



DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

REPLY TO
ATTENTION OF

Regulatory Branch

September 6, 2012

Mr. Dan Jaspers
Pioneer Water Users Association
2817 School Street
Wenatchee, Washington 98801

Reference: NWS-2012-291
Pioneer Water Users Association

Dear Mr. Jaspers:

We have reviewed your application to remove and existing diversion dam (a man-made fish barrier) and install a screened intake and pipe in the Wenatchee River near Wenatchee, Chelan County, Washington. Based on the information you provided to us, Nationwide Permit (NWP) 27, *Aquatic Habitat Restoration, Enhancement, and Establishment Activities*, and Nationwide Permit (NWP) 33, *Temporary Construction, Access, and Dewatering*, (Federal Register February 21, 2012, Vol. 77, No. 34), authorizes your proposal as depicted on the enclosed drawings dated July 2012.

In order for this authorization to be valid, you must ensure the work is performed in accordance with the enclosed *NWP 27 and 33, Terms and Conditions* and the following special conditions:

- a. In order to meet the requirements of the Endangered Species Act (ESA) 2008 Fish Passage and Restoration Programmatic Consultation (National Marine Fisheries Reference No. 2008/03598; U.S. Fish and Wildlife Service Reference No. 1341-2008-FWS- #F-0209), you must comply with the conditions included in the Specific Project Information Form dated July 30, 2012, and the enclosed electronic approval from National Marine Fisheries Service dated August 31, 2012, and the U.S. Fish and Wildlife Service dated August 31, 2012. If you cannot comply with the terms and conditions of this programmatic consultation, you must, prior to commencing construction, contact the U.S. Army Corps of Engineers (Corps), Seattle District, Regulatory Branch for an individual consultation in accordance with the requirements of the ESA and/of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996.
- b. In order to meet the requirements of the Endangered Species Act and protect Upper Columbia River spring Chinook, Upper Columbia River steelhead, and Coastal-Puget Sound bull trout, the permittee may conduct the authorized activities from 1 October

through 31 March in any year this permit is valid. The permittee shall not conduct work authorized by this permit from 1 April through 30 September in any year this permit is valid.

To satisfy the provisions of the 2008 Fish Passage and Restoration programmatic consultation in accordance with Special Condition "a" and "b" above, please be reminded that you must provide the following information upon completion of your project:

1. Project completion date.
2. Fish capture and release report for projects requiring dewatering. (For additional details, see Appendix A "Dewatering and Fish Capture Protocol" in the Specific Project Information Form you submitted).
3. Sediment monitoring report for projects requiring in-water work, including the extent and duration of downstream turbidity impacts measured every 20 minutes during construction. (For additional details, see question I.R. of the Specific Project Information Form you submitted).
4. Turbidity reporting specifically identified in the National Marine Fisheries Service's and/or U.S. Fish and Wildlife Service's electronic approval of the project.

We have reviewed your project pursuant to the requirements of the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act and the National Historic Preservation Act. We have determined this project complies with the requirements of these laws provided you comply with all of the permit general and special conditions.

Please be reminded that Special Condition "a" of your permit requires that you implement and abide by the Endangered Species Act (ESA) requirements and/or agreements set forth in the Biological Evaluation (BE) and/or the Biological Opinion (BO) for this project. In particular, note that the BE or BO requires that you implement a planting plan, monitor and submit monitoring reports on the planted area to this office as well as to the National Marine Fisheries Service and/or U.S. Fish and Wildlife Service annually for a period of five years. Failure to comply with the commitments made in the BE constitutes non-compliance with the ESA and with this authorization.

Please note that Seattle District NWP Regional General Condition 6, Cultural Resources and Human Burials, found in the *Nationwide Permit Terms and Conditions* enclosure, details procedures should an inadvertent discovery occur. You must ensure that you comply with this condition during the construction of your project.

The authorized work complies with the Washington State Department of Ecology's (Ecology) Water Quality Certification requirements for this NWP. No further coordination with Ecology is required.

In the project area, we have determined that the Wenatchee River is a water of the United States. We have completed an approved jurisdictional determination for your project area dated July 23, 2012, which can be found on our website at: www.nws.usace.army.mil select "Regulatory Branch, Permit Information", then "Jurisdictional Determinations". If you object to this determination, you may request an administrative appeal under our regulations (33 CFR, Part 331) as described in the enclosed *Appeal Process Fact Sheet* and the *Notification of Administrative Appeal Options and Process and Request for Appeal* form (*Appeal Form for Approved Jurisdictional Determinations*).

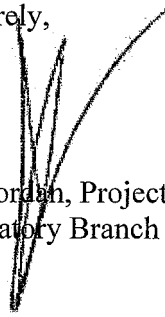
Our verification of this NWP authorization is valid for two years from the date of this letter unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date, please contact us to discuss the status of your authorization. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. You must also obtain all State and local permits that apply to this project.

You are cautioned that any change in project location or plans will require that you submit a copy of the revised plans to this office and obtain our approval before you begin work. Deviating from the approved plans could result in the assessment of criminal or civil penalties. Please note that we may need to reinitiate consultation with the National Marine Fisheries Service and/or U.S. Fish and Wildlife Service in order to authorize any work not already included in the enclosed plans. Civil administrative penalties are described in the enclosure *Clean Water Act Class I Administrative Penalties*.

Upon completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form. Thank you for your cooperation during the permitting process. We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey form. This form and information about our program is available on our website at www.nws.usace.army.mil (select "Regulatory Branch, Permit Information").

A copy of this letter without enclosures will be furnished to Thom Kutrich, Forsgren Associates, Inc 112 Olds Station Road Suite A, Wenatchee, Washington 98801. If you have any questions, please contact me via email at dale.j.jordan@usace.army.mil or at (206) 465-7605.

Sincerely,



Jess Jordan, Project Manager
Regulatory Branch

Enclosures