

RGP-4 Appendix 2 – Coastal Zone Certification

To be completed for projects located on private land and within the State of Oregon’s Coastal Zone, and shall be submitted as part of the PCN:

**CITY/COUNTY PLANNING DEPARTMENT LAND USE AFFIDAVIT
(TO BE COMPLETED BY LOCAL PLANNING OFFICIAL)**

I have reviewed the project described in this application and have determined that:

- This project is not regulated by the comprehensive plan and land use regulations
- This project is consistent with the comprehensive plan and land use regulations
- This project is consistent with the comprehensive plan and land use regulations with the following:

- Conditional Use Approval
- Development Permit
- Other Permit (explain in comment section below)

This project is not currently consistent with the comprehensive plan and land use regulations.

To be consistent requires:

- Plan Amendment
- Zone Change
- Other Approval or Review (explain in comment section below)

An application or variance request has has not been filed for the approvals required above.

Local planning official name (print)	Title	City / County
Signature		Date
Comments:		

COASTAL ZONE CERTIFICATION

If the proposed activity described in your permit application is within the [Oregon Coastal Zone](#), the following certification is required before your application can be processed. For additional information on the Oregon Coastal Zone Management Program and consistency reviews of federally permitted projects, contact DLCD at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301 or call 503-373-0050 or click [here](#).

CERTIFICATION STATEMENT

I certify that, to the best of my knowledge and belief, the proposed activity described in this application complies with the approved Oregon Coastal Zone Management Program and will be completed in a manner consistent with the program.

Print /Type Applicant Name	Title
Applicant Signature	Date

ATTACHMENT 1

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GENERAL CONSERVATION MEASURES, PROJECT DESCRIPTIONS, AND PROJECT-SPECIFIC CONSERVATION MEASURES

Please use the current version of the National Marine Fisheries Service (NMFS) Endangered Species Act Section 7 Formal Programmatic Conference and Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Aquatic Restoration Activities in the States of Oregon and Washington (ARBO II) (NMFS Reference Number NWP-2013-9664) to access the general conservation measures, project descriptions, and project-specific conservation measures.

ATTACHMENT 2

RGP-4

GENERAL CONSERVATION MEASURES, PROJECT DESCRIPTIONS, AND PROJECT-SPECIFIC CONSERVATION MEASURES

Please use the current version of the U.S. Fish and Wildlife Service (FWS) Endangered Species Act Section 7 Consultation Programmatic Biological Opinion for Aquatic Restoration Activities in the States of Oregon, Washington and portions of California, Idaho and Nevada (ARBO II) (FWS Reference Number: 01E0FW00-2013-F-0090) to access the general conservation measures, project descriptions, and project-specific conservation measures.



Oregon

Kate Brown, Governor

Department of Environmental Quality

Northwest Region

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Portland, OR 97232

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TTY 711

January 21, 2022

USDI Bureau of Land Management
Oregon Office
Attn: Scott Lightcap
1220 SW 3rd Avenue, PO Box 2965
Portland, OR 97208

USDA Forest Service, Region 6
Pacific Northwest Region
Attn: William Brignon
1220 SW 3rd Avenue, PO Box 3623
Portland, OR 97208

RE: Updated: 2007-999-5; Regional General Permit 4, Aquatic Habitat Restoration Activities in Oregon Section 401 Water Quality Certification

Dear Mr. Lightcap and Mr. Brignon:

On April 28, 2021, the Oregon Department of Environmental Quality (DEQ) received from the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) (jointly, "Applicants") a valid request for a Clean Water Act Section 401 water quality certification (WQC) (33 U.S.C 1341) pursuant to U.S. Army Corps of Engineers (USACE) permit application to reissue with modifications Regional General Permit 4 ("RGP-4", "Permit") to conduct aquatic habitat restoration activities within the state of Oregon.

Actions authorized by the Permit include 11 categories aquatic restoration projects intended to maintain, enhance, and/or restore watershed functions to benefit fish species, other aquatic organisms, water quality, riparian areas, floodplains, and wetlands. Projects would be located on USFS or BLM administered lands within the state of Oregon. The Permit may also authorize actions on non-federal lands for projects that directly assist the USFS and/or BLM in achieving aquatic restoration, and are funded in part by these agencies, under the Wyden Amendment authority (16 U.S.C. 1011(a), as amended by Section 136 of PL 105-277).

The Permit was originally issued in 2009 and has been reissued twice without significant changes. Applicants propose the addition of three new activities, which are also being reviewed by the Oregon Department of State Lands (DSL) for the reissuance of their General Permit (42104GP).

On July 14, 2021, the USACE issued a joint public notice soliciting public comment on the USACE application and DEQ section 401 water quality certification. Public comments were accepted from July 14, 2021, through August 13, 2021. DEQ received no comments from the

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public regarding the Applicant's request for WQC.

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On October 27, 2021, DEQ issued the USFS and BLM a conditional WQC. This correspondence revises Conditions 9 and 10 of the WQC to reflect changes in reporting procedures adopted following certification issuance. This WQC reflects those changes and supersedes the October 27, 2021, WQC in its entirety.

Project Description: The Permit would authorize the completion of up to 100 projects annually under the 11 aquatic restoration activity categories identified below. A complete description of the proposed actions is provided in Appendix B, Section E of the permit application, which is incorporated by reference in its entirety. The 11 categories are:

1. Fish Passage Restoration
 - a. Stream Simulation Culvert and Bridge Projects
 - b. Headcut and Grade Stabilization
 - c. Irrigation Diversion Replacement/Relocation & Screen Installation/Replacement
2. Large Wood, Boulder, and Gravel Placement
 - a. Large Wood and Boulder Projects
 - b. Porous Boulder Weirs and Vanes
 - c. Engineered Logjams (ELJ)
 - d. Constructed Riffles
 - e. Gravel Augmentation
 - f. Tree Removal for Large Wood (LW) Projects
3. Legacy Structure Removal
4. Off- and Side-Channel Habitat Restoration
5. Streambank Restoration
6. Set-back or Removal of Existing Berms, Dikes, and Levees
7. Reduction/Relocation of Recreation Impacts
8. Livestock Fencing, Stream Crossings, and Off-Channel Livestock Watering
9. Road and Trail Erosion Control and Decommissioning
10. Riparian Vegetative Planting
11. Beaver Habitat Restoration

Projects authorized by the Permit will rely on standard construction methods which may include the use of excavators, bull dozers, dump trucks, front-end loaders, and other equipment commensurate with the project. The Applicants expect project implementation may cause short-duration adverse impacts consistent with the predictable effects of construction activities in or near waterways. These effects may include increased stream turbidity, disturbance of riparian vegetation, risk of contamination from chemical spills, slight temperature increases for some projects, and impacts to wetlands. To mitigate the effects of actions during project implementation the Applicants will apply the General Aquatic Conservation Measures presented in Appendix B, Section C of the permit application to all aquatic restoration categories.

The Permit was developed to be consistent with the aquatic restoration biological opinions (ARBO II) issued by the National Marine Fisheries Service (NMFS) and the U.S. Fish and

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Wildlife Service (USFWS).¹ The biological opinions found that the proposed restoration actions would yield long-term aquatic habitat benefits and improved watershed conditions including improved floodplain and estuary habitats, fish passage, streambank stabilization, water quality and quantity and reduced sedimentation, temperature and width-depth ratios.

Status of Affected Waters of the State: Project activities may affect any waterways located on USFS or BLM administered lands within the state of Oregon, or on non-federal lands for projects that directly assist the USFS and/or BLM in achieving aquatic restoration and are funded in part by these agencies.

DEQ's assessment program includes three categories that classify waterbodies according to water quality status.

High Quality Waters are waterbodies that meet or exceed water quality standards and provide full support for all designated beneficial uses. These include all waterbodies not listed for any parameters per the Clean Water Act Section 303(d) list of impaired waterbodies.

Water Quality Limited Waters include all waterbodies listed as impaired, including those for which a Total Maximum Daily Load (TMDL) has been developed to address impairments, in DEQ's 2018/2020 Water Quality Assessment Integrated Report or subsequent version approved by EPA.²

The last category designates Outstanding Resource Waters that constitute an outstanding state resource due to their extraordinary water quality or ecological values, or where special protection is needed to maintain critical habitat areas. Waterbodies designated as Outstanding Resources Waters include the North Fork Smith River and its tributaries and associated wetlands in the South Coast Basin, Waldo Lake and its associated wetlands, and Crater Lake.

Water Quality Standards: Oregon's water quality standards were developed to protect, maintain, and enhance existing surface water quality to provide full support for all existing beneficial uses. In general, it is assumed that protecting the most sensitive beneficial use provides support for all other beneficial uses.

Water quality standards include beneficial uses, criteria necessary to support these uses and an antidegradation policy. Designated beneficial uses of Oregon waters are identified on maps found in OAR 340-041-0101 through OAR 340-041-0340.³ Oregon has established numeric and statewide narrative criteria necessary to support these uses. Waterways that do not meet established criteria are identified on the 303(d) list of impaired waterbodies. Actions that may further reduce water quality for 303(d)-listed water quality parameters are prohibited. Actions

¹ NOAA Biological Opinion: Endangered Species Act – Section 7 Programmatic Consultation Conference and Biological Opinion and Magnuson-Stevens Act Essential Fish Habitat Response for Reinitiation of Aquatic Restoration Activities in the States of Oregon and Washington (ARBO II). April 25, 2013.

USFWS Biological Opinion: Endangered Species Act—Section 7 Consultation Programmatic Biological Opinion for Aquatic Restoration Activities in the States of Oregon, Washington, and portions of California, Idaho, and Nevada (ARBO II) July 1, 2013.

² DEQ's 2018/2020 Integrated Report, approved by EPA on Nov. 12, 2020.
<https://www.oregon.gov/deq/wq/Pages/2018-Integrated-Report.aspx>

³ Beneficial Uses of Oregon's Waters: <https://www.oregon.gov/deq/wq/Pages/WQ-Standards-Uses.aspx>

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that reduce water quality in waters that meet or exceed water quality standards are prohibited except as allowed by Oregon's antidegradation policy found in OAR 340-041-0004.

Certification Decision: Based on the information provided by the Applicant and the USACE, DEQ is reasonably assured that completion of the projects authorized by the Permit will be consistent with applicable provisions of Sections 301, 302, 303, 306, and 307 of the federal Clean Water Act, state water quality standards set forth in OAR Chapter 340 Division 41, and other appropriate requirements of state law, provided the following conditions are incorporated into the USACE Permit and adhered to by the applicants.

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CERTIFICATION GENERAL CONDITIONS

Certification Administration

1. **Applicants' Responsibility:** The Applicants are solely responsible for ensuring that all work conducted in accordance with activities authorized by the Permit is performed in a manner that complies with the conditions of this WQC.
2. **Work Authorized:** Actions authorized by this WQC are limited to the 11 categories of aquatic restoration activities described in the public notice issued July 14, 2021. The Applicants must first apply for and receive a separate permit authorization from the USACE and section 401 WQC from DEQ prior to undertaking activities not authorized by the Permit.
3. **Duration of Certification:** This WQC is valid for five years after issuance of the USACE permit unless otherwise authorized by DEQ.
4. **401 WQC on Site:** A copy of this WQC must be kept on the project site for the duration of in-water activities. The Applicants must make the WQC available for reference by the contractors, subcontractors, representatives of DEQ, the USACE, NMFS, Oregon Department of Fish and Wildlife (ODFW) and other government inspectors.
5. **Modification of a Certificate:** DEQ, in accordance with Oregon and Federal law including OAR Chapter 340, Division 48 and, as applicable, 33 USC 1341, may modify this WQC to add, delete, or alter WQC conditions as necessary if:
 - a. The federal license or permit for the activity is revoked or terminated;
 - b. The federal license or permit or the federal licensing or permitting agency allows modification of the activity in a manner inconsistent with the certification;
 - c. The certification application contained false or inaccurate information regarding the activity that affects or might affect compliance with water quality standards and requirements;
 - d. Changes in conditions regarding the activity or affected waterways since the certification was issued affect or might affect compliance with water quality standards and requirements;
 - e. Certification conditions are violated; or
 - f. Water quality standards, applicable federal laws, or other appropriate requirements of state law have changed since the certification was issued.
6. **Access:** The Applicant, upon reasonable notice and subject to applicable safety and security procedures, shall grant DEQ access as necessary to conduct compliance inspections and review monitoring records required by this WQC.
7. **Enforcement:** If DEQ determines the Applicant has engaged or is about to engage in activities that constitute a violation of this WQC, DEQ may initiate proceedings, including but not limited to civil or criminal enforcement provisions, to enforce compliance or to restrain further violations, as authorized by ORS 468.100.

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8. **Land Use Compatibility Statement:** Prior to undertaking any project authorized by the Permit, the Applicants must first obtain a Land Use Compatibility Statement signed by a local land use planning authority representative confirming the activity complies with the local comprehensive plan.⁴
9. **Project Notification:** Applicants will submit to DEQ a pre-construction notification for each project at least 60-days prior to implementation.⁵ . Notification will inform DEQ of proposed projects and provide an opportunity for review and comment.
10. **Project Completion Report:** Prior to December 1 of each year, the project contact will provide DEQ a project completion report summarizing the completed project.⁵ . This report will include relevant project information as described in Appendix B, Section B of the Joint Permit Application.
11. **Annual Program Report:** By February 15 of each year, the Applicants will provide to DEQ an annual program report through Your DEQ Online⁶ describing projects implemented under the Permit. The report will include the following:
 - a. An assessment of overall program activity;
 - b. A list of all completed activities carried out under the Permit;
 - c. A map showing the location and type of each activity carried out under the Permit;
 - d. Additional data or analyses that may be necessary or helpful to assess habitat trends because of activities carried out under the Permit;
 - e. Additional data that may be necessary for tracking permit activities and determining compliance.
12. **Annual Coordination Meeting:** The Applicants shall initiate and implement an annual coordination meeting each year to review and discuss Permit implementation, compliance and other project-related issues. The annual meeting shall be conducted no later than April 30 each year, unless otherwise agreed upon by the applicants and state agency representatives.

Aquatic Conservation and Protection

13. **In-Water Work Period:** The Applicant will perform in-water work according to the 2008 ODFW guidelines for timing of in-water work or as authorized otherwise under a Department of State Lands removal/fill permit.⁶ Exceptions to the timing window must be recommended by Oregon Department of Fish and Wildlife, US Fish and Wildlife Service, and/or the National Marine Fisheries Services, as appropriate.

4 Land Use Compatibility Statement. <https://www.oregon.gov/deq/FilterDocs/lucs.pdf>.

5 Pre-project notification and project completion reports shall be submitted via email to 401applications@deq.oregon.gov unless agreed to otherwise by DEQ.

6 *Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources*. Oregon Department of Fish and Wildlife, 2008. https://www.dfw.state.or.us/lands/inwater/Oregon_Guidelines_for_Timing_of_%20InWater_Work2008.pdf

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- 14. Fish Passage:** Actions that prevent or delay the passage of juvenile or adult native migratory fish present or likely present in the project area during construction are prohibited, unless stream isolation and dewatering is required during project implementation or where the stream reach is naturally impassible at the time of construction. Upon completion, projects shall meet or exceed ODFW fish passage design criteria as defined in OAR 635-412-0035.
- 15. Work Area Isolation:** Work areas should be isolated from active flowing waterways to the maximum extent practicable. Methods of isolation include timing work when area is seasonally in the dry or installing temporary isolation features such as silt curtains, cofferdams, inflatable bags, geo blocks and sandbags.
- 16. Fish Salvage:** Applicants must take prudent measures such as installing block nets at up and downstream locations outside to exclude fish from entering the isolated area. Applicants must undertake appropriate fish salvage actions to safely recover and relocate fish from the work isolation area prior to performing in-water work.
- 17. Site Assessment for Contaminants:** The Applicants shall notify DEQ at least 60 days prior to initiating projects in developed or previously developed areas where the presence of contamination is known or may reasonably be expected. DEQ, at its discretion, may require a site assessment prior to ground-disturbing activities to characterize the nature, magnitude and extent of suspected contamination. The scope of such an assessment will be based in part on past or current development of the site. The assessment may include:
 - a. Historical review of land use and industrial activities;
 - b. Site visit including interviews with persons possessing relevant information;
 - c. Visual observations, sample collection and analysis;
 - d. Preparation of a Contaminated Media Management Plan to mitigate potential hazards posed by contaminants.

Water Quality Monitoring

- 18. Turbidity Monitoring:** Applicants must implement all reasonably available technological controls and management practices to meet the standard in rule of no more than a 10% increase in project caused turbidity above background levels. However, if all reasonably available controls and practices are implemented by the applicants, turbidity exceedances of more than 10% above background are allowed for limited times depending on the severity of the increase, as specified in this condition.

Turbidity monitoring must be conducted and recorded as described below. Monitoring must occur at two-hour intervals each day when in-water work is being conducted. A regularly calibrated turbidimeter is required for all projects. Required monitoring steps include:

- a. **Representative Background Point:** The applicant must take and record a turbidity measurement every two hours during in-water work at an undisturbed area 100 feet upstream from the in-water disturbance, in order to establish background turbidity levels. The background turbidity, location, date, tidal stage

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(if applicable) and time must be recorded immediately prior to monitoring downstream at the compliance point described below.

- b. **Downstream Compliance Point:** The applicant must establish a downstream compliance point to measure the effects of the disturbance on water quality. The downstream compliance point must be no more than 50 feet downstream of the activity for streams up to 30 feet wide, 100 feet downstream for streams 30 to 100 feet wide, 200 feet downstream for streams 100 to 200 feet wide, 300 feet downstream for streams more than 200 feet wide and the lesser of 100 feet or the maximum surface dimension for lakes, ponds or reservoirs. Turbidity monitoring must be performed at approximately mid-depth, within any visible plume, and at the distance that corresponds to the size of the waterbody where work is taking place as listed in the table below. The turbidity, location, date, tidal stage (if applicable) and time must be recorded for each measurement.

WETTED STREAM WIDTH	DOWNSTREAM COMPLIANCE DISTANCE
Up to 30 feet	50 feet
>30 feet to 100 feet	100 feet
>100 feet to 200	200 feet
>200 feet	300 feet
LAKE, POND, RESERVOIR	Lesser of 100 feet or maximum surface dimension

- c. **Compliance:** The applicant must compare turbidity monitoring results from the compliance points to the representative background levels taken during each two hour monitoring interval. Short-term increases in downstream turbidity are allowed as followed:

MONITORING WITH A TURBIDIMETER		
ALLOWABLE EXCEEDANCE TURBIDITY LEVEL	ACTION REQUIRED AT 1 ST MONITORING INTERVAL	ACTION REQUIRED AT 2 ND MONITORING INTERVAL
0 to 4 NTU above background	Continue to monitor every 2 hours	Continue to monitor every 2 hours
5 to 29 NTU above background	Modify controls & continue to monitor every 2 hours	Stop work after 4 hours at 5-29 NTU above background
30 to 49 NTU above background	Modify controls & continue to monitor every 2 hours	Stop work after 2 confirmed hours at 30-49 NTU above background
50 NTU or more above background	Stop work	Stop work

- d. **Recordkeeping:**
- i. Record all turbidity monitoring required by subsections (a) and (b) above in daily logs;
 - ii. Keep records on file for the duration of the permit cycle;
 - iii. Prepare a narrative discussing all exceedances with subsequent monitoring, actions taken, and the effectiveness of the actions. Applicant must make available copies of daily logs for turbidity monitoring to regulatory agencies including DEQ, USACE, NMFS, USFWS, and ODFW upon request.
 - iv. If turbidity monitoring cannot be conducted due to dry conditions, the applicant must provide photo documentation with a date and time stamp.

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Best Management Practices

- 19. Turbidity, Sediment and Erosion Control Measures:** The Applicants shall employ all appropriate best management practices to minimize erosion, sediment mobilization and in-water disturbances that may increase turbidity or suspended material including the following measures, as appropriate:
- a. Schedule – Adjust work schedule to minimize duration of in-water disturbances.
 - b. Excavator control - For projects utilizing excavation equipment, employ all practical bucket control techniques to minimize turbidity. These include but are not limited to: not dumping excavated material back into the wetted stream; adjusting the volume and rate of excavation loads; or using a closed-lipped environmental bucket.
 - c. Stream crossings - Minimize number and length of stream crossings. Cross streams at right angles to minimize transit length. Select crossing sites at the least sensitive areas. Properly abandon and restore disturbed embankment areas upon completion.
 - d. Spawning gravel placement – For projects proposing spawning gravel augmentation, utilize belt-driven conveyored aggregate delivery systems during gravel placement, where appropriate, to maintain setbacks from stream embankments and reduce the need to reposition limited-reach excavation equipment.
 - e. Excavated material – Temporarily stockpiled material must be managed to prevent material from reentering waterways. Applicant must properly manage elutriate runoff from stockpiled material to prevent entry to waterways.
 - f. Containment measures – Utilize silt curtains, geotextile fabric, and silt fences, as necessary, to minimize in-stream sediment suspension and turbidity.
 - g. Work from top of bank – Position heavy equipment at stable locations at the top of embankments to reduce impacts to riparian areas. Where feasible, use long-reach excavation equipment to access work areas and reduce the need to reposition equipment.
 - h. Erosion and Sediment Control Plan - The Applicant is required to develop and implement an erosion and sediment control plan. Refer to DEQ's Oregon Sediment and Erosion Control Manual, January, 2013 at:
<https://www.oregon.gov/deq/FilterPermitsDocs/ErosionSedimentControl.pdf>
 - i. Construction Stormwater Permit - Any project that disturbs more than one acre may be required to obtain a National Pollutant Discharge Elimination System 1200-C construction stormwater general permit from DEQ. Contact DEQ for more information. Additional information is available at:
<https://www.oregon.gov/deq/wq/wqpermits/Pages/Stormwater-Construction.aspx>
 - j. Best Management Practices – To reduce turbidity and prevent discharge of sediments to waterways, the Applicant must implement BMPs including, as appropriate, the following:
 - i. Maintain an adequate supply of materials necessary to control erosion at the construction site;

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- ii. Prohibit erosion of stockpiled material. When rain is reasonably expected, tarp all piles of excavated material stockpiled for longer than 48 hours;
- iii. Inspect erosion control measures daily. Maintain erosion control measures as often as necessary to ensure effectiveness. Erosion control measures must remain in place until all exposed soil is stabilized. Remove sediment from sediment control devices once sediment has reached one-third of the control feature's height;
- iv. Use removable pads or mats, as necessary, to prevent soil compaction during construction or staging operations in riparian or wetland areas;
- v. Place clean aggregate at construction entrances to reduce tracking sediment off-site;
- vi. Flag potential wetlands and avoid construction activities or operating machinery within 50 feet of these areas.

20. Pollution Prevention and Response Measures: The Applicant must implement the following pollution control and response measures.

- a. Deleterious waste materials - The placement or discharge of harmful materials and/or construction debris in waters of the state is prohibited. The Applicant should employ good housekeeping practices including, as appropriate, the following BMPs:
 - i. Cure concrete, cement, or grout for at least 24 hours before any contact with flowing waters;
 - ii. Use only clean fill, free of waste and polluted substances;
 - iii. Employ all practicable controls to prevent discharges of spills of harmful materials to surface or groundwater;
 - iv. Maintain at the project construction site, and deploy as necessary, an adequate supply of materials needed to isolate harmful materials from waterways during a runoff-producing rain event;
 - v. Properly manage and dispose of all harmful materials, refuse, and waste from the project area.
- b. Vehicle fueling, staging and storage – The Applicant must stage, maintain and operate motor vehicles and equipment in a manner that prevents the discharge of hazardous materials for the duration of the project. In particular, the Applicant must perform the following:
 - i. Vehicles and equipment operated within 150 feet of waterways must be inspected daily for fluid leaks. Any leaks detected in the vehicle-staging area must be repaired before the vehicle resumes operation.
 - ii. Vehicles and motorized equipment must be staged, cleaned, maintained and refueled a vehicle staging area at least 150 feet from waters of the state. DEQ may approve exceptions if this distance is not feasible because of the following site conditions:

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- Physical constraints that make this distance not feasible (e.g., steep slopes, rock outcroppings);
 - Natural resource features would be degraded as a result of this setback;
 - Equal or greater spill containment is provided if staging area is less than 150 feet away from waters of the state.
- c. Maintenance – The Applicant must maintain equipment in a manner that prevents the discharge of hazardous materials into waters of the state.
 - i. Equipment must be cleaned daily and as necessary to remove all visible oil, grease, mud, and other contaminants if the equipment will be used below the OHWM of a waterbody.
 - ii. All stationary power equipment (e.g., generators, cranes, stationary drilling equipment) operated within 150 feet of any waters of the state must be placed on an absorbent mat to prevent leaks, unless other suitable containment is provided to contain potential spills.
 - iii. An adequate supply of materials (such as straw matting/bales, geotextiles, booms, diapers, and other absorbent materials) must be maintained to contain spills at the project site and deployed as necessary.
 - iv. All equipment operated within state waters must use bio-degradable hydraulic fluid.
 - v. A maintenance log documenting equipment maintenance inspections and actions must be kept on-site and available upon request.
- d. Spill Incident and Reporting - In the event that petroleum products, chemicals, or any other harmful materials are discharged into state waters, or onto land with a potential to enter state waters, the applicant must promptly report the discharge to the Oregon Emergency Response System (800-452-0311). The applicant must immediately begin containment and complete cleanup as soon as possible.
- e. Fish Impacts or Mortality - If project-related activities result in distressed or dying fish the Applicant, operator or contractor must cease in-water activities, take appropriate corrective measures, document environmental conditions, collect samples of fish and/or water as appropriate and notify DEQ, ODFW and other appropriate regulatory agencies.

21. Previously Contaminated Soil and Groundwater: If any contaminated soil or groundwater is encountered, it must be handled and disposed of in accordance with the soil and groundwater management plan for the site, as well as local, state and federal regulations. The applicant must notify the Environmental Cleanup Section of DEQ at 800-452-4011 Ex.6258.

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22. Vegetation Protection and Restoration:

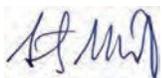
- a. Site restoration – Applicant must rehabilitate all disturbed areas in a manner that reflects pre-project conditions. Actions must be performed as necessary to remove project-related waste, regrade and restore slopes and embankments, distribute stockpiled soil, wood, etc.), and undertake revegetation efforts.
- b. Soil Stabilization – The Applicant is responsible for providing short-term stabilization measures to prevent soil erosion and sediment runoff following project completion. Measures may include weed-free certified straw, jute matting, and other similar techniques. Short-term stabilization measures will be maintained until permanent erosion control measures are effective.
- c. Revegetation – For projects resulting in vegetation loss, the Applicants must replant impacted areas at the beginning of the first growing season following construction and must achieve a revegetation rate of at least 70% of pre-project levels within three years.
- d. Soil Decompaction – Upon completion of activities requiring use of heavy equipment, operators must inspect areas for evidence of soil compaction and perform appropriate actions to loosen soils to restore pre-project drainage and infiltration characteristics.

If either of the applicants is dissatisfied with the conditions contained in this certification, a contested case hearing may be requested in accordance with OAR 340-048-0045. Such request must be made in writing to the DEQ Office of Compliance and Enforcement at 700 NE Multnomah Ave, Portland Oregon 97232 within 20 days of the mailing of this certification.

In accordance with the Clean Water Act and subject to state rules, DEQ hereby grants the Applicant water quality certification conditional upon the fulfillment of the conditions provided in this certificate. If you have any questions, please contact Chris Stine at chris.stine@deq.oregon.gov, by phone at 541-686-7810 or at the address on this letterhead.

Sincerely,

Steve Mrazik



Water Quality Manager, Northwest Region

cc: Danielle Erb, USACE
Bethany Harrington, DSL
Deanna Caracciolo, DLCD



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 Department of Land Conservation and Development
 635 Capitol Street, Suite 150
 Salem, Oregon 97301-2540
 Phone (503) 373-0050
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August 11, 2021

William D. Abadie
 U.S. Army Corps of Engineers, Portland District
 P.O. Box 2946
 Portland, Or 97208-2946
 Authorized Agent: Danielle Erb
 Electronic Transmittal: William.D.Abadie@usace.army.mil; danielle.h.erb@usace.army.mil

Action: Reissuance with Modifications to Regional General Permit 4 (RGP-4) and projects authorized under RGP-4. Corps No. NWP-2007-999-5

Action Description: Aquatic habitat restoration activities conducted by U.S. Forest Service and U.S. Bureau of Land Management.

Location: State-wide (Oregon)

DLCD Decision: **Concurrence with Conditions**

Dear Mr. Abadie,

Thank you for contacting the Oregon Coastal Management Program (OCMP-DLCD) regarding the U.S. Army Corps of Engineers (Corps) proposed Regional General Permit #4 (RGP-4, proposed permit) reissuance with modifications and associated consistency determination submitted on June 16, 2021.

The Department of Land Conservation and Development (DLCD) is the state's designated coastal zone management agency, and the Oregon Coastal Management Program (OCMP-DLCD) conducts consistency reviews to ensure that federal activities affecting any coastal use or resource are consistent with the enforceable policies of the coastal program (Program). Federal activities include direct federal actions as well as federal projects that require federal licenses or permits. To be consistent with the enforceable policies of the OCMP, federal activities must be consistent with:

- 1) Oregon's Statewide Planning Goals;
- 2) Applicable acknowledged city or county comprehensive plan; and
- 3) Selected state authorities (e.g., those governing removal-fill, water quality, and fish & wildlife protections).

PROPOSED PROJECT AND FEDERAL CONSISTENCY REVIEW

The DLCD has reviewed the Corps consistency determination and associated materials regarding the 5-year reissuance of RGP-4, with three additional activity categories, authorizing the U.S. Forest Service (USFS) and U.S. Bureau of Land Management (BLM) to conduct aquatic habitat restoration activities within the state of Oregon.

Regional General Permits are a type of Department of Army authorization issued on a regional basis for a category or categories of similar activities which would cause no more than minimal individual RGP 4; NWP-2007-999/5

or cumulative environmental impacts. The Corps issued the current RGP-4 in on June 24, 2009 and

later reissued it with no modifications in 2015 and 2020. The Corps proposal would authorize eleven restoration activities undertaken by the USFS and BLM, in waters of the United States, including wetlands, in the state of Oregon. The eleven proposed activity categories, including the three new activity categories (bolded) include:

1. Fish Passage Restoration
 - a) Stream Simulation Culvert and Bridge Projects
 - b) Headcut and Grade Stabilization
 - c) Irrigation Diversion Replacement/Relocation & Screen Installation/Replacement**
2. Large Wood, Boulder, and Gravel Placement
 - a) Large Wood and Boulder Projects
 - b) Porous Boulder Weirs and Vanes
 - c) Engineered Logjams (ELJ)**
 - d) Constructed Riffles**
 - e) Gravel Augmentation**
 - f) Tree Removal for Large Wood (LW) Projects**
3. Legacy Structure Removal
4. Off- and Side-Channel Habitat Restoration
5. Streambank Restoration
6. Set-back or Removal of Existing Berms, Dikes, and Levees
7. Reduction/Relocation of Recreation Impacts
8. Livestock Fencing, Stream Crossings, and Off-Channel Livestock Watering
9. Road and Trail Erosion Control and Decommissioning
10. Riparian Vegetative Planting
- 11. Beaver Habitat Restoration**

RGP-4 also applies to projects performed by a third-party under the oversight of the USFS or BLM.

REVIEW FINDINGS

The action proposes to reissue with modifications, a general permit for the authorization of USFS and BLM aquatic habitat restoration projects within the state of Oregon. Since DLCD-OCMP reviewed and concurred with conditions to many of the activities applicable under the permit in 2009 (reaffirmed via concurrence in 2015 and 2020), the scope of this review focused primarily on the three new activity categories proposed to be added to the permit.

- Consistency Determination
 - After coordination with DLCD-OCMP staff, the Corps submitted a completed consistency determination for the proposed RGP-4 on June 15, 2021.
 - Although the proposed RGP-4 is applicable to BLM and USFS, the formal federal consistency determination was submitted by the Corps, as the lead permitting agency.
 - The Corps, BLM, and USFS are not asserting any provision of federal law which would prohibit full consistency with the OCMP.
- Public Comment: The 30-day public comment period for this review was initiated on June 24, 2021. One public comment was received in favor of the proposed permit. No other comments were received.
- Coastal Effects: All projects completed under RGP-4 are intended to be beneficial to aquatic and terrestrial resources. Potential effects to coastal resources from these activities may include enhancing floodplain habitat by removal, breaching, or alteration/set-back of a dike; fish passage restoration by removal or replacement of bridges and culverts; alteration of estuary,

stream, and river channels, riparian areas, and wetlands for restoration/reconnection purposes; re-establishment of native vegetation; short term turbidity and water management during construction; surface water diversion during construction; short term effects to resources from construction of temporary roads, crossings, and staging areas; short term effects of noise from construction vehicle use; temporary impacts to fish from using fish screens; localized effects from herbicide and fertilizer use; and tree felling into a stream or floodplain for large wood projects.

- Ongoing State Agency Coordination: DLCD-OCMP recognizes that state-federal coordination is ongoing between the Corps, Oregon Department of Fish and Wildlife, and the Oregon Department of State Lands. The Corps has asserted in the consistency determination that any substantial changes to the proposed permit during this coordination may trigger the requirement for a supplemental federal consistency review (15 C.F.R. §930.46). DLCD-OCMP staff are available to help make this determination.
- Section 401 Water Quality Certification: Although the project has not yet received Section 401 Water Quality Certification, an enforceable policy of the OCMP, the Department of Environmental Quality is actively reviewing the proposed RGP-4 for consistency with the applicable standards and anticipates having a certification decision issued by October 28, 2021. This consistency concurrence does not change the requirement under federal law for the project to receive applicable Section 401 authorization(s). Given limitations from procedural timelines, the Section 401 Water Quality Certification has been included as a condition of this concurrence (see section “Consistency Decision” below).
- Applicant Requirements: The proposed general permit does not obviate the requirement for applicants to obtain all other federal, state, or local authorizations required by law. The Corps has included language highlighting this within the permit.
- Additional Findings Considerations
 - The RGP-4 will expedite the authorization of recurring activities that are similar in nature and have minor individual and cumulative adverse impacts on the aquatic environment.
 - No projects covered under the proposed RGP-4 would occur within the territorial sea.
 - Oregon Department of State Lands anticipates issuing a companion state Removal-Fill General Permit for the proposed activities and provided support for the issuance of the Corps draft permit.
 - Fish passage screen installations and replacement covered under the proposed permit meet the criteria outlined by National Marine Fisheries Service and Oregon Department of Fish and Wildlife.
 - The ARBO II biological opinions applicable to the proposed permit includes General Conservation Measures that the permittees must implement including preferred in-water work window requirements identified by the Oregon Department of Fish and Wildlife.

CONSISTENCY DECISION

OCMP-DLCD concurs with the Corps consistency determination provided the following conditions are met. The conditions of this decision supersede conditions established in previous decisions. The RGP-4, as well as all projects and activities covered under RGP-4 are subject to the below conditions.

1. A Section 401 Water Quality Certification must be obtained from the Oregon Department of Environmental Quality for the proposed RGP-4 prior to verifying any activity under the new permit provisions. A copy of the 401 Certification must be provided to DLCD-OCMP

(coast.PERMITS@dlcd.oregon.gov) once authorized.

2. OCMP's standard conditions in Enclosure A must be attached to all RGP-4 verifications taking place within Oregon's coastal zone¹ and adhered to.
3. Verification letters for projects authorized under RGP-4 within Oregon's coastal zone¹ shall be sent to coast.PERMITS@dlcd.oregon.gov at the time of verification transmittal.

AVAILABILITY OF MEDIATION

In accordance with federal regulations, in the event the Corps has a serious disagreement with the OCMP-DLCD's coastal zone decision, the Corps may request mediation services provided by the Office for Coastal Management or the Secretary of the U.S. Department of Commerce, as provided for in 15 CFR Part 930 Subpart G. The OCMP-DLCD or the Governor of Oregon may also request such mediation services.

If you have any questions about this decision, please contact me at 503-956-8163 or by e-mail at: deanna.caracciolo@dlcd.oregon.gov.

Sincerely,



Deanna Caracciolo,
Coastal State-Federal Relations Coordinator

Cc (via email):

Patty Snow, Oregon Coastal Management Program, Manager

¹ A map of Oregon's federally approved coastal zone can be found here:

<https://geo.maps.arcgis.com/apps/webappviewer/index.html?id=1b4a3202b66c4ab79b6907e7b4abf9db>

Enclosure A
Coastal Zone Conditions: Regional General Permit #4
Oregon Department of Land Conservation & Development
Oregon Coastal Management Program

CZ Condition 1. Consistency with Local Comprehensive Plans

(1) Permitted projects must be consistent with or not subject to the applicable local comprehensive plan and implementing land use regulations, including the applicable estuary management plan, or the statewide land use planning goals where applicable. Permittee must obtain required permits or other authorizations from the applicable local government before initiating work under any USACE permit. Permittees are encouraged to provide USACE and the OCMP with verification of the local jurisdiction's approval in the form of a completed block ten (10) of the Joint Permit Application. All appeals of the local jurisdiction's decision(s) must be resolved before any regulated work may begin.

(2) All conditions placed on an authorization or permit by the local government are incorporated by reference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 197, Comprehensive Land Use Planning Coordination]

CZ Condition 2. Consistency with Removal-Fill Law

(1) Permitted projects must be consistent with or not subject to the state requirements governing removal-fill in waters of the state. Permittee must obtain required permits or other authorizations from the Oregon Department of State Lands (DSL) before any regulated work may begin.

(2) Projects requiring a DSL Removal-Fill permit must compensate for reasonably expected adverse impacts by complying to the full extent with DSL's compensatory mitigation requirements.

(3) Where DSL finds a project not subject to the Removal/Fill Law, permittee must submit to DSL any changes in project design or implementation that may reasonably be expected to require application of the Removal/Fill Law.

(4) All conditions placed on a Removal-Fill permit by DSL are incorporated by reference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 196, Removal of Material; Filling]

CZ Condition 3. Leases of State Lands

(1) Permitted projects must be consistent with or not subject to state requirements governing use of state lands. Permittee must obtain any required lease, license, or other authorization for the use of state lands or waters from the Oregon Department of State Lands (DSL) before any regulated work may begin.

(2) All conditions placed on a lease, license, or authorization by DSL are incorporated by reference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 274, Submersible and Submerged Lands]

CZ Condition 4. Department of Environmental Quality

(1) Permitted projects must be consistent with or not subject to the state requirements governing water quality. Permittee must obtain certification, if required, from the Oregon Department of Environmental Quality (DEQ) through its 401 Water Quality Certification process before any regulated work may begin.

(2) All conditions placed on a license, permit, or authorization by DEQ are incorporated by reference into the OCMP coastal zone conditions.

Attachment 4

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[Enforceable Policy: ORS chapter 468B, Water Quality]

CZ Condition 5. Fish and Aquatic Life Passage

(1) Where applicable, all authorized projects shall be in conformance with ODFW standards for fish passage (<http://www.dfw.state.or.us/fish/passage/>). Decisions to abrogate ODFW fish passage standards shall be accompanied by written approval from ODFW.

(2) No work shall be authorized that does not provide for adequate passage of “aquatic life.” Aquatic life shall be interpreted to include amphibians, reptiles, and mammals whose natural habitat includes waters of this state and which are generally present in or around, or pass through the project site.

(3) This condition is effective only where ODFW regulations apply.

[Enforceable Policy: ORS chapter 509, Additional Fishery Requirements]

CZ Condition 6. Ocean Shore

(1) Permitted projects must be consistent with or not subject to state requirements governing use of the ocean shore. Permittee must obtain, if required, an ocean shore permit from the Oregon Parks and Recreation Department (OPRD) before any regulated work may begin.

(2) All conditions placed on an Ocean Shore permit by OPRD are incorporated by reference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 390, Ocean Shores]

CZ Condition 7. Fish Screening

(1) Where applicable, all authorized projects shall be in conformance with ODFW standards for fish screening and bypass devices. Decisions to abrogate ODFW fish passage standards shall be accompanied by written approval from ODFW.

(2) This condition is effective only where ODFW regulations apply.

[Enforceable Policy: ORS chapter 498, Fish Screening]