

Effective Date: 13 November 1997
Expiration Date: 13 November 2002

REISSUANCE OF
DEPARTMENT OF THE ARMY
REGIONAL PERMIT
RESTORE SALMON SPAWNING AREAS
WITHIN WASHINGTON STATE
WITHIN THE SEATTLE DISTRICT
071-OYB-4-008079

This regional permit is to:

Perform work in or affecting waters upon the recommendation of the Chief of Engineers, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344);

Washington State Department of Fish and Wildlife is hereby authorized by the Secretary of the Army:

to place fill material in conjunction with restoring salmon spawning areas in waters of the United States within the regulatory boundaries of the Seattle District in Western Washington. This Regional Permit does not authorize the placement of fill material in San Juan County or any navigable water of the United States.

subject to the following conditions:

1. Special Conditions:
 1. All fill activities authorized by this Regional Permit must be designer built, and administered by the Washington State Department of Fish and Wildlife. The project must have a Washington State Hydraulic Project Approval prior to commencement of filling.
 2. Prior to construction of any project which is covered by this permit the Washington State Department of Fish and Wildlife will notify and seek concurrence from the Washington State Parks and Recreation Commission, the Washington State Office of Archaeology and Historic Preservation, and the affected county and Indian tribe(s). The Washington State Department of Fish and Wildlife shall notify and seek concurrence

from the United States Department of the Interior, Fish and Wildlife Service, and National Marine Fisheries Service, prior to Regional Permit authorization regarding compliance with provisions of the Endangered Species Act. The Department of Fish and Wildlife will undertake informal consultation and the preparation of required biological assessments. All formal consultation actions under Section 7(a)(2) of the Act remain a mandatory statutory duty of the Corps of Engineers.

3. This permit only satisfies Federal law and does not satisfy State and local requirements including leasing of the submerged lands, zoning, building, hydraulic, shoreline management or other required permits. The work is authorized only after final approval has been obtained from the State and applicable local government.
4. This permit is applicable only to activities which are performed in accordance with the State laws and local government's Shoreline Management Master Program, building codes, and zoning ordinances.
5. This permit is applicable only to activities which are in accordance with Section 307(c)(3) of the Coastal Zone Management Act and the approved State of Washington Coastal Zone Management Program.
6. All other fill activities in waters of the United States within the Seattle District not covered by this Regional Permit require separate Department of the Army authorization.
7. 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 (i.e. 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.
8. This permit shall become effective on the date of the District Engineer's signature. The expiration date of this reissued Regional Permit shall be 5 years from the effective date of the permit, unless specifically extended by the Seattle District.
9. This permit may be revoked by issuance of a public notice at any time the District Engineer determines that the singular or cumulative effects of the activities authorized herein have an adverse effect on the public interest. Following such revocation, any future activities in areas covered by this

Regional Permit will be processed as individual permits.

10. The permittee, upon notice of revocation of this permit, shall, 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 conditions. 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.
11. If the District Engineer determines that a specific fill, placed under this Regional Permit, is interfering with navigation, the permittee shall, without expense to the United States and in such time and manner as the District Engineer may direct, restore the waterway to its former condition. If the permittee fails to comply with the direction of the District Engineer, the District Engineer may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.
12. On streams that are traditionally used for recreational navigation with boats, canoes, kayaks, inner tubes or rafts, the permittee shall post warning signs 100 yards upstream from each weir.
13. The permittee hereby recognizes the possibility that the fill material permitted herein may be subject to damage by flooding. The permittee shall not hold the United States liable for any such damage.
14. The Washington State Department of Fish and Wildlife must have the legal right to use and occupy the affected land. This agency shall obtain concurrence on the location of the applicable property line from each affected adjacent upland property owner prior to placing the fill material. If a dispute arises between this agency and the affected adjacent upland property owner on the location of a property line, the agency shall obtain the applicable State Attorney General or County Prosecuting Attorney's opinion that the Department of Fisheries has the legal right to use and occupy the affected land.
15. No fill permitted herein shall be placed on a property registered in the National Register of Historic Place or in such a way to affect known archeological or other cultural resources.
16. Work in waters of the United States will be done in such a manner to minimize turbidity which tends to degrade water quality and damage aquatic life.

17. All construction debris shall be disposed in such a manner that it cannot enter waters of the United States.
18. The Washington State Department of Fish and Wildlife will provide the District Engineer a quarterly listing of weirs (fill placed). This listing will contain the location, name of the waterway and the number of weirs, and quantity of fill placed. This listing will include the latitude and longitude of the most upstream and downstream weirs (fill placed) for each waterway. This listing will be available to any interested local, State, or Federal agency upon request to the Washington State Department of Fish and Wildlife
19. No fill material permitted herein shall be placed in a wetland or in the mouth of any river, stream, or creek.
20. Fill material will consist of suitable material free from toxic pollutants in other than trace quantities.
21. Fill material will be properly maintained to prevent erosion and other nonpoint sources of pollution.
22. Fill for weirs:
 - a. This permit authorizes the placement of fill material for a maximum of 25 weirs on any individual stream during any single calendar year.
 - b. The quantity of fill material placed at each weir shall not exceed 9 cubic yards as follows:
 - (1) Two cubic yards of 6 to 24-inch clean fractured rock riprap placed waterward of the line of ordinary high water at each end of the weirs.
 - (2) Five cubic yards of 3 to 6-inch clean fractured rock placed in gabions for weirs.
23. Fill for salmon spawning areas:
 - a. This permit authorizes during any single calendar year, the placement of a total of 750 cubic yards of clean round rock in each individual stream, ¼- inch to 6-inches in size, to replace the previously excavated or dredged silty gravel.

- b. The maximum dimensions of the fill areas shall not exceed 20 feet in width and a depth of 1.1 feet. The total combined length of the fill areas shall not exceed 1,000 feet on any individual stream during a single calendar year.
- c. The previously excavated or dredged silty gravel shall be disposed at an approved upland site.
- d. All fill that is placed in conjunction with this permit shall be obtained at an approved upland source.

NOTE: Sketches of typical installations are furnished for general information in Appendix A.

II. General Conditions:

- 1. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; any activities not consistent with the terms and conditions of this permit; any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit and may result in the modification, suspension, or revocation of this permit, in whole or in part.
- 2. That all activities authorized herein shall, if they involve, during their construction or operation, any discharge of fill into waters of the United States be at all times consistent with 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.
- 3. That when the activity authorized herein involves a discharge during its construction or operation, of any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.
- 4. That the fill will not destroy a threatened or endangered species as

identified under the Endangered Species Act, or endanger the critical habitat of such species.

5. That the permittee agrees to make every reasonable effort to prosecute the work authorized herein in a manner so as to minimize any adverse impact of the work on fish, wildlife, and natural environmental values.
6. That the permittee agrees to prosecute the work authorized herein in a manner so as to minimize any degradation of water quality.
7. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.
8. That the permittee shall maintain the structure of work authorized herein in good condition.
9. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property, invasion of rights, or any infringement of Federal, State, or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.
10. That this permit does not authorize the interference with any existing or proposed Federal project, and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.
11. That this permit may be either modified, suspended, or revoked, in whole or in part, if the Secretary of the Army or his authorized representative determines that activities identified and authorized within the terms or conditions of this permit are not in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after issuance of public notice of such action. Within this 30-day period, permittees may request a public hearing to be held to present oral and written evidence concerning the proposed modification, suspension, or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend, or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.
12. That any modification, suspension, or revocation of this permit shall not be

the basis for any claim for damages against the United States.

13. That this permit does not authorize or approve the construction of particular structures, the authorization of approval of which may require authorization by the Congress or other agencies of the Federal Government.
14. That if and when the permittee desires to abandon the activity authorized herein, he must restore the area to a condition satisfactory to the District Engineer.
15. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.
16. The word "permittee" shall include such permittee's successors in interest.

Date

JAMES M. RIGSBY
Colonel, Corps of Engineers
District Engineer