US Army Corps
of Engineers
Portland District

DEPARTMENT OF THE ARMY PERMIT

REGIONAL GENERAL PERMIT
FOR

Maintenance Activities along the South Coast of Oregon (RGP-9)

PERMIT NO.: NWP-2015-402

EFFECTIVE DATE: This permit becomes effective when signed by the Federal official designated to act for the Secretary of the Army.

EXPIRATION DATE: This permit expires five years from the effective date.

ISSUING OFFICE: U.S. Army Corps of Engineers, Portland District, Regulatory Branch (Corps)

1. AUTHORITY. This Regional General Permit (RGP) authorizes certain maintenance activities in waters of the United States (U.S.) within Lane, Douglas, Coos, and Curry Counties. Individual actions authorized under this RGP must cause no more than minimal adverse environmental effects (individually and cumulatively) and are subject to the terms and conditions contained herein. This RGP is issued upon the recommendation of the Chief of Engineers as provided by 33 CFR 325.2(e)(2), pursuant to Section 404 of the Clean Water Act (CWA, 33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899.

This RGP contains provisions intended to protect the environment, endangered species, and historic properties and to ensure activities authorized by this RGP will cause no more than minimal individual and cumulative environmental impacts. The terms and conditions contained within this permit apply to this RGP only. Work that does not comply with these provisions is not authorized by this RGP and may require Department of the Army (DA) authorization by other available permit tools. Moreover, compliance with the provisions of this RGP does not itself guarantee that the work would be authorized under this RGP.

2. PROJECT LOCATION. Along the South Coast of Oregon from the Siuslaw River in Lane County to the California border and within the limits of Oregon's designated coastal zone. The coastal zone is bound on the west by the extent of the state's territorial sea (generally 3 nautical miles offshore) and to the east by the crest of the Coast Range. Within this region, there are two exceptions to the eastern boundary: the Umpqua River, where the coastal zone extends to Scottsburg (approximate River Mile 28); and the Rogue River, where the coastal zone extends to Agness (River Mile 27.1).

To determine if a specific action is located within Oregon's Coastal Zone, a 'Coastal Zone Finder' tool can be found on the Oregon Department of Land Conservation and Development (DLCD) website at http://www.oregon.gov/LCD/OCMP/Pages/Federal_Consistency_Resources.aspx.

3. ACTIVITIES AUTHORIZED BY THIS RGP. This RGP authorizes the following activities at Port, public, and private facilities.

a. Maintenance dredging of existing marina basins; access channels to marinas or boat slips; boat slips; launch ramps; travel lifts; and ship berths associated with port, public, and private facilities.

The following criteria must be met:

(1) The dredging shall not alter the character, scope, size, or location of the project area or previously authorized dredge prism (width, length, and depth).

(2) The project area must have previously been dredged within 10 years of the date of the application for authorization under this RGP.

(3) Dredging shall occur by hydraulic suction dredge and pipeline (to include submersible pump) or mechanical clamshell dredge, unless otherwise authorized by the Corps. Prop-wash dredging is not authorized by this RGP.

b. Disposal of dredged material associated with maintenance dredging. Dredged material proposed for unconfined, aquatic disposal (including upland disposal with return flows) must be determined to be suitable by the interagency Portland Sediment Evaluation Team (PSET). See section 5 for more information on the sediment evaluation process.

The following dredged material disposal options are covered by this permit:

(1) Upland sites, either confined or with return flows. This RGP does not authorize the removal of material from an upland disposal site and subsequent placement into waters of the U.S.

(2) In-water disposal at either the Port Orford Nearshore Placement Area or the Port Orford Breakwater Placement Area, not to exceed previously authorized limits, as shown on Figure 1. (Note: any limitations on the volume of material placed at these sites will be assessed during project-specific review).

(3) Aquatic placement for the purpose of beach nourishment with the following restrictions:

(a) The grain size distribution of the material to be placed on a specific site is of a similar composition as the material existing at the receiving location;

(b) There is a demonstrated need for beach nourishment at the general placement area; and

(c) The placement height of the material does not exceed high tide.

This RGP does not authorize the placement of dredged material at EPA designated Ocean Dredged Material Disposal Sites (ODMDS) or at Corps designated in-bay or flowlane sites.

c. Maintenance of currently serviceable structures or fill.

Authorized activities include, but are not limited to, piling replacement, dock repair, repair of existing riprap revetments, repair/replacement of utility lines, and replacement of structures within and spanning or protruding over navigable waters.

The following criteria must be met:

(1) The structure or fill shall not be put to a different use and the maintenance activity shall not change the character, scope, or size of the original design. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized.

(2) Structural maintenance of docks shall not encroach within 50 feet of a Federal navigation channel as measured from the edge of the authorized channel boundary.

(3) Utility lines located beneath a federal navigation channel shall be installed a minimum of -10 feet (or more) below the full channel depth (authorized depth + advanced maintenance + over depth).

d. Sediment sampling. This RGP authorizes conventional sampling methods (to the extent these methods are determined by the Corps to be jurisdictional) for the purposes of characterizing dredged material. Prior to sample collection, the proposed sediment sampling methods and locations must be approved by the interagency PSET. (See section 5 for further details).

4. PROCEDURES FOR USE OF THIS RGP. To use RGP-9, a prospective permittee must first notify the Corps by submitting a pre-construction notification (PCN). No activity may begin until the prospective permittee receives written verification from the District Engineer, or his or her designee, that the proposed project meets the requirements of this RGP, obtains water quality certification (WQC) from the Oregon Department of Environmental Quality (DEQ) (or WQC has been waived), and submits the WQC to the Corps (unless WQC has been waived). Proposed projects which do not meet the eligibility requirements of this RGP will be processed by the Corps using other appropriate permit tools.

a. Contents of Pre-Construction Notification. The PCN may be made by means of the DA standard application form (ENG Form 4345) or the Corps/Department of State Lands Joint Permit Application form and must include the following information:

(1) Name, address, and telephone number(s) and point of contact/agent;

(2) Location of the proposed project;

(3) Purpose and need for the proposed activity;

(4) A complete description of the proposed project/activity. All activities the applicant plans to undertake, which are reasonably related to the same project and for which a DA permit would be required, must be included in the notification.

(5) Project drawings including a vicinity map, and cross-section and plan views. Drawings must be completed in black and white, or reproducible in black and white, on 8 ½ by 11-inch paper.

(a) The drawings must include a graphic scale, and the elevations reported in a consistent and standard datum (e.g., MLLW [preferred] or NAVD 88).

(i) For vicinity maps: Show and label the location of the project area (e.g. outline the perimeter, use an arrow, etc.) with clear boundaries; list latitude, longitude, section, township, and range; and show and label all waterways.

(ii) For plan views: Indicate where waters, including wetlands and other features, extend across property boundaries; show dimensions of the proposed project and the location and dimensions of existing adjacent structures (e.g. piers, floats); indicate location, quantity, and type of fill and excavation (area and volume).

(iii) For elevation or cross-section views: Label shorelines and show the upper boundary of MHW, the HTL or OHW line, and/or wetland boundary, as appropriate; show original and proposed elevations, water depths, and dimensions of proposed structures or fills (use the same vertical and horizontal scale).

(b) Drawings for projects involving dredging and/or the disposal of dredged material must include the most recent hydrographic surveys depicting the area(s) to be dredged (width, length, and depth) and the proposed disposal site(s):

(i) For in-water disposal site(s) show boundaries and coordinates for each corner of the site.

(ii) For upland/beach nourishment disposal site(s) show coordinates and boundaries.

(iii) If disposing by pipeline, show the pipeline route from the dredge site to the disposal site. Identify portions that are floating or submerged.

(6) For maintenance dredging actions provide:

(a) A description of project staging, stockpiling locations, and access routes to allow the Corps to evaluate the potential effects on federally authorized projects.

(b) The applicable site history information for the project area. (See Attachment 1).

(c) The total volume of material proposed to be removed and the duration of the proposed dredging event (i.e., one-time event or multi-year events). If the material will be placed in multiple disposal sites, indicate the volume to be placed in each site and the location of each site.

(d) Documentation of the location and boundaries of the authorized dredging prism indicating its width, length, and depth and the year in which dredging last occurred.

(e) A detailed description of the proposed method for transporting the dredged material to the selected disposal site.

(f) Evidence the dredging activity will not result in significant suspension of material if requesting authorization to remove material by means other than a hydraulic suction dredge and pipeline or clamshell dredge,

(7) For maintenance of currently serviceable structures or fill: If minor deviations to the structures original design are proposed, provide an explanation for the deviation.

(8) For beach nourishment provide sufficient documentation to show compliance with the restrictions in section 3.b(3).

(9) Submerged aquatic vegetation. Indicate whether there is submerged aquatic vegetation (SAV) within or adjacent to the project area. If surveys have been conducted in the project area they should be provided as part of the PCN package.

(10) If cultural resource surveys have been completed for the project, including disposal sites, reports documenting the results of the surveys shall be submitted with the PCN to facilitate coordination with the State Historic Preservation Officer (SHPO) and appropriate Native American Indian Tribes. As part of the permit evaluation process, the Corps is required to coordinate with the SHPO and Tribes as indicated in sections 4.b and 4.c.

b. National Historic Preservation Act. As required by Section 106 of the National Historic Preservation Act, all requests for Department of the Army authorizations under this RGP will be reviewed by the Corps Regulatory Branch archeologist. If there is insufficient information available to make an effects determination or support the evaluation, the applicant will be requested to provide the necessary information. The Corps will coordinate with the SHPO according to current Regulatory Branch protocols and agreements based on the project-specific effects determination.

c. Notification of Native American Indian Tribes. Notification will be made electronically by the Corps to Native American Indian Tribes with an interest in the area in which the proposed action would occur. The Tribes will have 30 calendar days to respond to the Corps Regulatory Project Manager indicating whether the proposed project would impact such aspects as cultural resources, treaty fishing access sites, usual and accustomed areas, burial sites, or Traditional Cultural Properties.

d. Endangered Species. Proposed activities that may affect a species listed under the Endangered Species Act (ESA), or that may adversely affect Essential Fish Habitat (EFH) under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) as amended, will be subject to consultation as required by those laws. The Corps may request additional information to determine compliance with a programmatic or previously issued opinion or to assist in initiating project-specific consultation. Where individual formal consultation is required, the applicant must provide a biological evaluation to assist the Corps in the consultation process.

Applicants are encouraged to design their project to comply with one of the existing programmatic consultations. Many of the activities authorized by this RGP, and which affect species under the management responsibility of the National Marine Fisheries Service (NMFS), may be covered by the SLOPES IV In-water Over-water Structures Programmatic Biological Opinion (issued April 5, 2012). Utility line repair/replacement activities may be covered by the SLOPES for Stormwater, Transportation or Utilities Programmatic Opinion (issued March 14, 2014). The complete text of these biological opinions are available for review at http://www.nwp.usace.army.mil/Missions/Environment/SLOPES.aspx.

e. Water Quality Certification. DEQ has not issued a 401 WQC for this RGP. Before proceeding with the work authorized by this RGP, the permittee must obtain an individual 401 WQC or certification waiver from the DEQ and submit a copy to the Corps. RGP verification issued by the Corps will become effective upon receipt of the 401 WQC and the permittee may then proceed with construction. The conditions of the 401 WQC will become conditions of the RGP verification.

As part of the WQC evaluation process, DEQ may require information be submitted by the applicant to meet Oregon Administrative Rules (OAR 340-048-0020). Such information may include:

(1) Land Use Compatibility Statement (LUCS) that demonstrates the activity complies with the local comprehensive plan and,

(2) Stormwater Management Plan (SWMP): For any project resulting in new, an increase in, or the redevelopment of existing impervious surfaces (including gravel surfaces), the applicant must submit a post-construction SWMP to DEQ for review and approval prior to the start of construction. Submittal of the plan to DEQ at the same time the PCN is submitted to the Corps will streamline the project review. DEQ provides information on preparing a SWMP at: http://www.deq.state.or.us/wq/sec401cert/docs/stormwaterGuidelines.pdf.

Further information regarding these requirements may be obtained by contacting DEQ at: 401 Water Quality Certification Coordinator, Oregon Department of Environmental Quality, 700 NE Multnomah Street, Suite 600, Portland, Oregon, 97232, by telephone at (503) 229-5294, or visit http://www.oregon.gov/deq/pages/index.aspx.

f. Other Information/Permit Requirements. Other agencies may have approval requirements separate from the Corps permit evaluation process. Applicants should contact these agencies directly for further information.

(1) Oregon Department of State Lands (DSL): The placement of state-owned material on uplands is subject to a License from DSL. Any beneficial use of state-owned material may be subject to royalty payments to DSL.

(2) Oregon Parks and Recreation Department (OPRD): OPRD is charged with the protection and preservation of the recreation, scenic, and natural resource values found on Oregon's ocean shore. As a part of accomplishing this requirement, OPRD administers a permit program for ocean shore alterations.

The aquatic placement of dredged material for the purpose of beach nourishment may require an ocean shores permit. Additional information can be found at http://www.oregon.gov/oprd/RULES/pages/oceanshores.aspx#background.

5. SEDIMENT EVALUATION PROCESS. The PSET, which includes representatives from state and federal agencies, uses the *Sediment Evaluation Framework for the Pacific Northwest* (SEF) to evaluate dredged material suitability per CWA sediment testing regulations. The SEF is available on-line at: http://www.nwp.usace.army.mil/Missions/Environment/DMM.aspx. The sediment evaluation process can take as little as 3 months or up to 18 months, depending on the complexity of the project and the experience of the proponent and their contractors. Pre-application sediment evaluation is strongly encouraged. The PSET will make the following evaluations using the SEF guidance:

a. The PSET will determine if sediment testing is required based on the proposed project and site history information.

b. If sediment physical and/or chemical analysis is required, the proponent must prepare a sediment sampling and analysis plan (SAP). Prior to sediment sampling, the PSET must approve the proponent's SAP.

c. If sediment testing is required, the proponent must summarize the physical and/or chemical analytical results in a sediment characterization report (SCR). The PSET will compare the analytical results to the 2015 Northwest Regional benthic toxicity screening levels (SLs) to determine if the dredged material is suitable for unconfined, aquatic disposal.

d. If chemical concentrations exceed the SLs, the proponent may opt to run biological tests on the project sediments. The PSET will compare the results of these biological tests to the

benthic interpretive guidelines published in the SEF to determine if the dredged material is suitable for unconfined, aquatic disposal.

6. REVIEWS UNDER 33 USC 408 – REQUESTS TO ALTER U.S. ARMY CORPS OF ENGINEERS CIVIL WORKS PROJECTS. Section 14 of the Rivers and Harbors Act of 1899 (found at 33 U.S.C. 408 and commonly referred to as "Section 408") authorizes the Secretary of the Army to grant permission for the alteration or occupation or use of a Corps civil works project if the Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. A requester has the responsibility to acquire all other permissions or authorizations required by federal, state, and local laws or regulations, including any required permits from the Corps' Regulatory Program (Section 10/404/103 permits). Where reviews under Section 408 are required, authorization to work under this RGP will not be granted until the Section 408 approval is received. An approval under Section 408 does not grant any property rights or exclusive privileges.

Actions authorized under this RGP that will not require a Section 408 are:

a. Structural maintenance of docks within the existing footprint provided the structures are located a minimum of 50 feet outside of the channel boundary (see 3c(2)). (Note: Vessels moored to the docks are not allowed to encroach into the federally authorized channel without 408 approvals).

b. Upland placement of dredged material. (Note: Where the upland disposal involves the placement of dredge pipeline across a jetty or other federal project to access the upland site, an evaluation of the project plans and maps will be required by the Portland District Section 408 Program Manager to determine if further 408 review is required.)

c. Work involving the repair/replacement of utility lines where the utility line is installed at least -10 feet, or more, below the fully authorized channel depth (Authorized Depth + Advanced Maintenance + Over depth).

All other actions will require the applicant to consult with the District Section 408 Program Manager to determine if a Section 408 Permission will be required for the proposed action(s). Please send questions to the following mailbox address: Section408nwp@usace.army.mil.

7. ACTIONS OCCURRING ON CORPS LAND OR WITHIN CORPS EASEMENTS. Where proposed actions will occur on Corps land or within a Corps easement, the applicant must obtain all necessary permissions or property rights from the Portland District Real Estate Division prior to conducting the work.

8. GENERAL CONDITIONS.

a. Prior to starting the authorized activities, you shall notify the U.S. Army Corps of Engineers, Portland District, Regulatory Branch. Notification shall be provided by e-mail to cenwp.notify@usace.army.mil and the email subject line shall include: Corps project number and the project location by county.

b. The following special condition is a part of all Department of the Army permits that provide authorization under Section 10 of the Rivers and Harbors Act, regardless whether the permit provides such authorization under Section 10 alone, or in combination with authorization under other laws:

The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the U.S Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

c. Cultural Resources and Human Burials-Inadvertent Discovery Plan: Permittees shall immediately cease all ground disturbing activities and notify the Portland District Regulatory Branch if at any time during the course of the work authorized, human burials, cultural items, or historic properties, as identified by the National Historic Preservation Act and Native American Graves Protection and Repatriation Act, are discovered and/or may be affected. The Permittee shall follow the procedures outlined below:

(1) Immediately cease all ground disturbing activities.

(2) Notify the Portland District Regulatory Branch. Notification shall be made as soon as possible following discovery but in no case later than 24 hours. Notification may be sent by fax (503-808-4375) or electronically (cenwp.notify@usace.army.mil) and shall identify the Corps project number and clearly specify the purpose is to report a cultural resource discovery. The permittee shall also notify the Corps representative (by email and telephone) identified in the verification letter.

(3) Notify the Oregon State Historic Preservation Office by telephone at (503-986-0690).

Failure to stop work immediately and until such time as the Corps has coordinated with all appropriate agencies and complied with the provisions of 33 CFR Part 325, Appendix C, the National Historic Preservation Act, Native American Graves Protection and Repatriation Act and other pertinent regulations, could result in violation of state and federal laws. Violators are subject to civil and criminal penalties.

d. In-Water Work: To minimize potential impacts to aquatic species and habitat, in-water work will be limited by the following timing considerations:

(1) Permittee shall complete all in-water work, to the maximum extent practicable, within the preferred time period (i.e., work window) specified in Oregon Department of Fish and Wildlife's (ODFW) "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources," June 2008, or most current version, available at: http://www.dfw.state.or.us/lands/inwater/.

(2) If work cannot be completed within the preferred timing window, despite every attempt to do so, permittee shall submit a written request to work outside of the preferred window to the District Engineer. The request can be made by means of the joint-agency In-water Work Period Variance Request for Previously Permitted Authorizations form which can be found at http://www.oregon.gov/dsl/WW/Pages/WWforms.aspx. Permittee shall not begin any in-water work outside of the preferred window until they have received written approval from the District Engineer.

Note: The final specified in-water work period will be based on a project-specific evaluation and may supersede these guidelines through special conditions of the permit verification.

e. Tribal Rights: No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

f. Endangered Species:

(1) No activity is authorized under this RGP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under this RGP which "may affect" a listed species or critical habitat, unless ESA Section 7 consultation addressing the effects of the proposed activity has been completed.

(2) This RGP does not authorize you to take an endangered or threatened species. If take of listed species may occur, permittees must have separate authorization under the Endangered Species Act (ESA) from the U.S. Fish and Wildlife Services or National Marine Fisheries Services (e.g., an ESA Section 10 permit, or a biological opinion (BiOp) under ESA Section 7, with "incidental take" provisions with which the permittee must comply).

(3) Authorization under this RGP is conditional upon compliance with all of the mandatory terms and conditions associated with any incidental take statement, which become conditions of any RGP verification. Failure to comply with the terms and conditions associated with incidental take of the BiOp, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with the RGP.

g. Water Quality: All activities authorized under this RGP that result in a discharge into waters of the U.S. must receive individual 401 Water Quality Certification (WQC) from the Oregon Department of Environmental Quality. After obtaining a 401 WQC or a waiver from the certification, the permittee must submit a copy of the 401 WQC or waiver to the Corps. If a conditional RGP verification was previously issued by the Corps, it will only become effective upon receipt of the 401 WQC. The conditions of the 401 WQC will become conditions of the RGP verification.

h. Coastal Zone Management: All activities authorized under this RGP that affect any land uses, water uses, or natural resources of the coastal zone, must comply with the conditions of

the Coastal Zone Management Act consistency concurrence dated July 20, 2017 (Attachment 2).

i. Hydraulic Pipeline Dredge: When using a hydraulic dredge, Permittee shall operate the dredge intake at or below the surface of the material being removed. The intake may be raised a maximum of three (3) feet above the dredge surface for brief periods of purging or flushing. At no time should the dredge be operated at a level higher than three (3) feet above the dredge surface.

j. Activities Conducted on the Corps' Property or Easements: Where the authorized activity occurs on the Corps' property or within a Corps easement, the permittee shall obtain necessary permissions or property rights from the Portland District Real Estate Division prior to conducting any work under this RGP.

k. Activities Affecting Structures or Works Built by the United States: An activity that may alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), is not authorized by this RGP until the prospective permittee receives written permission from the Portland District Corps of Engineers under Section 408 to alter, occupy, or use the USACE project, and the district engineer issues written RGP verification. If 408 permissions are not granted, work will not be authorized to occur under this RGP.

l. Contractor Notification of Permit Requirements: Prior to the commencement of any work in waters of the U.S., the permittee must provide a copy of this permit and the Corps' verification letter to all contractors and any other parties performing the authorized work.

m. Inspection of the Project Site: The permittee shall allow representatives of the Corps to inspect the authorized activity to confirm compliance with the general permit terms and conditions. A request for access to the site will normally be made sufficiently in advance to allow a property owner or representative to be on site with the agency representative making the inspection.

9. LIMITS OF THIS AUTHORIZATION.

a. This general permit does not obviate the need to obtain other Federal, state or local authorizations required by law.

b. This general permit does not grant any property rights or exclusive privileges.

c. This general permit does not authorize any injury to the property or rights of others.

d. This general permit does not authorize interference with any existing or proposed Federal project.

10. 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 or unpermitted 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.

11. REEVALUATION OF PERMIT DECISION. The District Engineer may reevaluate this general permit at any time, and, if appropriate, suspend, modify, or revoke this permit as provided in 33 CFR 325.7. The District Engineer may also suspend, modify, or revoke authorization under this general permit for any specific geographic area, class of activities, or class of waters within the state of Oregon.

a. The District Engineer may assert discretionary authority by modifying, suspending, or revoking RGP authorization for a specific activity whenever he determines sufficient concerns for the environment or any other factor of the public interest so requires. Whenever the District Engineer determines a proposed specific activity would have more than minimal individual or cumulative adverse effects on the environment or otherwise may be contrary to the public interest, he must either modify the RGP authorization to reduce or eliminate the adverse impacts or notify the prospective permittee that the proposed activity is not authorized by the RGP and provide instructions on how to seek authorization under an individual permit.

b. The Corps will annually review the projects authorized by this general permit to determine whether they result in no more than minimal effects, both individually and cumulatively, and to ensure that the terms and conditions of this permit are being observed. The District Engineer will invite the participation of other interested federal and state agencies in this review. If this review concludes that changes in permit terms or conditions are warranted, modification of the permit will be proposed as provided in 33 CFR 325.7, including public notice and opportunity for comment.

c. Activities authorized under this general permit that are under construction or under contract for construction in reliance upon this authorization will remain authorized provided the activity is completed within 12 months of the date of this general permit's expiration, modification or revocation, unless the District Engineer has exercised his discretionary authority to modify, suspend, or revoke the authorization of a specific project in accordance with Corps regulations.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

AGUILAR.JOSE.LUIS.1129737642

Digitally signed by AGUILAR.JOSE.LUIS.1129737642
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, cn=AGUILAR.JOSE.LUIS.1129737642
Date: 2017.07.25 09:30:21 -07'00'

Jose L. Aguilar
Colonel, Corps of Engineers
District Commander

(Date)

PACIFIC OCEAN

PORT ORFORD NEARSHORE SITE PLACEMENT AREA

PORT ORFORD BREAKWATER PLACEMENT AREA

DOCK & PARKING AREA

PRIMARY BOAT HOIST

PRODUCT HOISTS

STAFF GAGE

Port Orford Jetty Light 3

TIDAL 1647 L

TIDAL 1647 T

TIDAL 1647 J

TIDAL 1647 K

TIDAL 1647 N

TIDAL 1647 O

LEAD

NO. 9 1974

NO. 6 1937

TIDAL 4 ecc

TIDAL 4 RESET

PORT ORFORD

101

Magnetic North:
15° 32' E.
changing by ~0° 9' W each year

414,000
3,846,000
3,849,000
3,847,000
3,848,000
415,000
416,000
417,000
418,000

FIGURE 1- PORT ORFORD IN-WATER DISPOSAL SITES

NOTES:

Horizontal Coordinate System:
North American Datum of 1983 (NAD83), projected to the State Plane Coordinate System (SPCS), Oregon South Zone. Distance units in U.S. Survey Feet.

Vertical Datum:
Soundings are shown in feet and indicate depths below Mean Lower Low Water 1983-2001. MLLW is 0.49 feet below the North American Vertical Datum (NAVD 88).

River mileage conforms to the River Mile Index of the Hydrology and Hydraulics Committee, Pacific Northwest River Basins Commission, June 1968.

The information depicted on this map represents the results of a survey conducted on the date indicated and can only be considered to represent the general condition existing at that time.

** Shoalest Sounding per Quarter per Reach

STAFF GAGE: Northing: 416427 Easting: 3847618

CONDITION [X] PREDREDGE [ ] POSTDREDGE [ ]

LEGEND

- Federal Navigation Channel
- Federal Navigation Channel Centerline
- Pipeline, Submarine On Land Line
- Cable, Overhead
- Cable, Submarine
- Pipeline, Overhead
- Anchorage Area
- Dredged Material Placement Area
- Cable Area
- Pipeline Area
- Shoaling Area
- Buoy, Lateral
- Buoy, Cardinal
- Buoy, Isolated Danger
- Buoy, Safe Water
- Buoy, Special Purpose
- Beacon, General
- Contour Lines
- Benchmark
- Pylon Bridge Support
- Rock
- Obstruction Point
- Wreck-Submerged
- Staff Gage
- Recording Gage
- Shoalest Sounding**

2009 Aerial Photography data source: U.S.D.A., Service Center Agencies - Reference is Navigation Chart No. 18589

THE EXISTING PROJECT

The existing project provides for a turning basin 16 feet deep, 90 feet wide and 750 feet long.

PORT ORFORD, OREGON
&
NEARSHORE DISPOSAL
28 October 2016

SCALE IN FEET
0 100 200 300 400 500

SUBMITTED: APPROVED:

CHIEF, WATERWAYS MAINTENANCE SECTION

RECOMMENDED:

CHIEF, SURVEY SECTION SURVEYED: ___ PLOTTED: ___ CHECKED: ___

PO_01_POR_20161028_CS

Sediment Evaluation Framework (SEF)
Level 1 Site History Information

Applicant Provided Preliminary Information:

1. A map showing the project site location (include river mile if applicable), layout, existing storm drainages and outfalls, and special aquatic sites (e.g., wetlands, eelgrass beds, ponds, lakes).

2. Current project area land uses and history of site ownership and prior land uses.

3. Current and prior adjacent property land uses, especially those properties up gradient or upstream/current from the project site.

4. Site characteristics that could affect movement of CoCs (i.e. prop wash, barge/ferry traffic, port traffic, dredged navigational channels, bar scalping, instream dredging sites).

5. Outfalls information, such as construction year, type, flow volume (capacity), and non-point discharge elimination system (NPDES) data. Industrial processes at or near the site and hazardous substances used/generated at these sites

6. Specific information on Environmental Cleanup, brownfields, leaking storage tanks, etc., for the State of Oregon can be found at: http://www.oregon.gov/DEQ/. Specific site information on Oregon Cleanup Sites can be found at: http://www.deq.state.or.us/lq/ECSI/ecsi.htm.

7. In the State of Washington, this information can be found at http://www.ecy.wa.gov/cleanup.html or http://www.ecy.wa.gov/programs/tcp/mtca_gen/hazsites.html.

8. CERCLA-listed site information. See http://www.epa.gov/superfund/sites/npl/index.htm and information listed in no. 3, above.

9. Spill events. These sites may provide information:
http://www.ecy.wa.gov/programs/spills/incidents/main.html
http://www.deq.state.or.us/lq/ECSI/ecsi.htm
http://www.fws.gov/oregonfwo/Contaminants/.

10. Results of any previous sampling and/or testing.

11. Any dredging activity and data/information from that activity.

Oregon
Kate Brown, Governor

Ocean and Coastal Management Program
Department of Land Conservation and Development
635 Capitol Street, Suite 150
Salem, Oregon 97301-2540
Phone (503) 373-0050
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July 20, 2017

Mr. Shawn Zinszer
Chief, Regulatory Branch
Portland District, US Army Corps of Engineers
PO Box 2946
Portland, OR 97208-2946

Project:	Regional General Permit for South Coast Maintenance Projects
Agency:	US Army Corps of Engineers
Location:	From Siuslaw River in Lane County to California border (including all of Douglas, Coos, and Curry Counties)

Dear Mr. Zinszer:

The Oregon Coastal Management Program (OCMP) has reviewed the U.S. Army Corps of Engineers (Corps) Regional General Permit (RGP) for certain maintenance dredging and structural maintenance activities along Oregon's south coast for consistency with the state's Coastal Management Program (Program). The Corps supplied a consistency determination with enforceable policy analysis and discussion of known or potential coastal effects on June 28th, 2017. OCMP has reviewed the proposed RGP and consistency determination pursuant to Section 307(c)(1) of the Coastal Zone Management Act (CZMA) and attendant regulations of 15 CFR Part 930.

The proposed RGP authorizes project proponents to implement a number of maintenance activities including:

- Maintenance dredging of existing marina basins; access channels to marinas or boat slips; boat slips; launch ramps; travel lifts; and ship berths associated with port, public, and private facilities if certain criteria are met. These criteria include no alteration of the character, scope and size of the project area from previously authorized dredge prism, previous dredging occurred within a decade of application for work, and prop-wash dredging is not allowed.
- Disposal of dredged material associated with maintenance dredging if certain criteria are met. Dredged material disposal options include upland sites, in-water disposal at two locations (Port Orford Nearshore Placement Area or the Port Orford Breakwater Placement Area, or beach nourishment with certain restrictions.
- Maintenance of currently serviceable structures or fill including but not limited to piling replacement, dock repair, repair of existing riprap revetments, repair/replacement of utility lines, and replacement of structures within and spanning or protruding over navigable waters if certain criteria are met. These criteria include maintaining the purpose of structure/fill originally designed and authorized (with exceptions for safety standards, construction codes etc), encroachment into the federal navigation channel is not allowed, and utility lines must be repaired/replaced at a minimum depth.
- Sediment sampling for the purposes of characterizing dredged material utilizing conventional sampling methods (to include a wide range of grab samplers and core samplers).

The RGP will expedite the authorization of recurring activities that are similar in nature and have minor individual and cumulative adverse impacts on the aquatic environment that have been previously authorized by the Corps and granted concurrence by OCMP, as well as offer a new expedited permit pathway for sediment characterization sampling and use of dredge materials associated with this RGP for beach nourishment.

DLCD Federal Consistency Review

The CZMA requires federal agency activities affecting any coastal use or resource within a state's coastal zone to be consistent to the maximum extent practicable with the enforceable policies of the state's federally approved coastal management program.

Oregon's federally approved program is a "networked" coastal management program that integrates authorities of local governments and other state agencies as the "enforceable policies" of the OCMP. As such, the enforceable policies of the OCMP include: 1) the statewide planning goals; 2) the applicable acknowledged city or county comprehensive plan and land use regulations; and 3) selected state agency authorities (e.g. those governing removal-fill, proprietary leasing, water quality, and fish & wildlife protections).

Mitigation of Coastal Effects

The Corps recognized potential coastal effects from the listed actions and adjusted the RGP accordingly to reduce coastal effects including the following:

- No more than 10 years is allowed between maintenance dredging efforts
- Dredging must not alter the character, scope, size, or previous dimensions of dredge prism
- Prop-wash dredging is not allowed
- Selected specific in-water disposal sites with previous OCMP federal consistency concurrences on file
- Requires sediment evaluation process to determine suitability for in-water disposal
- Restrictions are placed on beach nourishment placement (ie. similar sediments, height)
- Requires record of project effects on submerged aquatic vegetation
- Requires work to be completed during the ODFW in-water work window

Consistency Findings

- State agencies with authorities relevant to this RGP include the Oregon Departments of Environmental Quality, State Lands, Parks and Recreation, and Fish and Wildlife.

- This RGP requires projects to obtain DEQ's water quality certification and meet the conditions therein.

- This RGP requires projects to obtain DSL's removal-fill and proprietary requirements and meet the conditions therein when applicable.

- This RGP requires projects to obtain OPRD's shores permit and meet the conditions therein when applicable.

- As part of the authorization, the Corps is requiring work to occur during established In-Water-Work Windows and to meet relevant requirements of the Oregon Department of Fish and Wildlife.

- For those projects exempt from DSL review, Standard OCMP Coastal Zone Conditions will be adhered to regarding state fish and wildlife authorities; attached below.

- The Corps did not decide to require the Land Use Compatibility Statement (LUCS) to demonstrate that subsequent authorizations under this RGP are consistent with the local jurisdiction enforceable policies of the OCMP. However,
    - All dredging projects authorized under this RGP will have been previously authorized by the Corps, have undergone OCMP federal consistency review and have been granted concurrence. Since character, scope, purpose, or design cannot change in order to use this RGP, OCMP concludes most activities remain consistent with the local jurisdiction enforceable policies of the Program.
    - Local jurisdictions will be consulted (via the LUCS) in order to meet DSL and DEQ regulatory requirements.
    - Standard OCMP Coastal Zone Conditions apply to this RGP and require the applicant to submit the LUCS (Block 10) to OCMP and encourage providing the LUCS to the Corps.

  Thus, projects utilizing this RGP will be consistent with applicable enforceable policies of local jurisdictions.

Public Notice
DLCD did not receive any comments in response to the public notice issued November 17, 2016.

Consistency Decision
DLCD conditionally concurs with the Corps determination that the projects proposed under the Regional General Permit (RGP) are, to the maximum extent practicable, consistent with the enforceable policies of the OCMP**,** as demonstrated by previous authorizations and secured state and local authorizations. DLCD grants advance concurrence to activities authorized by the RGP provided the attached Standard OCMP Coastal Zone Conditions are followed.

Additionally, OCMP's advance concurrence is not valid for projects that fail to meet the attached coastal zone conditions or are projects that have not previously received a federal consistency concurrence from OCMP. Those projects will require an individual consistency review, during which OCMP will work with the applicant and the relevant local planning department and/or state agency in an attempt to modify the project to meet the relevant conditions.

Lastly, projects proposing beach nourishment will require individual consistency review in order to ensure that the project is consistent with state fish and wildlife enforceable policies and unintended coastal effects are avoided.

Availability of Mediation
In accordance with federal regulations, DLCD hereby provides notification that should the Corps object to the attached conditions, the Department's decision shall be treated as an objection pursuant to 15 CFR § 930, Subpart C. The Corps shall immediately notify DLCD if the conditions are not acceptable.

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

If you have any questions or comments regarding this coastal zone management consistency finding or the consistency review process, please contact me at (503) 934-0029 or by e-mail at: elizabeth.j.ruther@state.or.us.

Sincerely,

Elizabeth J. Ruther
Coastal State-Federal Relations Coordinator
Department of Land Conservation and Development

Cc: Patty Snow, DLCD
Judy Linton, USACE

Attachment 1

Standard Oregon Coastal Management Program (OCMP) Coastal Zone Conditions

The federal Coastal Zone Management Act provides that federal actions affecting any use or resource of the coastal zone,* including projects permitted by the U.S. Army Corps of Engineers (USACE), must be consistent with the enforceable policies of a State's federally approved coastal management program. Oregon's approved program, the Oregon Coastal Management Program (OCMP), is a "networked" program that integrates authorities of local governments and other state agencies. The coastal zone conditions contained in this document reflect the networked nature of the OCMP, and reference the specific applicable enforceable policies.

In addition to all USACE national and regional permit conditions, permitted projects in Oregon's coastal zone must comply with the following coastal zone conditions.

If an applicant chooses not to follow one or more of the coastal zone conditions, DLCD will object to the permit issuance pursuant to 15 CFR § 930.63(e). In that instance, the permittee may appeal the state's objection by requesting that the Secretary of Commerce override the objection pursuant to 15 CFR 930, subpart H, within 30 days of receipt of the letter informing the applicant of the OCMP's objection. In order to grant an override request, the Secretary must find that the activity is consistent with the objectives or purposes of the Coastal Zone Management Act, or is necessary in the interest of national security. A copy of the request and supporting information must be sent to the OCMP and the USACE. The Secretary may collect fees from the permittee for administering and processing the override request.

*Oregon's coastal zone generally includes the area lying between the Oregon/Washington border on the north, to the Oregon/California border on the south, seaward to the extent of the state's jurisdiction as recognized by federal law, and inland to the crest of the Coast Range Mountains, excepting:

(a) The Umpqua River basin, where the coastal zone extends to Scottsburg;
(b) The Rogue River basin, where the coastal zone extends to Agness; and
(c) The Columbia River basin, where the coastal zone extends to the downstream end of Puget Island.

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.

[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. Aquaculture

(1) Permitted projects must be consistent with or not subject to state requirements governing commercial aquaculture or mariculture cultivation of oysters, clams, and mussels. Permittee must obtain, if required, authorization from the Oregon Department of Agriculture (ODA) for use of state submerged and submersible lands for aquaculture purposes.

(2) All conditions placed on an aquaculture or mariculture operation by the ODA are incorporated by reference into the OCMP coastal zone conditions.

[Enforceable Policy: ORS chapter 622, Shellfish]