DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, PORTLAND DISTRICT
P.O. BOX 2946
PORTLAND, OR 97208-2946

July 22, 2022

Regulatory Branch
Corps No. NWP-2021-00355

JoAnn Woelfle
Tillamook County Parks Department
P.O. Box 633
Garibaldi, Oregon 97118
jwoelfle@co.tillamook.or.us

Dear JoAnn Woelfle:

Enclosed for your signature is an electronic copy of an initial proffered Department of the Army permit form. To accept the permit, please read the entire permit carefully, complete the form including signature, date of signature, typed name and title, and return the entire form including the signed page to the email address listed at the end of this letter.

If you object to this permit decision, you may submit your objections on the enclosed *Notification of Administrative Appeal Options and Process and Request for Appeal* form. For your objections to be considered, the appeal form describing your objections must be received in our office within 60 days of the date on the appeal form. Please be advised that the special condition requiring you to implement the mandatory terms and conditions of the programmatic biological opinion for the project is not appealable.

The requirements of the Endangered Species Act were met through a programmatic biological opinion as listed in the special conditions. The complete text of the biological opinion is available for your review at https://www.nwp.usace.army.mil/environment/.

The Corps did not prepare a jurisdictional determination for this project. The Corps has treated the aquatic resource(s) to be affected by this project as jurisdictional waters of the U.S. If you believe the Corps does not have jurisdiction over some or all of the aquatic resources at the project site, you may request an Approved Jurisdictional Determination (AJD). If one is requested, please be aware that we may require the submittal of additional information to complete the AJD and work authorized in this letter may not occur until the Corps completes the AJD.

You may not modify the permit form or permit drawings. The time limit for completing the work at General Condition 1 will be 5 years from the effective date of the permit. By signing the permit form you will be indicating your acceptance of all the permit's general and special conditions some of which require you to take action by specific due dates. If you do not submit an objection, the signed permit form must be provided to us within 60

days from the date of this letter or your application will be withdrawn. Since a Department of the Army permit is necessary for this work, do not begin work until you receive your copy of the fully executed permit.

If you have any questions regarding this correspondence, please contact me by telephone at (503) 808-4386 or email at katharine.a.mott2@usace.army.mil.

Sincerely,

Katharine A. Mott

Katharine A. Mott
Project Manager, Regulatory Branch

Enclosures

cc:
Environmental Science Associates (Susan Cunningham, SCunningham@esassoc.com)
Oregon Department of State Lands (Dan Cary, dan.cary@dsl.oregon.gov)
Oregon Department of Land Conservation and Development (coast.permits@dlcd.oregon.gov)
Oregon Department of Environmental Quality (Chris Stine, chris.stine@deq.oregon.gov)

DEPARTMENT OF THE ARMY PERMIT

Permittee: Tillamook County Parks Department
P.O. Box 633
Garibaldi, Oregon 97118
jwoelfle@co.tillamook.or.us

Permit No: NWP-2021-355

Issuing Office: U.S. Army Corps of Engineers, Portland District

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

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

Project Description: The Tillamook County Parks will dredge up to 1,200 cubic yards (cy) of sand, silt, and organic material from an area measuring approximately 0.24 acres below the High Tide Line (HTL) of Tillamook Bay/River to maintain vessel access to the Memaloose boat ramp. The existing fairway to the boat ramp will be dredged to a -6.0-foot depth Mean Lower Low Water (MLLW) datum. Dredge material removed from the fairway will be limited to restore navigational depths and widths of the prior prism. The Tillamook County Parks will utilize a clamshell dredge crane or backhoe operated from the boat ramp and adjacent jetty or will utilize a barge-mounted clamshell dredge. If a barge is used it will be operated carefully to avoid grounding on the streambed based on tidal fluctuations onsite.

The dredge operation will lower the clamshell bucket to the bottom substrate, remove dredge material, and place the spoils in the upland containment basin adjacent to the dredge area. All dredge spoils will be disposed of in the adjacent upland spoil disposal facility previously authorized by the Corps and Oregon Department of State Lands (DSL). Material will be dewatered within a containment berm at the disposal area. A weir will be used to form a small settling basin and dredged material return water will reenter Tillamook Bay after settling within the disposal areas settling basin. The spoils will be seeded with turf grass to stabilize and minimize erosion. After the spoils are completely dewatered, they will be removed and dispersed on County-owned upland property at a to be determined location. No fill material is proposed.

The Tillamook County Parks will conduct periodic maintenance dredging approximately every 5 years to dredge up to 1,200 cy of sand, silt, and organic material from 0.24 acre below the HTL of the existing fairway. The periodic maintenance dredging will maintain site

access by providing adequate depth for boat ingress and egress. Dredging depth will be approximately -6.0 ft depth with side slopes varying between a 2:1 and 1:1 horizontal to vertical slope.

Purpose: To dredge the existing Memaloose boat ramp fairway within Tillamook Bay.

Project Location: The project occurs within 0.24 acres of Tillamook Bay/Tillamook River, river mile 0, at the Tillamook County Memaloose boat ramp located at 1972 Bay Ocean Road, in Tillamook, Tillamook County, Oregon. Tax Lot 100 is the adjacent upland disposal area. The site is in Section 22, Township 1 South, Range 10 West. Latitude and Longitude: 45.471740° North, 123.890880° West.

Drawings: Six (6 of drawings/maps) (Attachment 1)

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on _____. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition No. 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions (Attachment 2).

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

a. 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.

b. Upon starting the activities authorized by this permit, Permittee shall notify the U.S. Army Corps of Engineers, Portland District, Regulatory Branch that the work has started. Notification shall be provided by e-mail to cenwp.notify@usace.army.mil and the email subject line shall include: NWP-2021-355, Tillamook County.

c. Permittee shall notify the U.S. Coast Guard District Thirteen of the project by email at D13-SMB-D13-LNM@uscg.mil at least 14 days prior to commencing work, so the project information can be issued in the Local Notice to Mariners.

d. Permittee shall comply with the conditions specified in the Oregon Department of Land Conservation and Development coastal zone management consistency determination dated May 31, 2022 (Attachment 3).

e. All in-water work shall be performed during the in-water work period of July 1 to September 15 or November 1 to February 15 to minimize impacts to aquatic species. Exceptions to these time periods requires specific approval from the Corps and the National Marine Fisheries Service.

f. This Corps permit does not authorize you to take an endangered species in particular those species identified in Attachment 4. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a biological opinion under ESA Section 7, with “incidental take” provisions with which you must comply). The National Marine Fisheries Service (NMFS) SLOPES IV In-water Over-water Structures programmatic biological opinion dated April 5, 2012 (NMFS Reference Number 2011/05585), contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with the “incidental take” that is also specified in the opinion. Your authorization under this Corps permit is conditional upon your compliance with all of the applicable mandatory terms and conditions associated with the incidental take statement. Failure to comply with the applicable terms and conditions associated with incidental take of this opinion, where

a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute noncompliance with your Corps permit. The NMFS is the appropriate authority to determine compliance with the terms and conditions of its opinion and with the ESA.

g. Permittee shall fully implement all applicable Proposed Design Criteria (PDC) of the *SLOPES IV In-water Over-water Structures* programmatic biological opinion. A detailed list of the PDCs are enclosed (Attachment 4). The applicable PDCs for the project include numbers: 6, 11, 17-18, and 35-36.

h. Permittee shall complete and submit an *Action Completion Form*, which is provided in Attachment 4, within 60 days of completing all work below ordinary high water. Submit the form by email to cenwp.notify@usace.army.mil and include the Corps project number and county in the email subject line.

i. Permittee shall complete and submit a *Salvage Reporting Form,* which is provided in Attachment 4, within 10 days of completing a capture and release of ESA-listed fish. Submit the form by email to cenwp.notify@usace.army.mil and include the Corps project number in the email subject line.

j. Permittee shall provide a copy of the permit transmittal letter, permit form, and permit drawings to all contractors performing any of the work authorized by this permit. A copy of the permit shall be available on the vessel(s) used in the transport and disposal of dredged material.

k. Permittee shall submit all dredging/disposal-related notifications and reports to the U.S. Army Corps of Engineers (Corps), Portland District, Regulatory Branch by email to cenwp.notify@usace.army.mil and the email subject line shall include: NWP-2021-355, Tillamook County, Dredging. If you are submitting files larger than 20 MB, contact your county Regulatory Project Manager for instructions.

l. At least 14 days prior to beginning dredging, you shall submit to the U.S. Army Corps of Engineers, Portland District, Regulatory Branch, a dredging operations and quality control plan for the authorized dredging and disposal. This plan must include: the Corps permit number, dredging contractor’s name and contact information, proposed dredging schedule, proposed dredged equipment and methodology, method and equipment for dredging and disposal positioning procedures, water quality monitoring and spill control procedures, debris management procedures, and report submittal schedule. The plan must be approved by the Corps prior to the commencement of dredging.

m. The work authorized by this permit includes periodic maintenance dredging. The special conditions in this permit apply to each maintenance dredging activity. Permittee shall notify the U.S. Army Corps of Engineers, Portland District, Regulatory Branch at least 14 days prior to beginning each maintenance dredging event.

n. Permittee shall have a Qualified Professional Archeologist meeting the requirements

of 36 Code of Federal Regulations Part 61 Appendix A present to monitor for archeological objects during all portions of the project-related earthmoving disturbances.

o. If human remains or cultural resources are discovered during the performance of the authorized work the permittee shall implement the Inadvertent Discovery Plan procedures (Attachment 5) and immediately notify the U.S. Army Corps of Engineers, Portland District, Regulatory Branch.

p. Within 90 days of completing earthmoving disturbances, the permittee shall submit a brief monitoring report prepared by the professional archeologist that performed the monitoring to the address on the permit letterhead or by email to cenwp.notify@usace.army.mil that describes the monitoring activities. The monitoring report shall include the following components: the permit number; name(s) and qualification(s) of archeologist(s) that did the monitoring; topographic and aerial map showing area monitored; dates of monitoring; description of activities monitored to include depth; description of cultural material identified or lack thereof; and photos of the monitoring activities.

q. Permittee shall not allow any water or dredged material placed in a hopper dredge or disposal barge or scow to overflow or leak from such vessels during transport to the dredged material disposal site.

r. Dredged material transferred from a barge to uplands for disposal shall not be allowed to re-enter waters of the United States. Appropriate plates, containers and/or drip pans shall be used to catch and collect material during offloading to prevent material from entering waters of the United States.

s. If dredging cannot be completed prior to January 2029 you shall coordinate with the Portland Sediment Evaluation Team (PSET) to obtain a determination regarding the need to re-characterize the dredged material. Coordination with PSET shall be initiated at least 9 months prior to January 2029.

t. Please contact ODEQ's Solid Waste Program regarding a Solid Waste Letter of Authorization (SWLA) or beneficial use determination for upland placement of dredged materials, if needed. Bob Schwarz, bob.schwarz@deq.oregon.gov, 503-229-5128.

u. Permittee shall conduct a post-dredge bathymetric survey of the dredged site. Plotted results of the post-dredge bathymetric survey, to include plan and section views, shall be submitted to the U.S. Army Corps of Engineers, Portland District, Regulatory Branch in PDF format within 60 days of the completion of dredging. Results must clearly display the post-dredge sediment surface in relation to the pre-dredge sediment surface and the permitted dredge boundary and depth, as well as the location of project features such as docks, wharfs and other landmarks. The vertical datum must be clearly indicated. Full bathymetric survey data must be submitted upon request.

v. Any deviations from the authorized dredging area or depths or deviations from the

authorized dredged material disposal shall be reported to the Regulatory Branch Project Manager within 24 hours of discovery.

w. Dredged material shall be deposited at the identified adjacent upland site with weir containment in compliance with rules and regulations promulgated by the local health district.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this Authorization:

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

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

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

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

3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted 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.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

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

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

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

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

(PERMITTEE SIGNATURE) **(DATE)**

(PRINTED NAME) **(TITLE)**

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

FOR THE COMMANDER, MICHAEL D. HELTON, PMP, COLONEL, CORPS OF ENGINEERS, DISTRICT COMMANDER:

(DISTRICT COMMANDER) **(DATE)**

William D. Abadie
Chief, Regulatory Branch

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

PERMIT TRANSFEREE:

_____ _____

Transferee Signature **DATE**

_____

Name (Please print)

_____

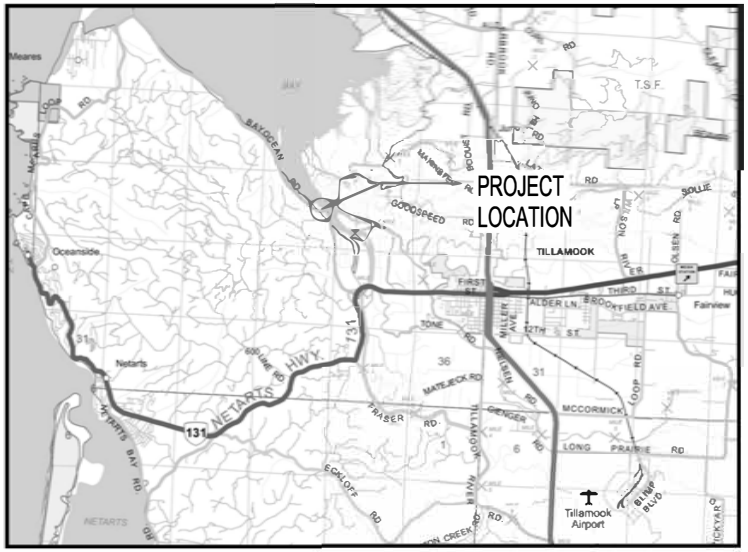
Address

_____

City, State, and Zip Code

LOCATION MAP

NO SCALE



VICINITY MAP

0 1 2 3 4

SCALE IN MILES

DRAWING INDEX

GEOGRAPHIC LOCATION	
TOWNSHIP:	01 SOUTH
RANGE:	10 WEST
SECTION:	22
TAX LOT:	100
COUNTY:	TILLAMOOK
LATITUDE:	45.472 NORTH
LONGITUDE:	-123.891 WEST
USGS QUAD MAP:	NETARTS

DREDGING PROJECT

MEMALOOSE POINT - TILLAMOOK RIVER
TILLAMOOK COUNTY PARKS DEPARTMENT

REGISTERED PROFESSIONAL ENGINEER
OREGON
JAN. 14, 2003
JEFFERY W. SMITH
EXPIRES: 6-30-22

FINAL CHECK SIGNATURE

DESIGNED: A. CHIOU
DRAFTED: A. CHIOU
DATE: 12-16-20

SHEET STATUS:
PERMIT REVIEW
NOT FOR CONSTRUCTION

OREGON STATE MARINE BOARD

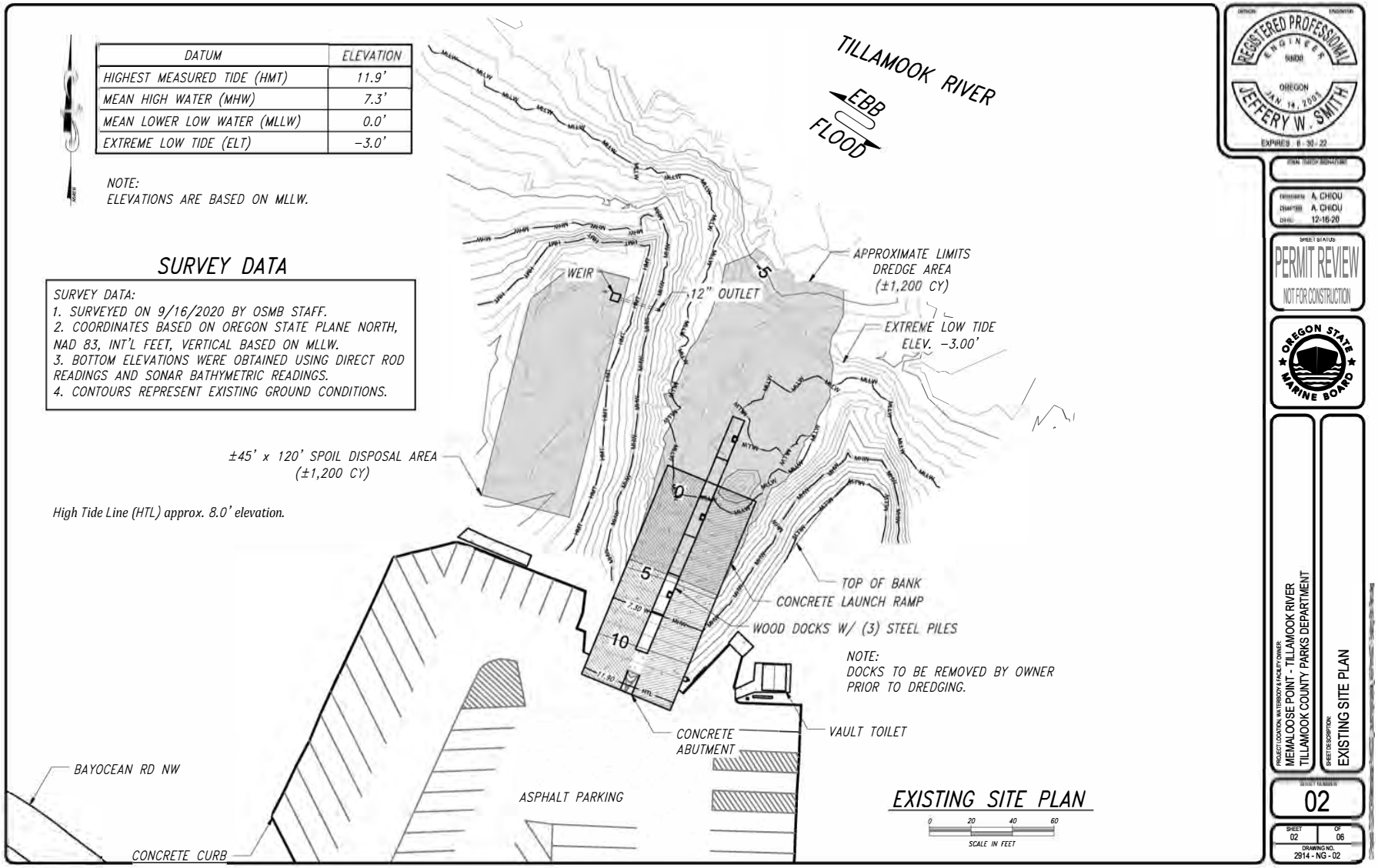
PROJECT LOCATION, WATERBODY & FACILITY OWNER:
MEMALOOSE POINT - TILLAMOOK RIVER
TILLAMOOK COUNTY PARKS DEPARTMENT

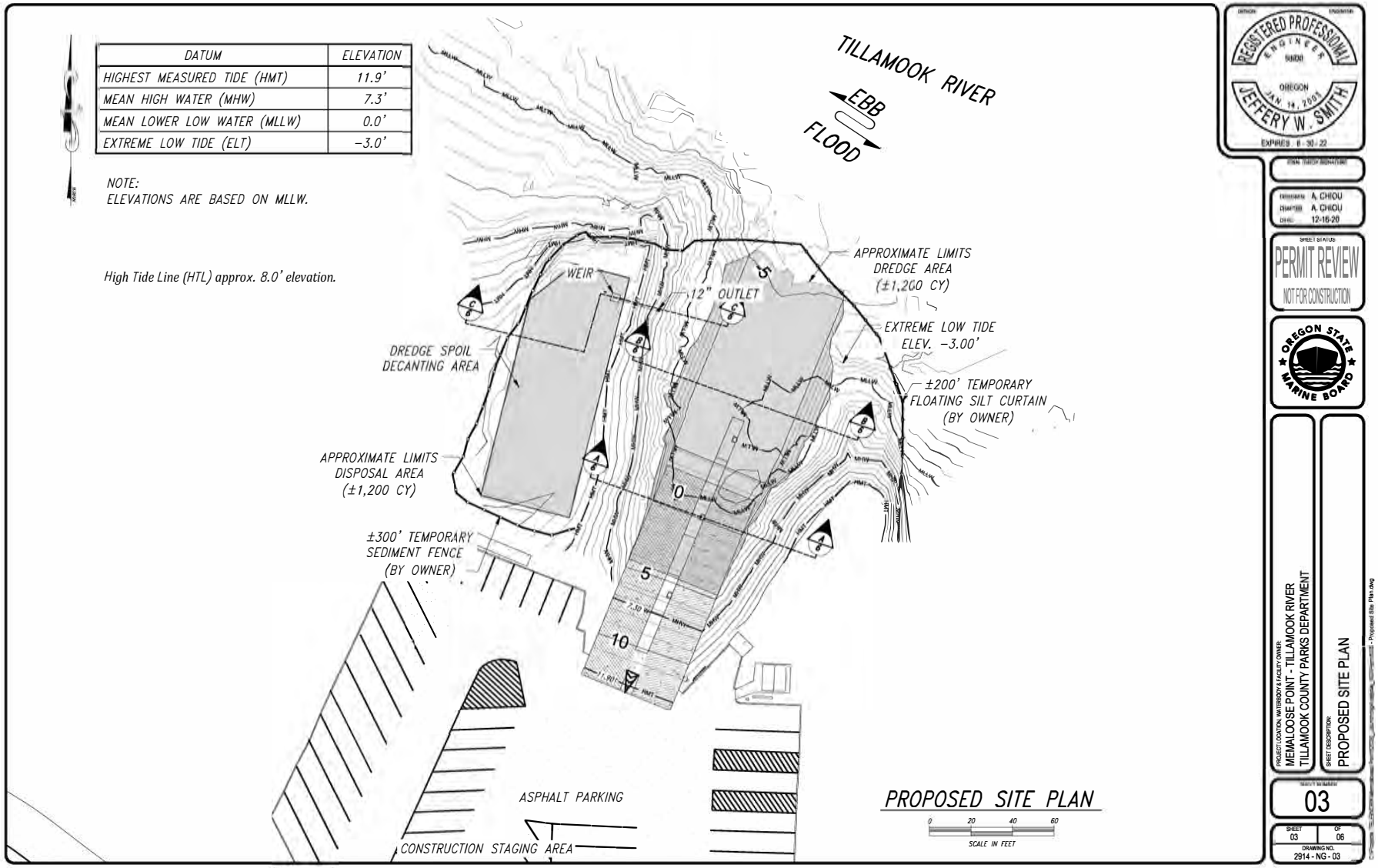
SHEET DESCRIPTION:
TITLE SHEET

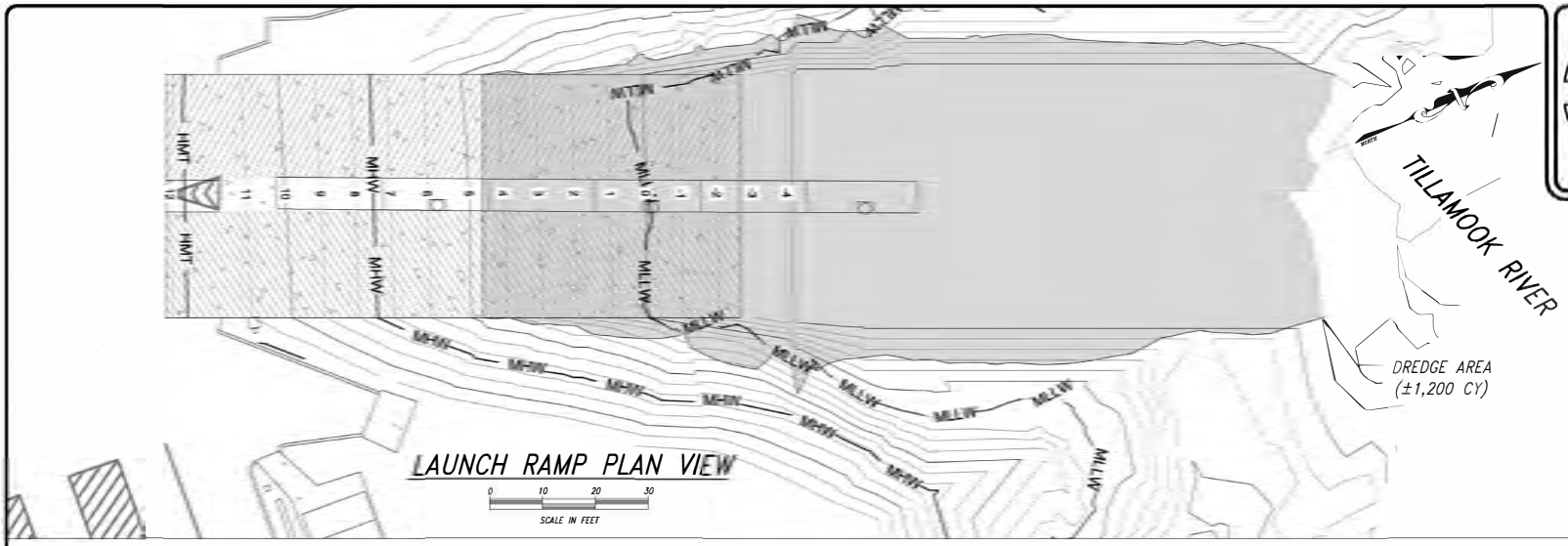
SHEET NUMBER
01

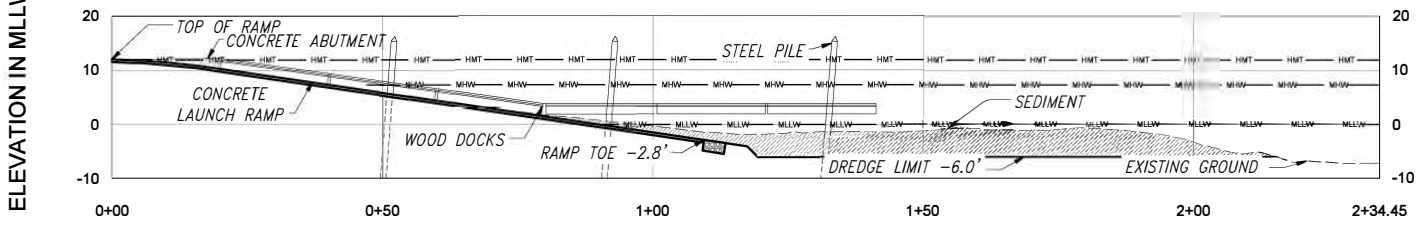
SHEET 01 OF 06

DRAWING NO.
2914 - NG - 01


DATUM | ELEVATION
HIGHEST MEASURED TIDE (HMT) | 11.9'
MEAN HIGH WATER (MHW) | 7.3'
MEAN LOWER LOW WATER (MLLW) | 0.0'
EXTREME LOW TIDE (ELT) | −3.0'
NOTE:
ELEVATIONS ARE BASED ON MLLW.
SURVEY DATA
SURVEY DATA:
1. SURVEYED ON 9/16/2020 BY OSMB STAFF.
2. COORDINATES BASED ON OREGON STATE PLANE NORTH, NAD 83, INT'L FEET, VERTICAL BASED ON MLLW.
3. BOTTOM ELEVATIONS WERE OBTAINED USING DIRECT ROD READINGS AND SONAR BATHYMETRIC READINGS.
4. CONTOURS REPRESENT EXISTING GROUND CONDITIONS.
TILLAMOOK RIVER
EBB
FLOOD
WEIR
12" OUTLET
APPROXIMATE LIMITS DREDGE AREA (±1,200 CY)
EXTREME LOW TIDE ELEV. −3.00'
±45' x 120' SPOIL DISPOSAL AREA (±1,200 CY)
High Tide Line (HTL) approx. 8.0' elevation.
TOP OF BANK
CONCRETE LAUNCH RAMP
WOOD DOCKS W/ (3) STEEL PILES
NOTE:
DOCKS TO BE REMOVED BY OWNER PRIOR TO DREDGING.
CONCRETE ABUTMENT
VAULT TOILET
BAYOCEAN RD NW
ASPHALT PARKING
CONCRETE CURB
EXISTING SITE PLAN
0 20 40 60
SCALE IN FEET
REGISTERED PROFESSIONAL ENGINEER
OREGON
JAN 14, 2003
JEFFERY W. SMITH
EXPIRES: 6-30-22
DESIGNED A. CHIOU
DRAWN A. CHIOU
DATE 12-16-20
SHEET STATUS
PERMIT REVIEW
NOT FOR CONSTRUCTION
OREGON STATE MARINE BOARD
PROJECT LOCATION, WATERBODY & FACILITY OWNER:
MEMALOOSE POINT - TILLAMOOK RIVER
TILLAMOOK COUNTY PARKS DEPARTMENT
SHEET DESCRIPTION:
EXISTING SITE PLAN
SHEET NUMBER
02
SHEET 02 OF 06
DRAWING NO.
2914 - NG - 02


DATUM | ELEVATION
HIGHEST MEASURED TIDE (HMT) | 11.9'
MEAN HIGH WATER (MHW) | 7.3'
MEAN LOWER LOW WATER (MLLW) | 0.0'
EXTREME LOW TIDE (ELT) | −3.0'
NOTE:
ELEVATIONS ARE BASED ON MLLW.
High Tide Line (HTL) approx. 8.0' elevation.
TILLAMOOK RIVER
EBB
FLOOD
WEIR
12" OUTLET
APPROXIMATE LIMITS DREDGE AREA (±1,200 CY)
EXTREME LOW TIDE ELEV. −3.00'
±200' TEMPORARY FLOATING SILT CURTAIN (BY OWNER)
DREDGE SPOIL DECANTING AREA
APPROXIMATE LIMITS DISPOSAL AREA (±1,200 CY)
±300' TEMPORARY SEDIMENT FENCE (BY OWNER)
ASPHALT PARKING
CONSTRUCTION STAGING AREA
PROPOSED SITE PLAN
0 20 40 60
SCALE IN FEET
REGISTERED PROFESSIONAL ENGINEER
OREGON
JAN 14, 2003
JEFFERY W. SMITH
EXPIRES: 6-30-22
DESIGNED A. CHIOU
DRAWN A. CHIOU
DATE 12-16-20
SHEET STATUS
PERMIT REVIEW
NOT FOR CONSTRUCTION
OREGON STATE MARINE BOARD
PROJECT LOCATION, WATERBODY & FACILITY OWNER:
MEMALOOSE POINT - TILLAMOOK RIVER
TILLAMOOK COUNTY PARKS DEPARTMENT
SHEET DESCRIPTION:
PROPOSED SITE PLAN
SHEET NUMBER
03
SHEET 03 OF 06
DRAWING NO.
2914 - NG - 03





LAUNCH RAMP PROFILE

0 10 20 30

SCALE IN FEET

DATUM	ELEVATION
HIGHEST MEASURED TIDE (HMT)	11.9'
MEAN HIGH WATER (MHW)	7.3'
MEAN LOWER LOW WATER (MLLW)	0.0'
EXTREME LOW TIDE (ELT)	−3.0'

NOTE:
ELEVATIONS ARE BASED ON MLLW.

High Tide Line (HTL) approx. 8.0' elevation.

REGISTERED PROFESSIONAL ENGINEER
OREGON
JAN 14, 2005
JEFFERY W. SMITH
EXPIRES: 6-30-22

DESIGNED A. CHIOU
DRAWN A. CHIOU
DATE 12-16-20

SHEET STATUS
PERMIT REVIEW
NOT FOR CONSTRUCTION

OREGON STATE MARINE BOARD

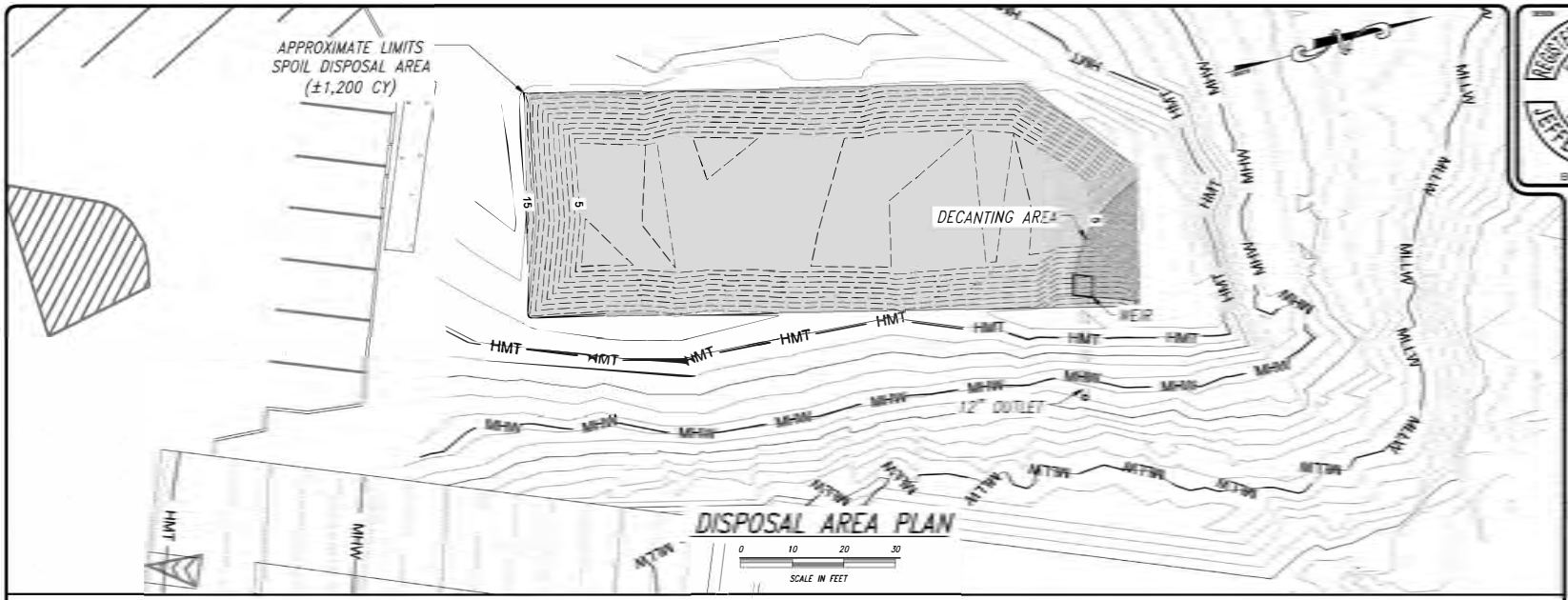
PROJECT LOCATION, WATERBODY & FACILITY OWNER:
MEMALOOSE POINT - TILLAMOOK RIVER
TILLAMOOK COUNTY PARKS DEPARTMENT

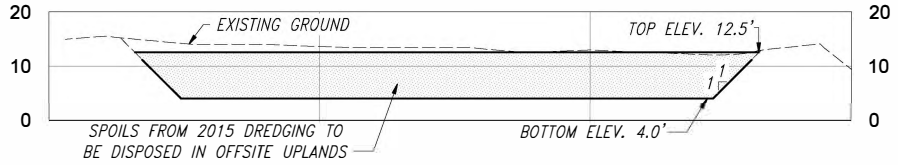
SHEET DESCRIPTION:
LAUNCH RAMP PLAN & PROFILE

SHEET NUMBER
04

SHEET 04 OF 06

DRAWING NO.
2914 - NG - 04





NOTE:
PROJECT SCOPE INCLUDES REMOVAL OF EXISTING SPOILS. ONCE DISPOSAL AREA IS RECONSTRUCTED, DREDGE SPOILS FROM RAMP AND NAVIGATIONAL FAIRWAY WILL BE PLACED IN DISPOSAL AREA. WATER FROM SPOILS WILL DRAIN INTO BOAT BASIN VIA WEIR AND BE CONTAINED USING TEMPORARY FLOATING SILT CURTAIN. SPOIL DISPOSAL SITE WILL BE SEEDED UPON PROJECT COMPLETION.

High Tide Line (HTL) approx. 8.0' elevation.

DISPOSAL AREA PROFILE

0 10 20 30
SCALE IN FEET

DATUM	ELEVATION
HIGHEST MEASURED TIDE (HMT)	11.9'
MEAN HIGH WATER (MHW)	7.3'
MEAN LOWER LOW WATER (MLLW)	0.0'
EXTREME LOW TIDE (ELT)	−3.0'

NOTE:
ELEVATIONS ARE BASED ON MLLW.

REGISTERED PROFESSIONAL ENGINEER
OREGON
JEFFERY W. SMITH
EXPIRES: 6-30-23

PERMIT REVIEW
NOT FOR CONSTRUCTION

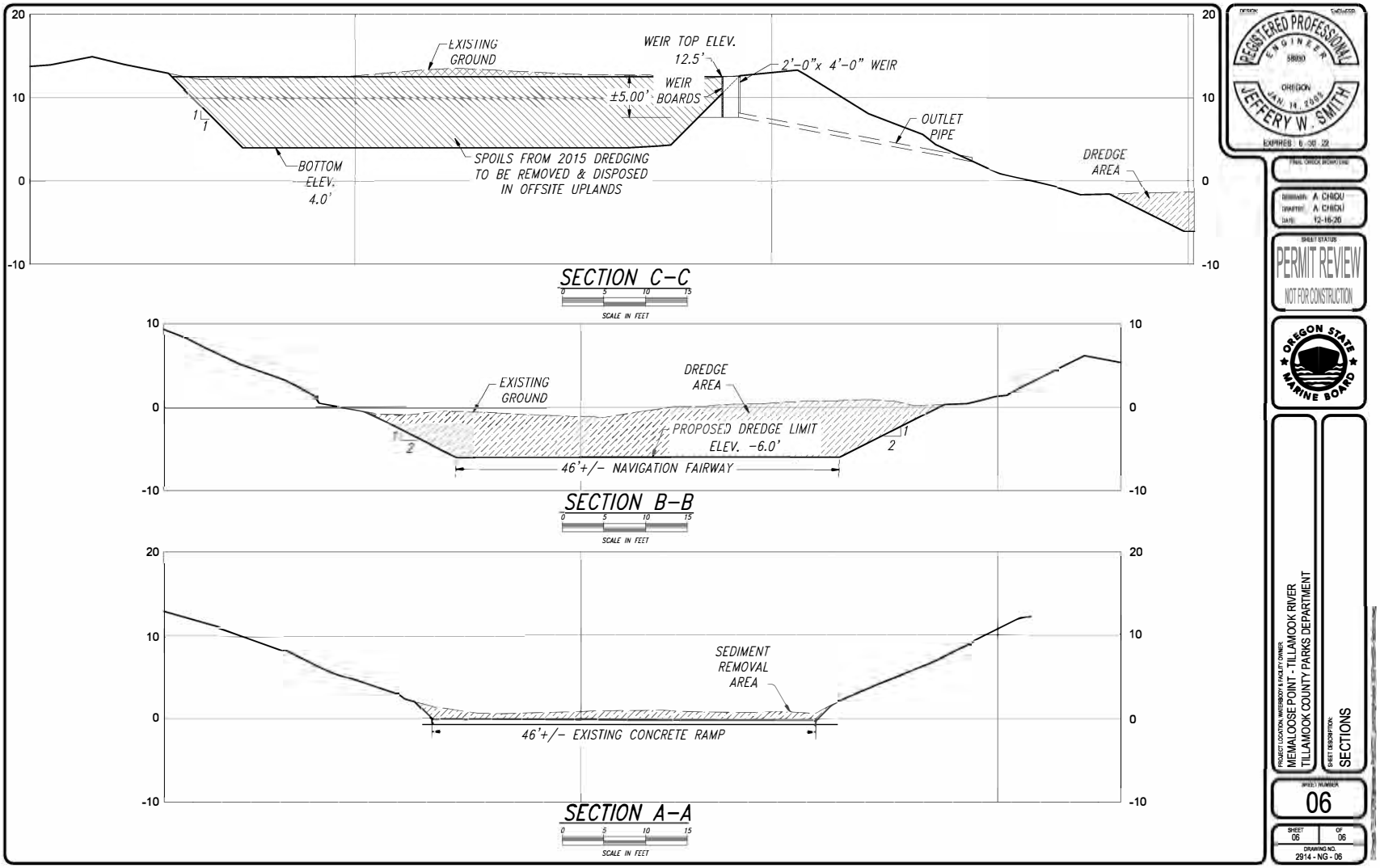
OREGON STATE MARINE BOARD

PROJECT LOCATION, WATERBODY & FACILITY OWNER:
MEMALOOSE POINT - TILLAMOOK RIVER
TILLAMOOK COUNTY PARKS DEPARTMENT

SHEET DESCRIPTION:
DISPOSAL AREA PLAN & PROFILE

05

SHEET 05 OF 06
DRAWING NO. 2914 - NG - 05


EXISTING GROUND
WEIR TOP ELEV. 12.5'
2'-0"x 4'-0" WEIR
WEIR BOARDS
±5.00'
OUTLET PIPE
DREDGE AREA
1
1
BOTTOM ELEV. 4.0'
SPOILS FROM 2015 DREDGING TO BE REMOVED & DISPOSED IN OFFSITE UPLANDS
SECTION C–C
SCALE IN FEET
EXISTING GROUND
DREDGE AREA
PROPOSED DREDGE LIMIT ELEV. -6.0'
1
2
46'+/- NAVIGATION FAIRWAY
SECTION B–B
SCALE IN FEET
SEDIMENT REMOVAL AREA
46'+/- EXISTING CONCRETE RAMP
SECTION A–A
SCALE IN FEET
REGISTERED PROFESSIONAL ENGINEER
OREGON
JEFFERY W. SMITH
EXPIRES: 6-30-22
DESIGNED: A. CHIOU
DRAFTED: A. CHIOU
DATE: 12-16-20
SHEET STATUS
PERMIT REVIEW
NOT FOR CONSTRUCTION
OREGON STATE MARINE BOARD
PROJECT LOCATION, WATERBODY & FACILITY OWNER:
MEMALOOSE POINT - TILLAMOOK RIVER
TILLAMOOK COUNTY PARKS DEPARTMENT
SHEET DESCRIPTION:
SECTIONS
PROJECT NUMBER
06
SHEET 06
OF 06
DRAWING NO.
2914 - NG - 06

Oregon
Kate Brown, Governor

Department of Environmental Quality
Northwest Region Portland Office/Water Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
(503) 229-5263
FAX (503) 229-6957
TTY 711

March 18, 2022

JoAnn Woelfle
Tillamook County Parks Department
P.O. Box 633
Garibaldi, Oregon 97118

RE: NWP-2021-355; Tillamook County Parks
Memaloose Boat Launch Maintenance Dredging Project
Section 401 Water Quality Certification

The Department of Environmental Quality (DEQ) has reviewed the U.S. Army Corps of Engineers (USACE) Permit application # 2021-355 (Department of State Lands [DSL] #63362-GP), pursuant to a request for a Clean Water Act Section 401 Water Quality Certification (WQC) received on December 22, 2021. The request for water quality certification was available for public comment from December 9, 2021, through January 8, 2022. DEQ received no comments from the public regarding the project during the public comment period.

The Tillamook County Parks Department (Tillamook, "Applicant") proposes to conduct maintenance dredging to maintain vehicle access at the Memaloose boat ramp. The proposed action will impact the Tillamook River at River Mile (RM) 0 near Memaloose Point. The project is located in on the south bank of the Tillamook River west of Tillamook, Oregon, Tillamook County, Oregon (Section 22 /Township 1S /Range 10W).

Project Description:
The Applicant proposes to dredge up to 1,200 cubic yards (cy) of sand, silt, and organic material from an area measuring approximately 0.24 acres below the High Tide Line (HTL) of Tillamook Bay to maintain vessel access to the Memaloose boat ramp. The existing fairway to the boat ramp would be dredged to a -6.0-foot depth Mean Lower Low Water datum. The applicant would utilize a clamshell dredge crane or backhoe operated from the boat ramp and adjacent jetty or would utilize a barge-mounted clamshell dredge.

Material would be dewatered within a containment berm at the disposal area. A weir would be used to form a small settling basin and dredged material return water would reenter Tillamook Bay after settling within the disposal areas settling basin. The spoils would be seeded with turf grass to stabilize and minimize erosion. After the spoils are completely dewatered, they would be removed and dispersed on County-owned upland property at a location to be determined.

Tillamook seeks a 10-year permit term to conduct periodic maintenance dredging at approximately five-year intervals.

Sediment Characterization:

In email correspondence dated January 5, 2022, the Portland Sediment Evaluation Team (PSET) issued a determination that the dredge material did not require prior sediment testing per Subpart G of the Clean Water Act section 404(b)(1) guidelines (see 40 CFR 230.60-230.61). The determination was made based on Level 1 sediment information provided by the Applicant, past sediment testing data from 2005, and a previous PSET no-test determination from October 2014. The scope of the PSET's sediment evaluation includes excavation and upland placement of sediments related to the maintenance dredging at the boat ramp.

Status of Affected Waters of the State: The project site is located at RM 0 of the Tillamook River as it discharges to Tillamook Bay. The project site is located in the upper mainstem of the Tillamook Bay estuary assessment unit, which is listed on the Section 303(d) list of impaired water bodies for E. coli and dissolved oxygen. Tillamook Bay also has an EPA approved Total Maximum Daily Load (TMDLs) developed for temperature and fecal coliform. The above listed parameters impair the following beneficial uses in Tillamook Bay: fish and aquatic life; water contact recreation; and fishing.

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

401 WQC GENERAL CONDITIONS

1) **Responsible parties:** This 401 WQC applies to the Applicant. The Applicant is responsible for the work of its contractors and sub-contractors, as well as any other entity that performs work related to this WQC.
Rule: *40 CFR 121, OAR 340-048-0015*
Justification: *DEQ must be aware of responsible parties to ensure compliance.*

2) **Work Authorized:** Work authorized by this Order is limited to the work described in the Joint Permit Application signed on March 31, 2021, and additional application materials (hereafter "the permit application materials"), unless otherwise authorized by DEQ. If the project is operated in a manner not consistent with the project description contained in the permit application materials, the Applicant is not in compliance with this 401 WQC and may be subject to enforcement.
Rule: *OAR 340-048-0015*
Justification: *To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.*

3) **Duration of Certificate:** This 401 WQC for impacts to waters, including dredge and fill activities, is valid for ten years from the date of issuance of the USACE 404 permit. A new or modified 401 WQC must be obtained prior to any modification of the USACE 404 permit.
Rule: *40 CFR 121*
Justification: *Certification is required for any license or permit that authorizes an activity that may result in a discharge.*

4) A copy of this 401 WQC letter must be kept on the job site and readily available for reference by Applicant or its contractors, as well as by DEQ, USACE, National Marine Fisheries Service (NMFS), Oregon Department of Fish and Wildlife (ODFW), and other appropriate state and local government inspectors.
Rule: *OAR 340-012*
Justification: *All parties must be aware of and comply with the 401 WQC, including on-site contractors.*

5) **Modification:** Any approved modifications to this 401 WQC will incur a Tier 1 fee of $985 at a minimum. Complex modifications may be charged a higher fee.
Rule: *OAR 340-048-0050*
Justification: *To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.*

6) The Applicant must notify DEQ of any change in ownership or control of this project and obtain DEQ review and approval before undertaking any change to the project that might affect water quality.
Rule: *OAR 340-048-0050*
Justification: *To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.*

7) DEQ may modify or revoke this 401 WQC, in accordance with OAR 340-048-0050, if project changes or project activities are having an adverse impact on state water quality or beneficial uses.
Rule: *OAR 340-048-0050*
Justification: *To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.*

8) The applicant and its contractors must allow DEQ access to the project site, staging areas, and mitigation sites to monitor compliance with these 401 WQC conditions, including:
   a. Access to any records, logs, and reports that must be kept under the conditions of this 401 WQC;
   b. To inspect Best Management Practices, monitoring or operational equipment or methods;
   c. To collect samples or monitor any discharge of pollutants.
Rule: *OAR 340-012*
Justification: *DEQ must inspect facilities for compliance with all state rules and laws.*

9) If DEQ determines the Applicant has engaged or is about to engage in activities that constitute a violation of this WQC, DEQ may initiate proceedings, including but not limited to civil or criminal enforcement provisions, to enforce compliance or to restrain further violations, as authorized by ORS 468.100.
Rule: *OAR 340-012*
Justification: *If the project is not being constructed or operated as proposed, it may not be consistent with water quality requirements.*

DREDGING GENERAL CONDITIONS

10) **Spill Prevention:** The Applicant must fuel, operate, maintain and store equipment, in a manner that prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into state waters.
Rule: *ORS 466.645(1); OAR 340-142-0030(1)(b)(B), OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways and must be protective of beneficial uses, including fish.*

11) **Spill & Incident Reporting**:

a. In the event that petroleum products, chemicals, or any other deleterious materials are discharged into state waters, or onto land with a potential to enter state waters, the discharge must be promptly reported to the Oregon Emergency Response Service (OERS, 1-800-452-0311). Containment and cleanup must begin immediately and be completed as soon as possible.

b. If the project operations cause a water quality problem which results in distressed or dying fish, the operator must immediately: cease operations; take appropriate corrective measures to prevent further environmental damage; collect fish specimens and water samples; and notify DEQ, Oregon Department of Fish and Wildlife and other appropriate regulatory agencies.

Rule: *ORS 466.645(1); OAR 340-142-0030(1)(b)(B), OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways and must be protective of beneficial uses, including fish.*

SPECIFIC CONDITIONS FOR IN-WATER WORK

12) **Fish protection/ Oregon Department of Fish and Wildlife timing:** Applicant must perform in-water work only within the Oregon Department of Fish and Wildlife preferred time window as specified in the *Oregon Guidelines for Timing of In-Water Work* to Protect Fish and Wildlife Resources, or as authorized otherwise under a Department of State Lands removal/fill permit. Exceptions to the timing window must be recommended by Oregon Department of Fish and Wildlife and/or the National Marine Fisheries Services as appropriate.
Rule: *OAR 340-041-0011*
Justification: *DEQ must be protective of all water quality standards, including beneficial uses such as fish and aquatic life.*

13) **Turbidity**: The Applicant must implement BMPs to minimize turbidity during in-water work. Any activity that causes turbidity to exceed 10% above natural stream turbidities is prohibited except as specifically provided below:

a. **Monitoring**: Turbidity monitoring must be conducted and recorded as described below. Monitoring must begin one hour after star of work, and occur at two hour intervals each day during daylight hours when in-water work is being conducted. A properly calibrated turbidimeter is required.

i. Representative Background Point: Applicant must take and record a turbidity measurement every two hours during in-water work at an undisturbed area 300 feet upcurrent from the in-water disturbance, in order to establish background turbidity levels. The background turbidity, location, date, tidal stage (if applicable) and time must be recorded immediately prior to monitoring downcurrent at the compliance point described below.

ii. Compliance Point: Monitoring must occur every two hours 100 feet downcurrent from the disturbance and within any visible plume. The turbidity, location, date, tidal stage (if applicable) and time must be recorded for each measurement.

b. **Compliance**: Applicant must compare turbidity monitoring results from the compliance points must to the representative background levels taken during

each two hour monitoring interval. Pursuant to OAR 340-041-0036, short term exceedances are allowed as followed:

MONITORING WITH A TURBIDIMETER *EVERY 2 HOURS*	
TURBIDITY LEVEL	***Restrictions to Duration of Activity***
0 to 4 NTU above background	No Restrictions
5 to 29 NTU above background	Work may continue maximum of 4 Hours. If turbidity remains 5-29 NTU above background, stop work and modify BMPs. Work may resume when NTU is 0-4 above background.
30 to 49 NTU above background	Work may continue maximum of 2 Hours. If turbidity remains 30-49 NTU above background, stop work and modify BMPs. Work may resume when NTU is 0-4 above background.
50 NTU or more above background	Stop work immediately and inform DEQ

c. **Reporting**:
   i. Record all turbidity monitoring required by subsections (a) and (b) above in daily logs which must include: calibration documentation; background NTUs; compliance point NTUs; comparison of the points in NTUs; and location; date; time; and tidal stage (if applicable) for each reading.
   ii. Keep records on file for the duration of the permit cycle.
   iii. Prepare a narrative discussing all exceedances with subsequent monitoring, actions taken, and the effectiveness of the actions.
   iv. Applicant must make available copies of daily logs for turbidity monitoring to regulatory agencies including DEQ, USACE, NMFS, USFWS, and ODFW upon request. An example turbidity log is attached to this certification.

Rule: *OAR 340-041-0036, OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways.*

SPECIFIC CONDITIONS FOR DREDGING

14) **Work Area Isolation**: To isolate the work area from flowing portions of the river and estuary, Tillamook County and its contractors shall follow the procedures and best management practices described in the Work Area Isolation Plan provided as an attachment to the JPA unless expressly required otherwise by the Conditions of this WQC.
Rule: *ORS 466.645(1); OAR 340-142-0030(1)(b)(B), OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways and must be protective of beneficial uses, including fish.*

15) **Dredging and Erosion Control**: For the duration of the project Tillamook County and its contractors shall follow the procedures and best management practices described in the Pollution and Erosion Control Plan for Dredging provided as an attachment to the JPA unless expressly required otherwise by the Conditions of this WQC.
Rule: *ORS 466.645(1); OAR 340-142-0030(1)(b)(B), OAR 340-041*
Justification: *DEQ must ensure that pollution does not enter waterways and must be protective of beneficial uses, including fish.*

16) **Pre-Dredge Notification**: The Applicant must notify DEQ at least 14 days prior to commencing dredging and disposal activities unless otherwise agreed to by DEQ. The Applicant shall notify DEQ of any pre-dredge coordination meeting.
Rule: *OAR 340-012*
Justification: *DEQ must inspect facilities for compliance with all state rules and laws.*

17) **Post-Dredge Notification**: The Applicant must submit to DEQ a dredge disposal report within 60 days of completing annual dredge disposal activities. The report shall include the following items as applicable: turbidity monitoring data, debris monitoring results, disposal dates, volumes, location maps, photographs, and biological observations.

Rule: *OAR 340-048-0015*
Justification: *To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.*

If the applicant is dissatisfied with the conditions contained in this certification, a contested case hearing may be requested in accordance with OAR 340-048-0045. Such request must be made in writing to the DEQ Office of Compliance and Enforcement at 700 NE Multnomah St, Suite 600, Portland Oregon 97232 within 20 days of the mailing of this certification.

The DEQ hereby certifies this project in accordance with the Clean Water Act and state rules, with the above conditions. If you have any questions, please contact Chris Stine at chris.stine@deq.state.or.us, by phone at 541-686-7810, or at the address on this letterhead.

Sincerely,

Steve Mrazik
Water Quality Manager
Northwest Region

cc: Kinsey M. Friesen, US Army Corps of Engineers
Dan Cary, Oregon DSL
Patty Snow, Oregon DLCD

State of Oregon
DEQ Department of Environmental Quality

401 Water Quality Certification Turbidity Monitoring Report

Project Name:	USACE Project #	DSL Project #

Name of Inspector(s):	Turbidimeter Model:	Calibration Standard Type (Circle One) Formazin Solution or Gelex	Calibration Standard Expiration Date:

Sampling Date:	Calibration Values:	*Upstream (Background) Point Location:	*Downstream (Compliance) Point Location:
	_____NTU (Standard) = _____NTU (Reading) _____NTU (Standard) = _____NTU (Reading) _____NTU (Standard) = _____NTU (Reading)	Latitude: Longitude:	Latitude: Longitude:

In-Water Work Start Time:	In-Water Work End Time:	Description of In-Water Work:

Upstream Sample		Downstream Sample		Change in Turbidity (NTU)	Observation of waterbody		NOTES (Describe any modifications made to BMPs)
Time	Turbidity (NTU)	Time	Turbidity (NTU)		Tidal Stage	Note any plume, sheen, floatables, color	

** Include a figure with the turbidity sampling forms showing the sampling locations.*

State of Oregon
DEQ Department of Environmental Quality

401 Water Quality Certification Turbidity Monitoring Report

Turbidity: The Applicant must implement appropriate Best Management Practices (BMPs) to minimize turbidity during in-water work. Any activity that causes turbidity to exceed 10% above natural stream turbidity is prohibited except as specifically provided below:

Monitoring: Turbidity monitoring must be conducted and recorded as described below. Monitoring must begin one hour after star of work, and occur at two hour intervals each day during daylight hours when in-water work is being conducted. A properly calibrated turbidimeter is required unless another monitoring method is proposed and authorized by DEQ.
Representative Background Point: The Applicant must take and record a turbidity measurement every two hours during in-water work at an undisturbed area. A background location shall be established at a representative location approximately 300 feet upcurrent of the in water activity. The background turbidity, location, date, tidal stage (if applicable) and time must be recorded immediately prior to monitoring downcurrent at the compliance point described below.
Compliance Point: The must monitor every two hours. A compliance location shall be established at a representative location approximately 100 feet downcurrent from the disturbance at approximately mid-depth of the waterbody and within any visible plume. The turbidity, location, date, tidal stage (if applicable) and time must be recorded for each measurement.

Compliance: The Applicant must compare turbidity monitoring results from the compliance points to the representative background levels taken during each two – hour monitoring interval. Pursuant to OAR 340-041-0036, short term exceedances of the turbidity water quality standard are allowed as shown in the monitoring table shown here.

MONITORING WITH A TURBIDIMETER *EVERY 2 HOURS*	
TURBIDITY LEVEL	***Restrictions to Duration of Activity***
0 to 4 NTU above background	No Restrictions
5 to 29 NTU above background	Work may continue maximum of 4 hours. If turbidity remains 5-29 NTU above background, stop work and modify BMPs. Work may resume when NTU is 0-4 above background.
30 to 49 NTU above background	Work may continue maximum of 2 hours. If turbidity remains 30-49 NTU above background, stop work and modify BMPs. Work may resume when NTU is 0-4 above background.
50 NTU or more above background	Stop work immediately and inform DEQ

Reporting: The Applicant must record all turbidity monitoring required by subsections (a) and (b) above in daily logs, kept on file for the duration of the permit cycle. The daily logs must include calibration documentation; background NTUs; compliance point NTUs; comparison of the points in NTUs; location; date; time; and tidal stage (if applicable) for each reading. Additionally, a narrative must be prepared discussing all exceedances with subsequent monitoring, actions taken, and the effectiveness of the actions. Applicant must make available copies of daily logs for turbidity monitoring to DEQ, USACE, NMFS, USFWS, and ODFW upon request.

401_WQC_2021_355_TillamookParks_Memaloose

Final Audit Report 2022-03-18

Created:	2022-03-18
By:	Chamille Hartman (chamille.hartman@deq.state.or.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAeWnBpDeD7mgZFM1Wa6s8xCyiuEBRHlav

"401_WQC_2021_355_TillamookParks_Memaloose" History

Document created by Chamille Hartman (chamille.hartman@deq.state.or.us)
2022-03-18 - 8:08:22 PM GMT

Document emailed to Steve Mrazik (steve.mrazik@deq.state.or.us) for signature
2022-03-18 - 8:08:49 PM GMT

Email viewed by Steve Mrazik (steve.mrazik@deq.state.or.us)
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Document e-signed by Steve Mrazik (steve.mrazik@deq.state.or.us)
Signature Date: 2022-03-18 - 8:17:21 PM GMT - Time Source: server- IP address: 159.121.206.56

Agreement completed.
2022-03-18 - 8:17:21 PM GMT

Oregon
Kate Brown, Governor

Oregon Coastal Management Program
Department of Land Conservation and Development
635 Capitol Street, Suite 150
Salem, Oregon 97301-2540
Phone (503) 373-0050
FAX (503) 378-6033
www.oregon.gov/LCD/OCMP

May 31, 2022

JoAnn Woelfle, Director
Tillamook County Parks
P.O. Box 633
Garibaldi, OR 97118
Jwoelfe@co.tillamook.or.us
E-copy: SCunningham@esassoc.com>

Permit #: 2021-355
Project Name: Memaloose Boat Ramp Fairway
Applicant: Tillamook County Parks
Location: Memaloose Point, 2 mi. NW of Tillamook on Bay Ocean Rd. (Latitude & Longitude* 45.471740°, -123.890880°)

Description: The applicant proposes to dredge up to 1,200 cubic yards (cy) of sand, silt, and organic material from an area measuring approximately 0.24 acres below the High Tide Line (HTL) of Tillamook Bay to maintain vessel access to the Memaloose boat ramp. The existing fairway to the boat ramp would be dredged to a -6.0-foot depth Mean Lower Low Water datum. The applicant would utilize a clamshell dredge crane or backhoe operated from the boat ramp and adjacent jetty or would utilize a barge-mounted clamshell dredge. Material would be dewatered within a containment berm at the disposal area. A weir would be used to form a small settling basin and dredged material return water would reenter Tillamook Bay after settling within the disposal areas settling basin. The spoils would be seeded with turf grass to stabilize and minimize erosion. After the spoils are completely dewatered, they would be removed and dispersed on County-owned upland property. Timeframe of the action is 10-years, with periodic maintenance dredging occurring at approximately 5-year intervals.

Decision: **Concurrence.** After reviewing potential coastal effects and applying the enforceable policies of the Oregon Coastal Management Program to the action requiring a federal permit, the OCMP has concurred with the consistency certification for this activity seeking a federal permit.

Dear JoAnn Woelfle,

The Oregon Coastal Management Program (OCMP-DLCD) has reviewed the U.S. Army Corps of Engineers (USACE) permit application NWP 2021-355 for consistency with the state's Coastal Management Program (Program). Any federal action in the coastal zone, including administering a federal permit or license, like the Section 404/401 permits under the Clean Water Act or Section 10 of the Rivers and Harbors Act, triggers a federal consistency review to comply with the federal Coastal Zone Management Act (CZMA) of 1972. OCMP has reviewed the proposed project and consistency certification pursuant to CZMA Section 307(c)(3) and attendant regulations of 15 CFR part 930.

The CZMA requires an applicant for a federal license or permit affecting any coastal use or resource within a state's coastal zone to comply 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 Program. To be consistent with the Program, the proposed project must be consistent with:

1) Oregon's Statewide Planning Goals;
2) Applicable acknowledged city or county comprehensive plan;
3) Selected state authorities (*e.g.* selected statute sections).

Findings:

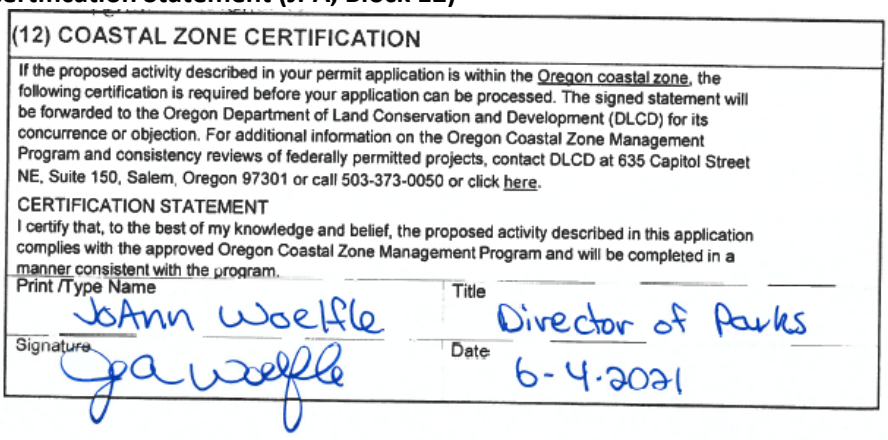
OCMP-DLCD independently evaluated the project against Oregon's federally approved enforceable policies and has determined that the project is consistent with the Program. Evidence in support of this includes the issuance of the following permits or authorizations:

- Department of State Lands
  - DSL Renewal – 63362-GP issued on April 20, 2022, and expiring July 20, 2023
- Department of Environmental Quality
  - 401 Water Quality Certification, approved on March 18, 2022, and valid for ten years from the date of issuance of the Corps' 404 permit
- Portland Sediment Evaluation Team (PSET)
  - Determination issued on January 5, 2022 stating that the project does not require further sediment physical or chemical evaluation. This no-test determination is valid for 7 years, through January 2029.
- Tillamook County
  - Estuary/ Floodplain Development Permit #851-22-000124-PLNG, dated May 10, 2022

Additional Information:

- The applicant has certified that to the best of their knowledge and belief, the project complies with the enforceable policies of the Program and will be completed in a manner consistent with the Program. The Coastal Zone Certification was signed by JoAnn Woelfle on June 4, 2021 (see signed Block 12 below).
- This project is under consideration for a Standard Individual Permit.
- The 30-day joint public notice period for this project began on December 9, 2021 and ended on January 8, 2022 and yielded zero public comments.

Certification Statement (JPA, Block 12)



(12) COASTAL ZONE CERTIFICATION

If the proposed activity described in your permit application is within the Oregon coastal zone, the following certification is required before your application can be processed. The signed statement will be forwarded to the Oregon Department of Land Conservation and Development (DLCD) for its concurrence or objection. For additional information on the Oregon Coastal Zone Management Program and consistency reviews of federally permitted projects, contact DLCD at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301 or call 503-373-0050 or click here.

CERTIFICATION STATEMENT

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

Print /Type Name: JoAnn Woelfle

Title: Director of Parks

Signature: JA Woelfle

Date: 6-4-2021

Consistency Decision Details & Conditions

OCMP-DLCD **concurs with** the applicant's certification that the proposal is consistent with the Program. **Failure to obtain and abide by all required local, state, or federal permits may constitute a violation of local, state, and/or federal law and subject the applicant to one or more enforcement actions. The applicant must also ensure all local, state, or federal permits remain current.**

Right of Appeal (To Special Conditions)

There are no special conditions attached to this decision.

If the applicant objects to any conditions within this decision, all parties shall treat DLCD's concurrence as an objection. 15 CFR § 930.4(a)(1). Pursuant to 15 CFR § 930.63(e), and within 30 days from receipt of this letter, the applicant may request that the Secretary of Commerce override OCMP-DLCD's conditions/objection. In order to grant an override request, the Secretary must find that the activity is consistent with the objectives or purposes of the CZMA or is necessary in the interest of national security. A copy of the request and supporting information must be sent to OCMP-DLCD and the federal permitting or licensing agency. The Secretary may collect fees from the applicant for administering and processing their request. 15 CFR § 930.63.

The appellant shall send the Notice of appeal to the Secretary, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230; a copy of the notice of appeal to the OCMP-DLCD; and to the Assistant General Counsel for Ocean Services (GCOS), 1305 East West Highway, Room 6111 SSMC 4, Silver Spring, Maryland 20910.

If you have any questions or comments regarding this coastal zone management consistency finding or the consistency review process, please contact Patricia Snow 503-508-2215 or by e-mail at: patty.snow@dlcd.oregon.gov.

Sincerely,

Patricia Snow
Oregon Coastal Program Manager

Cc:
Kinsey Friesen (kinsey.m.friesen@usace.army.mil)
Lisa Phipps (lisa.phipps@dlcd.oregon.gov)
Kyle Byers (kyle.byers@dlcd.oregon.gov)
Amanda Macnab (amanda.l.macnab@dlcd.oregon.gov)

Endangered Species Act - Section 7 Formal Programmatic Opinion, Letter Of Concurrence

and

Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation

Revisions to Standard Local Operating Procedures for Endangered Species to Administer Actions Authorized or Carried Out by the U.S. Army Corps of Engineers in Oregon (SLOPES IV In-water Over-water Structures)

NMFS Consultation Number: 2011/05585

Federal Action Agency: Army Corps of Engineers
Portland District, Operations and Regulatory Branches

Date Issued: April 5, 2012

Affected Species and Determinations

ESA-Listed Species	ESA Status	Is the action likely to adversely affect this species or it critical habitat?	Is this Action likely to jeopardize this species?	Is this Action likely to destroy or adversely modify critical habitat for this species?
Lower Columbia River Chinook salmon	T	Yes	No	No
Upper Willamette River Chinook salmon	T	Yes	No	No
Upper Columbia River spring-run Chinook salmon	E	Yes	No	No
Snake River spring/summer run Chinook salmon	T	Yes	No	No
Snake River fall-run Chinook salmon	T	Yes	No	No
Columbia River chum salmon	T	Yes	No	No
Lower Columbia River coho salmon	T	Yes	No	N/A
Oregon Coast coho salmon	T	Yes	No	No
Southern Oregon/Northern California coasts coho salmon	T	Yes	No	No
Snake River sockeye salmon	E	Yes	No	No
Lower Columbia River steelhead	T	Yes	No	No
Upper Willamette River steelhead	T	Yes	No	No
Middle Columbia River steelhead	T	Yes	No	No
Upper Columbia River steelhead	T	Yes	No	No
Snake River Basin steelhead	T	Yes	No	No
Southern green sturgeon	T	Yes	No	No
Eulachon	T	Yes	No	No
Steller sea lion	T	No	No	N/A

Fishery Management Plan that Describes EFH in the Action Area	Would the action adversely Affect EFH?	Are EFH conservation Recommendation provided?
Coastal Pelagic Species	Yes	Yes
Pacific Coast Groundfish	Yes	Yes
Pacific Coast Salmon	Yes	Yes

1.3.1.1 Administrative

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

1.3.1.2 General Construction

11. **Pollution and erosion control.** Any action that will require earthwork and may increase soil erosion and cause runoff with visible sediment into surface water, or that will require the use of materials that are hazardous or toxic to aquatic life (such as motor fuel, oil, or drilling fluid), must have a pollution and erosion control plan that is developed and carried out by the applicant, and commensurate with the scale of the action.
    a. The plan must include practices to minimize erosion and sedimentation associated with all aspects of the project (*e.g.*, staging areas, stockpiles, grading); to prevent construction debris from dropping or otherwise entering any stream or waterbody; and to prevent and control hazardous material spills.
    b. During construction, erosion controls and streams must be monitored and maintained daily during the rainy season and weekly during the dry season as necessary to ensure controls are properly functioning.
    c. If monitoring shows that the erosion controls are ineffective at preventing visible sediment discharge, the project must stop to evaluate erosion control measures. Repairs, replacements or the installation of additional erosion control measures must be completed before the project resumes.
    d. Proper maintenance includes removal of sediment and debris from erosion controls like silt fences or hay bales once it has reached on-third of the exposed height of the control.

12. **Stormwater management.** Any action that will expand, recondition, reconstruct, or replace pavement, replace a stream crossing, otherwise increase the contributing impervious surface within the project area, or create a new stormwater conveyance or discharge facility, must have a stormwater management plan that is developed and carried out by the applicant, commensurate with the scale of the action, and approved by NMFS. The stormwater plan submitted for approval must include all of the information called for by the "Checklist for Submission of a Stormwater Plan" (ODEQ 2008, or most recent version), or an explanation of why any missing information is not applicable to a specific project.

13. **Site restoration.** Any action that results in significant disturbance of riparian vegetation, soils, streambanks, or stream channel must have a site restoration plan that is developed and carried out by the permittee (or Corps), that is commensurate with the scale of the action. The goal of the plan is to ensure that riparian vegetation, soils, streambanks, and stream channel are cleaned up and restored after the action is complete. No single criterion is sufficient to measure restoration success, but the intent is that the following features should be present in the upland parts of the project area, within reasonable limits of natural and management variation:
    a. Human and livestock disturbance, if any, are confined to small areas necessary for access or other special management situations.

b. Areas with signs of significant past erosion are completely stabilized and healed, bare soil spaces are small and well-dispersed.
c. Soil movement, such as active rills and soil deposition around plants or in small basins, is absent or slight and local.
d. Native woody and herbaceous vegetation, and germination microsites, are present and well distributed across the site.
e. Plants are native species and have normal, vigorous growth form, and a high probability of remaining vigorous, healthy and dominant over undesired competing vegetation.
f. Vegetation structure is resulting in rooting throughout the available soil profile.
g. Plant litter is well distributed and effective in protecting the soil with little or no litter accumulated against vegetation as a result of active sheet erosion ("litter dams").
h. A continuous corridor of shrubs and trees appropriate to the site are present to provide shade and other habitat functions for the entire streambank.
i. Streambanks are stable, well vegetated, and protected at margins by roots that extend below baseflow elevation, or by coarse-grained alluvial debris.

14. **Compensatory mitigation.** Any action that will permanently displace riparian or aquatic habitats or otherwise prevent development of properly functioning condition of natural habitat processes will require compensatory mitigation to fully offset those impacts.
    a. Examples of actions requiring compensatory mitigation include construction of a new or enlarged boat ramp or float, the addition of scour protection to a boat ramp, or construction of new impervious surfaces without adequate stormwater treatment.
    b. For displaced riparian and aquatic habitat, the primary habitat functions of concern are related to the physical and biological features essential to the long-term conservation of listed species. Those are water quality, water quantity, channel substrate, floodplain connectivity, forage, natural cover, space, and free passage. Examples of acceptable mitigation for riparian losses includes planting trees or other woody vegetation in the riparian area, removal of existing overwater structures or restoration of shallow-water, off-channel, or beach habitat by adding features such as submerged or overhanging large wood, aquatic vegetation, large rocks and boulders, side channels and undercut banks.
    c. For new impervious surfaces with inadequate stormwater treatment, the primary habitat functions of concern are water quality and water quantity. Examples of acceptable mitigation for inadequate stormwater management includes providing adequate stormwater treatment at an alternate site where it did not exist before or retrofitting an existing but substandard stormwater facility to provide capacity necessary to infiltrate and retain the proper volume of stormwater.
    d. As part of NMFS's review under clause 3 above, NMFS will determine if the proposed compensatory mitigation fully offsets permanent displacement of riparian or aquatic habitats and/or impacts that prevent development of properly functioning processes.

15. **Preconstruction activity.** Before alteration of the action area, flag the boundaries of clearing limits associated with site access and construction to minimize soil and vegetation disturbance, and ensure that all temporary erosion controls are in place and functional.

16. **Site preparation.** During site preparation, conserve native materials for restoration, including large wood, vegetation, topsoil and channel materials (gravel, cobble and boulders) displaced by construction. Whenever practical, leave native materials where they are found and in areas to be cleared, clip vegetation at ground level to retain root mass and encourage reestablishment of native vegetation. Building and related structures may not be constructed inside the riparian management area.

17. **Heavy equipment.** Heavy equipment will be selected and operated as necessary to minimize adverse effects on the environment (*e.g.*, minimally-sized, low pressure tires, minimal hard turn paths for tracked vehicles, temporary mats or plates within wet areas or sensitive soils); and all vehicles and other heavy equipment will be used as follows:
    a. Stored, fueled and maintained in a vehicle staging area placed 150 feet or more from any waterbody, or in an isolated hard zone such as a paved parking lot.
    b. Inspected daily for fluid leaks before leaving the vehicle staging area for operation within 50 feet of any waterbody.Steam-cleaned before operation below ordinary high water, and as often as necessary during operation to remain free of all external oil, grease, mud, seeds, organisms and other visible contaminants.
    c. Generators, cranes and any other stationary equipment operated within 150 feet of any waterbody will be maintained and protected as necessary to prevent leaks and spills from entering the water.

18. **In-water work period.** All work within the active channel will be completed in accordance with the Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife resources (ODFW 2000, or the most recent version), except as follows:
    a. All in-water work in the Willamette River mainstem between Willamette Falls and the confluence with the Columbia River must be completed between July 1 and October 31.
    b. All in-water work in the Columbia River mainstem below Bonneville Dam, except pile driving, must be completed between November 1 and December 31.
    c. Pile driving in the Columbia River mainstem below Bonneville Dam must be completed between October 1 and November 31.
    d. Hydraulic and topographic measurements and encased geotechnical drilling may be completed at any time, if a fish biologist determines that no adult fish are congregating for spawning and no redds are occupied by eggs or pre-emergent alevins within 300 feet of the work site.

19. **Actions that require work area isolation.** Any action that involves excavation (other than access management), backfilling, embankment construction, or similar work below ordinary high water where adult or juvenile fish are reasonably certain to be present, or 300 feet or less upstream from spawning habitats, must be effectively isolated from the active stream.

20. **Fish capture and removal.** Whenever work isolation is required and ESA-listed fish are likely to be present, the applicant must attempt to capture and remove the fish as follows:
    a. A fishery biologist experienced with work area isolation and competent to ensure the safe capture, handling and release of all fish will supervise this part of the action, and complete the fish salvage form from Appendix C that will be submitted with the action completion report.
    b. Any fish trapped within the isolated work area must be captured and released using a trap, seine, electrofishing, or other methods as prudent to minimize the risk of injury, then released at a safe release site.
    c. If electrofishing is used to capture fish, that work must consistent with NMFS' electrofishing guidelines (NMFS 2000).

21. **Piling installation.** Pilings may be concrete, steel round pile 24 inches in diameter or smaller, steel H-pile designated as HP24 or smaller, or wood that has not been treated with preservatives or pesticides. Any proposal to use wood pilings treated with preservatives or pesticides is not covered by this consultation and will require individual consultation.
    a. When practical, use a vibratory hammer for piling installation. For pile driving in the Columbia River in the month of October, only a vibratory hammer may be used.

b. Jetting may be used for piling installation in areas with coarse, uncontaminated sediments.

22. **Pile driving with an impact hammer.** When using an impact hammer to drive or proof steel piles, one of the following sound attenuation methods must be used:
    a. Completely isolate the pile from flowing water by dewatering the area around the pile.
    b. If water velocity is 1.6 feet per second or less, surround the piling being driven by a confined or unconfined bubble curtain (see NMFS and USFWS 2006, Wursig *et al*. 2000, and Longmuir and Lively 2001) that will distribute small air bubbles around 100% of the piling perimeter for the full depth of the water column.
    c. If water velocity is greater than 1.6 feet per second, surround the piling being driven by a confined bubble curtain (*e.g.*, a bubble ring surrounded by a fabric or non-metallic sleeve) that will distribute air bubbles around 100% of the piling perimeter for the full depth of the water column.

23. **Pile driving where Steller sea lions may be present.** If the action area is between Bonneville Dam and the mouth of the Columbia River, or outside of the Columbia River but within 10-miles of a Steller sea lion haul-out[1], the following conditions apply:
    a. A biologist qualified in marine mammal identification will be on site during all pile driving and will notify the operator to cease operations if a Steller sea lion enters the 1,200 foot radius of the pile.
    b. Pile driving may not begin if Steller sea lions are within 1,200 feet of the pile being driven.
    c. Pile driving must cease if Steller sea lions approach to within 1,200 feet of the pile being driven.

24. **Pile removal.** Use the following steps to minimize creosote release, sediment disturbance and sediment resuspension:
    a. Install a floating surface boom to capture floating surface debris.
    b. Keep all equipment (*e.g.*, bucket, steel cable, vibratory hammer) out of the water, grip piles above the waterline, and complete all work during low water and low current conditions.
    c. Dislodge the piling with a vibratory hammer, when possible; never intentionally break a pile by twisting or bending.
    d. Slowly lift the pile from the sediment and through the water column.
    e. Place the pile in a containment basin on a barge deck, pier, or shoreline without attempting to clean or remove any adhering sediment – a containment basin for the removed piles and any adhering sediment may be constructed of durable plastic sheeting with sidewalls supported by hay bales or another support structure to contain all sediment and return flow which may otherwise be directed back to the waterway.
    f. Fill the holes left by each piling with clean, native sediments immediately upon removal.
    g. Dispose of all removed piles, floating surface debris, any sediment spilled on work surfaces, and all containment supplies at a permitted upland disposal site.

25. **Broken or intractable piling.** When a pile breaks or is intractable during removal, continue removal as follows:
    a. Make every attempt short of excavation to remove each piling, if a pile in uncontaminated sediment is intractable, breaks above the surface, or breaks below the surface, cut the pile or stump off at least 3 feet below the surface of the sediment.
    b. If dredging is likely where broken piles are buried, use a global positioning system (GPS) device to note the location of all broken piles for future use in site debris characterization.

[1] Haul outs are located at 3 Arches Rock, Orford Reed, Rogue Reef, Sea Lion Caves, Cape Arago State Park, Oregon Islands National Wildlife Refuge and South Jetty Columbia River.

26. **Pesticide-treated wood installation.** Use of lumber, pilings, or other wood products treated or preserved with pesticidal compounds may not be used below ordinary high water, or as part of an in-water or overwater structure[2].

27. **Pesticide-treated wood removal.** When it is necessary to remove pesticide-treated wood, the following conditions apply.

    a. Ensure that, to the extent possible, no wood debris falls into the water. If wood debris does fall into the water, remove it immediately.
    b. After removal, place wood debris in an appropriate dry storage site until it can be removed from the project area.
    c. Do not leave wood construction debris in the water or stacked on the streambank at or below the ordinary high water.
    d. Evaluate wood construction debris removed during a project, including pesticide-treated wood pilings, to ensure proper disposal of debris.

1.3.1.3 Types of Actions In-water or Over-water Structures

28. **Boat ramps.** All boat ramps must consist of pre-cast concrete slabs below ordinary high water, and may be cast-in-place above ordinary high water if completed in the dry. Rock may be used to prevent scouring, down-cutting, or failure at the boat ramp, provided that the rock is no larger than necessary and does not extend further than 4-feet from the edge of the ramp in any direction.

29. **Educational signs.** To educate the public about pollution from boating activities and its prevention, the Corps shall install (Corps project) or require the following information or its equivalent to be posted on a permanent sign that will be maintained at each permitted facility that is used by the public (*e.g.,* a public boat ramp or marina):
    a. A description of the ESA-listed species which are or may be present in the project area.
    b. Notice that adults and juveniles of these species are protected by the ESA and other laws so that they can successfully migrate, spawn, rear, and complete other behaviors necessary for their recovery.
    c. Therefore, all users of the facility are encouraged or required to: (i) Follow procedures and rules governing use of sewage pump-out facilities; (ii) minimize the fuel and oil released into surface waters during fueling, and from bilges and gas tanks; (iii) avoid cleaning boat hulls in the water to prevent the release of cleaner, paint and solvent; (iv) practice sound fish cleaning and waste management, including proper disposal of fish waste; and (v) dispose of all solid and liquid waste produced while boating in a proper facility away from surface waters.

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[2] For alternatives sources of structural lumber and pilings designed for industrial and marine applications, but not based on pesticide-treated wood, including silica-based wood preservation, improved recycled plastic technology, and environmentally safe wood sealer and stains, see, *e.g.*, Resco Plastics (Coos Bay, Oregon; ph. 541.269.5485) and American Plastic Lumber (Shingle Springs, California; ph. 530.677.7700) for lumber from recycled plastic; Plastic Pilings, Inc. (Rialto, California; ph. 909.874.4080) for structural and non-structural lumber from recycled plastic; Timbersil (Placentia, California; ph. 714.223.1804) for outdoor lumber treated with silica; Kebony (ph. 888.914.9995) for outdoor lumber impregnated with a resin from furfuryl alcohol, a byproduct of sugar production; and Timber Pro Coatings (Portland, Oregon; ph. 503.232.1705) for a silica-based internal wood stabilizer, and a low-VOC wood sealer/stain. The use of trade, firm, or corporation names in this Opinion is for the information and convenience of the action agencies, and does not constitute an official endorsement or approval by the U.S. Department of Commerce or NMFS of any product or service to the exclusion of others that may be suitable.

30. Flotation material. All synthetic flotation material must be permanently encapsulated to prevent breakup into small pieces and dispersal in water.

31. New or replacement floats. Any new or replacement float must be placed at least 50 feet from the shoreline (100-feet from the shoreline in the Columbia River) as measured at ordinary low water or mean lower low water and may not be placed in an estuarine area with submerged aquatic vegetation. Any float wider than 6-feet must also include (a) an open area of grating that is at least 50% of the total surface area,; or (b) be placed where current velocity is at least 0.7 feet per second year-round. Floats may not exceed 10' in width or 40' in length or a total of 400 square feet.

32. Piscivorous birds. All float pilings, mooring buoys, and navigational aids must be fitted with devices to prevent perching by piscivorous birds.

33. Relocation of existing structures in a marina. Any existing structure that is relocated in a marina must remain within the existing overall footprint, but no closer than 50 feet of the shoreline (100 feet in the Columbia River) as measured at ordinary low water or mean lower low water.

34. Repair or replacement of wall and roof components for a covered moorage or boat house. Any replacement for a roof, wall, or garage door of a covered moorage or boat house must be made of translucent materials or incorporate skylights to allow light penetration.

Dredging

35. Dredging to Maintain Vessel Access. When dredging to maintain access to previously authorized docks, wharfs, mooring structures, and boat ramps, the following conditions apply:

a. All dredged materials and subsequent leave surface must be suitable and approved for in-water disposal using newly acquired or historical data based on criteria in the Sediment Evaluation Framework ((USACE *et al.* 2009).
b. All dredged sediment and debris must be side cast or returned to the channel within the ordinary high-water line downstream from the dredging site where it will be recruited by the next annual high flow and continue to provide aquatic habitat functions.
c. The dredging must not alter the character, scope, size, or location of the project area or previously authorized dredge prism.

36. Dredging to Maintain Functionality. When discharging or excavating to maintain the functionality of a channel, culvert, intake, or outfall, the following conditions apply:

a. Either the discharge or excavation may not exceed 25 cubic yards, or include any water intake or point of diversion that does not have a fish screen that is installed, operated and maintained according to NMFS fish screen criteria and meet NMFS fish passage criteria.
b. All dredged materials and subsequent leave surface must be suitable and approved for in-water disposal using newly acquired or historical data based on criteria in the Sediment Evaluation Framework.
c. All dredged sediment and debris must be side cast or returned within the annual high flow channel downstream from the dredging site where it will continue to provide aquatic habitat functions.
d. The dredging must not alter the character, scope, size, or location of the project area.

SLOPES IV PROGRAMMATIC –IN-WATER OVER-WATER STRUCTURES ACTION COMPLETION FORM

Within 60 days of completing all work below ordinary high water (OHW) as part of an action completed under the SLOPES IV In-water Over-water Structures programmatic opinion, the permittee must submit a completed action completion form with the following information to the U.S. Army Corps of Engineers, Regulatory Branch at: cenwp.notify@usace.army.mil

Corps Permit #:

Corps Contact: _____

Action Title _____

_____

Start and End Dates for the completion of in-water work: ***Start***: _____ ***End***: _____

Any Dates work ceased due to high flows: _____ _____

_____ _____

_____ _____

_____ _____

Include With This Form:

1. Photos of habitat conditions before, during, and after action completion
2. Evidence of compliance with fish screen criteria for any pump used
3. A summary of the results of pollution and erosion control inspections, including any erosion control failure, contaminant release, and correction effort
4. Number, type, and diameter of any pilings removed or broken during removal
5. A description of any riparian area cleared within 150 feet of OHW
6. Linear feet of bank alteration
7. A description of site restoration
8. A completed Salvage Reporting Form from Appendix D for any action that requires fish salvage
9. As-Built drawings for any action involving riprap revetment, stormwater management facility, or bridge rehabilitation or replacement.

SLOPES IV PROGRAMMATIC – IN-WATER OVER-WATER STRUCTURES SALVAGE REPORTING FORM

If Applicable: Within 10 days of completing a capture and release as part of an action completed under the SLOPES IV In-water Over-water Structures programmatic opinion, submit a completed Salvage Reporting Form, or its equivalent, with the following information to the Corps at cenwp.notify@usace.army.mil.

Corps Permit #:

Corps Contact: _____

Action Title _____

Date of Fish Salvage Operation: _____

Supervisory Fish Biologist (name, address & telephone number): _____

_____

_____

Include With This Form: _____

1. A description of methods used to isolate the work area, remove fish, minimize adverse effects on fish, and evaluate their effectiveness.
2. A description of the stream conditions before and following placement and removal of barriers.
3. A description of the number of fish handled, condition at release, number injured, and number killed by species.

SLOPES IV PROGRAMMATIC –IN-WATER OVER-WATER STRUCTURES RESTORATION/ COMPENSATORY MITIGATION REPORTING FORM

By December 31 of any year in which the Corps approves that the site restoration or compensatory mitigation is complete, submit a completed Site Restoration/Compensatory Mitigation Reporting Form, or its equivalent, with the following information to the Corps at cenwp.notify@usace.army.mil.

Corps Permit #: _____

Corps Contact: _____

Action Title _____

Type of Activity: _____

_____

Include With This Form:

1. Photos of habitat conditions before, during, and after action completion
2. Start and end date for the work
3. A summary of the results of mitigation or restoration work completed

Inadvertent Discovery Plan

August 22, 2018

1. Introduction

The U.S. Army Corps of Engineers (Corps) completes the requirements of Section 106 of the National Historic Preservation Act (NHPA), as applicable, for projects authorized by a Department of the Army permit. However, cultural resources or historic properties may unexpectedly be encountered during project construction based on the project location or type of work. These unforeseen finds are called an inadvertent discovery. This plan describes requirements should an inadvertent discovery occur.

In accordance with Section 106 of the NHPA, Federal agencies, such as the Corps, are required to take into account the effects of any permitted action to historic properties. The Corps completes these requirements in cooperation with States, local governments, Native American Tribes, and private organizations and individuals. There are numerous federal and state laws and regulations that apply to historic preservation that include, but are not limited to:

National Historic Preservation Act – [54 USC 306108] [36 CFR 60]
Native American Graves Protection and Repatriation Act – [25 USC 3001] [43 CFR 10]
Procedures for the Protection of Historic Properties – [33 CFR 325 – Appendix C]
Consultation and Coordination with Indian Tribal Governments – [Executive Order 13175]
Rights and Duties Relating to Cemeteries, Human Bodies and Anatomical Gifts – [ORS 97.740- 97.760]
Oregon Historical and Heritage Agencies, Programs and Tax Provisions; Museums; Local Symphonies and Bands; Archaeological Objects and Sites – [ORS 358.905 – 358.955]
Permits and Conditions for Excavation or Removal of Archaeological or Historical Material; Rules; Criminal Penalty – [ORS 390.235]

2. Background

For thousands of years, Native American Tribes have lived on the lands that now comprise the state of Oregon. Although these lands are under various ownerships, Native Americans still retain a strong connection to their ancestral lands. Tribal archeological and burial sites are not simply artifacts of the Tribe's cultural past, but are considered sacred and represent a continuing connection with their ancestors. Native American cultural resources, ancestral remains, funerary objects, sacred objects, and objects of cultural patrimony are protected under federal and state laws. Examples of Tribal cultural resources include, but are not limited to: lithic flakes, stone tools, Native American human remains, remnants of structures (e.g. house pits), fish weirs, and/or shell middens.

In addition to potential Tribal-related sites, non-Tribal cultural and historical resources are also protected under federal and state laws. Examples of material that may be found at a historic-period site include, but are not limited to: glass bottles, cans, structural

foundations, machinery or parts, nails and many other items. If material such as this is uncovered during the course of a project, the procedures outlined below are applicable.

3. Inadvertent Discovery – The permittee shall implement the following procedures:

a. Projects that do not require monitoring by a professional archeologist (see permit special conditions):

1) In the event evidence of human burials, human skeletal remains, cultural items, suspected cultural items, or historic properties, as defined by the NHPA, are discovered and/or may be affected during the course of the authorized work, the permittee shall **Immediately Cease All Ground Disturbing Activities** that may cause further disturbance to those remains or resources. The area of the find shall be secured and protected from further disturbance, including an appropriate buffer around the discovery (i.e. 100 feet) using flagging or other visible marker. Sensitive resources, such as human skeletal remains, may not include visual markers in order to avoid attracting attention. The find may be temporarily protected through stabilization or non-destructive covering. Reasonable steps shall be taken to ensure confidentiality of the discovery and restrict access. The permittee or permittee's representative shall immediately notify the Corps and other appropriate agencies as identified in part 3(a)(2) of this plan, below.

2) Notification Procedures:

- Notification to the Corps, Portland District, Regulatory Branch Archeologist shall be made by email to brian.s.heil@usace.army.mil or phone at 503-808-4382 as soon as possible following discovery, but in no case later than 24 hours. The email or call shall clearly specify the purpose is to report a cultural resource discovery, provide the permittee's name, and Corps permit number.
- The permittee shall also notify the Corps representative (by email or telephone) as identified in the permit letter.
- If the inadvertent discovery is identified as human skeletal remains on non-federal or non-tribal public and private lands, the permittee shall report the discovery to the Oregon State Police at (503) 731-4717 and the county medical examiner/coroner in the most expeditious manner possible. The remains shall not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Oregon State Historic Preservation Office (SHPO) who will then take jurisdiction over the remains.
- In all inadvertent discovery situations, the permittee is also responsible for contacting the SHPO at (503) 986-0690.

3) Failure to stop work immediately and continue such stoppage could result in a violation of federal and state laws. Violators may be subject to civil and criminal penalties. Work shall remain suspended until notified by the Corps that work may proceed.

4) The permittee shall not resume construction in the area surrounding the discovery until the Corps Regulatory Branch re-authorizes project construction, pursuant to 36 CFR Part 800.13.

b. Projects that require monitoring by a professional archeologist (see permit special conditions):

1) The Corps-required archeological monitor has the authority to temporarily stop all ground disturbing activities in the event evidence of human burials, human skeletal remains, cultural items, suspected cultural items, or historic properties, as defined by the NHPA, are discovered and/or may be affected during the course of the authorized work. Upon positive identification of human burials, human skeletal remains, cultural items, suspected cultural items, or historic properties, as defined by the NHPA, the archeological monitor shall notify the permittee of the inadvertent discovery and the permittee shall **Immediately Cease All Ground Disturbing Activities**. The archeological monitor will take actions necessary to secure the discovery location. The permittee or permittee's representative shall immediately notify the Corps and other appropriate agencies as necessary as described in the Notification Procedures above. Work shall remain suspended until notified by the Corps that work may proceed.

2) Before work can proceed, first, the nature of the discovery must be evaluated. If it is determined the discovery contains human remains, then section 4 below shall be initiated. If the discovery contains less than 10 artifacts, then paragraph 3) below shall be followed. If the discovery contains more than 10 artifacts and does not contain human skeletal remains, then the Corps, in consultation with the SHPO and tribes as appropriate, will determine whether the site may be eligible for listing in the National Register of Historic Places (NRHP). If deemed insignificant the Corps will allow work to continue. If deemed significant, the Corps, in consultation with the SHPO, will evaluate whether the continuation of work would constitute an adverse effect. If the Corps determines the effect will not be adverse, or the area can be avoided, then work will be allowed to continue. If the inadvertent discovery location cannot be avoided, and continuing work would have an adverse effect on the site, the Corps, in consultation with the permittee, SHPO, and tribes as appropriate, will need to draft and finalize a Memorandum of Agreement for the treatment of the historic site before work can proceed.

3) If an isolated artifact (defined as fewer than 10 artifacts by the SHPO) is identified, the archeological monitor shall determine: a) whether there is potential for other artifacts to be present in the vicinity of the initial discovery by acquiring a

state-issued archaeological testing permit (pursuant to state law) to conduct additional survey, soil screening, subsurface testing, or other method deemed appropriate, and b) whether the identified artifacts alone are significant. These two considerations will be used to determine if sufficient evidence is present to define a historic site (i.e. potentially eligible for listing in the NRHP). If upon closer examination the materials discovered are not consistent with human burials, human remains, cultural items, suspected cultural items, or historic properties, as defined by the NHPA, the monitoring archeologist shall notify the Corps (via by phone or email message), and can then allow work to proceed but with caution and at a slower rate until the monitor is confident no sites are represented. The isolated finds shall be reported in the archeological monitor's post-construction monitoring report.

4. Human Remains

a. Plan of Action: If human burials and/or human skeletal remains are discovered, the archeological monitor shall ensure all unauthorized personnel have vacated the site location in a safe manner, make reasonable efforts to secure the location, and stabilize the remains if necessary (e.g. prevent remains from falling out of a trench wall). Every reasonable effort will be made by the monitor to ensure the remains are not physically handled or examined by unauthorized personnel until the proper notifications have been made. Reference is made to the Tribal Position Paper on Human Remains found on SHPO's website at: http://www.oregon.gov/OPRD/HCD/ARCH/docs/Tribal_position_paper_on_Human_Remains.pdf.

b. Treatment Plan: The permittee shall develop a Treatment Plan (TP) in consultation with the Corps, SHPO, and tribe(s), as needed, to ensure the proper handling, protection, or temporary storage of human remains and/or cultural items until the proper tribe or other entity, as appropriate, can be identified and those resources can be repatriated. The TP will define the items found; develop a strategy for handling/moving human remains and/or cultural items, if applicable; develop a strategy for determining whether additional human remains and/or cultural items are endangered; determine if additional testing is necessary to identify site boundaries; and determine the disposition of the human remains and/or cultural items. The TP will be agreed upon by all parties involved before any future ground disturbance activities resume.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Tillamook County Parks Department	File Number: NWP-2021-355	Date: July 22, 2022

Attached is:		See Section below
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found in Corps regulations at 33 CFR Part 331, or at http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/FederalRegulation.aspx

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact: William D. Abadie, Chief Regulatory Branch U.S. Army Corps of Engineers, Portland District Office PO Box 2946 Portland, OR 97208-2946 Telephone: (503)808-4373 Email: William.D.Abadie@usace.army.mil	If you only have questions regarding the appeal process you may also contact: Melinda M. Larsen, Regulatory Appeals Review Officer U.S. Army Corps of Engineers, Northwestern Division 1201 NE Lloyd Blvd., Suite 400 Portland, OR 97232 Telephone: (503) 808-3888 Email: Melinda.M.Larsen@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

_____ Signature of appellant or agent.	Date:	Telephone number: