws or regulations.
 - d. Authorize the interference with any existing or proposed Federal project.
7. Limits of Federal Liability. This permit is not an approval of the design features of any authorized project or an implication that such project is adequate for the intended purpose; a Department of the Army permit merely expresses the consent of the Federal Government to conduct the proposed work insofar as public rights are concerned. In issuing this RGP, the Federal Government does not assume any liability for the following:
 - a. Design or construction deficiencies associated with the authorized work.
 - b. Damages to the permitted project or uses thereof as a result of other permitted activities or from natural causes, such as flooding.
 - c. Damages to persons, property, or to other permitted or unauthorized activities or structures caused by the activity authorized by this permit.
 - d. Damages associated with any future modification, suspension, or revocation of this permit.
 - e. The removal, relocation, or alteration of any structure or work in navigable waters of the United States ordered by the Secretary of the Army or his authorized representative.
 - f. Damage 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.

8. Tribal Rights. No activity may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. Corps Coordination. Permittees shall coordinate with the appropriate office of the Corps prior to commencing any construction activity in a federally maintained channel and/or waterway
10. Obstruction of Navigation. The permittee understands and agree that, if future operations by the United States require the removal, relocation, or other alteration of the work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work unreasonably obstructs the full and free use of navigable waters of the United States, the permittee shall, upon due notice from the Corps, remove, relocate, or alter the obstructions caused thereby, without expense to the United States. If the permittee fails to comply with the direction of the Corps, the District Engineer may restore the navigable capacity of the waterway, by contract or otherwise, and recover the cost thereof from the permittee.
11. Stability. The permittee shall design projects to be stable against the forces of flowing water, wave action, and the wake of passing vessels.
12. Maintenance. The permittee shall properly maintain all authorized structures, including maintenance necessary to ensure public safety.
13. Marking Structures. The permittee shall install and maintain any lights, signals, or other appropriate markers necessary to clearly designate the location of structures or work that might pose a hazard to public safety. Permittees shall abide by U.S. Coast Guard requirements concerning the marking of structures and work in navigable waters of the United States.
14. Endangered Species. This RGP does not authorize any activity that is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the ESA.
15. Essential Fish Habitat. This RGP does not authorize any activity that may adversely affect designated Essential Fish Habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act.
16. Historic Properties. This RGP does not authorize any activity that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) until the provisions of 33 CFR 325, Appendix C, have been satisfied. Historic properties include prehistoric and historic archeological sites, and areas or structures of cultural interest. A prospective permittee must notify the District Engineer if the proposed activity may affect an historic property that is listed, eligible for listing, or may be eligible for listing in the NRHP, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. If a previously unknown historic property is encountered during work authorized by this RGP, the permittee shall immediately cease all ground activities in the immediate area, notify the Corps within 1 business day of discovery. The permittee shall perform any work required by the Corps in accordance with Section 106 of the National Historic Preservation Act and Corps regulations and avoid any further impact to the property until the District Engineer verifies that the requirements of 33 CFR Part 325, Appendix C, have been satisfied.

17. 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 (e.g. National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service), 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.
18. Water Quality Standards. All activities authorized herein that involve a discharge of dredged or fill material into waters of the United States shall, at all times, remain consistent with all applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards, and management practices established pursuant to the Clean Water Act (P.L. 92-500; 86 Stat. 816) or pursuant to applicable State and local law.
19. Minimization of Environmental Impact. The permittee shall make every reasonable effort to conduct the authorized activities in a manner that minimizes the adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse impacts to migratory waterfowl breeding areas, spawning areas, shellfish beds, and aquatic resource buffer zones.
20. Soil Erosion and Sediment Controls. The permittee shall use and maintain appropriate erosion and sediment controls in effective operating condition and permanently stabilize all exposed soil and other fills, including any work below the ordinary high water mark or high tide line, at the earliest practicable date using native vegetation to the maximum extent practicable. The permittee shall remove all installed controls as soon as they are no longer needed to control erosion or sediment.
21. Equipment. The permittee shall place heavy equipment working in wetlands on mats, or take other appropriate measures to minimize soil disturbance.
22. Aquatic Life Movements. The permittee shall not substantially disrupt the necessary life-cycle movement of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the primary purpose of the activity is to temporarily impound water.
23. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain downstream flow conditions. Furthermore, the activity shall not permanently restrict or impede the passage of normal or expected high flows. The permittee should limit the work conducted in waters of the United States to low- or no-flow periods.
24. Water Supply Intakes. The permittee shall ensure that activities authorized by this RGP have no more than a minimal adverse impact on public water supply intakes.
25. Practicable Alternatives. Activities authorized by this RGP shall be designed and constructed to avoid and minimize adverse impacts to waters of the United States to the extent practicable through the use of practicable alternatives.
26. Suitable Material. Any material or structure placed in waters of the United States, whether temporary or permanent, shall be free of toxic pollutants in toxic amounts.

27. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected area returned to pre-construction contours.
28. Disposal of Excess Material. All construction debris and any other material not authorized by the Corps for permanent placement into waters of the United States shall be disposed of in an upland location in a manner that precludes it from entering waters of the United States.

Modification, suspension, or revocation of the RGP: This RGP may be modified or suspended in whole or in part if the Secretary of the Army or his authorized representative determines that the individual or cumulative impacts of work that would be authorized using this procedure are contrary to the public interest. Any such modification, suspension, or revocation shall become effective 30 days after the issuance of a public notice announcing such action. The final decision whether to modify, suspend, or revoke this permit, in whole or in part, shall be made pursuant to procedures prescribed by the Chief of Engineers. Following such revocation, any future activities heretofore authorized by this RGP will require alternate Department of the Army authorization.

The authorization of an individual project under this RGP may also be summarily modified, suspended, or revoked, in whole or in part, if the permittee either fails to abide by the terms and conditions of this permit or provides information that proves to be false, incomplete, or inaccurate, or upon a finding by the District Engineer that such action would be in the public interest. If a permittee's authorization is revoked, the permittee shall, upon notice of such revocation, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former condition. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

Expiration of the RGP: This permit shall become effective on the date of the signature of the District Engineer or his authorized representative and will automatically expire 5 years from that date unless the permit is modified, revoked, or extended prior to that date. Activities that have commenced (e.g., are under construction) or are under contract to commence in reliance upon this permit will remain authorized provided that the activity is completed within 1 year of the date of this permit's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Date

RALPH H. GRAVES
Colonel, Corps of Engineers
District Engineer

APPENDIX A

Status Report for Mitigation Construction on RGP-5-2002 Mid-Columbia and Lower Okanogan River Residential Piers.

Within one (1) year of the date your permit was issued, submit this completed form to: U.S. Army Corps of Engineers, Regulatory Branch, P.O. Box 3755, Seattle, WA 98124-3755. You must submit a new form annually until the Corps accepts your as-built drawings of the mitigation construction.

Corps Reference Number: _____

Date the Corps Issued Your Permit: _____

Date this Report is Due: _____

Units of Mitigation Required by Corps: _____

Your Name: _____

Your Address: _____

Your City/State/Zip Code: _____

You must attach to this form: As-built drawing(s) of mitigation area, and
 Photographs of the mitigation area.

Date overwater structures removed: _____

Date hardened shoreline removed: _____

If plantings were installed:

Each unit of mitigation requires a 20-foot long by 10-foot wide vegetation strip established along the ordinary high water (OHW) line. Conditions of your Corps permit require that you plant at least 2 trees and 15 shrubs in each mitigation unit. The vegetation you plant must be taken from this list of native species below. Shrubs should be planted at 3-feet-on-center intervals and trees should be planted at 10-feet-on-center intervals. Be sure to protect your plantings from beavers—fencing is recommended.

Name of Species You Planted	Number Planted
Total Planted:	

Native tree list: *Populus trichocarpa*, *Pseudotsuga menziesii*

Native shrub list: *Salix sitchensis*, *S. scouleriana*, *S. exigua*, *S. prolixa*, *S. lasiandra*, *Cornus stolonifera*

APPENDIX B

Mitigation Monitoring Report for RGP-5-2002 Mid-Columbia and Lower Okanogan River Residential Piers.

Submit this completed form to: U.S. Army Corps of Engineers, Regulatory Branch, P.O. Box 3755, Seattle, WA 98124-3755. A completed form must be submitted 1, 2, 3, 4 and 5 years after the Corps accepts your as-built drawing of the mitigation area.

Corps Reference Number: _____

Date Your As-Built's Were Accepted by the Corps _____

Date This Report Is Due: _____

Units of Mitigation Required by the Corps: _____

Your Name: _____

Your Address: _____

Your City/State/Zip Code: _____

You must attach to this form: Photographs of the mitigation area taken within the last two months.

Conditions of your Corps permit require 100% survival of all planted trees and shrubs during the first and second years after planting. During the third through fifth years after planting, 80% survival is required. Individual plants that die must be replaced with a species from the list below. At least two trees must be planted in your mitigation area. You must protect your mitigation area against animal predation—fencing is recommended.

Date of Inspection	Species name of Dead Plants	Number of Dead Plants	Name of Species Replanted	Number Replanted

Native tree list: *Populus trichocarpa*, *Pseudotsuga menziesii*

Native shrub list: *Salix sitchensis*, *S. scouleriana*, *S. exigua*, *S. prolixa*, *S. lasiandra*, *Cornus stolonifera*

APPENDIX C



**US Army Corps
of Engineers**

REGIONAL GENERAL PERMIT # APPLICATION, SPECIFIC PROJECT INFORMATION FORM, AND ESA TRACKING AND NOTIFICATION FORM

Mid-Columbia River and Lower Okanogan River Residential Piers.

USFWS Programmatic Reference:

NMFS Programmatic Reference:

A. **Date:** _____

B. **Applicant:** _____ **Corps Reference No.:** _____

Address: _____

City: _____ State: _____ Zip: _____

Phone (home): _____ (work): _____ Fax: _____

C. **Agent:** _____

Address: _____

City: _____ State: _____ Zip: _____

Phone (work): _____ Fax: _____

D **Location(s) of Activity:**

Quarter Section: _____ Section: _____ Township: _____ Range: _____

Latitude: _____ Longitude: _____

Street address: _____

Waterbody: _____ County: _____

E **Use type:** Private recreation Joint-use (requires at least two owners of contiguous residential waterfront property, or a homeowner's association).

List name of joint-use property owners: _____

F. **Conservation Measures and Construction Specifications:** In order to be authorized under this Regional General Permit (RGP), all applicable Conservation Measures and Construction Specifications must be implemented. Check each item that you agree to implement. State "not applicable" next to items that do not apply to your project. For example, if you will not install piling, write "not applicable" next to the item listing the piling requirements.

1. **Piling.** Piling shall be white in color. Piling shall be spaced at least 18 feet apart from one another on the same side of any component of the structure. Piling diameter shall not exceed four inches, or five inches if encased in a polyvinylchloride (PVC) sleeve.

2. **Floats.** Floats shall not exceed dimensions of 8- by 20-feet. Freeboard height^a on the float shall be at least 10 inches. Float materials contacting the water shall be white in color or translucent. Grating or clear translucent material (e.g., acrylic or high density polyethylene) must be installed on at least 60 percent of the surface area of the float. Grating must have at least 60 percent open area^b. Clear translucent material

^a Freeboard height is the distance from the top of the float decking to the water surface.

^b The opening size of grating is the area enclosed between the rectangular bars and cross rods in bar grating, or the area enclosed between the bonds and strands in expanded grating. The percent open area is a relative measure of the degree light can pass through grating. The manufacturer may provide this value. Otherwise, it can be calculated by dividing the opening size by the sum of the opening size plus the surface area of a single unit of rectangular bars and cross rods.

must have greater than 90 percent light transmittance as rated by the manufacturer. Skirting is prohibited on the float. On joint-use structures, two floats may be installed.

- a. **Permanent Floats.** The landward end of any float shall be located in water that has a depth of at least 25 feet below the plane of ordinary high water (OHW)^c. To determine water depth, a depth finder or plumb bob may be utilized.
- b. **Temporary Floats.** A temporary float may be installed in locations where water depth at the landward end of the float is less than 25 feet but at least 8 feet below the plane of OHW. The temporary float must be installed in a location where the water depth fronting the property is greatest. Temporary floats shall be removed from the water annually from March 1 through June 30.
- 3. **Piers and ramps.** Piers and ramps shall be no more than four feet wide and shall be elevated at least two feet above the plane of OHW. Where pertinent information is submitted to the Corps, a greater width is allowed to accommodate persons with disabilities. Piers shall extend a minimum of 20 feet waterward from the OHW line. Grating or clear translucent material shall cover the entire surface area of the pier and ramp. The grating must have at least 60 percent open area. Clear translucent material must have greater than 90 percent light transmittance as rated by the manufacturer. Skirting is prohibited on piers and ramps.
- 4. **Preservatives.** Any paint, stain or preservative applied to components of the overwater structure^d must be completely dried or cured prior to installation. Creosote and pentachlorophenol preserved wood are prohibited from use on overwater structures authorized by this permit.
- 5. **Construction Timing.** In order to protect Columbia River bull trout, upper Columbia River steelhead, upper Columbia River spring chinook, and the bald eagle, work must comply with one of the following work windows. The main work window for fish species is July 1 through February 28. Variations in this work window are based on the distance of the proposed project to the nearest bald eagle nest and wintering concentration (see below). The Corps will coordinate with the U.S. Fish and Wildlife Service to determine the appropriate work window for the site. The prospective permittee agrees to abide by the work window established by the Corps.
 - 1a Piles will be installed
 - 2a Pile installation will be done manually (e.g., with a sledge hammer) or with a vibratory pile driver
 - 3a Wintering bald eagle concentration is within ¼ mile of the project site
 - 4a Bald eagle nest is within ½ mile of the project site: Aug 16 – Oct 30
 - 4b No bald eagle nests within ½ mile of the project site: Jul 1 – Oct 30
 - 3b No wintering bald eagle concentrations are within ¼ mile of the project site
 - 5a Bald eagle nest is within ½ mile of the project site: Aug 16 – Dec 31
 - 5b No bald eagle nests within ½ mile of the project site: Jul 1 – Feb 28
 - 2b Pile installation will be done with an impact hammer (e.g., diesel, hydraulic)
 - 6a Wintering bald eagle concentration is within 1 mile of the project site
 - 7a Bald eagle nest within 1 mile of project site: Aug 16 – Oct 30
 - 7b No bald eagle nest within 1 mile of the project site: Jul 1 – Oct 30
 - 6b No wintering bald eagle concentrations within 1 mile of the project site
 - 8a Bald eagle nest within 1 mile of the project site: Aug 16 – Dec 31
 - 8b No bald eagle nest within 1 mile of the project site: Jul 1 – Feb 28
 - 1b No piles will be installed
 - 9a Bald eagle wintering concentration within ¼ mile of the project site
 - 10a Bald eagle nest within ¼ mile of the project site: Aug 16 – Oct 30
 - 10b No bald eagle nest within ¼ mile of the project site: Jul 1 – Oct 30
 - 9b No bald eagle wintering concentration within ¼ mile of the project site
 - 11a Bald eagle nest within ¼ mile of the project site: Aug 16 – Dec 31
 - 11b No bald eagle nest within ¼ mile of the project site: Jul 1 – Feb 28

^c The *Ordinary High Water* (OHW) mark for the Columbia River is at an elevation of 781 feet between Wells and Chief Joseph dams, 707 feet between Rocky Reach and Wells dams, and 613 feet between Rock Island and Rocky Reach dams (Corps of Engineers datum). For the Okanogan River, it is the visible line on the banks where the presence and action of waters are so common as to leave a mark upon the soil or vegetation.

^d *Overwater structures* include piers, ramps, floats, and their associated structures. Associated structures include chain and anchors for floats, ladders, and swim steps.

- 6. **Habitat Features.** Existing habitat features (e.g., large and small woody debris, substrate material, etc.) shall not be removed from the riparian or aquatic environment. If invasive weeds (e.g., milfoil) are present, removal may occur by non-chemical means only with authorization from the Washington State Department of Fish and Wildlife.
- 7. **Mitigation Measures.** While the above-described construction measures will minimize impacts to the aquatic environment due to the individual structures, because of cumulative impacts of numerous structures to be authorized under this RGP, mitigation measures must be implemented. Overwater structures have the potential to degrade or destroy important habitat for threatened or endangered fish species. These mitigation measures will restore or create important fish habitat to offset the impact of the project.

The number of “Mitigation Units” required is dependent upon the scope of the proposed work and the existing environmental conditions.

One Mitigation Unit consists of one of the following categories of activities, which are ranked below in order of preference by the Corps. If the first category cannot be met, the applicant must justify to the Corps why it cannot be met. Category 1 and 2 mitigation is important because the permanent removal of shoreline vegetation for bulkhead construction or unobstructed views may affect the forage base of ESA-listed salmonids by reducing litter and nutrient inputs to the aquatic environment. Category 3 mitigation is important because existing man made structures can degrade the natural habitat by increasing shading, displacing the substrate, or leaching contaminants.

1	Planting overhanging vegetation along the shoreline immediately landward of OHW in a plot 20-feet long by 10-feet wide OR
2	Removal of 10 linear feet of hardened shoreline and planting overhanging vegetation in the removal area
3	Removal of 100 square feet of existing in-water human-made structures (e.g., pier, piling, human-made debris, concrete, asphalt, etc.) or an equivalent of what is being constructed (e.g., proposed driving of 6 piles, removal of 6 derelict piles).

The following list identifies how many Mitigation Units are required for different situations. The units do not have to be in the same category. For example, if 2 mitigation units are required, the applicant can propose to remove 100 square feet of an existing pier and plant one (1) plot of overhanging vegetation.

- a. One unit of mitigation is required for all new overwater structures authorized by this RGP.
 - b. One unit of mitigation is required if the RGP is used to repair, replace, or modify an existing structure and the footprint of the proposed structure is larger than the footprint of the original structure.
 - c. No mitigation is required if the RGP is used to repair, replace, or modify an existing structure and the footprint of the proposed structure is smaller than or equal to the footprint of the original structure.
 - d. One unit of mitigation is required on any site where Corps-required mitigation has been removed.
- 8. **Mitigation Planting.** The purpose of mitigation planting is to establish a riparian plant community and associated food web that can be utilized by migrating salmonids as they pass through the project area. To this end, the prospective permittee is required to establish and preserve mitigation plantings at the project site for the duration that the overwater structure is in place. The mitigation planting will include native shrubs (*Salix sitchensis*, *S. scouleriana*, *S. exigua*, *S. prolixa*, *S. lasiandra*, *Cornus stolonifera*) and trees (*Populus trichocarpa*, *Pseudotsuga menzeisii*). The shrubs will be planted at intervals of 3-feet on center, and the trees will be planted at intervals of 10-feet on center. At least two trees will be included in each unit of mitigation planting. Prior to issuance of an RGP, the Corps must approve the prospective permittee’s mitigation plan. The mitigation planting must be constructed within 12 months of the Corps’ issuance of an RGP to the permittee.
 - 9. **Mitigation Planting Performance Standards.** One hundred percent survival of all planted trees and shrubs is required during the first and second years after planting the mitigation units. During the third through fifth years after planting, 80 percent survival is required. The permittee must protect the mitigation units against predation—the Corps recommends fencing. Individual plants that die must be replaced with native shrubs and trees taken from the species list above.

- 10. **Mitigation Reports.** Mitigation reports must be submitted to the Corps for all projects as follows:
 - a. A status report on mitigation construction, including as-built drawings, must be submitted to the Corps 12 months from the date the Corps issues an RGP to the permittee. Status reports on mitigation construction will be due annually to the Corps until the Corps accepts the as-built drawings. The permittee can meet this reporting requirement by submitting to the Corps a completed *Status Report for Mitigation Construction*, found in Appendix A of the RGP.
 - b. For mitigation planting, monitoring reports will be due annually for 5 years from the date the Corps accepts the as-built drawings. The mitigation monitoring report will include written and photographic documentation on tree and shrub mortality and replanting efforts. The permittee can meet this reporting requirement by submitting to the Corps a completed *Mitigation Monitoring Report*, found in Appendix B of the RPG.
- 11. **Heavy Equipment.** If heavy equipment is used to accomplish the work, the equipment shall be clean and free of external oil, fuel, or other potential pollutants. All equipment shall be inspected daily prior to use to ensure the equipment has no fluid leaks. Should a leak develop during use, the leaking equipment shall be removed from the site immediately and not used again until it has been adequately repaired. No equipment may be stored or fueled so close to a surface water that the activity could adversely affect the waterbody.
- 12. **Operation of Equipment.** Heavy equipment shall be operated from on-shore staging areas, with the exception of an excavator arm or bucket. Pile drivers shall use constructed work platforms (e.g., a barge).
- 13. **Spill Prevention, Control and Containment (SPCC) Plan.** If heavy equipment is used to accomplish the work, a SPCC plan must be implemented. A copy of the SPCC plan must be submitted to the Corps prior to construction.

G. Proposed work (choose one):

- | | |
|---|--|
| <input type="checkbox"/> Install pier | <input type="checkbox"/> Install ramp |
| <input type="checkbox"/> Install pier and ramp | <input type="checkbox"/> Install ramp and float(s) |
| <input type="checkbox"/> Install pier and float(s) | <input type="checkbox"/> Install float(s) |
| <input type="checkbox"/> Install pier, ramp, and float(s) | |

H. For repair, replacement or modification of an existing structure (choose one):

- Footprint of the proposed structure is larger than the footprint of the existing structure.
- Footprint of the proposed structure is less than or equal to the footprint of the existing structure.

I. Float(s) description (choose one):

- | | |
|--|---|
| <input type="checkbox"/> One temporary float | <input type="checkbox"/> Two temporary floats |
| <input type="checkbox"/> One permanent float | <input type="checkbox"/> Two permanent floats |

J. Piling installation method (choose one):

- | | |
|---|--|
| <input type="checkbox"/> Manually (e.g., sledge hammer) | <input type="checkbox"/> Impact hammer (e.g., diesel or hydraulic) |
| <input type="checkbox"/> Vibratory pile driver | <input type="checkbox"/> No piling will be installed |

K. Prior mitigation planting at the site (choose one):

- Prior to this application, the Corps required mitigation on the private property or joint-use properties and the mitigation is maintained^e.
- Prior to this application, the Corps required mitigation on the private property or joint-use properties and the mitigation no longer exists.
- Prior to this application, the Corps required no mitigation on the private property or joint-use properties.

L. Number of mitigation unit(s) required: _____

M. Type of mitigation proposed:

- Planting a 20- by 10-foot vegetation strip with overhanging native shrubs and trees.
- Removal of 10 linear feet of hardened shoreline armoring and planting overhanging native trees and shrubs in the removal area.
- Removal of 100 square feet of existing in-water, human-made structures (e.g., pier, piling, human-made debris, concrete, asphalt, etc.), or an equivalent of what is being constructed (e.g., proposed driving of six piles, removal of 6 derelict piles).

N. Essential Fish Habitat acreage (footprint, in square feet, of overwater structure): _____

^e *Maintained* means the size of the mitigation unit(s) is the same as approved by the Corps and plant survival is greater than or equal to 80 percent.

- O. **Drawings:** Attach copies of vicinity map and project drawings (plan and elevation views required). Photographs are optional.
- P. **Mitigation unit(s):** Attach a plan-view of your mitigation plan. The plan should include location of the mitigation unit(s) relative to the OHW line and proposed overwater structure. All planting plans must include the number and type of species you will plant, and the method you will use to protect plants from predation.

APPLICATION IS HEREBY MADE FOR A PERMIT OR PERMITS TO AUTHORIZE THE ACTIVITIES DESCRIBED HEREIN. I CERTIFY THAT I AM FAMILIAR WITH THE INFORMATION CONTAINED IN THIS APPLICATION, AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, SUCH INFORMATION IS TRUE, COMPLETE, AND ACCURATE. I FURTHER CERTIFY THAT I POSSESS THE AUTHORITY TO UNDERTAKE THE PROPOSED ACTIVITIES. I HEREBY GRANT TO THE AGENCIES TO WHICH THIS APPLICATION IS MADE, THE RIGHT TO ENTER THE ABOVE-DESCRIBED LOCATION TO INSPECT THE PROPOSED, IN-PROGRESS, OR COMPLETED WORK. I AGREE TO START WORK ONLY AFTER ALL NECESSARY PERMITS HAVE BEEN RECEIVED.

Signature of Applicant

Date

Signature of Authorized Agent

Date

Signature of Contractor

Date

APPENDIX D

Statement of Compliance Form Regional General Permit CENWS-OD-RG-RGP

You must fill out and sign this statement of compliance form and submit it to: U.S. Army Corps of Engineers, Regulatory Branch, P.O. Box 3755, Seattle, WA 98124-3755. If the work is in Category A or B, you must submit this form within 30 days of completing the authorized work,

1. Permittee name, address, and telephone number:

2. Contractor name, address, telephone number, and point of contact:

3. Corps Reference Number:

4. Description of work (attach as-built drawings, including a vicinity map, a plan view, and an elevation view; the drawings must include information as detailed on Appendix E – Drawing Checklist).

5. Dates of Work: The work was initiated on _____ and completed on _____.

I hereby certify that I have completed the above-described work in compliance with the terms and conditions of this permit, including any project-specific conditions required by the District Engineer to ensure that this work would have no more than minimal adverse impact on the aquatic environment.

Signature of Permittee

Date

Signature of Contractor

Date