



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

Regulatory Branch

MAY 8 2008

RECEIVED

MAY 13 2008

ENVIRONMENTAL

Washington State Department of Transportation
Mr. Ben Brown
Post Office Box 330310
Mail Stop NB82-0138
Seattle, Washington 98133-9710

Reference: NWS-2007-29-SOD
Washington State
Dept. of Transportation

Dear Mr. Brown:

Enclosed is a Department of the Army permit which authorizes performance of the work described in your referenced application. You are cautioned that any change in the location or plans of the work will require submittal of revised plans to this office for approval prior to accomplishment. Deviation from the approved plans may result in imposition of criminal or civil penalties.

Your attention is drawn to General Condition 1 of the permit which specifies the expiration date for completion of the work. Upon completing the authorized work, please fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form.

A copy of this letter without enclosure will be furnished to Ms. Liz Kriewald, Washington State Department of Transportation, Post Office Box 330310, Mail Stop NB82-0138, Seattle, Washington 98133-9710. If you have any questions, please contact Ms. Rebecca McAndrew at (206) 764-6912 or via email at rebecca.e.mcandrew@usace.army.mil.

Sincerely,

Michelle Walker
Chief, Regulatory Branch

Enclosure

DEPARTMENT OF THE ARMY PERMIT

Permittee: WA State Dept of Transportation

Washington State Department of Transportation
Mr. Ben Brown
Post Office Box 330310
Mail Stop NB82-0138
Seattle, Washington 98133-9710

Issuing Office: Seattle District

Permit No: NWS-2007-29-SOD

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The project will widen one mile of State Route (SR) 900 from two to five lanes between Newport Way and SE 83rd Place and add standard shoulders along the right turn pocket on the westbound off-ramp from Interstate 90 (I-90) to SR 900 (in accordance with the plans and drawings dated January 2008 attached hereto which are incorporated in and made a part of this permit). The purpose of the project is to improve safety and accommodate existing and projected traffic volumes.

Project Location: In wetlands, West Fork Tibbetts Creek, Tibbetts Creek, Clay Pit Creek, five tributaries to Tibbetts Creek, and two tributaries to Issaquah Creek at City of Issaquah and King County, Washington.

Permit Conditions:

General Conditions:

MAY 8 2013

1. The time limit for completing the work authorized ends on _____. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least 1 month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in accordance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification to this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed

necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

7. After a detailed and careful review of all the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps, nonetheless the permittee agreed to those conditions voluntarily to facilitate issuance of the permit; the permittee will comply fully with all the terms of all the permit conditions.

Special Conditions:

a. You must provide a copy of the permit transmittal letter, the permit form, and drawings to all contractors performing any of the authorized work.

b. You must implement and abide by the ESA requirements and/or agreements set forth in the "*Biological Assessment—SR 900: 78th Vicinity to Newport Way Widening (MP 20.09 to MP 21.08)*" dated December 2005 in its entirety. The National Marine Fisheries Service (NMFS) concurred with a finding of "may affect, not likely to adversely affect" based on this document on April 7, 2006, and August 3, 2007 (NMFS Reference Numbers 2005/06713 and 2007/04640). The U.S. Fish and Wildlife Service (USFWS) concurred with a finding of "may affect, not likely to adversely affect" based on this document on April 28, 2006 (USFWS Reference Number 1-3-06-I-0088). Both agencies will be informed of this permit issuance. Failure to comply with the commitments made in this document constitutes non-compliance with the ESA and your Corps permit. The USFWS/NMFS is the appropriate authority to determine compliance with ESA.

c. The wetland area created and enhanced, and stream area enhanced as compensatory mitigation for work authorized by this permit, shall not be made the subject of a future individual or general Department of the Army permit application for fill or other development, except for the purposes of enhancing or restoring the mitigation associated with this project. A copy of the restrictive covenant for the wetland mitigation site and a copy of the right-of-way plan identifying the Tributary B mitigation site must be provided to the Corps, Seattle District, Regulatory Branch within 60 days from the date of permit issuance.

d. A status report on the mitigation construction, including as-built drawings, must be submitted to the Corps, Seattle District, Regulatory Branch, 13 months from the date of permit issuance. Annual status reports on mitigation construction are required until mitigation construction is complete.

e. The permittee shall implement and abide by the mitigation plan "*Final Wetland and Stream Mitigation Report—SR 900: 78th Vicinity to Newport Way Widening (MP 20.09 to MP 21.08)*" dated February 2008. Mitigation monitoring shall be performed for years 1, 2, 3, 5, 7, and 10 and mitigation monitoring reports summarizing all monitoring results will be due in years 1, 3, 5, 7, and 10 by April following the first year monitoring. All reports must be submitted to the Corps, Seattle District, Regulatory Branch and must prominently display the reference number NWS-2007-29-SOD. The mitigation monitoring reports must be submitted in the format shown on the enclosed "Mitigation Monitoring Report Format" dated August 3, 2006. Reports should be submitted in hard copy or electronically.

f. Your responsibility to complete the required compensatory mitigation as set forth in Special Condition "e" will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers.

g. The permittee will add a minimum 139 pieces of wood greater than 4 inches diameter at breast height at West Fork Tibbetts Creek, Tributary B, and Tributary 0178a. A copy of the as-builts showing the additional woody

debris installation must be submitted to the Corps, Seattle District, Regulatory Branch, 13 months from the date of permit issuance.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:
 - ☐ Section 10 of the Rivers and Harbor Act of 1899 (33 U.S.C. 403).
 - ☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - ☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted activities or from natural causes.
 - b. Damages 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.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of the permit.
 - b. The information provided by you in support of your application proves to have been false, incomplete, or

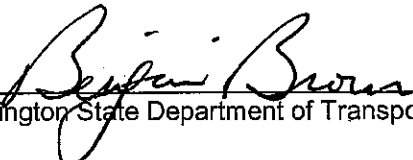
inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

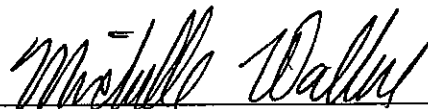
6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

X 
Washington State Department of Transportation

5/8/08
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


Michael McCormick
Colonel, Corps of Engineers
District Engineer

5/8/08
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE)

(DATE)