



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

August 9, 2016

Regulatory Branch  
Corps No.: NWP-2012-361-3

Mr. Kevin Greenwood  
Port of Newport  
600 SE Bay Blvd.  
Newport, Oregon 97365

Dear Mr. Greenwood:

The U.S. Army Corps of Engineers (Corps) has received Port of Newport's permit application requesting Department of the Army authorization to develop a logging facility. The project is located near Newport, Tillamook County, Oregon. The site is in Section 9, Township South, Range 11 West. (Lat: 45.625991 / Long: -124.02746)

The project involves building a log export handling facility at McLean Point in Newport. The project will place 774 cubic yards of fill material into approximately 0.24 acres of palustrine wetlands. The project will also involve 0.16 acres of temporary wetland impacts. The finished site will include a large area of asphalt suitable for all aspects of log storage and processing. Construction includes an administration office, parking lot, and other buildings for log handling and processing. Logs will be brought to the site via Yaquina Bay Road. A stormwater treatment system will be constructed to treat stormwater generated from on-site impervious surfaces prior to discharging into Tillamook Bay. Impacts will be compensated by tidal marsh restoration along Yaquina Bay

The other impact is the removal of up to 129 cubic yards of sand, vegetation and debris from Wetland C. As well as the replacement of two culverts at either end of Wetland C, which is needed to facilitate treated stormwater flows originating from the development. The removed sand will be used as fill in Wetland A up to 18 inches that will provide the base for the asphalt log yard.

The project will also restore 0.26-acres (at a ratio of 1.1: 1) of tidal marsh along Yaquina Bay to compensate for the wetland impact. A temporary berm will be constructed to an elevation of 12 feet NAVD along the north and east edges of the mitigation area to isolate the mitigation site from the surrounding areas. The excavation and fill will then proceed from the north edge of the site to the riprap edge of Yaquina Bay. The final excavation of the riprap along the bay will be done during the in-water work period and during low tides when the site is not inundated. The bare sand tidal surface will be planted with plugs of saltgrass (*Distichlis spicata*) in early March after the excavation is complete. The project is shown on the enclosed drawings (Enclosure 1).

This letter verifies your project is authorized under the terms and limitations of Nationwide Permit (NWP) No.: 39 (Commercial and Institutional Developments). Your activities must be conducted in accordance with the conditions found in NWP Regional Conditions, Portland District (Enclosure 2), NWP General Conditions (Enclosure 3), Oregon Department of Environmental Quality (DEQ) 401 Water Quality Compliance Conditions (Enclosure 4), Oregon Department of Land Conservation and Development (DLCD) Coastal Zone Management Concurrence Conditions (Enclosure 5), and the project specific conditions lettered (a) through (j) below. **Failure to comply with any of the listed conditions could result in the Corps initiating an enforcement action.**

a. Upon starting the authorized activities, you shall notify the U.S. Army Corps of Engineers, Portland District, Regulatory Branch that the work has started. Notification shall be provided by telephone at (503) 808-4383 or sent by e-mail to [cenwp.notify@usace.army.mil](mailto:cenwp.notify@usace.army.mil) and the email subject line shall include: Corps No. NWP-2012-361-3 and Lincoln County.

b. Permittee shall implement and abide by the enclosed Wetland Mitigation Plan - NWP-2012-361 Port of Newport (Plan) dated July 29, 2016 (Enclosure 6). Mitigation shall be constructed before or concurrent with the work authorized by the permit. Mitigation site planting shall be completed by Spring of 2017.

c. An as-built mitigation construction report and as-built drawings of the mitigation area shall be submitted upon completion of mitigation construction. This report must be submitted to the U.S. Army Corps of Engineers (Corps), Portland District, Regulatory Branch for review and approval and must prominently display the reference number NWP-2012-361-3. The year mitigation construction is completed, as determined by the Corps, represents Year 0 for mitigation monitoring.

d. The fully executed Declaration of Conservation Easement for the mitigation site shall be recorded with the Registrar of Deed or other appropriate official charged with maintaining records on real property. A copy of the fully executed Declaration of Conservation Easement and proof of recording shall be submitted to the U.S. Army Corps of Engineers, Portland District, Regulatory Branch within 60 days from the date of permit issuance

e. Mitigation monitoring reports shall be submitted annually for 5 years to the U.S. Army Corps of Engineers (Corps), Portland District, Regulatory Branch by December 31 of each monitoring year. Year 1 monitoring will occur at least one year after completion of the mitigation plantings. All reports must prominently display the reference number NWP-2012-361-3.

f. Permittee responsible to ensure by the end of year 5 of the monitoring period that the mitigation site 75% cover of native vegetation, with less than 20% non-native at the end of the monitoring period. The permittee shall ensure at least 80% survival of the upland trees and shrubs planted within the upland buffer by the end of the monitoring period.

g. Permittee's responsibility to complete the required compensatory mitigation as set forth in Special Conditions "b" through "f" will not be considered fulfilled until Permittee has demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers Portland District, Regulatory Branch.

h. Permittee shall perform all in-water work, including temporary fills or structures, during the in-water work window of November 1 to February 15 to minimize impacts to aquatic species unless coordinated with and subsequently approved by the Corps. We also draw your attention to Regional Condition 3.

The Corps has determined the proposed project may affect Oregon Coast coho Salmon, a species protected by the Endangered Species Act, and Essential Fish Habitat for salmon species as designated under the Magnuson-Stevens Fishery Conservation and Management Act. The Corps utilized a programmatic biological opinion to assess compliance with these laws and provide coverage for incidental take. The biological opinion is titled *Revisions to the Standard Local Operating Procedures for Endangered Species to Administer Maintenance or Improvement of Stormwater, Transportation or Utilities Authorized or Carried Out by the U.S. Army Corps of Engineers in Oregon (SLOPES Stormwater, Transportation, Utilities)*, dated March 14, 2014. The Corps recommends that you review the SLOPES opinion in its entirety at <http://www.nwp.usace.army.mil/Missions/Environment/SLOPES.aspx>

The programmatic consultation also requires that we provide you with the following notice:

If a sick, injured or dead specimen of a threatened or endangered species is found, the finder must notify NMFS' Office of Law Enforcement at 503-231-6240 or 206-526-6133. The finder must take care in handling of sick or injured specimens to ensure effective treatment, and in handling dead specimens to preserve biological material in the best possible condition for later analysis of cause of death. The finder also has the responsibility to carry out instructions provided by the Office of Law Enforcement to ensure that evidence intrinsic to the specimen is not disturbed unnecessarily.

i. Permittee shall fully implement all applicable nondiscretionary Terms and Conditions of the Reasonable and Prudent Measures of the SLOPES Stormwater, Transportation and Utilities programmatic opinion. General Construction conditions applicable to the permitted activity are included for your convenience (Enclosure 7).

j. Permittee shall notify the Corps if the project changes in scope or is otherwise modified. The Corps is required to reinitiate consultation on this action where discretionary Federal involvement or control over the action has been retained or is authorized by law and (a) the amount or extent of taking specified in the Incidental Take Statement is exceeded, (b) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered, (c) the identified action is subsequently modified in a manner that has an effect to the listed species or critical habitat that was not considered in the biological opinion; or (d) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16).

We direct your attention to NWP Regional Condition 16 (Enclosure 2) and General Condition 29 (Enclosure 3) that requires the transfer of this permit if the property is sold, and NWP General Condition 30 that requires you to submit a signed certificate when the work is completed. A *Compliance Certification* form is provided (Enclosure 8).

This authorization does not obviate the need to obtain other permits where required. Permits, such as those required from the Oregon Department of State Lands (ODSL) under Oregon's Removal /Fill Law, must also be obtained before work begins. The DEQ water quality certification conditions (Enclosure 4) require you to obtain DEQ approval of your stormwater management plan prior to initiating construction. Ms. Amy Simpson at Oregon Department of Environmental Quality, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon, 97201-4987, by telephone at (503) 229-5051 or E-mail: [simpson.amy@deq.state.or.us](mailto:simpson.amy@deq.state.or.us)

The nationwide permits expire on March 18, 2017. This verification is valid until March 18, 2017 unless the NWP is modified or revoked prior to that date. If you commence or under contract to commence this activity before the date the NWP expires, is modified, or revoked, you will have 12 months from the date of the expiration, modification, or revocation to complete the activity under the present terms and conditions of the current NWP.

We would like to hear about your experience working with the Portland District, Regulatory Branch. Please complete a customer service survey form at the following address: [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey).

If you have any questions regarding this NWP verification, please contact Mr. Brad Johnson at the letterhead address, by telephone at (503) 808-4383, or E-mail: [brad.a.johnson2@usace.army.mil](mailto:brad.a.johnson2@usace.army.mil).

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

For Shawn H. Zinszer  
Chief, Regulatory Branch

Enclosures

Copy Furnished:

Oregon Department of State Lands (Landrum)  
Oregon Department of Environmental Quality (Nayar)  
Oregon Department of Land Conservation and Development (Snow and Wade)  
John Van Staveren, Pacific Habitat Services, [jvs@pacifichabitat.com](mailto:jvs@pacifichabitat.com)

Corps ID No: NWP-2012-361-3

REQUEST FOR PERMIT TRANSFER PER GENERAL CONDITION 29

When the structures or work verified by this nationwide are still in existence at the time the property is transferred, and/or a new party obtains this permit verification, the terms and conditions of this permit will continue to be binding on the new permittee. The new permittee should sign and date below to accept the liabilities associated with complying with the terms and conditions of this permit verification, and to validate its transfer.

PERMIT TRANSFEREE:

\_\_\_\_\_  
Signature DATE \_\_\_\_\_

\_\_\_\_\_  
Name (Please print)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, and Zip Code

NEW OWNER (if applicable):

\_\_\_\_\_  
Signature DATE \_\_\_\_\_

\_\_\_\_\_  
Name (Please print)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, and Zip Code