

DEPARTMENT OF THE ARMY PERMIT

OREGON STATEWIDE PROGRAMMATIC GENERAL PERMIT (SPGP)

PERMIT NO: 200100283
EFFECTIVE DATE: January 3, 2006
EXPIRATION DATE: January 3, 2008
ISSUING OFFICE: U.S. Army Corps of Engineers, Portland District

This programmatic general permit authorizes work in waters of the United States (U.S.) within the state of Oregon for activities that would cause no more than minimal adverse environmental effects, individually and cumulatively, subject to the terms, conditions and limitations contained herein. This general permit is issued upon the recommendation of the Chief of Engineers as provided by 33 CFR 325.5(c)(3), pursuant to Section 404 of the Clean Water Act (P.L. 95-217) and Section 10 of the River and Harbor Act of 1899, as amended.

This programmatic general permit has been developed in a cooperative effort with Oregon Department of State Lands (DSL), which has regulatory authority over waters of the State of Oregon through the Removal-Fill Law (ORS 196.800-196.900). The purpose of this programmatic general permit is to reduce regulatory duplication while enhancing resource protection in the State of Oregon.

ACTIVITIES AUTHORIZED BY THIS GENERAL PERMIT

Types of Activities: This statewide programmatic general permit (SPGP) authorizes eight categories of work in those waters of the U.S. that are also waters of the State of Oregon. For an activity to be authorized by the SPGP it must be described below. Note that for projects requiring authorization under the National Marine Fisheries Service (NMFS) SLOPES III Biological Opinion (Opinion), certain activities and/or the use of certain conservation measures may only be allowed if approved in writing by NMFS. Applicants are advised to check the Opinion for the list of exclusions prior to submitting an application to DSL. Applicants desiring to apply for a variance from NMFS should note their request on the project application form at the time the project application form is submitted to DSL.

Limitations: All of the activities listed below are authorized subject to the following limitations for individual projects:

- a) The discharge of dredged or fill material in wetlands shall not exceed one-half (1/2) acre;
- b) Discharges and/or excavation in waters of the U.S. other than wetlands shall not exceed 1,000 cubic yards below the ordinary high water line;
- c) Multiple categories of activities may be used to authorize a 'single and complete' project under the SPGP. However, the project must meet the specific requirements of each category and the total extent of project impacts may not exceed 0.5 acre or 1,000 cubic yards.

The thresholds listed in a) and b) above do not apply to wetland restoration and enhancement, but all other conditions and limitations contained in this permit apply to this activity.

1. Streambank Stabilization Activities.

CATEGORY SPECIFIC CONDITIONS:

- A. Streambank stabilization activity shall not exceed 500 feet in length.
- B. The activity shall not exceed an average of one cubic yard per linear foot placed along the bank below the plane of the ordinary high water mark or the high tide line.
- C. Large wood shall be incorporated as an integral component of all streambank stabilization treatments. Avoid or minimize the use of rock, stone and similar materials.
- D. Large wood must be intact, hard, and undecayed to partly decaying with untrimmed root wads to provide functional refuge habitat for fish. Use of decayed or fragmented wood found lying on the ground or partially sunken in the ground is not authorized under this permit.
- E. Rock may be used instead of wood, in the following situations only:
 - i. The rock must be class 350 metric (700 pound), or larger, but may not impair natural stream flows into or out of secondary channels or riparian wetlands.
 - ii. Topsoil must be placed over the rock and planted with woody vegetation.
 - iii. Rock may be used as a ballast to anchor or stabilize large wood components of an approved bank treatment.
 - iv. Rock may be used to fill scour holes if necessary to protect the integrity of the project. The rock is limited to the depth of the scour hole and shall not extend above the channel bed.
 - v. Rock may be used to construct a footing, facing, head wall, or other protection necessary to prevent scouring or downcutting of, or fill slope erosion or failure at, an existing boat ramp, bridge support, flow control structure (e.g., water intake or outfall), or utility line provided the amount of rock used is limited to that necessary to support the slope. Whenever feasible, include soil and woody vegetation as a covering and throughout the structure.
 - vi. Rock may be used to construct a barb, as described in 1.A.ix below.
- F. The project, as constructed below the ordinary high water or high tide line, shall not consist entirely of structural streambank stabilization methods (e.g. riprap and bulkheads).

AUTHORIZED ACTIVITIES:

- A. The following streambank stabilization methods are authorized in all waters, individually or in combination:
- i. Woody plantings and variations (e.g., live stakes, brush layering, fascines, brush mattresses) may be used.
 - ii. Herbaceous cover, where analysis of available records (e.g., historical accounts and photographs) show that trees or shrubs did not exist on the site within historic times (primarily for use on small streams or adjacent wetlands).
 - iii. Deformable soil reinforcement, consisting of soil layers of lifts strengthened with fabric and vegetation that are mobile ('deformable') at approximately two- to five-year recurrence flows.
 - iv. Coir logs (long bundles of coconut fiber), straw bales and straw logs used individually or in stacks to trap sediment and provide growth medium for riparian plants.
 - v. Bank reshaping and slope grading, when used to reduce a bank slope angle without changing the location of its toe, increase roughness and cross-section, and provide more favorable planting surfaces.
 - vi. Floodplain roughness, e.g., floodplain tree and large woody debris rows, live siltation fences, brush traverses, brush rows and live brush sills; used to reduce the likelihood of avulsion in areas where natural floodplain roughness is poorly developed or has been removed.
 - vii. Floodplain flow spreaders, consisting of one or more rows of trees and accumulated debris used to spread flow across the floodplain.
 - viii. Engineered log jams, consisting of a collection of large wood used to create structural and hydraulic complexity and redirect flow, provided that the jam is anchored primarily by the weight and shape of the structure itself. Biodegradable materials may be used to temporarily stabilize the log-jam, but the use of cable (wire rope) or chain to anchor the jam is NOT authorized.
 - ix. Barbs, sometimes also referred to as vanes or bendway weirs, to redirect flow, when designed as follows:
 - a) No part of the flow-redirection structure may exceed bank full elevation, including all rock buried in the bank key.
 - b) Build the flow-redirection structure primarily of wood or otherwise incorporate large wood at a suitable elevation in an exposed portion near the tip of the structure. Placing the large wood near streambanks in the depositional area between flow-direction structures to satisfy this requirement is not approved, unless those areas are likely to be greater than 1 meter in depth, sufficient for salmon rearing habitats.
 - c) Fill the trench excavated for the bank key above the ordinary high water elevation with soil and topped with native vegetation.
 - d) The maximum flow-redirection structure length must not exceed 1/4 of the channel width at ordinary high water.
 - e) Place rock individually without end dumping.
 - f) If two or more flow-redirection structures are built in a series, place the flow-redirection structure farthest upstream within 150-feet or 2.5 channel widths at ordinary high water, from the flow-redirection structure farthest downstream.
 - g) Include woody riparian planting as a project component.

B. The following additional streambank stabilization methods are authorized only in waters not occupied by species listed as Federally Threatened or Endangered (T & E species) under the Endangered Species Act (ESA), and/or where critical habitat (CH) for such species has not been designated (referred to in this permit as Federally Protected Species):

i. Streambank stabilization projects qualifying for the DSL General Authorization (GA) for Streambank Stabilization (OAR 141-089-0135 to 141-089-0165).

Such projects are subject to all eligibility requirements, mandatory conditions and conditions of authorization listed in this GA, which includes the following:

- a) The project must be located within an area of active erosion
- b) Where riprap and/or other structural techniques are unavoidable, they shall be used in combination with nonstructural approaches to streambank stabilization.
- c) Nonstructural approaches such as slope pull-back, willow mats, rock barbs, revegetation with native plant species, and log and boulder deflectors, shall be used to the maximum extent possible and where technically feasible.
- d) Only clean durable rock shall be used for riprap. Riprap used for the toe material shall be placed in an irregular pattern using large boulders or rock clusters.
- e) No material shall be used in excess of the amount required to construct a toe trench, key material to the bank, or slope the bank.
- f) No material shall be placed in excess of the minimum needed to stabilize the area subject to active erosion.

2. Water Control Structures.

CATEGORY SPECIFIC CONDITIONS: None

AUTHORIZED ACTIVITIES:

- A. The following activities are authorized in all waters, individually or in combination:
 - i. Repair of existing water control structures, except tide gates.
 - ii. Improvements to structures other than tide gates as necessary to provide for improved fish passage.
- B. The following activity is authorized only in waters not occupied by Federally protected species or their critical habitat.
 - i. New or upgraded water control structures, including repair and/or replacement of tidegates.

3. Utility Lines.

CATEGORY SPECIFIC CONDITIONS:

- A. Utility line stream crossings must be built as follows:
 - i. Alignments must be perpendicular to the watercourse, or nearly so.

- ii. Replant with native species as soon after backfilling as possible and prior to the next growing season.
- iii. Minimize soil compaction, root damage and tree removal.
- iv. Utility lines may not cause lateral migration, head cutting, general scour, or debris loading.
- v. Place all pits and other excavations associated with utility installation where they will not cause damage to the streambed or stream banks, and prevent wastewater or spoil material from entering the water.
- vi. Design utility line crossings in the following priority.
 - a) Aerial lines, including lines hung from existing bridges
 - b) Directional drilling, boring and jacking
 - c) Trenching - this method may only be used in a naturally (seasonally) dewatered stream or adjacent wetland where the work area can be completely isolated using silt screens and without the need for any fish salvage.
- v. If directional drilling is used, the drill, bore, or jack hole must span the channel migration zone and any associated wetland.
- vi. If trenching or plowing methods are used, the following will apply.
 - a) Any trenching or plowing must occur in the dry creekbed.
 - b) Trenches must be backfilled below the ordinary high water line with native material, then capped with clean gravel suitable for fish use in the project area.
 - c) Large wood displaced by trenching or plowing must be returned to its original position, or placed in a configuration that may be expected to function naturally.
 - d) Minimize the footprint where feasible by selecting the narrower section of wetland, stream and/or riparian fringe and by reducing the width of the construction corridor to the extent practicable
- B. The foundations for overhead utility line towers, poles, and anchors must be the minimum size necessary. Separate footings shall be constructed for each tower leg (rather than a larger single pad)
- C. This permit does not authorized frac out, or the clean up associated with a frac out during horizontal directional drilling activities.

AUTHORIZED ACTIVITIES:

- A. The following activities listed below may be constructed, maintained and/or repaired in all waters, either individually or in combination. Projects proposing to construct or upgrade gas, sewer or water lines to support new or expanded service areas are not allowed in waters occupied by species listed as threatened or endangered under the Endangered Species Act, and/or where critical habitat for such species has been designated.
 - i. Outfall and intake structures.
 - ii. Utility lines including associated excavation, backfill, or bedding for the utility lines, provided there is no change in preconstruction contours. (Note: Utility lines include any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. Utility lines do not include activities that drain a water of the U.S., such as drainage tile or French drains).

- iii. Activities association with the construction, maintenance and repair of utility lines.
- B. The following activity is authorized only in waters not occupied by Federally protected species or their critical habitat:

Foundations for overhead utility line towers, poles, and anchors (construction or maintenance).

4. Road Construction, Repairs And Improvements.

CATEGORY SPECIFIC CONDITIONS:

- A. Streambank stabilization activities associated with road construction, repair, maintenance and improvement activities must be done consistent with the terms of the Streambank Stabilization category.
- B. Passage shall be provided for both adult and juvenile forms of all native fish species throughout the construction period.
- C. Activities related or appurtenant to the actual replacement or repair of a bridge are authorized only if impacts to waters of the U.S. associated with those activities are limited to the geographic footprint of the construction work required to complete the bridge repair or replacement.

AUTHORIZED ACTIVITIES:

- A. The following road construction, repair and improvement activities are authorized in all waters, individually or in combination.
 - i. Road maintenance. Road maintenance activities described in the most current version of the ODOT Regional Road Maintenance Endangered Species Act Program Guidelines,¹ including, but not limited to, beaver dam removal, shoulder repair, sign installation, guardrail maintenance, bridge maintenance, and temporary bridge structures, must be completed in accordance with Best Management Practices described in the Guidelines.
 - ii. Ditch cleaning, culvert and trash rack maintenance (within 20 feet upstream or downstream of the structure), drift removal completed by working from the top of the bank, unless work area isolation would result in less habitat disturbance.
 - a) Remove only the minimum amount of wood, sediment and other natural debris necessary to maintain ditch, culvert or trash rack function, or improve water quality or quantity characteristics in the receiving water body, without disturbing spawning gravel.

¹ Oregon Department of Transportation, Routine Road Maintenance: Water Quality and Habitat Guide, Best Management Practices, 21 pp. + appendices (July 1999) (providing guidance on routine road maintenance activity only) (<http://www.odot.state.or.us/eshtm/images/4dman.pdf>) or, see, NMFS, Regional Road Maintenance Endangered Species Act Program Guidelines (March 2002) (<http://www.metrokc.gov/roadcon/bmp/pdfguide.htm>)

- b) Place all large wood, cobbles and gravels recovered during culvert and trash rack cleaning downstream of the structure. Complete drift removal in the following priority, as feasible.
 - 1) Pull and release whole logs or trees downstream.
 - 2) Pull whole logs and trees and place in the riparian area.
 - 3) Remove whole logs or trees for replacement within the same stream or 6th field HUC².
 - 4) Pull, cut only as necessary, and release logs and trees downstream.
 - iii. New permanent stream crossings. Build permanent stream crossings as follows:
 - a) Design. The goal is to allow for normative fluvial processes within the stream-floodplain corridor by promoting natural sediment transport patterns for the reach, allowing unaltered fluvial debris movement, and improving the longitudinal continuity and connectivity of the stream-floodplain system.
 - 1) If the crossing will occur near an active spawning area, only a full span bridge or streambed simulation may be used.
 - 2) Limit fill width to the minimum necessary to complete the crossing. Do not reduce existing functional stream-floodplain corridor width.
 - b) Crossing types.³ Design road crossings in the following priority. Explain why a particular design was chosen.
 - 1) No impact – Road realignment to avoid crossing the stream.
 - 2) Bridge – New bridges must span the stream to allow for long-term dynamic channel stability, i.e., no bents, piers or other support structures below bankfull elevation and of adequate dimensions to allow for normative fluvial processes.
- B. The following additional road construction, repair, maintenance and improvement activities are authorized only in waters not occupied by Federally protected species or their critical habitat:
- i. Road construction, repairs and improvements qualifying for the DSL General Authorization (GA) for Certain Transportation Structures, (OAR 141-089-0170 to 141-089-0200) up to the limitations and thresholds authorized under the SPGP.
 - ii. To be eligible for the GA, the project must be for the following purposes:
 - a) Widening shoulder for new roadside embankment, curbs, trails, sidewalks and rail crossings;
 - b) Widening road for additional passing lanes, turn lanes and refuges and travel lanes;
 - c) Widening, realigning or removing existing railroad beds;
 - d) Widening, realigning or removing existing roads;
 - e) Widening, realigning, removing or replacing existing bridges or similar structures;

² HUC(Hydraulic Unit Code) - A distinct watershed or river basin defined by an 8-digit code.

³ For a discussion of crossing design types, see, National Marine Fisheries Service, Southwest Region, Guidelines for Salmonid Passage at Stream Crossings (September 2001) (<http://swr.nmfs.noaa.gov/hcd/NMFSSCG.PDF>) and Washington Department of Fish and Wildlife, Fish Passage Design at Road Culverts: A Design Manual for Fish Passage at Road Crossings (March 3, 1999) (<http://www.wa.gov/wdfw/hab/engineer/cm/toc.htm>).

- f) Widening, realigning or removing existing bicycle, pedestrian or other lanes or trails;
 - g) Constructing new bicycle, pedestrian or other lanes or trails;
 - h) Replacement of culverts or similar water conveyance structures along roads and trails that extend beyond the existing road prism;
 - i) Construction of new culverts;
 - j) Extension of existing culverts beyond the existing road prism;
 - k) Streambank stabilization associated with projects listed in (A) through (J); and
 - l) Hydraulic scour protection associated with bridges and similar structures including but not limited to: construction of a new trench and stone embankment; construction of new bridge footings; placing new riprap to stabilize a transportation structure foundation.
 - m) Be for test holes, borings and similar activities associated with planning and design of transportation structures.
 - n) Be for an activity that is incidental to the project necessary to provide fish passage or needed for the structural integrity of the project.
- iii. The project shall be subject to all eligibility requirements, mandatory conditions and conditions of authorization listed in this GA.

5. Site Preparation For Construction Or Repair Of Buildings And Related Features Such As Driveways, Parking Areas, Walkways.

CATEGORY SPECIFIC CONDITIONS:

- A. Discharges of dredged or fill material are not authorized within tidal waters or non-tidal wetlands adjacent to tidal waters.
- B. Golf courses or ski resorts are not authorized to be constructed as part of this category because they are assumed to have more than minimal adverse impacts.
- C. Site preparation activities associated with single family residences are authorized to impact no more than 0.25 acre of waters of the United States, as part of a single and complete project.

AUTHORIZED ACTIVITIES:

Site preparation activities for the construction, repair, or expansion of residential, commercial, and institutional building foundations and building pads, and attendant features necessary for the use and maintenance of the structures are authorized in non-tidal waters of the U.S. Attendant features include, but are not limited to, roads, parking lots, garages and utility lines. Project sites must be located within Urban Growth Boundaries (UGBs) or Unincorporated Urbanizing Centers (UUCs).

For the purposes of the site preparation category, the total loss of wetlands shall be based on the cumulative loss of waters and wetlands associated with construction of access roads and other necessary infrastructure and /or improvements, including parking lots and other support facilities, and the present, proposed and future development of individual subdivision lots including future development phases. Phased developments, where future wetland loss can reasonably be anticipated or inferred based upon project plans, goals and/or the project proponent's stated intent, shall not be eligible for authorization under the SPGP.

6. Stream and Wetland Restoration.

CATEGORY SPECIFIC CONDITIONS:

- A. Streambank stabilization must be done consistent with the terms of the Streambank Stabilization category.
- B. Culvert and bridge replacement and related activities must be done consistent with the terms of the Road Construction, Repairs and Improvements category.

AUTHORIZED ACTIVITIES:

- A. The following stream and wetland restoration methods are authorized for use individually or in combination in all waters:
 - i. Road decommissioning.
 - ii. Set-back levees, dikes and berms.
 - iii. Removal of trash and other artificial debris dams that block fish passage.
 - iv. Removal of levees, dikes, berms, tile drain systems, weirs or other water control structures.
 - v. Streambank sloping, shaping, planting, and stabilization when completed for a restoration purpose.
 - vi. Grading for wetland enhancement and restoration.
 - vii. Replacement of culverts and bridges when completed for a restoration purpose.
 - viii. Removal of sediment bars or terraces that block fish passage within 50-feet of a tributary mouth. No more than 25 cubic yards of sediment may be removed from within 25-feet of the mouth of the stream. Streambed grading can occur within 50-feet of the mouth of a stream.
 - ix. Placement of large wood within the channel or riparian area.
 - a) Large wood must be intact, hard, and undecayed to partly decaying with untrimmed root wads to provide functional refugia habitat for fish.
 - b) Use of decayed or fragmented wood found laying on the ground or partially sunken in the ground is not acceptable.
 - c) Rock may be used as ballast to anchor or stabilize large wood. Use of cable (wire rope) or chain to anchor large wood is not authorized.
- B. The following additional stream and wetland restoration activities are authorized only in waters not occupied by Federally protected species or their critical habitat:
 - i. Stream and wetland restoration activities qualifying for the DSL General Authorizations (GAs) either for Fish Habitat Enhancement (OAR 141-089-0100 to 141-089-0130), Wetland Restoration and Enhancement (OAR 141-089-0205 to 141-089-0240), or both, up to the limitations and thresholds authorized under the GA.
 - To be eligible for the Fish Enhancement GA, the project must be for the following purposes:
 - a) Be constructed for the sole purpose of improving habitat conditions for fish;
 - b) Consist of fill or removal of material as:
 - 1) Randomly placed rock

- 2) Deflectors
 - 3) Rock and log weirs
 - 4) Gravel placement
 - 5) Pool and pond construction
 - 6) Back/side channel construction
 - 7) Channel reconstruction
 - 8) Barrier removal and placement of fishways
 - 9) Woody material
- To be eligible for the Wetland Restoration and Enhancement GA, the project must be for the following purposes:
 - a) Be constructed for the specific purpose of restoring or enhancing a wetland such as, but not limited to, projects developed and funded by the Wetland Reserve Program, the Oregon Conservation Reserve Enhancement Program, Coastal Wetlands Protection and Enhancement Program or the North American Waterfowl Conservation Act; and
 - b) Restore wetland types historically found in the region; and
 - c) Restore or enhance wetland functional attributes such as fish and wildlife habitat, water quality and quantity; or
 - d) Support the purposes of waterfowl or wetland management within a state or federally designated management area as identified in a management plan for the area.

7. Minor Fill and Removal.

CATEGORY SPECIFIC CONDITIONS: None

AUTHORIZED ACTIVITIES:

- A. The following minor fill and removal activities are authorized in all waters under this general permit, individually or in combination:
 - i. Removal of recently deposited fluvial material from existing boat ramps, provided that the activity is conducted in the dry (above the water line), and the material is deposited at an upland disposal site.
 - ii. Repair of the revetment at the toe of an existing boat ramp not to exceed 10 cubic yards of rock per site/year.
 - iii. Survey activities including core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, soil survey, sampling, and historic resources surveys.
- B. The following additional activity is authorized only in waters not occupied by Federally protected species or their critical habitat:
 - i. Excavating material from regularly maintained agricultural ditches in Section 10 waters and depositing that material onto adjacent Section 404/state jurisdictional farmed wetlands or wet pasture. Deposits are limited to a three-inch layer or less and must not convert wetlands to uplands.
 - ii. Material shall be side cast to only one side of the water to limit the disturbance area and to allow riparian vegetation to be maintained on one side.

8. Piling Installation and/or Removal.

CATEGORY SPECIFIC CONDITIONS:

- A. Piling must be placed for the purpose of over-water structure support (e.g., pile associated with docks, piers), mooring and turning dolphins, or navigational aids.
- B. Piling must be untreated wood, steel, fiberglass or plastic.
- C. Piling must be fitted with devices to effectively prevent perching by piscivorous bird species.
- D. Piling must be placed from a barge-mounted or above top-of-bank position. If barge-mounted, barge shall not at any time be grounded on the bed or banks.
- E. The number and diameter of piling shall be minimized and reduced in diameter, to the extent practicable, without reducing structural integrity.

AUTHORIZED ACTIVITIES:

The following piling installation and removal activities are authorized in all waters under this general permit, individually or in combination:

- i. Repairs, upgrades, and replacement of existing piling.
- ii. Installation of new piling subject to the following limitations: no more than five (5) single piling or one (1) dolphin consisting of three (3) to five (5) piling per in-water construction period.

ACTIVITIES NOT AUTHORIZED BY THIS GENERAL PERMIT

Only activities described above are eligible for the SPGP. The following projects shall not be eligible for the SPGP:

- a) Any structure or activity that does not require authorization under both the Oregon Removal-Fill Law and the Department of the Army under either Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act;
- b) Projects involving excavation at sites where contaminated sediments are known to be present;
- c) Activities for which the Environmental Protection Agency has notified the District Engineer and applicant in writing that it is exercising its authority under 404(c) of the Clean Water Act to prohibit, deny, restrict, or withdraw the use or specification of any defined area for the discharge of dredged, excavated or fill material at the proposed site;
- d) Activities for which an application for a fill and removal permit has been denied by DSL;
- e) Activities that were initiated prior to the effective date of this SPGP without a Department of the Army permit, in violation of Federal statute;
- f) Activities occurring within a federally designated wild & scenic waterway; and
- g) Activities occurring within the Territorial Seas.
- h) Projects which may adversely affect Historic Properties.

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.

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.

GENERAL CONDITIONS

1. If, at any time during the performance of authorized work, the permit holder becomes aware of the presence of a previously unknown federally listed threatened or endangered species or its habitat (either on or adjacent to the project site), the permit holder shall immediately cease activities and notify DSL. The activities shall not continue until approved by DSL in coordination with the Corps.

2. All in-water work, including temporary fills or structures, shall be conducted to avoid or minimize impacts to fish and wildlife resources. Such work will be authorized to occur within the Oregon Department of Fish and Wildlife (ODFW) recommended periods for in-water work as specified in Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife. Exceptions to recommended in-water work periods may be authorized by DSL if requested by the applicant and consultation with ODFW indicates adverse impacts to fish and wildlife resources will be avoided or minimized. DSL must also consult with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service when federally listed species are present.

3. If any previously unknown historic or archeological remains are discovered while accomplishing an activity authorized by this permit, the permit holder must immediately cease work at the site of the discovery and notify DSL and Portland District, U.S. Army Corps of Engineers and report what was found. Work under this permit may not continue until authorization to proceed is received from DSL.

4. When replacing temporarily stockpiled native riparian or wetland soils, the richer organic soil shall be placed on top with the more sterile, less organic soil beneath.

5. Woody vegetation removed or destroyed as a result of the project shall be replaced with native trees and shrubs within one year of project completion.

6. All temporarily disturbed areas shall be returned to original ground contours at project completion.
7. No removal of vegetation shall occur outside the designated construction corridor.
8. There shall be no heavy equipment operating or traversing outside the construction corridor or footprint.
9. Stormwater may be released into a Special Area of Concern (SAC) only if it represents the environmentally preferable alternative and is for habitat enhancement purposes. Projects proposing to discharge stormwater into SACs for any other purpose will be ineligible for consideration under the SPGP. SACs are defined in Appendix A of the *Criteria for ORNHIC Review of Projects Covered under the SPGP, Oregon Natural Heritage Information Center, Oregon State University*, dated May 4, 2005.
10. Projects authorized under the SPGP shall conform to the applicable protocol described in *Criteria for ORNHIC Review of Projects Covered under the SPGP, Oregon Natural Heritage Information Center, Oregon State University*, dated May 4, 2005, where U.S. Fish and Wildlife Service species listed under the Endangered Species Act are present or when SACs have been identified.
11. Projects authorized under the SPGP shall comply with the terms and conditions of the SLOPES III Biological Opinion (issued November 30, 2004) or any subsequent revision, where NOAA-Fisheries species listed as threatened or endangered under the Endangered Species Act are present.
12. Compensatory mitigation for impacts to wetlands and other waters will be required as appropriate under federal guidance and DSL's administrative rules at OAR 141-085-0115 to 0176, as amended.
13. Stacking of multiple SPGP activities in order to exceed authorized thresholds for a single project is prohibited.
14. Activities authorized by the SPGP shall comply with the terms and conditions of the Water Quality Certification issued by the Oregon Department of Environmental Quality on July 14, 2005.
15. Activities authorized by the SPGP shall comply with the terms and conditions of the Coastal Zone Management Decision issued by the Oregon Department of Land Conservation and Development on March 10, 2004.
16. 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 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.

CORPS OF ENGINEERS DISCRETIONARY AUTHORITY

The Corps, at its discretion, may require an individual review for any project proposed for authorization under this SPGP. DSL, at its discretion, may request that the Corps conduct an individual review for any project that would otherwise be eligible for authorization under the SPGP.

PROCEDURES FOR AUTHORIZATION OF INDIVIDUAL ACTIVITIES

The operating procedures for this SPGP are detailed in a separate document, *Standard Operating Procedures for Oregon's Statewide Programmatic General Permit* (SOP). The SOP will be the means by which the terms of this SPGP are to be implemented. The SOP document is intended to be flexible and subject to change as needed. Notification of any changes to the SOP will be provided to U.S. Fish and Wildlife Service, National Marine Fisheries Service, U.S. Environmental Protection Agency, Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, and Oregon Department of Land Conservation and Development.

FEDERAL AGENCY REFERRAL PROVISION

If an eligible federal agency, including the Services or the Environmental Protection Agency (EPA), intends to refer an IP application to the Corps (i.e., kick-out), it will contact DSL via e-mail (preferred) or facsimile as soon as the federal agency makes the decision, up to a maximum of thirty (30) calendar days from the date of the DSL notice. The federal agency must then follow-up by sending a signed, original justification letter to the Corps within fourteen (14) days of the request.

Federal agency maximum response time for General Authorizations shall be fifteen (15) calendar days from receipt of notice. The federal agency must follow-up by sending a justification letter to the Corps within fourteen (14) days of the request.

If during the first year of operation under the SPGP, the federal agencies desire more time to prepare the justification letter, the agencies may request up to a fifteen (15) calendar day extension from the Corps to submit the follow-up justification letter. The initial e-mail or facsimile notification to DSL must still be sent within the time frames outlined above (30-days/IP & 15-days/GA).

In order to avoid unnecessary delays for applicants under either the state or federal permitting process, as soon as DSL receives the initial federal agency request via e-mail or facsimile, it shall immediately "kick-out" the application to the Corps (i.e., DSL will not hold the application in limbo status waiting for the justification letter). This is intended to create a maximum delay in referring the application to the Corps of thirty (30) calendar days for an IP, and fifteen (15) calendar days for a GA.

PERIODIC REVIEW

DSL and the Corps will host a meeting with the involved state and federal agencies to evaluate the SPGP after the first six months of operation and then again after the first twelve months of operation. Thereafter, DSL and the Corps will prepare annual monitoring/ effectiveness reports and hold annual meetings with the agencies each year the SPGP is in operation. Meetings may occur more frequently if necessary. In these meetings, DSL and the Corps will present statistics

relating to SPGP authorizations issued by category of activity, and the results of its compliance monitoring and enforcement programs. DSL and the Corps will request feedback from the state and federal agencies on its adherence to the terms and conditions of the SPGP, and all of the associated ESA, MSA, FWCA, OCMP and Section 401 water quality conditions, and will solicit input on needed improvements to the SPGP. DSL and the Corps will return to the agencies with a proposed list of improvements and a schedule for implementation.

REEVALUATION OF PERMIT DECISION

The District Engineer may reevaluate this SPGP 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 SPGP authorization for any specific geographic area, class of activities, or class of waters within the state of Oregon.

The District Engineer will evaluate any proposed changes in the Removal-Fill program, including changes in statute, rules, policies and procedures, to determine whether such changes may alter the effectiveness of this SPGP. The District Engineer will advise DSL of the effects of proposed changes on the continued use of the SPGP. If any such changes are implemented by DSL, and as a result of these changes the District Engineer determines that changes to the SPGP are needed, the District Engineer will proceed to modify the SPGP as appropriate, with public notice and opportunity for public comment.

The Standard Operating Procedures for this SPGP are detailed in a separate document, which is intended to be flexible and subject to change. The SOP document can be revised as needed to improve and refine specific processes and procedures without the need for public notice and review.

EXPIRATION OF THIS AUTHORITY

This SPGP will expire two years from the date on which it becomes effective, unless it is extended prior to that date. The expiration date of this permit may be extended up to five years from the initial effective date.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Richard W. Hobernicht
Colonel, Corps of Engineers
District Engineer

(DATE)