



US Army Corps
of Engineers
Seattle District

Department of the Army Regional General Permit



RGP-8 U.S. Forest Service Aquatic Restoration Program Within the State of Washington

Effective Date: November 13, 2023

Expiration Date: November 13, 2028

Permit Number: CENWS-ODR: NWS-2004-189

Permit Title: U.S. Forest Service (USFS) Pacific Northwest Region 6 Aquatic Restoration Program within the State of Washington

Authority: In accordance with 33 CFR 325.2(e)(2), the U.S. Army Corps of Engineers (Corps) is issuing a regional general permit (RGP) that authorizes 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
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Purpose: The purpose of this RGP is to authorize eleven restoration activities in waters of the U.S. designed to maintain, enhance, and restore watershed functions that affect aquatic species within National Forest Units and on non-federal lands when such projects directly assist the USFS in achieving their aquatic restoration goals and are funded in part by the USFS. The USFS are permitted to fund such projects under Wyden Amendment authority (16 U.S.C. 1011(a), as amended by Section 136 of PL 105-277).

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 would be authorized under this RGP.

Activities authorized by this RGP: 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 RGP includes aquatic restoration projects that occur on non-federal lands when such projects directly assist the USFS in achieving their aquatic restoration goals and are funded in part by the USFS. The USFS are permitted to fund such projects under Wyden Amendment authority (16 U.S.C. 1011(a), as amended by Section 136 of PL 105-277).

Eleven restoration activities are authorized by this RGP. They are as follows:

- 1) Fish Passage Restoration
- 2) Large Wood (LW), Boulder, and Gravel Placement
- 3) Dam, Tidegate and Legacy Structure Removal
- 4) Channel Reconstruction/Relocation
- 5) Off- and Side-Channel Habitat
- 6) Streambank Restoration
- 7) Set-back or Removal of Existing Berms, Dikes, and Levees
- 8) Reduction/Relocation of Recreation Impacts
- 9) Livestock Fencing, Stream Crossings and Off-Channel Livestock Watering Facilities
- 10) Road and Trail Erosion Control and Decommissioning
- 11) Juniper Tree Removal

A detailed description of the General Conservation Measures and Project Description, Design Criteria, and Removal and Fill Estimates for the 11 categories of activities included within RGP-8 is in Attachment A.

Location of Authorized Activities: This RGP is applicable in all waters of the United States, including navigable waters of the United States, located within National Forest Units within the State of Washington. National Forest Units located in Washington include the Colville, Gifford Pinchot, Mt. Baker, Snoqualmie, Okanogan-Wenatchee, and the Olympic National Forest. National Forest system lands that extend into both Oregon and Washington include Umatilla National Forest and the Columbia River Gorge National Scenic Area.

This RGP includes aquatic restoration projects that occur on non-federal lands when such projects directly assist the USFS in achieving their aquatic restoration goals and are funded in part by the USFS. The USFS are permitted to fund such projects under Wyden Amendment authority (16 U.S.C. 1011(a), as amended by Section 136 of PL 105-277). To be included, such non-Federal land projects must follow all elements of the proposed activities and the conservation measures described in this RGP. The USFS will ensure that actions covered by this RGP on non-Federal lands undergo the same process and compliance as projects occurring on National Forest Unit lands.

Annual Reporting Requirements: The USFS will submit an annual report to U.S. Army Corps of Engineers, Seattle District, Regulatory Branch (Corps), the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS) and the Washington Department of Ecology (Ecology) summarizing the completed projects, for that year, including projects on non-Forest Service lands. This report is due no later than February 15 of each year.

Reporting: Reports must include the following elements:

- Project Name
- Location
- Date of construction (start and completion dates)
- Activity Type
- Project Description
- Extent of Project
- Waterbody Name
- In-water work window
- Fish species affected, including critical habitat and EFH.
- Number of Fish Handled

- Number of injuries/mortalities to Endangered Species Act (ESA) listed species as a result of construction
- Project Lead Name and Contact Info.

Annual Review and Training: In addition to the annual reports, the USFS will coordinate and convene an annual review meeting with the Corps and Ecology to discuss the annual monitoring report, conduct site visits, and collectively determine if RGP objectives are being met. USACE will conduct training annually to the Forests in PNW Region 6 in Washington State on the Special and General Conditions of RGP 8. Specific training will focus on projects that may include wetland impacts and how these projects may not qualify for the use of RGP 8 as the permitting pathway as well as how these projects can be revised so that they do qualify for RGP 8.

Water Quality Certification: On June 23, 2023, Washington State Department of Ecology (Ecology) issued the Section 401 Water Quality Certification (WQC) for RGP-8. The USFS must comply with the conditions specified in the WQC as a special condition of this RGP. The WQC is attached to the RGP.

Coastal Zone Management Consistency: Section 307(c) of the Coastal Zone Management Act of 1972 (CZMA), as amended (16 U.S.C. 1456 c)), requires federal agencies conducting activities, including development projects, affecting a state's coastal zone, to comply to the maximum extent practicable with an approved state coastal zone management program. Ecology issued a CZMA Federal Consistency decision on June 27, 2023.

Endangered Species: The Endangered Species Act of 1973 (ESA), as amended, requires all Federal agencies to consult with NMFS and/or the USFWS, 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 USFS has determined that activities that would be authorized by this RGP would affect federally listed species and, therefore, have completed consultation with the NMFS and USFWS. NMFS (NMFS reference number NWP-2013-9664) issued a Biological Opinion (BO) on April 25, 2013 and the USFWS (USFWS reference number 01EOW00-2013-F-0090) issued a BO on July 1, 2013, for the proposed activities covered under this RGP. The USFS must implement the Terms and Conditions stated in the BOs.

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). The USFS has determined that activities authorized by this RGP may adversely affect EFH for federally managed fisheries in Washington waters. In this consultation, the NMFS concluded that the proposed activities authorized by this RGP may adversely affect designated EFH for Pacific salmon. The NMFS has included conservation recommendations as terms and conditions in the BO issued by NMFS on April 25, 2013 to avoid, minimize, or otherwise offset affects to designated EFH produced by the activities authorized by this RGP. These Conservation Recommendations are incorporated into the RGP by reference.

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

SPECIAL CONDITIONS

- a. The permittee shall implement and abide by all Regional General Permit 8 terms and conditions and any project-specific special conditions added by the District Engineer.
- b. Work Windows. Work that disturbs the substrate, bank, or shore of a water of the United States that contains fish life shall be conducted only during the work period for that waterbody as indicated in the Washington Department Fish and Wildlife (WDFW) Allowable Freshwater Work Periods for rivers and streams included as part of the Memorandum of Understanding (MOU) between the Forest Service and the WDFW regarding Hydraulic Projects conducted by the Forest Service (amended January 2012). Other timing will be allowed on site-specific basis if the USFS fish biologist and the WDFW Area Habitat Biologist agree that implementing the activity outside the normal period would be unlikely to cause negative impacts to fish. Any agreements to modify the work period for specific projects or specific sites will be documented by WDFW and noted in the annual report.
- c. Those portions of the project work that occur landward or above the plane of the ordinary high water are not subject to the work periods described above. Examples of such work include the replacement of bridge decking, construction of bridge superstructure after footings are in place, and the placement of fill over a culvert following culvert placement.
- d. Compliance with Terms and Conditions. Projects authorized by this RGP shall comply with all terms and conditions herein and any conditions added by the NMFS and the USFWS as a result of their Biological Opinions and Ecology as a result of 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.
- e. Endangered Species. This RGP does not authorize the permittee to take a threatened or endangered species, in particular the Lower Columbia River chinook, Upper Columbia River spring-run chinook, Puget Sound chinook, Snake River fall-run chinook, Snake River spring/summer-run chinook, Columbia River chum, Hood Canal summer-run chum, Lower Columbia River steelhead, Middle Columbia River steelhead, Upper Columbia River steelhead, Snake River Basin steelhead, Columbia River bull trout, Coastal/Puget Sound bull trout, gray wolf, woodland caribou, Wenatchee Mountains checker-mallow, marsh sandwort, showy stickseed, grizzly bear, Canada lynx, bald eagle, Warner sucker, Spalding's catchfly, Ute's ladies'-tresses, water howellia, Kincaid's sulphur lupine, bald eagle, marbled murrelet, northern spotted owl, and or adversely modify designated critical habitat. In order to legally take a listed species, the permittee must have a separate authorization under the Endangered Species Act (e.g., an ESA Section 10 permits, or ESA Section 7 consultation Biological Opinion with non-discretionary "incidental take" provisions with which they must comply). The BO prepared by the NMFS dated April 25, 2013, and the USFWS dated July 1, 2013 contain mandatory terms and conditions to implement the reasonable and prudent measures that are associated with the specified "incidental take" in the BO(s) (NMFS reference numbers NWP-2013-9664, and USFWS reference number 01EOFW00-2013-F-0090).

The permittee's authorization under RGP-8 is conditional upon their compliance with all of the mandatory terms and conditions associated with the incidental take provisions of the BO(s). These terms and conditions are incorporated by reference in RGP-8. Failure to comply with the commitments made in this document constitutes non-compliance with the ESA and this RGP. The USFWS/NMFS is the appropriate authority to determine compliance with ESA.

- f. The BOs issued to the permittee may be modified, renewed, or updated to incorporate changes in listed species, critical habitat or Terms and Conditions, as deemed necessary by the issuing agency, USFWS or NMFS. The revised and/or renewed BO(s) will remain eligible under the RGP until the RGP expiration date. Copies of the revised and/or renewed BO(s) must be sent to the U.S. Army Corps of Engineers, Regulatory Branch and Ecology, within 10 days of the date of the revised BO.
- g. The permittee must re-initiate consultation with the appropriate agency, USFWS or NMFS, if critical habitat is designated for a species and the BO(s) must be revised to include the necessary changes prior to construction of a project located in designated critical habitat.
- h. Essential Fish Habitat. The USFS, Pacific Northwest Region 6 has completed EFH consultation pursuant to section 305(b) of the MSA and implementing regulation at 50 CFR Part 600. In this consultation, NMFS concluded that the proposed actions may adversely affect designated EFH for Pacific salmon. NMFS has included conservation recommendations in the Biological Opinion (NMFS Reference Number NWP-2013-9664), dated April 25, 2013, to avoid, minimize or otherwise offset effect to EFH produced by activities authorized by this RGP. The USFS authorization under RGP-8 is conditional upon their compliance with all of the conservation recommendations in the NMFS Biological Opinion. These conservation measures are incorporated by reference in this permit. Failure to comply with the commitments made in this document constitutes non-compliance with the MSA and this RGP. The NMFS is the appropriate authority to determine compliance with MSA.
- i. Historic Properties. The USFS, Pacific Northwest Region 6, is the federal lead for compliance with National Historic Preservation Act. Activities authorized by this RGP that may affect historic properties listed or eligible for listing, in the National Register of Historic Places (NRHP) under the provisions of 33 CFR 325, Appendix C, must be satisfied prior to construction. Historic properties include prehistoric and historic archeological sites, and areas or structures of cultural interest. The USFS must notify the Corps 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 the requirements of the National Historic Preservation Act have been satisfied by providing documentation, including a concurrence letter from State Historic Preservation Office (SHPO) and/or from an affected Indian Tribe(s) to the Corps. 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 SHPO, any affected Indian Tribe(s) and Corps within 1 business day of discovery. The permittee shall perform any work required by SHPO, tribes or 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 requirements of 33 CFR Part 325, Appendix C, have been satisfied.

- j. 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, USFS, Bureau of Land Management, or USFWS), that has direct management responsibility for such rivers has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. The USFS, Pacific Northwest Region 6 is one of the responsible Federal agencies for National Wild and Scenic River System.
- k. The permittee will provide documentation to the Corps in the annual report that the activities authorized by the RGP did not adversely affect any Wild and Scenic River designation or study status. The permittee must provide documentation from the responsible federal agency (National Park Service, USFS, Bureau of Land Management or USFWS) that any proposed activity will not adversely affect the Wild and Scenic River designation or study status for any project within the National Wild and Scenic River System for which the Forest Service is not the responsible agency.
- l. Best Management Practices (BMPs). The following BMPs must be implemented:
 1. Installation of sediment/erosion control devices including sediment fencing, hay bales, etc. prior to construction.
 2. Development and implementation of a Temporary Erosion and Sediment Control Plan (TESC) that will minimize use of heavy equipment, maintain clean equipment, and limit ground clearing activities close to streams.
 3. Development and implementation of a spill prevention and containment plan that will minimize spillage of fuel/oil leakage from equipment.
 4. Isolation of in-stream work areas by installation of a stream diversion structure and dewatering of work area. The project areas will be dewatered using one of the following methods:
 - a. Divert flow with pumps or structures such as cofferdams constructed with non-erosive devices such as sandbags, bladder bags, or other means that divert water. Cofferdams constructed with material mined from the stream or floodplain are not permitted,
 - b. The temporary bypass system may consist of non-erosive devices such as a pipe or plastic-lined channel, both of which must be sized large enough to accommodate the predicted peak flow rate during construction. In cases of channel rerouting, water can be diverted to one side of the channel.
 - c. Dissipate flow at the outfall of the bypass system to diffuse the erosive energy of the flow. Place the outflow in an area that minimizes or prevents damage to riparian vegetation, If the diversion inlet is not screened to allow for downstream

passage of fish into the stream channel, place the diversion outlet in a location that facilitates the safe re-entry of fish into the stream channel.

- d. When necessary, pump water from the dewatered work area to a temporary storage and treatment site or into upland areas and filter through vegetation prior to re-entering the stream channel.
- e. Any water intake structure (pump) authorized under this permit must have a fish screen installed, operated, maintained, and in accordance with National Marine Fisheries Service (NMFS) fish screen criteria as contained in "[Anadromous Salmonid Passage Facility Design](#)" dated 2023 or most current.
- m. Turbidity monitoring during active in-water work. Reports should be available upon request and included in the annual report. If any exceedances are observed the USFS shall notify Ecology within 72 hours.
- n. Prior to clearing and grading, place construction fencing, brightly colored flagging at no more than 25-foot spacing, or other visible barriers along the boundaries of the wetlands and stream channels that are to be protected. All project staff shall be trained to recognize construction fencing or flagging that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channels or other non-associated waterbodies if not part of the project authorized to be filled.
 - 1. Revegetation of all disturbed areas with native plants. Planting and revegetation shall be done in all disturbed areas along with erosion control best management practices (BMPs).
 - 2. Planting and revegetation shall be done in all disturbed areas along with erosion control BMPs.
 - 3. Plant new vegetation or replace any existing vegetation where disturbance occurs as a result of these projects in order to restore the function and stability of the landscape and habitat.
 - 4. Plant disturbed areas with native plants and trees in all cases except where the use of non-native plants may be essential for erosion control.
 - 5. The standard of success is 70% aerial cover for native plant species by year 3 from the date of planting for native plant species. Temporary fencing off of planted areas may be required to ensure success.
- o. Riparian exclusion fencing, where livestock are present shall be constructed to exclude livestock from riparian areas and provide controlled access for walkways that livestock use to transit across streams and through riparian areas. The number of water gaps and crossings shall be minimized. The width of stream crossings and water gaps shall be limited to a width of no greater than 15 feet in the upstream-downstream direction. New stream crossings shall not be constructed in areas where construction and use may

impair high quality fish spawning habitat. Livestock crossings shall not result in barriers to the passage of adult or juvenile fish.

- p. All proposed projects shall be constructed as defined in the "Memorandum of Understanding between the Washington State Department of Fish and Wildlife and USDA, Forest Service, Pacific Northwest Region" dated 2022 or most current.
- q. If any projects include the use of cost-share roads, the landowner shall be notified so that any maintenance or upgrades to the roads can be agreed to prior to the project being initiated.
- r. If a project impacts more than ½ acre of wetlands, the USFS shall notify Ecology Headquarters Office, Attn: 401/CZM Federal Permit Coordinator, P.O. Box 47600, Olympia WA 98504-7600 or ECYREFEDPERMITS@ecy.wa.gov.

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. Contractor's Copy of Permit. The permittee shall provide complete copies of this permit to the contractor and any other parties performing the work. Best Management Practices (BMPs) to ensure that the Terms and Conditions of the NMFS and USFWS biological opinions for the authorized project will be met, shall be incorporated into the contract provisions for each project. Copies of this permit and U.S. Forest Service's contract (including the BMPs) must be kept at the project site during construction and be available for inspection at the project site.
3. Work in the Dry. Work that disturbs the substrate, bank, or shore of a water of the United States shall occur in the dry whenever practicable.
4. Operation of Equipment. Equipment shall be operated from the top of the bank, dry gravel bar, work platform, or similar out-of-water location whenever possible. Equipment shall be operated in a manner that minimizes the suspension of particulates. All equipment used in or around waters shall be clean and inspected daily prior to use to ensure that 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.
5. Disturbance of Vegetation. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted species appropriate for the site whenever practicable.
6. Isolation of Work Area. In-water work areas shall be isolated from the surrounding waterbody by a properly installed silt screen or a similar sediment containment device whenever practicable. The permittee shall remove the silt screen or other temporary sediment containment devices as soon as they are no longer necessary to protect the surrounding waterbody.

7. Permanent Discharges. The discharge of dredged or fill material into waters of the United States to dispose of the material or to create dryland is not authorized.
8. Access for Inspection. The permittee shall allow the District Engineer or his authorized representative to inspect the project whenever deemed necessary by the Corps, to ensure that the activity is in compliance with the terms and conditions prescribed herein.
9. 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.
10. 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 Corps 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.
11. Tribal Rights. No activity may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
12. Activities Affecting Structures or Works Built by the United States. If an activity requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a USACE project), the permittee must coordinate with the Corps Regulatory

Office prior to commencing any construction activity. An activity that requires section 408 permission is not authorized by this RGP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written decision .

13. Obstruction of Navigation. The permittee understand 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. (Section 10)

14. Stability. The permittee shall design projects to be stable against the forces of flowing water, wave action, and the wake of passing vessels.

15. Maintenance. The permittee shall properly maintain all authorized structures and fills, including maintenance necessary to ensure public safety.

16. 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. (Section 10)

17. 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. (Section 404)

18. 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.

19. 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.

20. Equipment. The permittee shall place heavy equipment working in wetlands on mats, or take other appropriate measures to minimize soil disturbance. Mats or other materials will be used only when necessary and shall be removed from the work site immediately after use.

21. 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.
22. 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.
23. 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.
24. 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. Alternatives that shall be considered include those that minimize the number and extent of discharges of dredged or fill material into waters of the United States.
25. 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. (Section 404)
26. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected area returned to pre-construction contours. (Section 404)
27. 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 non-aquatic location in a manner that precludes it from entering waters of the United States. (Section 404)

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 12 months 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.

Attachment A: Categories of Authorized Activities

Attachment B: Water Quality Certification

Attachment C: CZMA Federal Consistency decision

RGP-8 2023 – Attachment A:

Regional General Permit 8 authorizes the discharge of fill associated with eleven restoration activity categories in waters of the U.S. designed to maintain, enhance, and restore watershed functions that affect aquatic species. Activities, occurring waterward of the line of ordinary high water (OHW), eligible for authorization under this modified RGP are described below:

- 1. Fish Passage Restoration** includes the following: total removal of culverts or bridges, or replacing culverts or bridges with properly sized culverts and bridges, replacing a damaged culvert or bridge, and resetting an existing culvert that was improperly installed or damaged; stabilizing and providing passage over headcuts; removing, constructing (including relocations), repairing, or maintaining fish ladders; and replacing, relocating, or constructing fish screens and irrigation diversions. Such projects would take place where fish passage has been partially or completely eliminated through road construction, stream degradation, establishment of small dams and weirs, and irrigation diversions. Equipment such as excavators, bull dozers, dump trucks, front-end loaders, and similar equipment may be used to implement projects.
- 2. Large Wood (LW), Boulder, and Gravel Placement** includes LW and boulder placement, Engineered Log Jams (ELJs), porous boulder structures and vanes, gravel placement, and tree removal for LW projects. Such activities would occur in areas where channel structure is lacking due to past stream cleaning (LW removal), riparian timber harvest, and in areas where natural gravel supplies are low due to anthropogenic disruptions. These projects would occur in stream channels and adjacent floodplains to increase channel stability, rearing habitat, pool formation, spawning gravel deposition, channel complexity, hiding cover, low velocity areas, and floodplain function. Equipment such as helicopters, excavators, dump trucks, front-end loaders, full-suspension yarders, and similar equipment may be used to implement projects.
- 3. Dam, Tidegate and Legacy Structure Removal** includes removal of dams, tidegates, channel-spanning weirs, legacy habitat structures, earthen embankments, subsurface drainage features, spillway systems, outfalls, pipes, instream flow redirection structures (e.g., drop structure, gabion, groin), or similar devices used to control, discharge, or maintain water levels. Projects would be implemented to reconnect stream corridors, floodplains, and estuaries, reestablish wetlands, improve aquatic organism passage, and restore more natural channel and flow conditions. Any instream water control structures that impound substantial amounts of contaminated sediment are not proposed. Equipment such as excavators, bull dozers, dump trucks, front-end loaders, and similar equipment may be used to implement projects.

- 4. Channel Reconstruction/Relocation** projects include reconstruction of existing stream channels through excavation and structure placement (LW and boulders) or relocation (rerouting of flow) into historic or newly constructed channels that are typically more sinuous and complex. This proposed action applies to stream systems that have been straightened, channelized, dredged, or otherwise modified for the purpose of flood control, increasing arable land, realignment, or other land use management goals or for streams that are incised or otherwise disconnected from their floodplains resulting from watershed disturbances. This activity type would be implemented to improve aquatic and riparian habitat diversity and complexity, reconnect stream channels to floodplains, reduce bed and bank erosion, increase hyporheic exchange, provide long-term nutrient storage, provide substrate for macroinvertebrates, moderate flow disturbance, increase retention of organic material, and provide refuge for fish and other aquatic species. Equipment such as excavators, bull dozers, dump trucks, front-end loaders, and similar equipment may be used to implement projects.
- 5. Off- and Side-Channel Habitat Restoration** projects would be implemented to reconnect historic side-channels with floodplains by removing off-channel fill and plugs. Furthermore, new side-channels and alcoves can be constructed in geomorphic settings that would accommodate such features. This activity category typically applies to areas where side channels, alcoves, and other backwater habitats have been filled or blocked from the main channel, disconnecting them from most if not all flow events. These project types would increase habitat diversity and complexity, improve flow heterogeneity, provide long-term nutrient storage and substrate for aquatic macroinvertebrates, moderate flow disturbances, increase retention of leaf litter, and provide refuge for fish during high flows. Equipment such as excavators, bull dozers, dump trucks, front-end loaders, and similar equipment may be used to implement projects.
- 6. Streambank Restoration** would be implemented through bank shaping and installation of coir logs or other soil reinforcements as necessary to support riparian vegetation; planting or installing LW, trees, shrubs, and herbaceous cover as necessary to restore ecological function in riparian and floodplain habitats; or a combination of the above methods. Such actions are intended to restore banks that have been altered through road construction, improper grazing, invasive plants, and more. Benefits include increased amounts of riparian vegetation and associated shading, bank stability, and reduced sedimentation into stream channels and spawning gravels. Full bioengineering for bank stabilization that incorporates soft elements of upland and riparian plantings of trees, shrubs and herbaceous cover, installation of large wood and native rock/boulders, and results in the restoration and ecological lift of streambanks also falls under this category of authorized activities. Equipment such as excavators, bull dozers, dump trucks, front-end loaders, and similar equipment may be used to implement projects.

- 7. Set-back or Removal of Existing Berms, Dikes, and Levees** would be conducted to reconnect historic fresh-water deltas to inundation, stream channels with floodplains, and historic estuaries to tidal influence as a means to increase habitat diversity and complexity, moderate flow disturbances, and provide refuge for fish during high flows. Other restored ecological functions include overland flow during flood events, dissipation of flood energy, increased water storage to augment low flows, sediment and debris deposition, growth of riparian vegetation, nutrient cycling, and development of side channels and alcoves. Such projects would take place where estuaries and floodplains have been disconnected from adjacent rivers through drain pipes and anthropogenic fill. Equipment such as excavators, bull dozers, dump trucks, front-end loaders, and similar equipment may be used to implement projects.
- 8. Reduction/Relocation of Recreation Impacts** is intended to close, better control, or relocate recreation infrastructure and use along streams and within riparian areas. This includes removal, improvement, or relocation of infrastructure associated with designated campgrounds, dispersed camp sites, day-use sites, foot trails, and off-road vehicle roads/trails in riparian areas. The primary purpose is to eliminate or reduce recreational impacts to restore riparian areas and vegetation, improve bank stability, and reduce sedimentation into adjacent streams. Equipment such as excavators, bull dozers, dump trucks, front-end loaders, and similar equipment may be used to implement projects.
- 9. Livestock Fencing, Stream Crossings and Off-Channel Livestock Watering Facilities** projects would be implemented by constructing fences to exclude riparian, providing controlled access for walkways that livestock use to transit across streams and through riparian areas, and reducing livestock use in riparian areas and stream channels by providing upslope water facilities. Such projects promote a balanced approach to livestock use in riparian areas, reducing livestock impacts to riparian soils and vegetation, streambanks, channel substrates, and water quality. Equipment such as excavators, bull dozers, dump trucks, front-end loaders, and similar equipment may be used to implement projects.
- 10. Road and Trail Erosion Control and Decommissioning** includes hydrologically closing or decommissioning roads and trails, including culvert removal in perennial and intermittent streams; removing, installing or upgrading cross-drainage culverts; upgrading culverts on non-fish-bearing streams; constructing water bars and dips; reshaping road prisms; vegetating fill and cut slopes; removing and stabilizing of side cast materials; grading or resurfacing roads that have been improved for aquatic restoration with gravel, bark chips, or other permeable materials; contour shaping of the road or trail base; removing road fill to native soils; soil stabilization and tilling compacted surfaces to reestablish native vegetation. Roads closed under USFS, and BLM/BIA-equivalent Travel and Access Management Plans would be subject to these PDC and may be addressed under this BO. Actions would target

priority roads that contribute sediment to streams, block fish passage, or disrupt floodplain and riparian functions. Equipment such as excavators, bull dozers, dump trucks, front-end loaders, and similar equipment may be used to implement projects.

11. Juniper Tree Removal includes felling juniper trees occurring in riparian areas and placing stem into the stream channel and floodplain to provide aquatic benefits.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

June 23, 2023

U.S. Army Corps of Engineers, Seattle District
Regulatory Branch, CENWS-ODR
ATTN: Todd Tillinger
4735 E. Marginal Way S, Bldg 1202
Seattle, Washington 98134-2388

Re: Water Quality Certification Order No. **21917** (Corps No. **CENWS-ODR-RGP-8**), Regional General Permit 8 - U.S. Forest Service Aquatic Restoration Program within Washington State

Dear Todd Tillinger:

On April 19, 2023, the U.S. Army Corps of Engineers Seattle District submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Regional General Permit 8 - U.S. Forest Service Aquatic Restoration Program within National Forest Lands in Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Water Quality Certification Request and supplemental documents complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. **This certification is subject to the enclosed Water Quality Certification Order (WQC Order).**

Please ensure that anyone doing work under this WQC Order has read, is familiar with, and is able to follow all conditions including those in Regional General Permit 8.

If you have any questions about this decision, please contact Erin Hanlon Brown at (360) 280-1037. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Loree' Randall, Section Manager
Federal Permitting Section
Shorelands and Environmental Assistance Program

By certified mail: 9489 0090 0027 6383 9285 62

WQC Order No. 21917, Corps No. CENWS-ODR-RGP-8

Aquatics ID No. 14835

June 23, 2023

Page 2 of 2

Sent via e-mail: Todd.N.Tillinger@usace.army.mil

E-cc: Jess Jordan, U.S. Army Corps of Engineers
William Brignon, U.S. Forest Service
Erin Hanlon Brown, Ecology
ECYREFEDPERMITS@ecy.wa.gov



**In The Matter of Granting a Water Quality
Certification to U.S. Army Corps of Engineers
pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW
90.48.260 and Chapter 173-201A WAC**

U.S. Army Corps of Engineers, Seattle District
Regulatory Branch, CENWS-ODR
ATTN: Todd Tillinger
4735 E Marginal Way S, Bldg 1202
Seattle, Washington 98134-2388

WQC Order No.	21917
Corps Reference No.	CENWS-ODR-RGP-8
Site Location	Regional General Permit 8 – U.S. Forest Service Aquatic Restoration Program located within National Forest System Lands within the State of Washington including the Colville, Gifford Pinchot, Mt. Baker Snoqualmie, Okanogan-Wenatchee, Olympic, Umatilla National Forest, and the Columbia River Gorge National Scenic Area.

The U.S. Army Corps of Engineers (Corps) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Regional General Permit 8 - U.S. Forest Service Aquatic Restoration Program within National Forest Lands in Washington.

The following required processing dates are listed below:

- On March 8, 2023 the Corps submitted a pre-filing meeting request.
- On April 19, 2023, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On May 9, 2023, Ecology issued a public notice for the project.

Regional General Permit 8 (RGP 8) authorizes eleven restoration activities designed to maintain, enhance, and restore watershed functions that affect aquatic species. Activities eligible for coverage under RGP 8 include:

1. Fish passage restoration
2. Large wood, boulder, and gravel placement
3. Dam, tidegate, and legacy structure removal
4. Channel reconstruction and relocation
5. Off- and side-channel habitat restoration
6. Streambank restoration
7. Set-back or removal of existing berms, dikes, and levees

8. Reduction/relocation of recreation
9. Livestock fencing, stream Crossings and off-channel livestock watering facilities
10. Road and trail erosion control and decommissioning
11. Juniper tree removal, which includes felling juniper trees occurring in riparian areas and placing stem into the stream channel and floodplain to provide aquatic benefits.

The project sites are located within National Forest System lands in Washington including the Colville, Gifford Pinchot, Mt. Baker Snoqualmie, Okanogan-Wenatchee, Olympic, Umatilla National Forest and the Columbia River Gorge National Scenic Area. Projects on non-federal lands are included for coverage under RGP 8 when a culvert removal or replacement leads to improved passage of fish onto Forest Service Administered lands.

With this WQC Order, Ecology is granting with conditions the Corps request for a Section 401 Water Quality Certification for RGP 8, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request, draft RGP 8, and attachments Ecology received on April 19, 2023 and the following supporting documentation:

1. E-mail letter to Ecology dated June 21, 2023, regarding adding a reporting requirement for wetland impacts associated with the work authorized by RGP 8.

Based on the information submitted, Ecology has determined that the discharge from the projects will comply with state water quality requirements. Prior to undertaking any changes or modifications to the RGP, the Corps must contact Ecology to determine whether a new Section 401 Water Quality Certification is required.

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize project proponents authorized by RGP 8 to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC), or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this Section 401 Water Quality Certification absolves the project proponents from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Special Condition:

1. An individual Water Quality Certification is required for any activity that results in a half acre or more of permanent or temporary impacts to wetlands.
 - Justification - Ecology has the authority to prevent and control pollution of state waters, and to protect designated uses. By authorizing a discharge into a water of the state, through a water quality certification, Ecology is certifying the project as proposed will not negatively impact state water quality and will comply with the state's water quality

requirements. Therefore, it is imperative the project is conducted as it was presented during the review process, and as conditioned herein.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300(2)(e)(i), WAC 173-201A-310, WAC 173-204-120, and WAC 173-225-010.

In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, this WQC is granted with conditions to the Corps for the RGP 8.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues RGP 8. WQC Order No. **21917** will remain valid for 5 years from the date of issuance of the associated DA permit. The Corps should send a copy of the final RGP to fednotification@ecy.wa.gov within two weeks of issuing it.

Your right to appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21b.001(2).

To appeal, you must do all of the following within 30 days of the date of receipt of this Order:

- File your notice of appeal and a copy of this Order with the PCHB (see filing options below). "Filing" means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. "Notice of appeal" is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this Order on the Department of Ecology, in paper form, by mail or in person (see addresses below). E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Filing an appeal with the PCHB:

For the most current information regarding filing with the PCHB, visit:

<https://elaho.wa.gov/content/11>

Address and Location Information

Street Addresses:

Department of Ecology

Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Pollution Control Hearings Board

1111 Israel RD SW
STE 301
Tumwater, WA 98501

Mailing Addresses:

Department of Ecology

Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

Pollution Control Hearings Board

PO Box 40903
Olympia, WA 98504-0903

E-Mail Address:

Department of Ecology

Not currently available (see Chapter 371-08 WAC)

Pollution Control Hearings Board

Pchb-shbappeals@elaho.wa.gov

Americans with Disabilities Act Information

Accommodation Requests

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

Contact Information

Please direct all questions about this WQC Order to:

Erin Hanlon Brown

Department of Ecology

(360) 280-1037

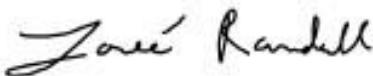
Erin.HanlonBrown@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
<http://elaho.wa.gov/content/11>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>
- **Chapter 173.204 WAC – Sediment Management Standards**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

Signature

Dated this 23rd day of June, 2023, at the Department of Ecology, Lacey, Washington.



Loree' Randall, Section Manager

Federal Permitting Section

Shorelands and Environmental Assistance Program



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

June 27, 2023

U.S. Army Corps of Engineers, Seattle District
Regulatory Branch, CENWS-ODR
ATTN: Todd Tillinger and Jess Jordan
4735 E. Marginal Way S., Bldg 1202
Seattle, Washington 98134-2388

Re: Coastal Zone Management Federal Consistency Decision for Regional General Permit 8 -
U.S. Forest Service Aquatic Restoration Program within Washington State

Dear Todd Tillinger and Jess Jordan:

On May 17, 2023, the U.S. Army Corps of Engineers (Corps) submitted a Consistency Determination with the Washington State Coastal Zone Management Program (CZMP) for Regional General Permit 8 (RGP 8) – U.S. Forest Service Aquatic Restoration Program. Ecology issued a 21-day public notice on May 17, 2023, and received no comments.

Regional General Permit 8 authorizes eleven restoration activities designed to maintain, enhance, and restore watershed functions that affect aquatic species within National Forest System lands in Washington. This CZM decision applies to activities on National Forest System lands within Washington's Coastal Zone including the Mt. Baker Snoqualmie and Olympic National Forest.

Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with the Corps' determination that the work authorized by the proposed general permit is consistent with Washington's CZMP.

If you have any questions regarding Ecology's consistency determination, please contact Erin Hanlon Brown at (360) 280-1037.

Your right to appeal

You have a right to appeal this decision to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal, you must do all of the following within 30 days of the date of receipt of this decision:

- File your notice of appeal and a copy of this decision with the PCHB (see filing options below). "Filing" means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. "Notice of appeal" is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this decision on the Department of Ecology, in paper form, by mail or in person (see addresses below). E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Filing an appeal with the PCHB:

For the most current information regarding filing with the PCHB, visit:

<https://eluh.wa.gov/content/11>

Address and Location Information

Street Address:

Department of Ecology

Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Pollution Control Hearings Board

1111 Israel RD SW
STE 301
Tumwater, WA 98501

Mailing Addresses:

Department of Ecology

Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

Regional General Permit 8

Aquatics ID No. 14835

June 27, 2023

Page 3 of 3

Pollution Control Hearings Board

PO Box 40903

Olympia, WA 98504-0903

E-Mail Address:

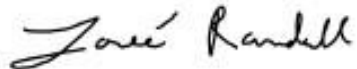
Department of Ecology

Not currently available (see WAC 371-08)

Pollution Control Hearings Board

Pchb-shbappeals@elaho.wa.gov

Sincerely,

A handwritten signature in cursive script that reads "Loree' Randall".

Loree' Randall, Section Manager

Federal Permit Section

Shorelands and Environmental Assistance Program

Sent via e-mail: Todd.N.Tillinger@usace.army.mil, Dale.J.Jordan@usace.army.mil

E-cc: William Brignon, U.S. Forest Service

Erin Hanlon Brown, Ecology

fedconsistency@ecy.wa.gov