STATE OF WASHINGTON
**DEPARTMENT OF ECOLOGY**
**Eastern Region Office**
4601 North Monroe St., Spokane, WA 99205-1295 • 509-329-3400

October 2, 2025

US Bureau of Reclamation
Attn: Marc Maynard
32 C St NW
Ephrata, Washington 98823

Re: Water Quality Certification Order No. **24018** (Corps No. **NWS-2025-0260**), Steamboat Rock Shoreline Stabilization Project, Grant County, Washington

Dear Marc Maynard:

On March 17, 2025, US Bureau of Reclamation submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Steamboat Rock Shoreline Stabilization Project, Grant County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies with conditions that the work described in the Water Quality Certification Request and supplemental documents comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. **This certification is subject to the enclosed Water Quality Certification Order (WQC Order).**

Please ensure that anyone doing work under this WQC Order has read, is familiar with, and is able to follow all of the provisions within the attached WQC Order.

If you have any questions about this decision, please contact Jake Madewell at (509) 437-0255 or Jake.Madewell@ecy.wa.gov. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Jeremy Sikes, Section Manager
Eastern Region Office
Shorelands and Environmental Assistance Program

Enclosure (1)

By certified mail: [9214 8901 9403 8336 1700 11]

Sent via e-mail: MMaynard@usbr.gov

Ecc: Jess Jordan, U.S. Army Corps of Engineers
Amy Cook, U.S. Bureau of Reclamation
Jerry Nelis, U.S. Bureau of Reclamation
Erin Hanlon Brown, Ecology
Jake Madewell, Ecology
ecyrefedpermits@ecy.wa.gov

# In The Matter of Granting a Water Quality Certification with Conditions to US Bureau of Reclamation pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC

US Bureau of Reclamation
Attn: Marc Maynard
32 C St NW
Ephrata, WA 98823

| | |
|---|---|
| **WQC Order No.** | 24018 |
| **Corps Reference No.** | NWS-2025-0260 |
| **Site Location** | Steamboat Rock Shoreline Stabilization Project located within Banks Lake, near Electric City, Grant County, Washington. |

US Bureau of Reclamation submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Steamboat Rock Shoreline Stabilization Project, Grant County, Washington. The required processing dates are listed below:

- On 11/22/2024, the US Bureau of Reclamation submitted a pre-filing meeting request.
- On 3/17/2025, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 4/8/2025, US Bureau of Reclamation submitted additional information, and the Department of Ecology (Ecology) considered the request valid on this date.
- On 8/21/2025 the Corps notified Ecology that the applicant would proceed with a non-notifying NWP.
- On 6/13/2025, Ecology issued public notice for the project.
- Ecology's "Reasonable Period of Time" for this project has been established as 11/25/2025.

This project proposes to construct a shoreline stabilization project along a heavily eroded section of Banks Lake, located within Steamboat Rock State Park. Shoreline integrity has been impacted by erosion caused by wave action, water level fluctuations in the reservoir, and recreational users. The scope of this project is to stabilize approximately 0.4 miles (about 1.5 acres) of shoreline by placing void-filled riprap, topsoil, and vegetation to help protect the area from further impact. Riprap placement will not only help preserve and protect the shoreline but will also help reduce further erosion caused by wave action. Riprap was chosen as the preferred

alternative due to the effectiveness of shoreline stabilization it provides as well as discourage foot traffic and other recreational activities in the immediate area.

The project site is located at Steamboat Rock State Park, Banks Lake, Grant County, Washington, Section 01, Township 27 N., Range 29 E., within Water Resource Inventory Area (WRIA) 42 - Grand Coulee.

With this WQC Order, Ecology is granting with conditions US Bureau of Reclamation's request for a Section 401 Water Quality Certification for the Steamboat Rock Shoreline Stabilization Project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 3/17/2025, and the following supporting documentation:

1. Water Quality Monitoring Plan received 4/8/2025.
2. SEPA DNS and Categorical Exclusion dated 8/22/2025.

Based on the information submitted, Ecology has determined that the discharge from the project will comply with state water quality requirements. Prior to undertaking any changes that materially alter the project, US Bureau of Reclamation must contact Ecology to determine whether a new Section 401 Water Quality Certification is required.

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize US Bureau of Reclamation to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC), or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this Section 401 Water Quality Certification absolves the US Bureau of Reclamation from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

**Special Conditions:**

1. WQC Order No. **24018** will remain valid until **12/31/2031**.

    - Justification – Certifications are required for any license or permit that authorizes an activity that may result in a discharge or fill material into waters. Ecology needs to be able to specify how long the WQC Order will be in effect.

    - Citation – Chapter 90.48 RCW, Chapter 173-201A WAC, and WAC 173-225-010.

2. To transfer this WQC Order to a new owner or operator US Bureau of Reclamation shall:

a. Complete a Request for Transfer of Order with a specific transfer date of the WQC Order's obligations, coverage, and liability and submit it to Ecology at fednotification@ecy.wa.gov and cc to Jake.Madewell@ecy.wa.gov. Link to form: https://apps.ecology.wa.gov/publications/SummaryPages/ECY070695.html;

b. Provide a copy of this WQC Order to the new owner or operator; and

c. The transfer is not considered valid until the US Bureau of Reclamation receives written notification from Ecology that the transfer has been approved.

- Justification – Ecology has independent state authority to ensure protection of state water quality. Ecology needs to ensure that anyone conducting work at the project, including any new owners or operators, are aware of and understand the required conditions of this WQC Order to ensure compliance with the water quality standards and other applicable state laws.

- Citation – 40 CFR 121.5, Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.

3. Any work that causes distressed or dying fish or discharges of oil, fuel, or other chemicals into state waters or onto land with a potential for entry into state waters is prohibited. If such work, conditions, or discharges occur, immediately notify Ecology's Regional Spill Response Office at 360-407-6300 and the Washington State Department of Fish & Wildlife with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems. You will also need to notify the Washington Emergency Management Division at 1-800-258-5990, for spills to water only. This condition is necessary to prevent oil and other hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm.

- Justification - This condition is necessary to prevent oil and hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.

In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, this WQC is granted with conditions to the US Bureau of Reclamation for the Steamboat Rock Shoreline Stabilization Project.

## Your right to appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal, you must do all of the following within 30 days of the date of receipt of this Order:

- File your notice of appeal and a copy of this Order with the PCHB (see filing information below). "Filing" means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. "Notice of appeal" is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this Order on the Department of Ecology, in paper form, by mail, or in person (see addresses below). E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

## Filing an appeal with the PCHB:

For the most current information regarding filing with the PCHB, visit: https://eluho.wa.gov or call: 360-664-9160.

### Address and Location Information

**Street Address:**

**Department of Ecology**
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

**Mailing Address:**

**Department of Ecology**
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

**E-Mail Address:**

ecologyappeals@ecy.wa.gov

## Americans with Disabilities Act Information

### Accommodation Requests

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-6831 or visit https://ecology.wa.gov/accessibility. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

## Contact Information

Please direct all questions about this WQC Order to:

Jake Madewell
Department of Ecology
(509) 437-0255
Jake.Madewell@ecy.wa.gov

## More Information

- **Pollution Control Hearings Board Website**
  https://eluho.wa.gov
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
  http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B
- **Chapter 371-08 WAC – Practice And Procedure**
  http://app.leg.wa.gov/WAC/default.aspx?cite=371-08
- **Chapter 34.05 RCW – Administrative Procedure Act**
  http://app.leg.wa.gov/RCW/default.aspx?cite=34.05
- **Chapter 90.48 RCW – Water Pollution Control**
  http://app.leg.wa.gov/RCW/default.aspx?cite=90.48
- **Chapter 173.204 WAC – Sediment Management Standards**
  http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204

- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
  http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200

- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
  http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A

## Signature

Dated this 2nd day of October 2025 at the Department of Ecology, Spokane, Washington.

Jeremy Sikes, Section Manager
Eastern Region Office
Shorelands and Environmental Assistance Program

BUREAU OF RECLAMATION

# Columbia Cascades Area Office
# Categorical Exclusion Checklist
Revised 1/02/2024

## Project Information:

**Project Title:** Steamboat Rock State Park Shoreline Stabilization

**Date** 10/24/2024 **Office:** Ephrata Field Office

**Proposed Action:** The Bureau of Reclamation (Reclamation) proposes to construct a shoreline stabilization project along a heavily eroded section of Banks Lake, located within Steamboat Rock State Park, that has been negatively impacted by both Reclamation operations at Banks Lake as well as by State Park recreationalists.

**Location:** Work is located within Steamboat Rock State Park, approximately 14 miles to the southwest of Grand Coulee, Washington, in Grant County, 99123. Approximate coordinates for the center of the project: 47.86645934, -119.11504245, within Section 01, township 27N, Range 29E.

**Exclusion Category Part 516 Chapter 14.5 C (3):** Minor construction activities associated with authorized projects which correct unsatisfactory environmental conditions, or which merely augment or supplement, or are enclosed within existing facilities.

## Background, Maps, Sketches, Drawings:

The Bureau of Reclamation, in coordination with the Washington State Parks and Recreation Commission (State Parks), Washington State Department of Archaeology and Historic Preservation (DAHP), Confederated Tribes of the Colville Reservation, and Confederated Tribes and Bands of the Yakama Nation, has identified a need for long-term protection of a culturally significant shoreline within Banks Lake at Steamboat Rock State Park, which is owned by Reclamation and managed by State Parks. Shoreline integrity has been impacted by erosion caused by wave action, water level fluctuations in the reservoir, and recreational users. Reclamation prepared a shoreline treatment plan in 2019, which included recommendations for site access restrictions and shoreline stabilization efforts. On January 1, 2021, Reclamation implemented an administrative area closure prohibiting public access to approximately 27 acres of land around the project site, including access to approximately 1,750 feet of shoreline. Reclamation has been working with State Parks to install signs and fences to inform visitors and enforce the area closure on land. In the spring of 2022, wooden fences were installed in the area. In 2023, Reclamation successfully installed a log boom around the impacted shoreline which helped with both wave attenuation and keeping boats away. However, due to the popularity of Steamboat Rock State Park, foot traffic is still an issue as recreators want to use the sandy beach and shallow water located along the impacted shoreline. This Categorical Exclusion Checklist covers the next step in the process: stabilization of approximately 0.4 miles (about 1.5 acres) of shoreline by placing void-filled riprap, topsoil, and vegetation to help protect the area from further impact. Riprap placement will not only help preserve and protect the shoreline but will also help reduce further erosion caused by wave action. Riprap was chosen as the preferred alternative due to the effectiveness of shoreline stabilization it provides as well as to discourage foot traffic and other recreational activities in the immediate area.

Approximately 2,500 cubic yards of 6-18" diameter riprap, 1,660 cubic yards of fill (stones no larger than 3 inches in diameter) and 890 cubic yards of gravel, all sourced from local sites, will be used to armor the shoreline. All construction activities for this project will be completed from at least two barges in Banks Lake. Both heavy equipment and materials will be loaded onto the barges, which will be deployed using the existing Steamboat Rock boat launch. Prior to laying down the riprap, a geotextile fabric layer will be placed on top of shoreline and spread and secured by hand. A 6" bedding layer of gravel and fill will be placed on top of the fabric layer using heavy equipment from the barges. After the bedding layer is added, if needed, small machinery will be unloaded onto the shoreline using a ramp from one of the barges to move material around and for compacting the bedding material and fill. Once a solid bedding layer is place, riprap will be placed from the barges on top of the bedding layer.

Equipment and materials are expected to remain on the barges, anchored offshore for overnight staging. It would be difficult and time consuming to load and unload every day, and keeping material and equipment on the barges also decreases chances of causing damage to existing infrastructure. The hired contractor will be required to provide and abide by a barge-specific Spill Prevention, Control and Countermeasure (SPCC) plan, and will also be required to adhere to all permit provisions for barge work/overnight barge staging. Existing paved areas within the state park will be used to stage equipment and materials prior to loading onto the barge.

Temporary safety fencing will be installed as needed and as approved by the Contracting Officer's Representative in coordination with Reclamation's archaeologist. Fencing will be removed when no longer needed. Dust control and abatement will be provided as needed during construction. Water used for dust abatement will be taken from Banks Lake per a temporary water right which will be acquired by Reclamation prior to construction. Certified weed-free straw bales will be used as needed to assist with sediment erosion control.

Onsite construction is expected to begin around October 2026, and is expected to be completed by May 2027, with the tentative schedule as follows (exact dates and duration will be up to the contractor and will be weather permitting):

- October 2026: assemble barges in water, begin receiving shipments of fill, gravel, and riprap. Stake down straw bales if needed. Place geotextile fabric layers and prepare for rock placement.
- November 2026 to March 2027: place riprap, fill, and gravel.
- March 2027 to April 2027: plant vegetation plan as shown in specs.
- April 2027: Demobilize and site clean up. Contractor will maintain plantings for 2 weeks post-construction.

During construction, access to the day use boat ramp in this area will be limited to construction use, with little to no public availability. All temporary materials placed onsite for the purpose of construction will be removed once the project is complete.

The contractor will be responsible for replanting the site once construction is complete and for the first two weeks of post-planting watering. Reclamation will develop a vegetation monitoring plan that will establish roles and responsibilities for site maintenance for the remaining monitoring duration required by project permits.

*Figure 1: Aerial overview showing general project location.*

*Figure 2: Aerial overview of the shoreline area within Steamboat Rock State Park to be stabilized.*

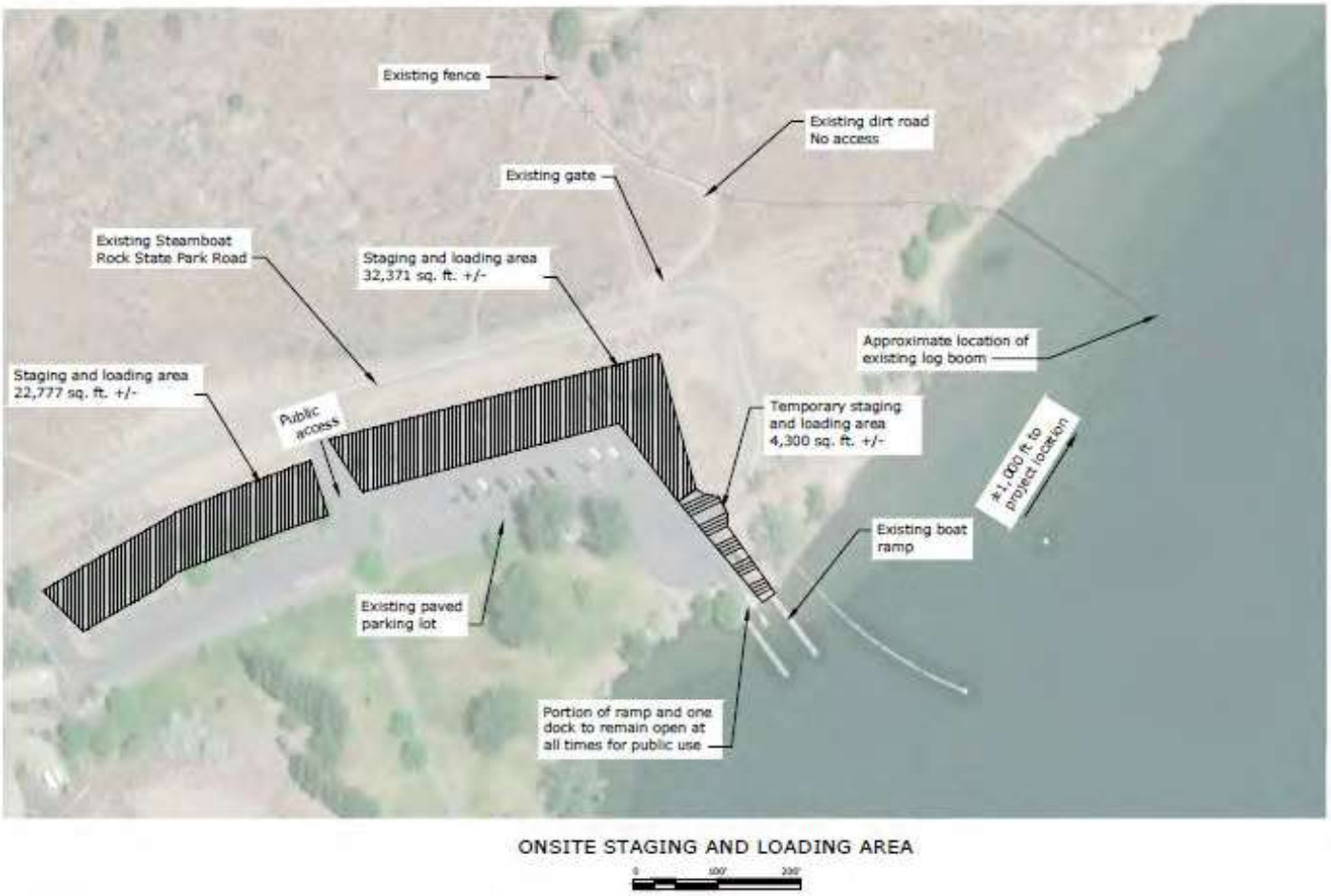


*Figure 3: Aerial overview showing close-up of existing road and parking lot which will be used for staging and loading of materials.*

| Extraordinary Circumstances Exist for This Action Which May: | | No | Yes | Uncertain |
|---|---|---|---|---|
| 1 | This action would have a *significant effect on the quality of the human environment (40 CFR 1501.4(a)).<br>***Please note, per 1501.4 (b)(1) of the NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING REGULATIONS (revised September 2020):** *"If an extraordinary circumstance is present, the agency nevertheless may categorically exclude the proposed action if the agency determines that there are circumstances that lessen the impacts or other conditions sufficient to avoid significant effects." It is recommended that the use of 1501.4 (b)(1) be vetted through the Project's Attorney Advisor and NEPA managers affiliated with the Project.* | ☒ | ☐ | ☐ |
| 2 | This action would have disputed environmental effects or involve unresolved conflicts concerning alternative uses of available resources (NEPA Section 102(2)(E) and 43 CFR 46.215(c)). | ☒ | ☐ | ☐ |
| 3 | This action would have significant impacts on public health or safety (43 CFR 46.215(a)). | ☒ | ☐ | ☐ |
| 4 | This action would have significant impacts on such natural resources and unique geographical characteristics as historic or cultural resources; parks, recreation, and refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO11990); flood plains (EO11988); national monuments; migratory birds; and other ecologically significant or critical areas (43 CFR46.215(b)). | ☒ | ☐ | ☐ |
| 5 | This action would have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks (43 CFR 46.215(d)). | ☒ | ☐ | ☐ |
| 6 | This action would establish a precedent for future action or present a decision in principle about future actions with potentially significant environmental effects (43 CFR 46.215 (e)). | ☒ | ☐ | ☐ |
| 7 | This action would have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects (43 CFR 46.215 (f)). | ☒ | ☐ | ☐ |
| 8 | This action would have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by Reclamation (in coordination with a Reclamation cultural resources professional, LND 02-01) (43 CFR 46.215(g)). | ☒ | ☐ | ☐ |
| 9 | This action would have significant impacts on species listed, or proposed to be listed, on the list of Endangered or Threatened Species, or have significant impacts on designated critical habitat for these species (43 CFR 46.215 (h)). | ☒ | ☐ | ☐ |
| 10 | This action would violate a Federal, tribal, State, or local law or requirement imposed for protection of the environment (43 CFR 46.215 (i)). | ☒ | ☐ | ☐ |
| 11 | This action would affect ITAs (to be completed by Reclamation official responsible for ITAs) (512 DM 2, Policy Memorandum dated December 15, 1993). | ☒ | ☐ | ☐ |
| 12 | This action would have a disproportionately high and adverse effect on low-income or minority populations (EO 12898) (43 CFR 46.215 (j)). | ☒ | ☐ | ☐ |
| 13 | This action would limit access to, and ceremonial use of, Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007, 43 CFR 46.215 (k), and 512 DM 3)). | ☒ | ☐ | ☐ |
| 14 | This action would contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or | ☒ | ☐ | ☐ |

| | | | | |
|---|---|---|---|---|
| | actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act, EO 13112, and 43 CFR 46.215 (l)). | | | |

## NEPA action recommended

| | |
|---|---|
| ☒ | CE Checklist: The proposed action meets the criteria, as defined in 43 CFR 46.215, and qualifies as a categorical exclusion. The action will not significantly affect the quality of the human environment. It is excluded from documentation in an Environmental Assessment (EA) or Environmental Impact Statement (EIS). |

The proposed action does not meet the criteria for a categorical exclusion. Further environmental review and analysis is required. The following environmental document should be prepared.

☐EA

☐EIS

## ENVIRONMENTAL AND TRUST ASSET COMMITMENTS, EXPLANATION, AND/OR COMMENTS:

**NHPA S.106, E.O. 13007**

Under the umbrella of an existing MOA (No. R18MA13738) established in 2018 and amended in 2023, A cultural resources evaluation of the of the Steamboat Rock Stabilization Project Area was completed to identify potential historic properties, including archaeological and built environment cultural resources. The effect determination for the undertaking was confirmed to be a "No Adverse Effect to Historic Properties." The Department of Archaeology and Historic Preservation (DAHP), Confederated Tribes of the Colville Reservation and the Yakama Nation consulted on this determination. DAHP concurred with our finding in a letter dated June 18, 2024. The Colville concurred with the finding via email and no response was received from the Yakama. Should cultural resources be discovered, all work in the area of the archaeological resource would stop and the Regional Office Archaeologist (Gia DiMaggio) would be contacted at gdimaggio@usbr.gov or by phone (208) 590-6147.

**T&E Species Review**

Reclamation concludes that a biological evaluation, under section 7 of the Endangered Species Act (ESA), is not required for this action as there are no Federally listed species in or around Banks Lake. Reclamation also determines that this Federal Action will not affect Threatened or Endangered species, nor will it adversely affect Essential Fish Habitat.

**Environmental Justice**

Reclamation has determined that there will not be disproportionately high or adverse human health or environmental effects on minority or low-income populations or communities.

**Indian Trust Assets**

There are no known assets held in Trust for American Indian Tribes or Individuals in the project location. Therefore, there will be no effect.

**Wetlands and Vegetation**:

Construction for this project will occur outside of any delineated wetlands or hydric soils that may be present.

| Project Title: Steamboat Rock State Park Shoreline Stabilization | | |
|---|---|---|
| **Concurrence and approval** | **Name and Title** | **Signature** |
| Prepared by | Amy Cook, Natural Resource Specialist | AMY COOK Digitally signed by AMY COOK Date: 2024.10.29 09:53:50 -07'00' |
| Concur with item #8 | Gia Dimaggio, Archaeologist | GIA DIMAGGIO Digitally signed by GIA DIMAGGIO Date: 2024.10.29 12:00:16 -06'00' |
| Concur with item #9 | Elizabeth Heether, Acting Environmental Program Manager | ELIZABETH HEETHER Digitally signed by ELIZABETH HEETHER Date: 2024.10.29 14:10:10 -07'00' |
| Concur with item #11 | Jessica Asbill-Case, Native American Affairs Advisor | JESSICA ASBILL-CASE Digitally signed by JESSICA ASBILL-CASE Date: 2024.10.31 08:53:26 -06'00' |
| Concur: Field Office Manager | Marc Maynard, Ephrata Field Office Manager | MARC MAYNARD Digitally signed by MARC MAYNARD Date: 2024.10.31 11:18:32 -07'00' |
| Recommended: Environmental Program Manager | Elizabeth Heether, Acting Environmental Program Manager | ELIZABETH HEETHER Digitally signed by ELIZABETH HEETHER Date: 2024.10.29 14:10:32 -07'00' |
| Approved: Area Office Manager | Wylie C. Duke, Columbia-Cascades Area Office Manager | WYLIE DUKE Digitally signed by WYLIE DUKE Date: 2024.10.31 12:59:47 -07'00' |

Categorical Exclusion Number and Date CPN-EFO-CE-2025-021 10/31/2024

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# MEMORANDUM OF AGREEMENT
# R25MA13721

## BETWEEN

## THE DEPARTMENT OF THE INTERIOR
## BUREAU OF RECLAMATION, COLUMBIA-PACIFIC NORTHWEST REGION,
## COLUMBIA-CASCADES AREA OFFICE
## AND THE
## CONFEDERATED TRIBES OF THE COLVILLE RESERVATION
## AND THE
## CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION
## AND THE
## WASHINGTON STATE HISTORIC PRESERVATION OFFICER
## AND THE
## WASHINGTON STATE PARKS AND RECREATION COMMISSION

## REGARDING
## THE TREATMENT OF 45GR1008,
## BANKS LAKE RESERVOIR, GRANT COUNTY, WASHINGTON

**WHEREAS**, the Columbia-Cascades Area Office, Bureau of Reclamation (Reclamation); and the Washington State Parks and Recreation Commission (State Parks) are cooperating on an ongoing campground improvements project (undertaking) at Steamboat Rock State Park, located on land held in fee title by Reclamation and managed under a long-term lease agreement with State Parks;

**WHEREAS**, Reclamation prepared an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) in March of 2010 for the Steamboat Rock State Park Campground Expansion. The EA concluded that the project would have adverse effects as a result of indirect impacts. To mitigate these impacts Reclamation, State Parks, the Confederated Tribes of the Colville Reservation (CCT), and the Washington State Historic Preservation Office (SHPO), entered into a Memorandum of Agreement (MOA) R18MA13738 in August of 2010.

**WHEREAS**, the updated MOA was executed on July 17, 2018, with the term of the agreement identified as five (5) years from the date of execution. The amendment to the MOA was meant to have been signed by all signatories by July 17, 2023, in order to approve the extension for another five (5) years from the date of execution (July 17, 2028). The amended MOA was not signed by all Parties by the date allowed and thus, the 2023 amended MOA was nullified.

**WHEREAS**, Reclamation has the role of lead federal agency for cultural compliance regarding the proposed undertaking to be performed in the Steamboat Rock State Park Area of Potential Effect (APE) located on federal property.

**WHEREAS,** the CCT, and the Confederated Tribes and Bands of the Yakama Nation (Yakama Nation) attach religious and cultural significance to the APE.

**WHEREAS**, site 45GR1008, a property which was determined eligible for inclusion to the National Register of Historic Places in 2006, is located within the project APE. This property, and potentially others within Banks Lake, is receiving adverse impacts from public activities and operation of the Banks Lake Reservoir.

**WHEREAS,** Reclamation has determined that recreational use associated with the proposed undertaking will likely have an adverse effect on site 45GR1008 and has consulted with the SHPO, State Parks, the CCT, and the Yakama Nation pursuant to 36 CFR 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f).

**WHEREAS**, in accordance with 36 CFR Section 800.6(a)(1), Reclamation notified the Advisory Council on Historic Preservation (Council) in 2010 of its adverse effect determination with specified documentation and the Council chose not to participate in the consultation pursuant to 36 CFR 800.6(a)(1)(iii).

**WHEREAS**, given adverse effects, Reclamation has conducted a site assessment and completed a Treatment Plan as of May 2018 for archaeological site 45GR1008 to address impacts from the adverse effects of the undertaking.

**WHEREAS**, Phase II of the campground improvements identified in the Environmental Assessment resumed upon completion of the site assessment and treatment plan for 45GR1008.

**WHEREAS**, given the recommendations outlined in the completed Treatment Plan, and through consultation with the signatories, Reclamation is in the process of confirming designs for the final phase of treatment. Treatment will comprise of non-ground disturbing shoreline stabilization activities. Shoreline stabilization will involve the placement of riprap on top of the ground surface within the APE to minimize further impacts to site 45GR1008.

**WHEREAS**, per the agreed upon stipulations laid forth in the original MOA, in consultation with the CCT and the Yakama Nation, Reclamation has completed a NAGPRA Plan of Action (POA) as of February 2025 for archaeological site 45GR1008 to address potential discoveries during implementation of the undertaking.

**WHEREAS**, per the agreed upon stipulations laid forth in the original MOA, in consultation with the CCT and the Yakama Nation, Reclamation has contracted Environmental Management and Planning Solutions, LLC (EMPSi) to draft the Banks Lake Cultural Resource Management Plan (CRMP). The timeline for completion of the CRMP is September 30th, 2025.

**WHEREAS,** Reclamation, Washington SHPO, CCT, Yakama Nation, and State Parks shall be signatories to this MOA.

**WHEREAS**, completing the obligations under this MOA will facilitate fulfillment of Reclamations responsibilities under the National Historic Preservation Act (NHPA) and the Native American Graves Protection and Repatriation Act (NAGPRA) in place of the nullified MOA. The term of agreement will extend for five (5) years from the date of execution (August 31, 2030).

**NOW, THEREFORE**, Reclamation, State Parks, CCT, Yakama Nation, and the Washington SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

## STIPULATIONS

The Signatories and Consulting Parties agree that BOR shall carry out the following stipulations during the term of agreement:

I. **45GR1008 TREATMENT PLAN.** Reclamation shall ensure that steps are taken to mitigate the adverse effects to site 45GR1008. Prior to carrying out treatment, Reclamation shall perform all actions having been outlined in the completed Treatment Plan prepared by Tierra Right of Way in 2018, having been contracted by Reclamation in partial fulfillment of the stipulations agreed upon in the original MOA. Reclamation will continue to coordinate with the Signatories and Consulting Parties on the recommended course of action. Reclamation will ensure that the Shoreline Stabilization around site 45GR1008 is implemented in conjunction with the NAGPRA Plan of Action, and the Post Review Discovery Plan. As part of the treatment, a monitoring plan will be developed in along with the CRMP and implemented to oversee the treatment success in out years.

A. **Curation.** Reclamation shall continue to promote the preservation of site 45GR1008 in situ. Reclamation committed to a non-collection site condition assessment and no curation of artifacts occurred. It is Reclamation's objective that all archaeological work, i.e., the treatment plan, will be managed as non-collection endeavors to the extent possible. In the event that, as a result of consultations, collections are determined to be necessary, Reclamation shall ensure that all records, and materials resulting from the treatment are curated in accordance with 36 CFR 79 with the exception of cultural items identified under the Native American Graves Protection and Repatriation Act (NAGPRA).

B. **Professional Qualifications**. Reclamation shall ensure that all work undertaken to satisfy the terms of this agreement shall be performed under the supervision of qualified professionals satisfying the provisions of the "Professional Qualifications Standards" of Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines (48 FR 44716-44742). All archeological investigations shall be supervised by a qualified archeologist (48 FR 44739).

C. **Treatment of Human Remains**. Reclamation shall ensure that effort is made to preserve human remains and funerary objects from site 45GR1008 in situ. Reclamation shall ensure that any and all human remains, associated funerary objects, unassociated funerary objects, sacred objects, and objects of cultural patrimony (NAGPRA items) discovered as a result of this project will be treated with dignity and respect. In the event that NAGPRA items must be removed from the site, and in order to ensure the proper treatment of Native American human remains and NAGPRA objects, Reclamation will comply with NAGPRA and implementing regulations 43 CFR Part 10, in consultation with the affected tribes.

Reclamation will continue to consult with the affected tribes to implement the Plan of Action in the event NAGPRA items are encountered. The Plan of Action has established procedures for the discovery, any scientific analysis (if desired by the affected tribes), and reburial (if desired by the affected tribes) of human remains in an agreed upon manner and location.

The Yakama Nation has requested a mutually agreed upon reburial location in as close proximity as possible to the burial location. In the event of a discovery in need of disposition, approval of a site as a reburial location will occur through consultation with the CCT and Yakama Nation.

**D. Post-Review Discoveries**. If previously unidentified potential historic properties are discovered, or unanticipated effects on historic properties found, Reclamation will stop work immediately and will inspect the discovery. Upon verification the materials are cultural or historical, steps will be taken to protect the find. The office of the State Historic Preservation Officer, and any potentially affected Party(ies) will be contacted. Work will not resume until a remedy has been agreed upon amongst the consulting Parties. If human remains are encountered, the provisions of NAGPRA will be followed in accordance with the Plan of Action drafted and implement by the Reclamation in consultation with the affected Parties.

i. Specific cultural resource information is exempt from the Freedom of Information Act (FOIA) under exemption #3, "Information exempted from disclosure by another statute." Specifically, Section 304 of the National Historic Preservation Act (NHPA) requires federal agencies "...to withhold from disclosure to the public information about the location, character, or ownership of historic resources if ... the agency determine(s) that disclosure may cause a significant invasion of privacy, risk harm to the historic resource, or impede the use of a traditional religious site by practitioners." Additionally, the Archaeological Resource Protection Act also protects information about the nature and location of any archaeological resource.

**II. DRAFT CULTURAL RESOURCE MANAGEMENT PLAN (CRMP).** In 2001 Reclamation developed a Resource Management Plan for the Banks Lake area (RMP). The 2001 RMP was designed to guide conservation, protection, and management of land and water resources under the jurisdiction of Reclamation. The RMP also included guidance for cultural resource management for both the existing environment as well as desired future goals and the actions necessary to implement them. Additionally, the preparation of a CRMP was committed to in the RMP.

Reclamation is currently in the process of preparing a draft CRMP that covers Reclamation lands in the Banks Lake Area. The CRMP is being developed in cooperation with Washington Department of Fish and Wildlife, Washington State Parks, Washington State Department of History and Archaeology, CCT, and the Yakama Nation. The CRMP will provide specific actions and methods to protect cultural resources and incorporate input from tribes and state agencies in its preparation as well as its implementation. Reclamation will coordinate with the Banks Lake Cultural Resource Working Group (CRWG) to review, comment, and finalize the CRMP. Reclamation anticipates a draft CRMP will be completed within the term of this agreement. If this schedule cannot be completed, the signatories will be notified prior to the end of this period and the MOA will be amended to reflect the new schedule.

The CRMP will include an updated inventory of Traditional Cultural Properties (TCP). In 1997, Reclamation contracted with Eastern Washington University, who subcontracted to Camas Consulting to prepare a TCP report for the Banks Lake area. EMPSi will use the information from this report along with publicly available resources to develop this section of the CRMP. To date, Reclamation has entered into two separate contracts in 2020 with the CCT and the Yakama Nation to develop TCP Studies for the Banks Lake Area. Both of which were completed and provided to Reclamation in 2022 to help inform the CRMP.

While the TCP reports are considered confidential and prohibited from distribution, the information provided wherein will not be included into the greater CRMP. Reclamation will continue to refer to each TCP study when consulting with the Tribes regarding treatment of culturally significant sites around the Banks Lake Area during project implementation. In conjunction with the CRMP, Reclamation has committed to preparing an archaeological monitoring plan for potential impacts at Banks Lake. The archaeological monitoring plan will be a component of the CRMP and be reviewed by the CRWG.

III. **OVERSIGHT AND REPORTING**. Annually, following the execution of this agreement until it expires or is terminated, Reclamation will prepare a report that includes status updates of the activities identified in this agreement. This report will be sent out to the signatories towards the end of each fiscal year.

IV. **DISPUTE RESOLUTION**. Should any Party to this agreement object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, Reclamation shall consult with the objecting Party(ies) to resolve the objection. If resolution is not achieved the concerned Parties will proceed into a non-binding mediation as required. If Reclamation determines, within thirty (30) days, that such prior actions are unsuccessful, Reclamation will:

**A.** Forward all documentation relevant to the dispute to the Council in accordance with 36 CFR 800.2(b)(2). Upon receipt of adequate documentation, the Council shall review and advise Reclamation on the resolution of the objection within thirty (30) days. Any comment provided by the Council, and all comments from the Parties to the MOA, will be addressed by Reclamation in reaching a final decision regarding the dispute.

**B.** If the Council does not provide comments regarding the dispute within thirty 30 days after receipt of adequate documentation, Reclamation may render a decision regarding the dispute. In reaching its decision, Reclamation will take into account all comments regarding the dispute from the Parties to the MOA.

**C.** Reclamation is responsible for carrying out all other actions subject to the terms of this MOA that are not the subject of the dispute. Reclamation will notify all Parties of its decision in writing before implementing that portion of the Undertaking subject to dispute under this stipulation. Reclamation's decision will be final.

V. **AMENDMENTS AND NONCOMPLIANCE**. If any Signatory to this MOA determines that the terms will not or cannot be carried out or that an amendment to its terms must be made, that Party shall immediately consult with the other Parties to develop an amendment to this MOA pursuant to 36 CFR 800.6(c)(7) and 800.6(c)(8). The amendment will become effective on the date a copy signed by all of the original Signatories is filed with the Council. If the Signatories cannot agree to appropriate terms to amend the MOA, any Signatory may terminate the agreement in accordance with Stipulation VI, below.

VI. **TERMINATION**. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories. Termination of the MOA would require the negotiation and execution of another MOA pursuant to 36 CFR 800.6.

VII. **DURATION**. This MOA will be null and void if its terms are not carried out by August 31, 2030. Prior to such time, Reclamation may consult with the Signatories and Consulting Parties to reconsider the terms of the MOA and amend in accordance to Stipulation IV. It will be the responsibility of the landholder (Reclamation) and the land manager (Parks) to bring the agreement back for consideration if Stipulations are not upheld within the time of execution or Stipulation II is not complete within one year.

Execution of this MOA by Reclamation and Washington SHPO, the submission of documentation and filing of this MOA with the Council pursuant to 36 CFR 800.6(b)(1)(iv) prior to Reclamation's approval of this undertaking, and implementation of its terms evidence that Reclamation has taken into account the effects of this undertaking on historic properties and afforded the Council an opportunity to comment.

VIII. **DESIGNATED CONTACTS.**

**For Reclamation:**
Clyde Lay
Deputy Field Office Manager
Bureau of Reclamation, Ephrata Field Office
32 C Street, NW, P.O. Box 815
Ephrata, WA 98823
Phone: 509-754-0257
Fax: 509-754-0239
Email: clay@usbr.gov

**For SHPO:**
Rob Whitlam Ph.D.
State Archeologist
Washington Department of Archaeology and Historic Preservation
P.O. Box 48343
Olympia, WA 98504-8343
Phone: 360-586-3073
Fax: 360-586-3067
Email: rob.whitlam@dahp.wa.gov

**For Confederated Tribes of the Colville Reservation:**
Guy Moura, THPO
History/Archaeology Program
Confederated Tribes of the Colville Reservation
P.O. Box 150
Nespelem, WA 99155
Phone: 509-634-2695
Fax: 509-634-2694
Email: guy.moura@colvilletribes.com

**For Yakama Nation:**
Jerry Meninick, Program Manager
Yakama Nation Cultural Resources Program
P.O. Box 151
Toppenish, WA 98948
Phone: 509-685-7203
Email: jerry@yakama.com

**For Washington State Parks:**
Jennifer Wilson
Cultural Resources Program Manager
Washington State Parks & Recreation Commission
P.O. Box 42650
300 Desmond Drive SE. Lacey, WA 98503
Phone: 360-902-8637
Email: jennifer.wilson@parks.wa.gov

## IX. GENERAL PROVISIONS

**A.** This MOA is neither a fiscal nor a funds obligating document for Reclamation. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the Parties and shall be independently authorized by appropriate statutory authority. This MOA does not provide such authority. Specifically, this MOA does not establish authority for noncompetitive award to the Parties of any contract or other agreement. Notwithstanding the foregoing, Reclamation agrees to undertake such separate agreements as may be necessary to carry out the measures in the Stipulations herein, subject to section IX. B. below.

**B.** Nothing herein shall or shall be construed to obligate any Party to expend funds or involve their respective agencies in any contract or other obligation for the future payment of money in excess of appropriations authorized by law and administratively allocated for the purposes and projects contemplated hereunder.

**C.** No Member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this MOA or to any benefit that may arise out of it.

**D.** Any information furnished to Reclamation, under this MOA, is subject to the Freedom of Information Act (5 U.S.C. 552) except as noted in section Stipulation I(G)(i).

**E.** The Parties agree to comply with all Federal statutes relating to nondiscrimination, including but not limited to: Title VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, religion, sex, or national origin; Title IX of the Education amendments of 1972, as amended, which prohibits discrimination on the basis of sex; the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, which prohibit discrimination on the basis of disability; the Age Discrimination in Employment Act of 1967, as amended, which prohibits discrimination based on age against those who are at least 40 years of age; and the Equal Pay Act of 1963

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## X. SIGNATORIES

**IN WITNESS WHEREOF the Parties hereto have executed this MOA as of the last date written below.**

U.S. Department of the Interior, Bureau of Reclamation

**Wylie (Chris) Duke**
**Columbia Cascades Area Office Manager**

**Date**

**Washington State Historic Preservation Officer**

Allyson Brooks (Sep 24, 2025 07:56:09 PDT)

**Allyson Brooks, PhD.**
**Washington State Historic Preservation Officer**

Sep 24, 2025
**Date**

**Washington State Parks and Recreation Commission**

**Diana DuPuis**
**Director of Parks Development**

April 23,2025
**Date**

**Confederated Tribes of the Colville Reservation**

**Jarred-Michael Erickson**
**Chairman**

9/22/25
**Date**

**Confederated Tribes and Bands of the Yakama Nation**

**Gerald Lewis**
**Chairman**

07.11.25
**Date**

GRANT COUNTY
DEVELOPMENT SERVICES
P.O. BOX 37 - 264 WEST DIVISION AVENUE
EPHRATA, WA 98823
(509) 754-2011 EXT 2501

July 31, 2025

United States Bureau of Reclamation
Marc Maynard
32 C Street NW
Ephrata, WA 98823

RE: Steamboat Rock Shoreline Stabilization Project – Shoreline Exemption Request
Planning Application File P 25-0119

Mr. Maynard,

Grant County Development Services has reviewed the submitted JARPA for a Shoreline Exemption for the Steamboat Rock Shoreline Stabilization Project. After our detailed review of the materials it has been determined that the proposed project is not subject to review under Grant County's Shoreline Master Program. The project is being undertaken by a Federal Agency on Federally owned land. As such, no formal shoreline permit decision will be forthcoming from this office. A full refund will be issued for the submitted Exemption fee.

Please feel free to contact me should you have any further questions or concerns regarding this matter. I can be reached via phone at (509) 754-2011 ext. 2525 or via email at wconley@grantcountywa.gov.

Sincerely,

Willow Conley
Assistant Planner

Cc: File
Jerry Nelis, Project Manager – USBR, 1150 N Curtis Rd, Boise, ID 83706
Amy Cook, Natural Resource Specialist – USBR, 1917 Marsh Road, Yakima WA 98901

# HYDRAULIC PROJECT APPROVAL

Washington Department of
Fish and Wildlife
PO Box 43234
Olympia, WA 98504-3234
(360) 902-2200

Issue Date: 10/16/2025
Project End Date: 04/30/2027

Permit Type: HPA - Standard
Permit Number: 2025-2-134+02
Application ID: 0045657

| PERMITTEE | AUTHORIZED AGENT |
|---|---|
| ATTENTION<br>Bureau of Reclamation<br>Marc Maynard<br>32 C St NW<br>Ephrata, Washington 98823 | ATTENTION<br>Bureau of Reclamation<br>Amy Cook<br>1917 Marsh Road<br>Yakima, Washington 98901 |

**Project Name:** Steamboat Rock Shoreline Stabilization Project

**Project Description:** Reclamation proposes to construct a shoreline stabilization project along a heavily eroded section of Banks Lake, located within Steamboat Rock State Park, that has been negatively impacted by both Reclamation operations at Banks Lake as well as by State Park recreationalists.

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## PROVISIONS

AUTHORIZED WORK TIMES

1. You may begin the project on October 1, 2026, and you must complete the project by April 30, 2027; provided: Banks Lake is at or near its lowest annual water level.

PROJECT APPROVALS

2. Work must be accomplished per the plans and specifications submitted with the application and approved by the Washington Department of Fish and Wildlife, entitled Banks Lake - Steamboat Rock State Park Shoreline Stabilization, dated June 27, 2025, except as modified by this Hydraulic Project Approval. You must have a copy of these plans available on site during all phases of the project construction.

INVASIVE SPECIES CONTROL

3. Follow Method 1 for low-risk locations (i.e., clean/drain/rinse/dry). Thoroughly remove visible dirt and debris from all equipment and gear—including vessels, boots, waders, drive mechanisms, wheels, tires, tracks, buckets, and undercarriage—before arriving at and leaving the job site to prevent the transport and introduction of aquatic invasive species. For contaminated or high-risk sites, refer to the Method 2 Decontamination protocol. Clean, rinse, and dry all decontamination equipment used and properly dispose of any water and chemicals used for cleaning. For additional decontamination details, including specific protocols for freshwater, marine, and estuarine environments, refer to the Washington Department of Fish and Wildlife Invasive Species Management Protocols, available online at https://wdfw.wa.gov/species-habitats/invasive/prevention/clean-drain-dry#decontamination

NOTIFICATION REQUIREMENTS

4. FISH KILL/WATER QUALITY PROBLEM NOTIFICATION: If a fish kill occurs or fish are observed in distress at the job site, immediately stop all activities causing harm. Immediately notify the Washington Department of Fish and Wildlife of the problem. If the likely cause of the fish kill or fish distress is related to water quality, also notify the Washington Military Department Emergency Management Division at 1-800-258-5990. Activities related to the fish kill or fish distress must not resume until the Washington Department of Fish and Wildlife gives approval. The Washington Department of Fish and Wildlife may require additional measures to mitigate impacts.
5. You or your agent must contact the Washington Department of Fish and Wildlife by e-mail at HPAapplications@dfw.wa.gov; mail to Post Office Box 43234, Olympia, Washington 98504-3234; or fax to (360) 902-2946 at least three business days before starting work, and again within seven days after completing the work. The notification must include the permittee's name, project location, starting date for work or date the work was completed, and the permit number. The Washington Department of Fish and Wildlife may conduct inspections during and after construction; however, the Washington Department of Fish and Wildlife will notify you or your agent before conducting the inspection.
6. PRE-CONSTRUCTION CONTRACTOR MEETING: You or your agent must contact the Washington Department of Fish and Wildlife by e-mail at HPAapplications@dfw.wa.gov; mail to Post Office Box 43234, Olympia, Washington 98504-3234; or fax to (360) 902-2946 at least fourteen business days before starting work to arrange a pre-construction contractor meeting onsite. The notification must include the permittee's name, project location, starting date, and the HPA permit number.

REPORTING REQUIREMENTS

7. PHOTOGRAPHS: You, your agent, or contractor must take photographs of the job site before the work begins and after the work is completed. You must upload the photographs to the post-permit requirement page in the Aquatic Protection Permitting System (APPS) or mail them to Washington Department of Fish and Wildlife at Post Office Box 43234, Olympia, Washington 98504-3234 within 30-days after the work is completed.

PROJECT IMPLEMENTATION

8. Install the barge(s) anchoring system to prevent the anchor from shifting or dragging along the bed.
9. Design and locate the barge(s) anchoring system to avoid damage to lakebed habitat (banks, bed, riparian).
10. The anchor location and anchor line shall be clearly marked for safety purposes.
11. No part of the barge(s) or its supporting structure(s) shall be dragged on the bed of the lake during placement of bank stabilization material. Contact of the barge(s) or its components with the bed or minor alteration of the bed or bank for the installation of the bank stabilization material shall be kept to the minimum amount necessary.
12. Aquatic vegetation shall not be removed or disturbed. Alteration of bank vegetation shall be limited to that necessary to install the bank stabilization material. Existing trees along the shoreline shall not be disturbed.
13. The barge(s) and all associated components shall be immediately removed waterward of the ordinary high-water line upon project completion.
14. Place bank stabilization material from the barge(s) until enough fill has been placed on the bank that will allow small equipment to operate without impacting resources within the shoreline. Place filter fabric from the bank, again, once enough fill has been placed on the bank from the barge(s) that will allow small equipment to operate without impacting resources within the shoreline.
15. Terminate the use of filter blanket material in areas where hydroseeding and shrub plantings will occur.

SEDIMENT, EROSION, AND POLLUTION CONTAINMENT

16. Protect all disturbed areas from erosion. Maintain erosion and sediment control until all work and cleanup of the job site is complete.
17. Prevent project contaminants, such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials, from entering or leaching into waters of the state.
18. Secure all containers storing fuel or other deleterious substances on the barge to prevent incidental spills.

STAGING, JOB SITE ACCESS, AND EQUIPMENT

19. Check equipment daily for leaks and complete any required repairs on the barge(s) or in an upland location before using the equipment near Banks Lake.
20. Clearly mark the project boundaries to establish the limit of work associated with site access and construction.
21. Equipment used in or near waters of the state must use environmentally acceptable lubricants composed of biodegradable base oils. These are vegetable oils, synthetic esters, and polyalkylene glycols.
22. All construction work (equipment access, material placement, etc.) needs to originate from the barge(s), waterward of the ordinary high-water line (OHWL). Construction equipment shall not operate on top of existing native ground. Once a suitable fill layer has been placed and native ground is covered and protected (as approved by Reclamation's Archaeologist), small machinery may be brought onto the shoreline using a ramp from the barge (as approved by Reclamation's Contracting Officer's Representative). Equipment unloaded from the barge must only work landward of the OHWL. Larger equipment such as large excavators and cranes may remain on the barge(s) and continue to operate waterward of the OHWL.

FISH PASSAGE AND SCREENING

23. As provided in RCW 77.57.010 and 77.57.070, any device you use for pumping water from fish-bearing waters must be equipped with a fish guard to prevent passage of fish into the pump intake. You must screen the pump intake with material that has openings no larger than 5/64 inch for square openings, measured side to side, or 3/32 inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a 100 gpm-rated pump would require at least a 100 square inch screen.

DEMOBILIZATION AND CLEANUP

24. Remove temporary erosion and sediment control methods after job site is stabilized or within three months of project completion, whichever is sooner.
25. Upon completion of the project, remove all materials or equipment from the site and dispose of all excess spoils and waste materials in an upland area above the limits of anticipated floodwater.

PLANTING

26. You must complete re-vegetation by no later than April 15. 2027, and the re-vegetation must be monitored for success through May 1, 2030.

27. Replant the job site with the plant species composition and planting densities approved by the Washington Department of Fish and Wildlife.
28. Complete replanting of riparian vegetation during the first dormant season after project completion per the approved plan. Monitor and maintain plantings for at least three years to ensure at least eighty percent of the plantings survive. Failure to achieve the eighty percent survival in year three will require you to submit a plan with follow-up measures to achieve requirements or reasons to modify requirements.

## PROJECT LOCATION(S)

| **Location** | | |
|---|---|---|
| Steamboat Rock State Park Shoreline | | |
| **Latitude** | **Longitude** | **County** |
| 47.866129000000000 | -119.115548000000000 | Grant |
| **WRIA** | **Waterbody** | **Tributary to** |
| WRIA | Banks Lake | Banks Lake |

## APPLIES TO ALL HYDRAULIC PROJECT APPROVALS

This Hydraulic Project Approval (HPA) pertains only to those requirements of the Washington State Hydraulic Code, specifically Chapter 77.55 RCW. Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this HPA is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state, and/or federal) that may be necessary for this project.

This Hydraulic Project Approval (HPA) shall be available on the job site at all times and all its provisions followed by the person(s) to whom this HPA is issued and operator(s) performing the work.

This Hydraulic Project Approval does not authorize trespass.

The person(s) to whom this Hydraulic Project Approval (HPA) is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this HPA.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil action against you, including, but not limited to, a stop work order or notice to comply, and/or a gross misdemeanor criminal charge, possibly punishable by a fine and/or imprisonment.

All Hydraulic Project Approvals (HPA) issued under RCW 77.55.021 are subject to additional restrictions, conditions, or revocation if the Washington Department of Fish and Wildlife determines that changed conditions require such action. The person(s) to whom this HPA is issued has the right to appeal those decisions. Procedures for filing appeals are listed below.

Issue Date: 10/16/2025
Project End Date: 04/30/2027

Permit Type: HPA - Standard
Permit Number: 2025-2-134+02
Application ID: 0045657

MINOR MODIFICATIONS TO THIS HYDRAULIC PROJECT APPROVAL (HPA): You may request approval of minor modifications to the required work timing or the plans and specifications approved in this HPA unless this is a General HPA. If this is a General HPA you must use the Major Modification process described below. Any approved minor modification will require the issuance of a letter documenting the approval. A minor modification to the required work timing means any change to the work start or end dates of the current work season to enable project or work phase completion. Minor modifications will be approved only if spawning or incubating fish are not present within the vicinity of the project. You may request subsequent minor modifications to the required work timing. A minor modification of the plans and specifications means any changes in the materials, characteristics, or construction of your project that do not alter the project's impact to fish life or habitat and do not require a change in the provisions of the HPA to mitigate the impacts of the modification. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a minor modification through APPS. A link to APPS is at https://hpa.wdfw.wa.gov/s. If you did not use APPS you must submit a written request for a minor modification to an existing HPA. Written requests must include the name of the permittee, the name of the authorized agent if applicable, the APP ID or HPA number, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send your written request by email to HPAapplications@dfw.wa.gov, or by mail to Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. You should allow up to 45 days for the Department to process your request.

MAJOR MODIFICATIONS TO THIS HYDRUALIC PROJECT APPROVAL (HPA): You may request approval of major modifications to any aspect of your HPA. Any approved change other than a minor modification to your HPA will require the issuance of a new HPA. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a major modification through APPS. A link to APPS is at https://hpa.wdfw.wa.gov/s. If you did not use APPS you must submit a written request for a major modification to an existing HPA. Written requests must include the name of the permittee, the name of the authorized agent if applicable, the APP ID or HPA number, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send your written request by email to HPAapplications@dfw.wa.gov or by mail to Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. You should allow up to 45 days for the Department to process your request.

## APPEALS INFORMATION

If you wish to appeal the issuance, denial, conditioning, or modification of a Hydraulic Project Approval (HPA), the Washington Department of Fish and Wildlife (WDFW) recommends that you first contact the WDFW employee who issued, denied, or conditioned the HPA to discuss your concerns. Such a discussion may resolve your concerns without the need for further appeal action. If you proceed with an appeal, you may request an informal or formal appeal. WDFW encourages you to take advantage of the informal appeal process before initiating a formal appeal. The informal appeal process includes a review by WDFW management of the HPA or denial and often resolves issues faster and with less legal complexity than the formal appeal process. If the informal appeal process does not resolve your concerns, you may advance your appeal to the formal process.

A. INFORMAL APPEALS: WAC 220-660-460 is the rule describing how to request an informal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete informal appeal procedures. The following information summarizes that rule:

   A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request an informal appeal of that action. You must send your request to WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, PO Box 43234, Olympia, Washington 98504-3234; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the

Issue Date: 10/16/2025
Project End Date: 04/30/2027

Permit Type: HPA - Standard
Permit Number: 2025-2-134+02
Application ID: 0045657

WDFW Habitat Program, Natural Resources Building, 1111 Washington St SE, Olympia, Washington 98501. WDFW must receive your request within 30 days from the date you receive notice of the decision. If you agree, and you applied for the HPA, resolution of the appeal may be facilitated through an informal conference with the WDFW employee responsible for the decision and a supervisor. If a resolution is not reached through the informal conference, or you are not the person who applied for the HPA, the HPA Appeals Coordinator or designee may conduct an informal hearing or review and recommend a decision to the Habitat Program Director or designee. If you are not satisfied with the results of the informal appeal, you may file a request for a formal appeal.

B. FORMAL APPEALS: WAC 220-660-470 is the rule describing how to request a formal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete formal appeal procedures. The following information summarizes that rule:

   A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request a formal appeal of that action. You must send your request for a formal appeal to the clerk of the Pollution Control Hearings Boards and serve a copy on WDFW within 30 days from the date you receive notice of the decision. You may serve WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, PO Box 43234, Olympia, Washington 98504-3234; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Habitat Program, Natural Resources Building, 1111 Washington St SE, Olympia, Washington 98501. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, you may request a formal appeal within 30 days from the date you receive the Habitat Program Director's or designee's written decision in response to the informal appeal.

C. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS: If there is no timely request for an appeal, the WDFW action shall be final and unappealable.

---

Eric D. Pentico

For Director
DFW

Eric Pentico
Regional Habitat Biologist
(509) 754-4624 [x215]
eric.pentico@dfw.wa.gov

---

**From:** Jordan, Dale J CIV USARMY CENWS (USA)
**To:** Cook, Amy L
**Cc:** Heether, Elizabeth D
**Subject:** [EXTERNAL] RE: Steamboat Rock Shoreline Stabilization Project Application Withdrawal Request
**Date:** Sunday, July 13, 2025 10:14:25 AM

**This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.**

Hello Amy , Given your project meets all the parameters for NWP 13 the project meets the criteria for a non-reporting authorization for NWP 13 on Banks Lake. Meaning you have a Section 404 permit for the project on Banks Lake for your NWP 13 project.

Best of luck with the project.

v/r

Jess Jordan
Biologist, Columbia Basin Section
U.S. Army Corps of Engineers
Seattle District, Regulatory Branch
Phone: (509) 994-8653
Email: dale.j.jordan@usace.army.mil

**From:** Cook, Amy L <acook@usbr.gov>
**Sent:** Wednesday, June 18, 2025 1:08 PM
**To:** Jordan, Dale J CIV USARMY CENWS (USA) <Dale.J.Jordan@usace.army.mil>
**Cc:** Heether, Elizabeth D <EHeether@usbr.gov>
**Subject:** [Non-DoD Source] Steamboat Rock Shoreline Stabilization Project Application Withdrawal Request

Hi Jess,

Based on our understanding, Reclamation meets the nonreporting requirements for the Nationwide 13 Permit, and as such, we would like to withdraw our permit application for the Steamboat Rock Shoreline Stabilization Project (NWS-2025-260). Please confirm agreement that the aforementioned project falls under the NWP 13 nonreporting parameters, and that as such, we will have NWP 13 coverage but that a permit will not be needed.

Please advise if there are any additional steps we need to take to close out this application.

Thanks,
Amy

**Amy Cook**
Natural Resource Specialist
Bureau of Reclamation
Columbia-Cascades Area Office
1917 Marsh Road | Yakima, WA 98901-2058

# WASHINGTON STATE
# Joint Aquatic Resources Permit Application (JARPA) Form[1,2] [help]

US Army Corps of Engineers ®
Seattle District

**USE BLACK OR BLUE INK TO ENTER ANSWERS IN THE WHITE SPACES BELOW.**

AGENCY USE ONLY

**Date received:**

**Agency reference #:** _____

**Tax Parcel #(s):** _____

_____

## Part 1–Project Identification

| **1.** Project Name (A name for your project that you create. Examples: Smith's Dock or Seabrook Lane Development) [help] |
|---|
| Steamboat Rock Shoreline Stabilization Project |

## Part 2–Applicant

The person and/or organization responsible for the project. [help]

| **2a.** Name (Last, First, Middle) | | | |
|---|---|---|---|
| Maynard, Marc | | | |
| **2b.** Organization (If applicable) | | | |
| Bureau of Reclamation | | | |
| **2c.** Mailing Address (Street or PO Box) | | | |
| 32 C St NW | | | |
| **2d.** City, State, Zip | | | |
| Ephrata, WA 98823 | | | |
| **2e.** Phone (1) | **2f.** Phone (2) | **2g.** Fax | **2h.** E-mail |
| 509-754-0205 | | | mmaynard@usbr.gov |

[1]Additional forms may be required for the following permits:
- If your project may qualify for Department of the Army authorization through a Regional General Permit (RGP), contact the U.S. Army Corps of Engineers for application information (206) 764-3495.
- Not all cities and counties accept the JARPA for their local Shoreline permits. If you need a Shoreline permit, contact the appropriate city or county government to make sure they accept the JARPA.

[2]To access an online JARPA form with [help] screens, go to https://www.oria.wa.gov/jarpa-forms.

For other help, contact the Governor's Office for Regulatory Innovation and Assistance at (800) 917-0043 or help@oria.wa.gov.

## Part 3–Authorized Agent or Contact

Person authorized to represent the applicant about the project. (Note: Authorized agent(s) must sign 11b of this application.) [help]

| **3a.** Name (Last, First, Middle) | | | |
|---|---|---|---|
| Nelis, Jerry (Project Manager); and Cook, Amy (Natural Resource Specialist) | | | |
| **3b.** Organization (If applicable) | | | |
| Bureau of Reclamation | | | |
| **3c.** Mailing Address (Street or PO Box) | | | |
| Jerry: 1150 N. Curtis Rd, Boise ID 83706; Amy: 1917 Marsh Road, Yakima WA 98901 | | | |
| **3d.** City, State, Zip | | | |
| See above | | | |
| **3e.** Phone (1) | **3f.** Phone (2) | **3g.** Fax | **3h.** E-mail |
| JN: 208-270-5303 | AC: 509-573-8025 | | AC: acook@usbr.gov<br>JN: jnelis@usbr.gov |

## Part 4–Property Owner(s)

Contact information for people or organizations owning the property(ies) where the project will occur. Consider both **upland and aquatic** ownership because the upland owners may not own the adjacent aquatic land. [help]

☒ Same as applicant. (Skip to Part 5.)

☐ Repair or maintenance activities on existing rights-of-way or easements. (Skip to Part 5.)

☐ There are multiple upland property owners. Complete the section below and fill out JARPA Attachment A for each additional property owner.

☐ Your project is on Department of Natural Resources (DNR)-managed aquatic lands. If you don't know, contact the DNR at (360) 902-1100 to determine aquatic land ownership. If yes, complete JARPA Attachment E to apply for the Aquatic Use Authorization.

| **4a.** Name (Last, First, Middle) | | | |
|---|---|---|---|
| | | | |
| **4b.** Organization (If applicable) | | | |
| | | | |
| **4c.** Mailing Address (Street or PO Box) | | | |
| | | | |
| **4d.** City, State, Zip | | | |
| | | | |
| **4e.** Phone (1) | **4f.** Phone (2) | **4g.** Fax | **4h.** E-mail |
| | | | |

## Part 5–Project Location(s)

Identifying information about the property or properties where the project will occur. [help]

☐ There are multiple project locations (e.g. linear projects). Complete the section below and use JARPA Attachment B for each additional project location.

**5a.** Indicate the type of ownership of the property. (Check all that apply.) [help]

☐ Private
☒ Federal
☐ Publicly owned (state, county, city, special districts like schools, ports, etc.)
☐ Tribal
☐ Department of Natural Resources (DNR) – managed aquatic lands (Complete JARPA Attachment E)

**5b.** Street Address (Cannot be a PO Box. If there is no address, provide other location information in 5p.) [help]

Hwy 155-N Coulee Blvd, west side of the road between MP 15 and MP 16.

**5c.** City, State, Zip (If the project is not in a city or town, provide the name of the nearest city or town.) [help]

Electric City, WA 99123

**5d.** County [help]

Grant County

**5e.** Provide the section, township, and range for the project location. [help]

| ¼ Section | Section | Township | Range |
|---|---|---|---|
| | 01 | 27N | 29E |

**5f.** Provide the latitude and longitude of the project location. [help]

- Example: 47.03922 N lat. / -122.89142 W long. (Use decimal degrees - NAD 83)

47.866129 N lat / -119.115548 W long

**5g.** List the tax parcel number(s) for the project location. [help]

- The local county assessor's office can provide this information.

Property ID: 55831; GEO ID: 180944000 – Federally owned by United States of America

**5h.** Contact information for all adjoining property owners. (If you need more space, use JARPA Attachment C.) [help]

| Name | Mailing Address | Tax Parcel # (if known) |
|---|---|---|
| Bureau of Reclamation | 32 C St NW, Ephrata, WA 98823 | Property ID: 55478; GEO ID: 181029000 |
| Bureau of Reclamation | 32 C St NW, Ephrata, WA 98823 | Property ID: 55477; GEO ID: 181028000 |
| Bureau of Reclamation | 32 C St NW, Ephrata, WA 98823 | Property ID: 55382; GEO ID: 180945000 |
| Bureau of Reclamation | 32 C St NW, Ephrata, WA 98823 | Property ID: 55392; GEO ID: 180955000 |

| | | |
|---|---|---|
| Bureau of Reclamation | 32 C St NW, Ephrata, WA 98823 | Property ID: 55393; GEO ID: 180956000 |
| Bureau of Reclamation | 32 C St NW, Ephrata, WA 98823 | Property ID: 57247; GEO ID: 182020000 |
| Bureau of Reclamation | 32 C St NW, Ephrata, WA 98823 | Property ID: 57241; GEO ID: 182011000 |
| Bureau of Reclamation | 32 C St NW, Ephrata, WA 98823 | Property ID 57619; GEO ID: 182336000 |

**5i.** List all wetlands on or adjacent to the project location. [help]

No wetlands present on project location. Some Freshwater emergent wetlands appear to be present along the lake shoreline approximately 1 mile south of the project location.

**5j.** List all waterbodies (other than wetlands) on or adjacent to the project location. [help]

Banks Lake

**5k.** Is any part of the project area within a 100-year floodplain? [help]

☒ Yes ☐ No ☐ Don't know

**5l.** Briefly describe the vegetation and habitat conditions on the property. [help]

The area is a mixture of shrub steppe and channeled scablands. Along the project shoreline exists a variety of vegetation including various grasses, shrubs, and some sparse trees. Dominant species found along the shoreline include: ponderosa pine, big sagebrush, snowy buckwheat, mock orange, gray and green rabbitbrush, granite prickly phlox, Sandberg bluegrass, blue bunch wheatgrass, yarrow, linear-leaf daisy, camas, and balsam root. Also present are various mosses.

**5m.** Describe how the property is currently used. [help]

The property is currently used for recreation by visitors to Steamboat Rock State Park, Washington State's second busiest park. The section of shoreline addressed in this application is accessed landward by hikers and via Banks Lake by boaters and paddleboarders. Banks Lake, itself, is a Reclamation irrigation storage reservoir. It is filled using the John W. Keys III Pump-Generating Plant at Grand Coulee Dam.

**5n.** Describe how the adjacent properties are currently used. [help]

Adjacent properties consist of other federally-owned parcels used for either recreational purposes or are left as natural land.

**5o.** Describe the structures (above and below ground) on the property, including their purpose(s) and current condition. [help]

There are no structures, above or below ground, located within the project boundary.

**5p.** Provide driving directions from the closest highway to the project location, and attach a map. [help]

From I-90:

- Take exit 151 toward Ephrata, Soap Lk/WA-283 N
- Turn RIGHT on WA-283 N, continue for about 14.8 miles
- WA-283 N becomes WA-28 E, continue straight for another 10.8 miles
- Turn LEFT on WA-17 N (signs for Soap Lake/Grand Coulee Dam), continue for about 21.3 miles

- Turn RIGHT onto US-2 E, continue for about 4 miles
- Continue STRAIGHT onto WA-155 N (signs for Grand Coulee Dam)
- In about 15.5 miles, turn LEFT into Steamboat Rock State Park
- Continue into the park about 3 miles until you reach the boat launch parking lot

## Part 6–Project Description

**6a.** Briefly summarize the overall project. You can provide more detail in 6b. [help]

Reclamation proposes to construct a shoreline stabilization project along a heavily eroded section of Banks Lake, located within Steamboat Rock State Park, that has been negatively impacted by both Reclamation operations at Banks Lake as well as by State Park recreationalists.

**6b.** Describe the purpose of the project and why you want or need to perform it. [help]

The land within Steamboat Rock State Park is owned by the Bureau of Reclamation and managed by Washington State Parks. Shoreline integrity within the State Park has been negatively impacted by erosion caused by wave action, water level fluctuations within the Banks Lake Reservoir, and by recreational users. The purpose of this project is to stabilize and protect a culturally sensitive area within the boundary of Steamboat Rock State Park along the shoreline of Banks Lake. The proposed action was developed by Reclamation in coordination with Washington State Parks, Washington State Department of Archaeology and Historic Preservation, Confederated Tribes of the Colville Reservation, and Confederated Tribes and Bands of the Yakama Nation. Site protection began in 2019 when Reclamation prepared a site treatment plan which included recommendations for site access restrictions and shoreline stabilization efforts. On January 1, 2021, Reclamation implemented an administrative area closure prohibiting public access to approximately 27 acres of land around the project site, including access to approximately 1,750 feet of shoreline. Reclamation has been working with State Parks to install signs and fences to inform visitors and enforce the area closure on land. In the spring of 2022, wooden fences were installed in the area. In 2023, Reclamation successfully installed a log boom around the impacted shoreline which helped with both wave attenuation and keeping boats away. However, due to the popularity of Steamboat Rock State Park, foot traffic is still an issue as recreators want to use the sandy beach and shallow water located along the impacted shoreline, further contributing to the erosion problem.

This project is needed to preserve the integrity of the existing shoreline and to protect a culturally sensitive area. Several design alternatives were considered, and riprap placement was chosen as the preferred design by all parties involved due the effectiveness of shoreline stabilization it provides, its' ability to ensure the cultural resource is protected as-is, and because it will help discourage foot traffic and other recreational activities in the immediate area. If the project does not occur, the shoreline will continue to erode into Banks Lake.

Bioengineered structures are not included in the designs as they would require additional ground disturbance and would defeat the purpose of site protection. Securing the bank with riprap was the only agreed upon method that fit within the project budget and that the involved Tribal parties were comfortable with.

**6c.** Indicate the project category. (Check all that apply) [help]

☐ Commercial ☐ Residential ☐ Institutional ☐ Transportation ☐ Recreational

☒ Maintenance ☐ Environmental Enhancement

**6d.** Indicate the major elements of your project. (Check all that apply) [help]

| | | | |
|---|---|---|---|
| ☐ Aquaculture | ☐ Culvert | ☐ Float | ☐ Retaining Wall (upland) |
| ☒ Bank Stabilization | ☐ Dam / Weir | ☐ Floating Home | ☐ Road |
| ☐ Boat House | ☐ Dike / Levee / Jetty | ☐ Geotechnical Survey | ☐ Scientific Measurement Device |
| ☐ Boat Launch | ☐ Ditch | ☐ Land Clearing | ☐ Stairs |
| ☐ Boat Lift | ☐ Dock / Pier | ☐ Marina / Moorage | ☐ Stormwater facility |
| ☐ Bridge | ☐ Dredging | ☐ Mining | ☐ Swimming Pool |
| ☐ Bulkhead | ☐ Fence | ☐ Outfall Structure | ☐ Utility Line |
| ☐ Buoy | ☐ Ferry Terminal | ☐ Piling/Dolphin | |
| ☐ Channel Modification | ☐ Fishway | ☐ Raft | |

☐ Other:

**6e.** Describe how you plan to construct each project element checked in 6d. Include specific construction methods and equipment to be used. [help]

- Identify where each element will occur in relation to the nearest waterbody.
- Indicate which activities are within the 100-year floodplain.

As this project is intended to preserve and protect a culturally significant area, the project site will only be accessible via barge from Banks Lake. No haul roads on land be allowed. Two barges may be used and they will be assembled in Banks Lake using the existing boat ramp in Steamboat Rock State Park, and heavy equipment and construction materials will be loaded onto the barge and shipped over to the impacted shoreline. Means and methods utilized for construction are dependent on the contractors submitted and approved submittals. Reclamation assumes that the contractor will determine the appropriate equipment needed to minimize impacts, and as a result Reclamation does not have an exact list of equipment to be used. However, Reclamation assumes that equipment likely to be used will consist of excavators, compactors, water pump, skid steers, and various hand tools. All equipment will need to use environmental-friendly fluids and be inspected daily for leaks and any other issues that may need to be repaired. All elements will occur adjacent to Banks Lake, and all activities for this project will occur within the 100-year floodplain.

**Tentative Project Construction Schedule** (actual dates and duration will be up to the contractor and will be weather permitting):

- October 2026: assemble barges in the lake, begin receiving shipments of fill, gravel, and riprap. Stake down straw bales as needed.
- November 2026: Place fill, gravel, geotextile fabric layers and riprap.
- March to April 2027: Plant vegetation as shown in project construction specification.
- April 2027: Demobilize, site cleanup. Contractor to maintain plantings for 2 weeks after construction has completed.

**Site Prep:**
As this project is intended to protect and preserve a culturally significant area, actual on the ground site prep will be minimal. There will be no road modifications, no haul roads developed, no excavation, no clearing, no grading, no ground disturbance besides the stabilization of the shoreline. The project itself will be constructed from Banks Lake from a barge, which will be accessed using an existing boat ramp. The water surface elevation of Banks Lake will be drawn down to 1565 feet and will remain at that elevation for the duration of construction. To the best of the contractor's ability, there will be no vegetation intentionally removed as that would cause an increase in ground disturbance. Any vegetation on the exposed slope would be covered with the riprap. If any vegetation needs to be removed for purposes of riprap placement, it will be replaced, at a minimum, as follows: 3 to 4 replacement trees for every tree removed and 3 to 4 replacement shrubs for every shrub removed per guidance provided by Washington Department of Fish and Wildlife.

**Barge Assembly:**
Barge assembly will occur on site. Two barges may be used: one to hold equipment and one to hold materials.

**Staging Area:**
All equipment and material storage will occur in an existing paved parking lot area within the State Park.

**Erosion Control:**
As needed, certified weed-free straw bales will be placed around the site from the barges and staked down by hand.

**Dust Abatement:**
Construction water for dust abatement and other applications, if needed, would be taken from Banks Lake at the rate and quantity identified in the Temporary Use Water Right Reclamation has applied for from the Washington State Department of Ecology. A pump and hose will be set up on one of the barges and will be sprayed onto the shoreline as needed. The pump will be required to have a NMFS-compliant screen to prevent fish entrainment from Banks Lake.

**Construction of armored shoreline (construction equipment shall not be operated on top of existing native ground. Contractor will place a suitable layer of compacted fill and/or riprap to protect native ground prior to operating construction equipment. Once the native ground is covered, small machinery such as a skid steer may be brought onto the shoreline using a ramp from the barge. Access to the site from the land will not be allowed):**

1. Approximately 1,660 cubic yards of compacted fill will be placed along the shoreline to achieve a 2:1 base slope for riprap placement. Fill will be placed using equipment from a barge in Banks Lake. Fill will consist of stones no greater than 3-inches in diameter. Surface should be compacted to form a firm surface that is reasonable even and smooth for placement of the geotextile fabric. Compaction of the fill will be conducted using materials such as mechanical impact tampers, hand-held tampers, tamping rollers, vibrating pad foot rollers, rubber tire rollers, or other suitable compaction equipment in a uniformly distributed manner.
2. Approximately 5,320 square yards of geotextile fabric will be laid out over top of the compacted fill.
3. A 6-inch thick gravel bedding (approximately 887 cubic yards) will be placed on top of the geotextile fabric.
4. An 18-inch thick layer of riprap (approximately 2,500 cubic yards) will be placed on top of the gravel layer. The toe of the riprap is to extend to a minimum elevation of 1570’ with a minimum toe width of 18 inches. Toe width will vary. In areas where elevation 1570’ is encountered before the toe of riprap reaches the 18-inch minimum width, riprap will extend farther down to achieve the minimum 18-inch toe width. In areas where the 18-inch minimum toe width is achieved before elevation 1570, the riprap will continue to extend down to a minimum elevation of 1570 at the natural ground slope. Riprap will be compacted using a compactor that will access the site via a ramp from the barge.

**Revegetation Plan:**
The contractor will replant the site post-construction per the revegetation plan spelled out in the construction spec. The area to be revegetated will be within the void-filled riprap between elevation 1570 and 1572. The spec lists types of plant species, number of plant species, how to care for the containerized plants, how and where to plant, and also lists the contractor’s responsibility to water and maintain the plants for the first two weeks after final planting. Reclamation will develop a vegetation monitoring plan that will spell this out as well and will also establish roles and responsibilities for site maintenance for the remaining monitoring duration that will be required by project permits.

**Post-construction:**
The contractor will be responsible for promptly repairing any ruts, broken pavement, potholes, or any other deficiencies caused to the existing pavement areas within the State Park that will be used for construction purposes, including equipment and materials staging areas and the boat ramp. Repairs will be back to original condition, or as specified by the contracting officer representative (COR).

**6f.** What are the anticipated start and end dates for project construction? (Month/Year) [help]

- If the project will be constructed in phases or stages, use JARPA Attachment D to list the start and end dates of each phase or stage.

Start Date: October 2026 End Date: April 2027 ☐ See JARPA Attachment D

**6g.** Fair market value of the project, including materials, labor, machine rentals, etc. [help]

$1.6 million

**6h.** Will any portion of the project receive federal funding? [help]

- **If yes**, list each agency providing funds.

☒ Yes, Bureau of Reclamation ☐ No ☐ Don't know

## Part 7–Wetlands: Impacts and Mitigation

☐ Check here if there are wetlands or wetland buffers on or adjacent to the project area. (If there are none, skip to Part 8.) [help]

**7a.** Describe how the project has been designed to avoid and minimize adverse impacts to wetlands. [help]

☒ Not applicable

No wetlands present in or around the construction site that will be impacted by project construction. The National Wetland Inventory map (NWI) identified a 14.59-acre Freshwater Emergent Wetland about a mile south of the project site, but that area will not be affected.

**7b.** Will the project impact wetlands? [help]

☐ Yes ☐ No ☐ Don't know

**7c.** Will the project impact wetland buffers? [help]

☐ Yes ☐ No ☐ Don't know

**7d.** Has a wetland delineation report been prepared? [help]

- **If Yes**, submit the report, including data sheets, with the JARPA package.

☐ Yes ☐ No

**7e.** Have the wetlands been rated using the Western Washington or Eastern Washington Wetland Rating System? [help]

- **If Yes**, submit the wetland rating forms and figures with the JARPA package.

☐ Yes ☐ No ☐ Don't know

**7f.** Have you prepared a mitigation plan to compensate for any adverse impacts to wetlands? [help]

- **If Yes**, submit the plan with the JARPA package and answer 7g.
- **If No, or Not applicable**, explain below why a mitigation plan should not be required.

☐ Yes ☐ No ☐ Don't know

**7g.** Summarize what the mitigation plan is meant to accomplish, and describe how a watershed approach was used to design the plan. [help]

**7h.** Use the table below to list the type and rating of each wetland impacted, the extent and duration of the impact, and the type and amount of mitigation proposed. Or if you are submitting a mitigation plan with a similar table, you can state (below) where we can find this information in the plan. [help]

| Activity (fill, drain, excavate, flood, etc.) | Wetland Name[1] | Wetland type and rating category[2] | Impact area (sq. ft. or Acres) | Duration of impact[3] | Proposed mitigation type[4] | Wetland mitigation area (sq. ft. or acres) |
|---|---|---|---|---|---|---|
| | | | | | | |
| | | | | | | |

[1] If no official name for the wetland exists, create a unique name (such as "Wetland 1"). The name should be consistent with other project documents, such as a wetland delineation report.
[2] Ecology wetland category based on current Western Washington or Eastern Washington Wetland Rating System. Provide the wetland rating forms with the JARPA package.
[3] Indicate the days, months or years the wetland will be measurably impacted by the activity. Enter "permanent" if applicable.
[4] Creation (C), Re-establishment/Rehabilitation (R), Enhancement (E), Preservation (P), Mitigation Bank/In-lieu fee (B)

Page number(s) for similar information in the mitigation plan, if available: _____

**7i.** For all filling activities identified in 7h, describe the source and nature of the fill material, the amount in cubic yards that will be used, and how and where it will be placed into the wetland. [help]

**7j.** For all excavating activities identified in 7h, describe the excavation method, type and amount of material in cubic yards you will remove, and where the material will be disposed. [help]

## Part 8–Waterbodies (other than wetlands): Impacts and Mitigation

In Part 8, "waterbodies" refers to non-wetland waterbodies. (See Part 7 for information related to wetlands.) [help]

☒ Check here if there are waterbodies on or adjacent to the project area. (If there are none, skip to Part 9.)

**8a.** Describe how the project is designed to avoid and minimize adverse impacts to the aquatic environment. [help]

☐ Not applicable

All work will be completed via a barge from within Banks Lake. This method was determined to be the best approach to construct the shoreline stabilization as it will minimize impacts to the sand bench along the project shoreline.

The contractor will be responsible for applying for and obtaining coverage under the EPA's Construction General Permit as the project is over one acre in size. Part of the permit will require the contractor to develop and maintain a Stormwater Pollution Prevention Plan, implement erosion and sediment controls as well as pollution prevention practices throughout the entire construction project, and to comply with any additional State or Tribal-specific requirements in Part 9 of the permit.

As work will be conducted from a barge within the lake, the contractor will be required to develop and maintain a Spill Prevention, Control, and Countermeasure Plan and provide and maintain adequate spill cleanup kits wherever equipment/machinery is used and stored. All equipment working/operating within the ordinary high-water mark (for example, from the barge) must use a biodegradable, non-toxic hydraulic fluid meeting the toxicity requirements of the EPA and the US Fish and Wildlife Service in the hydraulic systems. Equipment must be maintained in good working condition and inspected daily to ensure that fuel, lubricants, hydraulic fluid, and other material harmful to fish or other aquatic life are not leaked or spilled into the lake, banks, or shorelines. Secondary containment measures must be used whenever slope or site conditions could direct spills of fuels, lubricants, hydraulic fluid, or other harmful materials to waters of the state.

The contractor will be responsible for preparing a Water Quality Monitoring Plan as part of their submittals to Reclamation. However, Reclamation will be including the following BMPs and environmental commitments in the specification for the contractor to follow, and the contractor's WQMP will have to comply with the Specification and all permits.

- Spill prevention and clean-up kits would be available on each barge and wherever fuels will be stored, including in the staging area.
- Equipment located on the barge shall be checked daily for leaks and any necessary repairs shall be completed prior to commencing work activities.
- The contractor will be required to monitor turbidity in compliance with WAC 173-201A-200 when turbidity causing activities take place, such as riprap placement.

By employing project erosion control and water quality management best management practices, the likelihood of water quality impairment would be significantly reduced.

**8b.** Will your project impact a waterbody or the area around a waterbody? [help]

☒ Yes ☐ No

**8c.** Have you prepared a mitigation plan to compensate for the project's adverse impacts to non-wetland waterbodies? [help]

- **If Yes**, submit the plan with the JARPA package and answer 8d.
- **If No, or Not applicable,** explain below why a mitigation plan should not be required.

☐ Yes ☒ No ☐ Don't know

No mitigation plan will be developed for this project. All impacts to Banks Lake are expected to be short-term, localized and as a result of turbidity. The contractor will be responsible for turbidity monitoring. Any permit provisions and project constraints from permitting will be added to the construction specification as requirements for the contractor to abide by.

**8d.** Summarize what the mitigation plan is meant to accomplish. Describe how a watershed approach was used to design the plan.

- If you already completed 7g you do not need to restate your answer here. [help]

N/A

**8e.** Summarize impact(s) to each waterbody in the table below. [help]

| Activity (clear, dredge, fill, pile drive, etc.) | Waterbody name[1] | Impact location[2] | Duration of impact[3] | Amount of material (cubic yards) to be placed in or removed from waterbody | Area (sq. ft. or linear ft.) of waterbody directly affected |
|---|---|---|---|---|---|
| Compacted fill material | Banks Lake | In the reservoir, within 100-year flood plain | Permanent | 1,660 CY | 31,732 SF |
| Gravel | Banks Lake | In the reservoir, within 100-year flood plain | Permanent | 887 CY | 47,880 SF |
| Riprap | Banks Lake | In the reservoir, within 100-year flood plain | Permanent | 2,500 CY | 47,880 SF |
| Geotextile Fabric Layers | Banks Lake | In the reservoir, within 100-year flood plain | Permanent | 5,320 CY | 47,880 SF |

[1] If no official name for the waterbody exists, create a unique name (such as "Stream 1") The name should be consistent with other documents provided.
[2] Indicate whether the impact will occur in or adjacent to the waterbody. If adjacent, provide the distance between the impact and the waterbody and indicate whether the impact will occur within the 100-year flood plain.
[3] Indicate the days, months or years the waterbody will be measurably impacted by the work. Enter "permanent" if applicable.

**8f.** For all activities identified in 8e, describe the source and nature of the fill material, amount (in cubic yards) you will use, and how and where it will be placed into the waterbody. [help]

Means and methods utilized for construction are dependent on the contractors submitted and approved submittals. Reclamation assumes that the contractor will determine the appropriate equipment needed to minimize impacts, and as a result Reclamation does not have an exact list of equipment to be used. However, Reclamation assumes that equipment likely to be used will consist of excavators, compactors, water pump, skid steers, and various hand tools.

**Compacted fill:** Approximately 1,660 cubic yards of compacted fill will be placed along the shoreline to achieve a 2:1 base slope for riprap placement. Fill will be placed using equipment stationed on a barge in Banks Lake. Fill will consist of stones no greater than 3-inches in diameter. Surface should be compacted to form a firm surface that is reasonable even and smooth for placement of the geotextile fabric. Compaction of the fill will be conducted using materials such as mechanical impact tampers, hand-held tampers, tamping rollers, vibrating pad foot rollers, rubber tire rollers, or other suitable compaction equipment in a uniformly distributed manner. Compacted Fill will be acquired from a commercially established pit.

**Geotextile fabric:** Approximately 5,320 square yards of commercially sourced geotextile fabric will be laid out over top of the compacted fill by hand using various hand tools to secure the fabric to the shoreline slope. Geotextile fabric will be commercially sourced.

**Gravel layer:** A 6-inch thick gravel bedding (approximately 887 cubic yards) will be placed on top of the geotextile fabric, using equipment station on a barge in Banks Lake. Gravel will be acquired from a commercially established pit.

**Riprap:** An 18-inch thick layer of riprap (approximately 2,500 cubic yards) will be placed on top of the gravel layer. Average riprap size will be approximately 12-inches in diameter (max diameter approximately 18-inches). The riprap will be placed onto the slope using equipment stationed on a barge in Banks Lake. Riprap will be compacted using a compactor that will access the site via a ramp from the barge. Riprap will be acquired from a commercially established pit.

**8g.** For all excavating or dredging activities identified in 8e, describe the method for excavating or dredging, type and amount of material you will remove, and where the material will be disposed. [help]

There will be no excavating or dredging activities associated with this project.

**8h**. Have you prepared a Water Quality Monitoring Plan (WQMP) for all in-water work (below ordinary high water), over water work or discharges to waters of the state?

☐ Yes ☒ No

If NO describe the monitoring that you will be conducting including parameters, equipment and locations, or explain why monitoring will not be necessary. [help]

The contractor will be responsible for preparing a Water Quality Monitoring Plan as part of their submittals to Reclamation. However, Reclamation will be including the following BMPs and environmental commitments in the specification for the contractor to follow, and the contractor's WQMP will have to comply with the Specification and all permits.

- Spill prevention and clean-up kits would be available on each barge and wherever fuels will be stored, including in the staging area.
- Equipment located on the barge shall be checked daily for leaks and any necessary repairs shall be completed prior to commencing work activities.

- The contractor will be required to monitor turbidity in compliance with WAC 173-201A-200 when turbidity causing activities take place, such as riprap placement.

By employing project erosion control and water quality management best management practices, the likelihood of water quality impairment would be significantly reduced.

## Part 9–Additional Information

Any additional information you can provide helps the reviewer(s) understand your project. Complete as much of this section as you can. It is ok if you cannot answer a question.

**9a.** If you have already worked with any government agencies on this project, list them below. [help]

| Agency Name | Contact Name | Phone | Most Recent Date of Contact |
|---|---|---|---|
| US Army Corps of Engineers | Jess Jordan | (509) 994-8653 | 02/19/2025 |
| WA State Dept of Fish and Wildlife | Eric Pentico | (509) 630-2729 | 11/26/2024 |
| Grant County | Kent Ziemer | (509) 754-2011 | 02/25/2025 by BOR Ephrata Field Office |

**9b.** Are any of the wetlands or waterbodies identified in Part 7 or Part 8 of this JARPA on the Washington Department of Ecology's 303(d) List? [help]

- **If Yes,** list the parameter(s) below.
- If you don't know, use Washington Department of Ecology's Water Quality Assessment tools at: https://ecology.wa.gov/Water-Shorelines/Water-quality/Water-improvement/Assessment-of-state-waters-303d.

☐ Yes ☒ No

**9c.** What U.S. Geological Survey Hydrological Unit Code (HUC) is the project in? [help]

- Go to http://cfpub.epa.gov/surf/locate/index.cfm to help identify the HUC.

170200140104

**9d.** What Water Resource Inventory Area Number (WRIA #) is the project in? [help]

- Go to https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-availability/Watershed-look-up to find the WRIA #.

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**9e.** Will the in-water construction work comply with the State of Washington water quality standards for turbidity? [help]

- Go to https://ecology.wa.gov/Water-Shorelines/Water-quality/Freshwater/Surface-water-quality-standards/Criteria for the standards.

☒ Yes ☐ No ☐ Not applicable

**9f.** If the project is within the jurisdiction of the Shoreline Management Act, what is the local shoreline environment designation? [help]

- If you don't know, contact the local planning department.
- For more information, go to: https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Shoreline-laws-rules-and-cases.

☐ Urban ☐ Natural ☐ Aquatic ☐ Conservancy ☒ Other: Recreation

**9g.** What is the Washington Department of Natural Resources Water Type? [help]

- Go to http://www.dnr.wa.gov/forest-practices-water-typing for the Forest Practices Water Typing System.

☒ Shoreline ☐ Fish ☐ Non-Fish Perennial ☐ Non-Fish Seasonal

**9h.** Will this project be designed to meet the Washington Department of Ecology's most current stormwater manual? [help]

- **If No**, provide the name of the manual your project is designed to meet.

☒ Yes ☐ No

Name of manual: Stormwater Management Manual for Eastern Washington, July 2024

**9i.** Does the project site have known contaminated sediment? [help]

- **If Yes**, please describe below.

☐ Yes ☒ No

**9j.** If you know what the property was used for in the past, describe below. [help]

The property became a State Park in 1972.

**9k.** Is the project located in or adjacent to a designated state or federal contaminated site or clean-up site. (e.g. MTCA or CERCLA)?

- **If Yes**, provide any additional details below.

☐ Yes ☒ No

**9l.** Has a cultural resource (archaeological) survey been performed on the project area? [help]

- **If Yes**, attach it to your JARPA package.

☒ Yes ☐ No

**9m.** Name each species listed under the federal Endangered Species Act that occurs in the vicinity of the project area or might be affected by the proposed work. [help]

Reclamation has determined that no ESA-listed species are present.

**9n.** Name each species or habitat on the Washington Department of Fish and Wildlife's Priority Habitats and Species List that might be affected by the proposed work. [help]

Habitat:

- Shrubsteppe

Species:

- Greater Sage-grouse (*Centrocercus urophasianus*). Federal Species of concern; Threatened.
- Golden Eagle (*Aquila chrysaetos*). Candidate for listing.

## Part 10–SEPA Compliance and Permits

Use the resources and checklist below to identify the permits you are applying for.

- Online Project Questionnaire at http://apps.oria.wa.gov/opas/.
- Governor's Office for Regulatory Innovation and Assistance at (800) 917-0043 or help@oria.wa.gov.
- For a list of addresses to send your JARPA to, click on agency addresses for completed JARPA.

**10a.** Compliance with the State Environmental Policy Act (SEPA). (Check all that apply.) [help]

- For more information about SEPA, go to https://ecology.wa.gov/regulations-permits/SEPA-environmental-review.

☐ A copy of the SEPA determination or letter of exemption is included with this application.

☒ A SEPA determination is pending with Grant County (lead agency). The expected decision date is TBD.

☐ I am applying for a Fish Habitat Enhancement Exemption. (Check the box below in 10b.) [help]

☐ This project is exempt (choose type of exemption below).

☐ Categorical Exemption. Under what section of the SEPA administrative code (WAC) is it exempt? _____

☐ Other: _____

☐ SEPA is pre-empted by federal law.

**10b.** Indicate the permits you are applying for. (Check all that apply.) [help]

**LOCAL GOVERNMENT**

**Local Government Shoreline permits:**

☐ Substantial Development ☒ Conditional Use ☐ Variance

☒ Shoreline Exemption Type (explain): To be determined by Grant County

**Other City/County permits:**

☐ Floodplain Development Permit ☐ Critical Areas Ordinance

**STATE GOVERNMENT**

**Washington Department of Fish and Wildlife:**

☒ Hydraulic Project Approval (HPA) ☐ Fish Habitat Enhancement Exemption – Attach Exemption Form

**Washington Department of Natural Resources:**

☐ Aquatic Use Authorization

Complete JARPA Attachment E and submit a check for $25 payable to the Washington Department of Natural Resources. **Do not send cash.**

**Washington Department of Ecology:**

☒ Section 401 Water Quality Certification

☐ Authorization to impact waters of the state, including wetlands (Check this box if the proposed impacts are to waters not subject to the federal Clean Water Act)

**FEDERAL AND TRIBAL GOVERNMENT**

**United States Department of the Army (U.S. Army Corps of Engineers):**

☒ Section 404 (discharges into waters of the U.S.) ☐ Section 10 (work in navigable waters)

**United States Coast Guard:**
For projects or bridges over waters of the United States, contact the U.S. Coast Guard at:

☐ Bridge Permit: D13-SMB-D13-BRIDGES@uscg.mil

☐ Private Aids to Navigation (or other non-bridge permits): D13-SMB-D13-PATON@uscg.mil

**United States Environmental Protection Agency:**

☐ Section 401 Water Quality Certification (discharges into waters of the U.S.) on tribal lands where tribes do not have treatment as a state (TAS)

**Tribal Permits:** (Check with the tribe to see if there are other tribal permits, e.g., Tribal Environmental Protection Act, Shoreline Permits, Hydraulic Project Permits, or other in addition to CWA Section 401 WQC)

☐ Section 401 Water Quality Certification (discharges into waters of the U.S.) where the tribe has treatment as a state (TAS).

## Part 11–Authorizing Signatures

Signatures are required before submitting the JARPA package. The JARPA package includes the JARPA form, project plans, photos, etc. [help]

**11a.** Applicant Signature (required) [help]

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities, and I agree to start work only after I have received all necessary permits.

I hereby authorize the agent named in Part 3 of this application to act on my behalf in matters related to this application. mm (initial)

By initialing here, I state that I have the authority to grant access to the property. I also give my consent to the permitting agencies entering the property where the project is located to inspect the project site or any work related to the project. mm (initial)

| Applicant Printed Name | Applicant Signature | Date |
|---|---|---|
| | MARC MAYNARD Digitally signed by MARC MAYNARD Date: 2025.03.11 07:05:59 -07'00' | |

**11b.** Authorized Agent Signature [help]

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities and I agree to start work only after all necessary permits have been issued.

| Authorized Agent Printed Name | Authorized Agent Signature | Date |
|---|---|---|
| AMY COOK Digitally signed by AMY COOK Date: 2025.03.11 09:16:41 -07'00' | Jerry Nelis Digitally signed by Jerry Nelis Date: 2025.03.11 10:34:06 -06'00' | |

**11c.** Property Owner Signature (if not applicant) [help]

Not required if project is on existing rights-of-way or easements (provide copy of easement with JARPA).

I consent to the permitting agencies entering the property where the project is located to inspect the project site or any work. These inspections shall occur at reasonable times and, if practical, with prior notice to the landowner.

| Property Owner Printed Name | Property Owner Signature | Date |
|---|---|---|
| | | |

18 U.S.C §1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years or both.

If you require this document in another format, contact the Governor's Office for Regulatory Innovation and Assistance (ORIA) at (800) 917-0043. People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341. ORIA publication number: ORIA-16-011 rev. 09/2018

US Army Corps of Engineers
Seattle District

# NATIONWIDE PERMIT 13
# Terms and Conditions

**2021 NWPs - Final 41**; Effective Date: February 25, 2022
amended with RGCs 10-14 June 28, 2024

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A. Description of Authorized Activities
B. U.S. Army Corps of Engineers (Corps) National General Conditions for All Final 41 NWPs
C. Seattle District Regional General Conditions
D. Seattle District Regional Specific Conditions for this Nationwide Permit (NWP)
E. 401 Water Quality Certification (401 WQC) for this NWP
F. Coastal Zone Management Consistency Response for this NWP


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In addition to any special condition that may be required on a case-by-case basis by the District Engineer, the following terms and conditions must be met, as applicable, for a Nationwide Permit (NWP) authorization to be valid in Washington State.

## A. DESCRIPTION OF AUTHORIZED ACTIVITIES

13. Bank Stabilization. Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, stream barbs, and bulkheads, or combinations of bank stabilization techniques, provided the activity meets all of the following criteria:

(a) No material is placed in excess of the minimum needed for erosion protection;

(b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects (an exception is for bulkheads – the district engineer cannot issue a waiver for a bulkhead that is greater than 1,000 feet in length along the bank);

(c) The activity will not exceed an average of one cubic yard per running foot, as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;

(d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;

(e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;

(f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored native trees and treetops may be used in low energy areas);

(g) Native plants appropriate for current site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization;

(h) The activity is not a stream channelization activity; and

(i) The activity must be properly maintained, which may require repairing it after severe storms or erosion events. This NWP authorizes those maintenance and repair activities if they require authorization.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the bank stabilization activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the bank stabilization activity: (1) involves discharges of dredged or fill material into special aquatic sites; or (2) is in excess of 500 feet in length; or (3) will involve the discharge of dredged or fill material of greater than an average of one cubic yard per running foot as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line. (See general condition 32.) (Authorities: Sections 10 and 404)

Note: In coastal waters and the Great Lakes, living shorelines may be an appropriate option for bank stabilization, and may be authorized by NWP 54.

B. CORPS NATIONAL GENERAL CONDITIONS FOR ALL 2021 NWPs - FINAL 41

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) 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 or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency

with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

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

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until

ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be

eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national

resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands

compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be

environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:
(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under

NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.
(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

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

_____
(Transferee)

_____
(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See

paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) *Timing*. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification*: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be

used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination*: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

C. SEATTLE DISTRICT REGIONAL GENERAL CONDITIONS: The following conditions apply to the 2021 NWPs - Final 41 NWPs for the Seattle District in Washington State, as applicable.

**RGC 1, Project Drawings**
Drawings must be submitted with a pre-construction notification (PCN). Drawings must provide a clear understanding of the proposed project, and how waters of the United States will be affected. Drawings must be originals and not reduced copies of large-scale plans. Engineering drawings are not required. Existing and proposed site conditions (manmade and landscape features) must be drawn to scale.

**RGC 2, Aquatic Resources Requiring Special Protection**
A PCN is required for activities resulting in a loss of waters of the United States in wetlands in dunal systems along the Washington coast, mature forested wetlands, bogs and peatlands, aspen-dominated wetlands, alkali wetlands, vernal pools, camas prairie wetlands, estuarine wetlands, and wetlands in coastal lagoons.

**RGC 3, New Bank Stabilization in Tidal Waters of Puget Sound**
Activities involving new bank stabilization in tidal waters in Water Resource Inventory Areas (WRIAs) 8, 9, 10, 11, and 12 (within the areas identified on Figures 1a through 1e) cannot be authorized by NWP.

**RGC 4, Commencement Bay**
No permanent losses of wetlands or mudflats within the Commencement Bay Study Area may be authorized by any NWP (see Figure 2).

**RGC 5, Bank Stabilization**
All projects including new or maintenance bank stabilization activities in waters of the United States where salmonid species are present or could be present, requires PCN to the U.S. Army Corps of Engineers (Corps) (see NWP general condition 32).

For new bank stabilization projects only, the following must be submitted to the Corps:

a. The cause of the erosion and the distance of any existing structures from the area(s) being stabilized.

b. The type and length of existing bank stabilization within 300 feet of the proposed project.

c. A description of current conditions and expected post-project conditions in the waterbody.

d. A statement describing how the project incorporates elements avoiding and minimizing adverse environmental effects to the aquatic environment and nearshore riparian area, including vegetation impacts in the waterbody.

In addition to a. through d., the results from any relevant geotechnical investigations can be submitted with the PCN if it describes current or expected conditions in the waterbody.

**RGC 6, Crossings of Waters of the United States**
Any project including installing, replacing, or modifying crossings of waters of the United States, such as culverts or bridges, requires submittal of a PCN to the U.S. Army Corps of Engineers (see NWP general condition 32).

If a culvert is proposed to cross waters of the U.S. where salmonid species are present or could be present, the project must apply the stream simulation design method from the Washington Department of Fish and Wildlife located in the Water Crossing Design Guidelines (2013), or a design method which provides passage at all life stages at all flows where the salmonid species would naturally seek passage. If the stream simulation design method is not applied for a culvert where salmonid species are present or could be present, the applicant must provide a rationale in the PCN sufficient to establish one of the following:

a. The existence of extraordinary site conditions.

b. How the proposed design will provide equivalent or better fish passage and fisheries habitat benefits than the stream simulation design method.

Culverts installed under emergency authorization that do not meet the above design criteria will be required to meet the above design criteria to receive an after-the-fact nationwide permit verification.

**RGC 7, Stream Loss**
A PCN is required for all activities that result in the loss of any linear feet of streams.

**RGC 8, Construction Boundaries**
Permittees must clearly mark all construction area boundaries within waters of the United States before beginning work on projects that involve grading or placement of fill. Boundary markers and/or construction fencing must be maintained and clearly visible for the duration of construction. Permittees should avoid and minimize removal of native vegetation (including submerged aquatic vegetation) to the maximum extent possible.

**RGC 9, ESA Reporting to NMFS**
For any nationwide permit that may affect threatened or endangered species:

Incidents where any individuals of fish species, marine mammals and/or sea turtles listed by National Oceanic and Atmospheric Administration Fisheries, National Marine Fisheries Service (NMFS) under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the U.S. or structures or work in navigable waters of the U.S. authorized by this Nationwide Permit verification shall be reported to NMFS, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the Seattle District of the U.S. Army Corps of Engineers at (206) 764-3495. The finder should leave the animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure or some unnatural cause. The finder may be asked to carry out instructions provided by the NMFS to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

**RGC 10, Limitations on New Bank Stabilization Within the Salish Sea**
The length of new bank stabilization within waters of the U.S., including new bank stabilization associated with maintenance activities that would expand previously authorized armoring length, cannot exceed 50 linear feet within the Salish Sea under any NWP.

**RGC 11, Effects to Forage Fish Spawning Beaches, Drift Cells, and Feeder Bluffs)**
No NWP activity can:

a. cause more than minimal adverse effects to forage fish spawning beaches or drift cells; or

b. prevent the functioning of feeder bluffs, including more than minimal adverse effects to sediment recruitment, transport, or deposition.

This regional general condition applies to all NWP activities within the Salish Sea. Information regarding the location of forage fish spawning beaches is available on the Washington Department of Fish and Wildlife's (WDFW) Forage Fish Spawning Map at https://wdfw.maps.arcgis.com/home/webmap/viewer.html?webmap=19b8f74e2d41470cbd80b1af8dedd6b3. Information regarding the location and movement of drift cells, shoreline stability, and coastal landforms, to include feeder bluffs, is available at the Washington State Department of Ecology's Coastal Atlas Map website: https://apps.ecology.wa.gov/coastalatlasmap. These maps are resources that can be used to help identify the location of forage fish spawning beaches, drift cells, and feeder bluffs; they are not a substitute for site-specific data. Information about forage fish, their spawning habitats, and spawning behavior are available through the WDFW. Additional information about the importance of these species as prey species for Endangered Species Act listed salmonids can be found on the National Marine Fisheries Service website.

**RGC 12, Bank Stabilization Design Considerations**
Bank stabilization activities, including maintenance activities, shall utilize living shorelines, vegetative stabilization, bioengineering, including but not limited to large woody material with intact root wads, and other soft bank stabilization approaches to the maximum practicable extent before considering hard bank stabilization methods such as bulkheads and rock revetments.

**RGC 13, PCNs for Activities in Areas Where There May Be Treaty-Reserved Tribal Rights**

To ensure compliance with General Condition 17, Tribal Rights, a pre-construction notification (PCN) is required for all NWPs associated with structures or fills in areas where Tribes have retained via treaty the right to fish in their usual and accustomed grounds and stations.

**RGC 14, Maintenance of Existing Bank Stabilization Structures and Fills**
(Applicable to NWP 3, Maintenance Activities) Maintenance of existing bank stabilization structures that expand the existing structure's footprint or dimensions either waterward, vertically, or linearly along the shoreline within the geographic jurisdiction of the U.S. Army Corps of Engineers are not eligible for NWP 3.

D. SEATTLE DISTRICT REGIONAL SPECIFIC CONDITIONS FOR THIS NWP: None

E. 401 WATER QUALITY CERTIFICATION: Depending on the geographic region of the work authorized by this verification, the appropriate 401 certifying authority has made the following determinations:

**Washington Department of Ecology (Ecology) (Projects in all areas except as described for the other certifying agencies listed below): General and Specific WQC Conditions**

**A. State General Conditions for all Nationwide Permits**

In addition to all of the U.S. Army Corps of Engineers' (Corps) national and Seattle District'sregional permit conditions, the following state general Water Quality Certification (WQC) conditions **apply to all NWPs whether granted or granted with conditions** in Washington where Ecology is the certifying authority.

Due to the lack of site specific information on the discharge types, quantities, and specific locations, as well as the condition of receiving waters and the quantity of waters (including wetlands) that may be lost, Ecology may need to review the project if one of the following stategeneral conditions is triggered.

This case-by-case review may be required, and additional information regarding the project and associated discharges may be needed, to verify that the proposed project would comply with state water quality requirements and if an individual WQC is required or if the project meets this programmatic WQC.

1. **In-water construction activities**. Ecology WQC review is required for projects or activities authorized under NWPs where the project proponent has indicated on the Joint Aquatic Resource Permit Application (JARPA) question 9e that the project or activity will not meet State water quality standards, or has provided information indicating that the project or activity will cause, or may be likely to cause or contributeto an exceedance of a State water quality standard (Chapter 173-201A WAC) or sediment management standard (Chapter 173-204 WAC).

Note: In-water activities include any activity within a jurisdictional wetland and/orwaters.

2. **Projects or Activities Discharging to Impaired Waters**. Ecology WQC review is required for projects or activities that will occur in a 303(d) listed segment of a waterbody or upstream of a listed segment and may result in further exceedances of the specific listedparameter to determine if the project meets this programmatic WQC or will require individual WQC.

To determine if your project or activity is in a 303(d) listed segment of a waterbody, visitEcology's Water Quality Assessment webpage for maps and search tools.

3. **Aquatic resources requiring special protection**. Certain aquatic resources are unique and difficult-to-replace components of the aquatic environment in Washington. Activities that would affect these resources must be avoided to the greatest extent practicable. Compensating for adverse impacts to high value aquatic resources is typically difficult, prohibitively expensive, and may not be possible in some landscapesettings.

Ecology WQC review is required for projects or activities in areas identified below to determine if the project meets this programmatic WQC or will require individual WQC.

a. Activities in or affecting the following aquatic resources:
    i. Wetlands with special characteristics (as defined in the Washington State Wetland Rating Systems for western and eastern Washington, Ecology Publications #14-06-029 and #14-06-030):
        - Estuarine wetlands.
        - Wetlands of High Conservation Value.
        - Bogs.
        - Old-growth forested wetlands and mature forested wetlands.
        - Wetlands in coastal lagoons.
        - Wetlands in dunal systems along the Washington coast.
        - Vernal pools.
        - Alkali wetlands.

    ii. Fens, aspen-dominated wetlands, camas prairie wetlands.

    iii. Category I wetlands.

    iv. Category II wetlands with a habitat score ≥ 8 points.

b. Activities in or resulting in a loss of eelgrass (Zostera marina) beds.

This state general condition does not apply to the following NWPs:
NWP 20 – Response Operations for Oil and Hazardous Substances
NWP 32 – Completed Enforcement Actions
NWP 48 – Commercial Shellfish Mariculture Activities

4. **Loss of More than 300 Linear Feet of Streambed.** For any project that results in the lossof more than 300 linear feet of streambed Ecology WQC review is required to determineif the project meets this programmatic WQC or will require individual WQC.

5. **Temporary Fills.** For any project or activity with temporary fill in wetlands or other waters for more than six months Ecology WQC review is required to determine if theproject meets this programmatic WQC or will require individual WQC.

6. **Mitigation.** Project proponents are required to show that they have followed the mitigation sequence and have first avoided and minimized impacts to aquatic resourceswherever practicable. For projects requiring Ecology WQC review or an individual WQC with unavoidable impacts to aquatics resources, a mitigation plan must be provided.

    a. Wetland mitigation plans submitted for Ecology review and approval shall be based on the most current guidance provided in Wetland Mitigation in Washington State, Parts 1 and 2 (available on Ecology's website) and shall, at aminimum, include the following:

        i. A description of the measures taken to avoid and minimize impacts to wetlands and other waters of the U.S.

        ii. The nature of the proposed impacts (i.e., acreage of wetlands and functions lost or degraded).

iii. The rationale for the mitigation site that was selected.

iv. The goals and objectives of the compensatory mitigation project.

v. How the mitigation project will be accomplished, including construction sequencing, best management practices to protect water quality, proposed performance standards for measuring success and the proposed buffer widths.

vi. How it will be maintained and monitored to assess progress toward goals and objectives. Monitoring will generally be required for a minimum of five years. For forested and scrub-shrub wetlands, 10 years of monitoring will often be necessary.

vii. How the compensatory mitigation site will be legally protected for the long term.

Refer to Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Ecology Publication #06-06-011b) and Selecting Wetland Mitigation Sites Using a Watershed Approach (Ecology Publications #09-06-032 (Western Washington) and #10-06-007 (Eastern Washington)) for guidance on selecting suitable mitigation sites and developing mitigation plans.

Ecology encourages the use of alternative mitigation approaches, includingcredit/debit methodology, advance mitigation, and other programmatic approaches such as mitigation banks and in-lieu fee programs. If you are interested in proposing use of an alternative mitigation approach, consult with the appropriate Ecology regional staff person. Information on alternative mitigation approaches is available on Ecology's website.

b. Mitigation for other aquatic resource impacts will be determined on a case-by-case basis.

7. **Stormwater Pollution Prevention**. All projects involving land disturbance or impervious surfaces must implement stormwater pollution prevention or control measures to avoiddischarge of pollutants in stormwater runoff to waters.

a. For land disturbances during construction, the applicant must obtain and implement permits (e.g., Construction Stormwater General Permit) where required and follow Ecology's current stormwater manual.

b. Following construction, prevention or treatment of on-going stormwater runofffrom impervious surfaces shall be provided.

Ecology's Stormwater Management and Design Manuals and stormwater permitinformation are available on Ecology's website.

8. **Application**. For projects or activities that will require Ecology WQC review, or anindividual WQC, project proponents must provide Ecology with a JARPA or the equivalent information, along with the documentation provided to the Corps, as described in national general condition 32, Pre-Construction Notification (PCN), including, where applicable:

a. A description of the project, including site plans, project purpose, direct and indirect adverse environmental effects the project discharge(s) would cause, best management practices (BMPs), and proposed means to monitor the discharge(s).

b. List of all federal, state or local agency authorizations required to be used for anypart

of the proposed project or any related activity.

c. Drawings indicating the OHWM, delineation of special aquatic sites, and other waters of the state. Wetland delineations must be prepared in accordance with thecurrent method required by the Corps and shall include Ecology's Wetland Rating form. Wetland Rating forms are subject to review and verification by Ecology staff.

Guidance for determining the OHWM is available on Ecology's website.

d. A statement describing how the mitigation requirement will be satisfied. A conceptual or detailed mitigation or restoration plan may be submitted. See stategeneral condition 5.

e. Other applicable requirements of Corps NWP general condition 32, Corps regional conditions, or notification conditions of the applicable NWP.

Ecology **grants with conditions Water Quality Certification** (WQC) for this NWP provided that Ecology individual WQC review is not required per the state general conditions (see above) and the following conditions:

**Ecology Section 401 Water Quality Certification –** Granted with conditions. Ecology individual WQC is required for all projects and activities authorized under this NWP if:

1. The project or activity includes new, complete replacement, or expansion of existing,bank stabilization measures in marine and estuarine waters of the Salish Sea; or

2. The project or activity has a length greater than 500 feet (individually or cumulatively) along the bank; or

3. The project or activity has not been designed and stamped by a Professional Engineer or Engineering Geologist; or

4. The project or activity exceeds an average of one cubic yard per running foot belowthe OHWM or High Tide Line.

**Environmental Protection Agency (EPA) (on Tribal Lands where Tribes Do Not Have Treatment in a Similar Manner as a State and Lands with Exclusive Federal Jurisdiction in Washington):**

On behalf of the 28 tribes that do not have treatment in a similar manner as a state and for exclusive federal jurisdiction lands located within the state of Washington, EPA Region 10 has determined that CWA Section 401 WQC for the following proposed NWPs is granted with conditions. EPA Region 10 has determined that any discharge authorized under the following proposed NWPs will comply with water quality requirements, as defined at 40 C.F.R. § 121.1(n), subject to the following conditions pursuant to CWA Section 401(d).

General Conditions:

EPA General Condition 1 – Aquatic Resources of Special Concern

Activities resulting in a point source discharge in the following types of aquatic resources of special concern shall request an individual project-specific CWA Section 401 WQC: mature forested wetlands; bogs, fens and other peatlands; vernal pools; aspen-dominated wetlands; alkali wetlands; camas prairie wetlands; wetlands in dunal systems along the Oregon or Washington Coast; riffle-pool complexes of streams; marine or estuarine mud-flats; salt marshes; marine waters with native eelgrass or kelp beds; or marine nearshore forage fish habitat. To identify whether a project would occur in any

of these aquatic resources of special concern, project proponents shall use existing and available information to identify the location and type of resources, including using the U.S. Fish and Wildlife Service's online digital National Wetland Inventory maps, identifying project location on topographical maps, and/or providing on-site determinations as required by the Corps. When a project requires a Pre-Construction Notification (PCN) to the Corps, project proponents shall work with the Corps to identify whether the project is in any of these specific aquatic resources of special concern.

EPA General Condition 2 – Soil Erosion and Sediment Controls

Turbidity shall not exceed background turbidity by more than 50 Nephelometric Turbidity Units (NTU) above background instantaneously or more than 25 NTU above background for more than ten consecutive days.[8] Projects or activities that are expected to exceed these levels require an individual project-specific CWA Section 401 WQC.

The turbidity standard shall be met at the following distances from the discharge:

| **Wetted Stream Width at Discharge Point** | **Approximate Downstream Point to Sample to Determine Compliance** |
|---|---|
| Up to 30 feet | 50 feet |
| >30 to 100 feet | 100 feet |
| >100 feet to 200 feet | 200 feet |
| >200 feet | 300 feet |
| Lake, Pond, Reservoir | Lesser of 100 feet or maximum surface distance |

| **For Marine Water** | **Point of Compliance for Temporary Area of Mixing** |
|---|---|
| Estuaries or Marine Waters | Radius of 150 feet from the activity causing the turbidity exceedance |

Measures to prevent and/or reduce turbidity shall be implemented and monitored prior to, during, and after construction. Turbidity monitoring shall be done at the point of compliance within 24 hours of a precipitation event of 0.25 inches or greater. During monitoring and maintenance, if turbidity limits are exceeded or if measures are identified as ineffective, then additional measures shall be taken to come into compliance and EPA shall be notified within 48 hours of the exceedance or measure failure.

EPA General Condition 3 - Compliance with Stormwater Pollution Prevention and the National Pollutant Discharge Elimination System Permit Provisions

For land disturbances during construction that 1) disturb one or more acres of land, or 2) will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land, the permittee shall obtain and implement Construction Stormwater General Permit requirements,[9] including:

1. The permittee shall develop a Stormwater Pollution Prevention Plan (SWPPP)[10] and submit it to EPA Region 10 and appropriate Corps District; and
2. Following construction, prevention or treatment of ongoing stormwater runoff from impervious surfaces that includes soil infiltration shall be implemented.

EPA General Condition 4 – Projects or Activities Discharging to Impaired Waters

Projects or activities are not authorized under the NWPs if the project will involve point source discharges into an active channel (e.g., flowing or open waters) of a water of the U.S. listed as impaired under CWA Section 303(d) and/or if the waterbody has an approved Total Maximum Daily

Load (TMDL) and the discharge may result in further exceedance of a specific parameter (e.g., total suspended solids, dissolved oxygen, temperature) for which the waterbody is listed or has an approved TMDL. The current lists of impaired waters of the U.S. under CWA Section 303(d) and waters of the U.S. for which a TMDL has been approved are available on EPA Region 10's web site at: https://www.epa.gov/tmdl/impaired-waters-and-tmdls-region-10.

EPA General Condition 5 – Notice to EPA

All project proponents shall provide notice to EPA Region 10 prior to commencing construction activities authorized by a NWP. This will provide EPA Region 10 with the opportunity to inspect the activity for the purposes of determining whether any discharge from the proposed project will violate this CWA Section 401 WQC. Where the Corps requires a PCN for an applicable NWP, the project proponent shall also provide the PCN to EPA Region 10. EPA Region 10 will provide written notification to the project proponent if the proposed project will violate the water quality certification of the NWP.

EPA General Condition 6 – Unsuitable Materials

The project proponent shall not use wood products treated with leachable chemical components (e.g., copper, arsenic, zinc, creosote, chromium, chloride, fluoride, pentachlorophenol), which result in a discharge to waters of the U.S., unless the wood products meet the following criteria:

1. Wood preservatives and their application shall be in compliance with EPA label requirements and criteria of approved EPA Registration Documents under the Federal Insecticide, Fungicide, and Rodenticide Act;
2. Use of chemically treated wood products shall follow the Western Wood Preservatives Institute (WWPI) guidelines and BMPs to minimize the preservative migrating from treated wood into the aquatic environment;
3. For new or replacement wood structures, the wood shall be sealed with non-toxic products such as water-based silica or soy-based water repellants or sealers to prevent or limit leaching. Acceptable alternatives to chemically treated wood include untreated wood, steel (painted, unpainted or coated with epoxy petroleum compound or plastic), concrete and plastic lumber; and
4. All removal of chemically treated wood products (including pilings) shall follow the most recent "EPA Region 10 Best Management Practices for Piling Removal and Placement in Washington State."

EPA NWP Specific Conditions:

NWP 13 is conditionally certified, subject to the general conditions listed above, except that an individual project-specific WQC is required when:

1. The entire scope of the project is greater than 300 linear feet; or
2. The project includes hard armoring approaches; or
3. The project is in marine waters and has not completed the assessments set forth in the Marine Shoreline Design Guidelines (for projects proposed on tribal lands or lands of exclusive federal jurisdiction in Washington State); or
4. The project involves permanent fill in wetlands that are waters of the U.S.

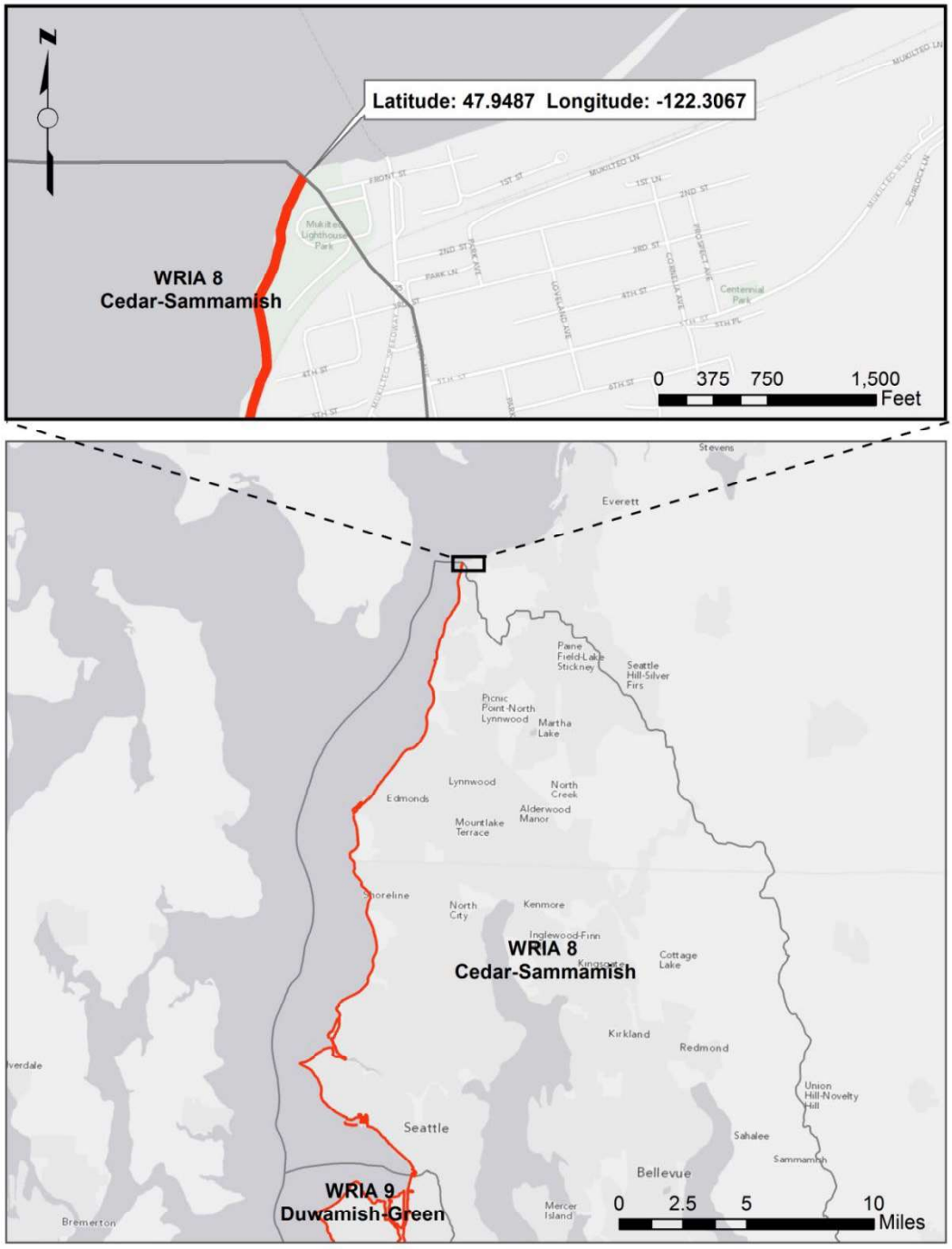
**Specific Tribes with Certifying Authority (Projects in Specific Tribal Areas):**
WQC was issued by the Swinomish Indian Tribal Community. WQC was waived by the Confederated Tribes of the Chehalis Reservation and Colville Indian Reservation, Kalispel Tribe of Indians, Port Gamble S'Klallam Tribe, Quinault Indian Nation, and the Spokane Tribe of Indians. WQC was denied by the Lummi Nation, Makah Tribe, Puyallup Tribe of Indians, and the Tulalip Tribes; therefore, individual WQC is required from these tribes.

F. COASTAL ZONE MANAGEMENT ACT (CZMA) CONSISTENCY RESPONSE FOR THIS NWP:

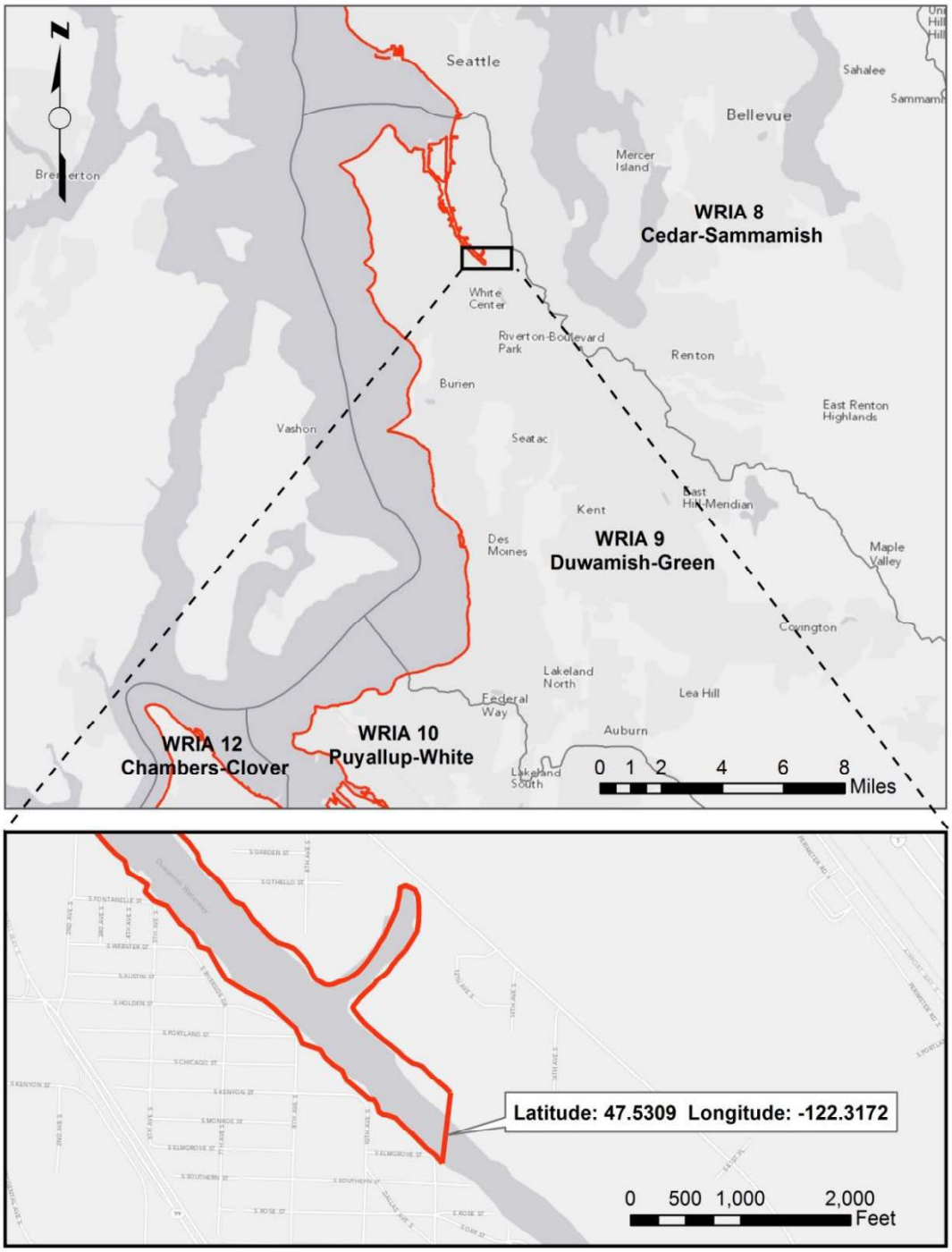
Ecology's determination is that they concur with conditions that this NWP is consistent with CZMA.

1. A CZM Federal Consistency Decision is required for projects or activities under this NWP if a State 401 Water Quality Certification is required.

Seattle District Regional General Conditions - Figures
Figure 1: RGC 3 - WRIAs 8, 9, 10, 11, and 12
a. WRIA 8



b. WRIA 9


N
Seattle
Sahalee
Bellevue
Mercer Island
Bremerton
WRIA 8
Cedar-Sammamish
White Center
Riverton-Boulevard Park
Renton
Burien
East Renton Highlands
Vashon
Seatac
Kent
East Hill-Meridian
Des Moines
WRIA 9
Duwamish-Green
Maple Valley
Covington
Lakeland North
Lea Hill
Federal Way
Auburn
WRIA 12
Chambers-Clover
WRIA 10
Puyallup-White
Lakeland South
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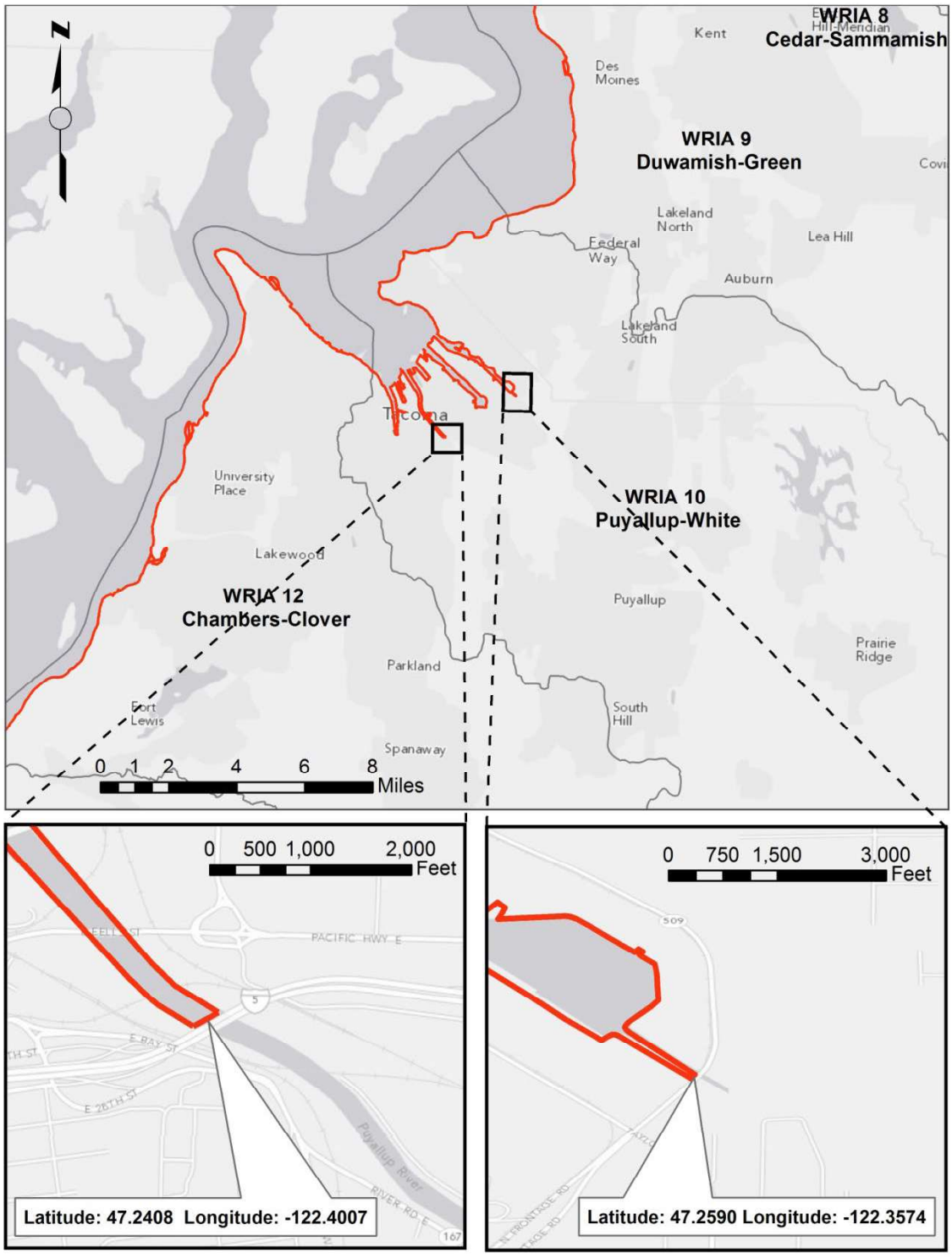
Feet

c. WRIA 10


WRIA 8
Cedar-Sammamish
WRIA 9
Duwamish-Green
WRIA 10
Puyallup-White
WRIA 12
Chambers-Clover
Kent
Des Moines
Federal Way
Lakeland North
Lea Hill
Auburn
Lakeland South
Tacoma
University Place
Lakewood
Puyallup
Parkland
Prairie Ridge
South Hill
Fort Lewis
Spanaway
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0 500 1,000 2,000 Feet
PACIFIC HWY E
E RAY ST
E 26TH ST
Puyallup River
RIVER RD E
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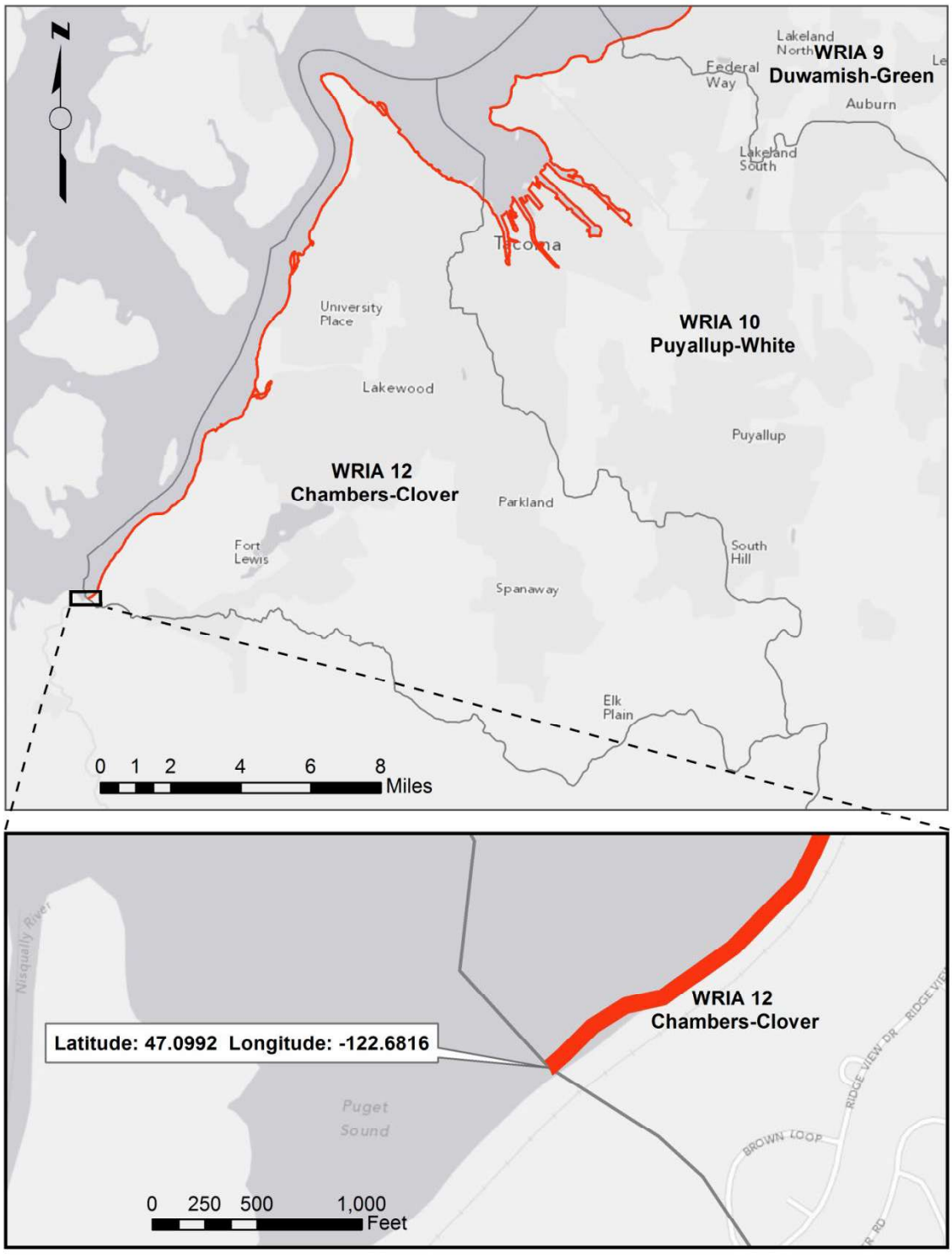
0 750 1,500 3,000 Feet
Latitude: 47.2590 Longitude: -122.3574

d. WRIA 12


N
Lakeland North
WRIA 9
Duwamish-Green
Federal Way
Auburn
Lakeland South
Tacoma
University Place
WRIA 10
Puyallup-White
Lakewood
Puyallup
WRIA 12
Chambers-Clover
Parkland
Fort Lewis
South Hill
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Elk Plain
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Miles
Nisqually River
WRIA 12
Chambers-Clover
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Puget Sound
BROWN LOOP
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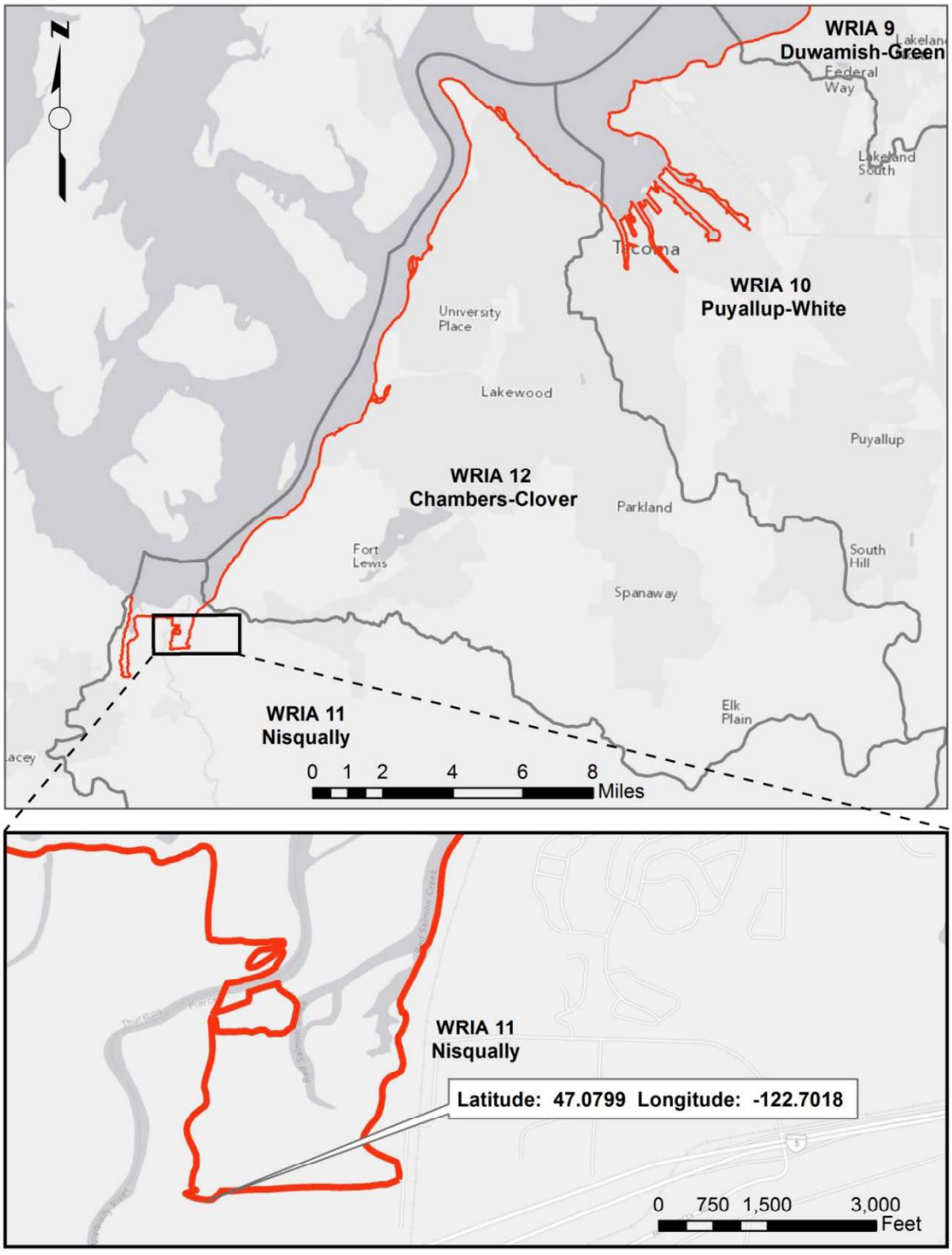
Feet

e. WRIA 11


WRIA 9
Duwamish-Green
Federal Way
Lakeland South
Tacoma
WRIA 10
Puyallup-White
University Place
Lakewood
Puyallup
WRIA 12
Chambers-Clover
Parkland
Fort Lewis
South Hill
Spanaway
Elk Plain
WRIA 11
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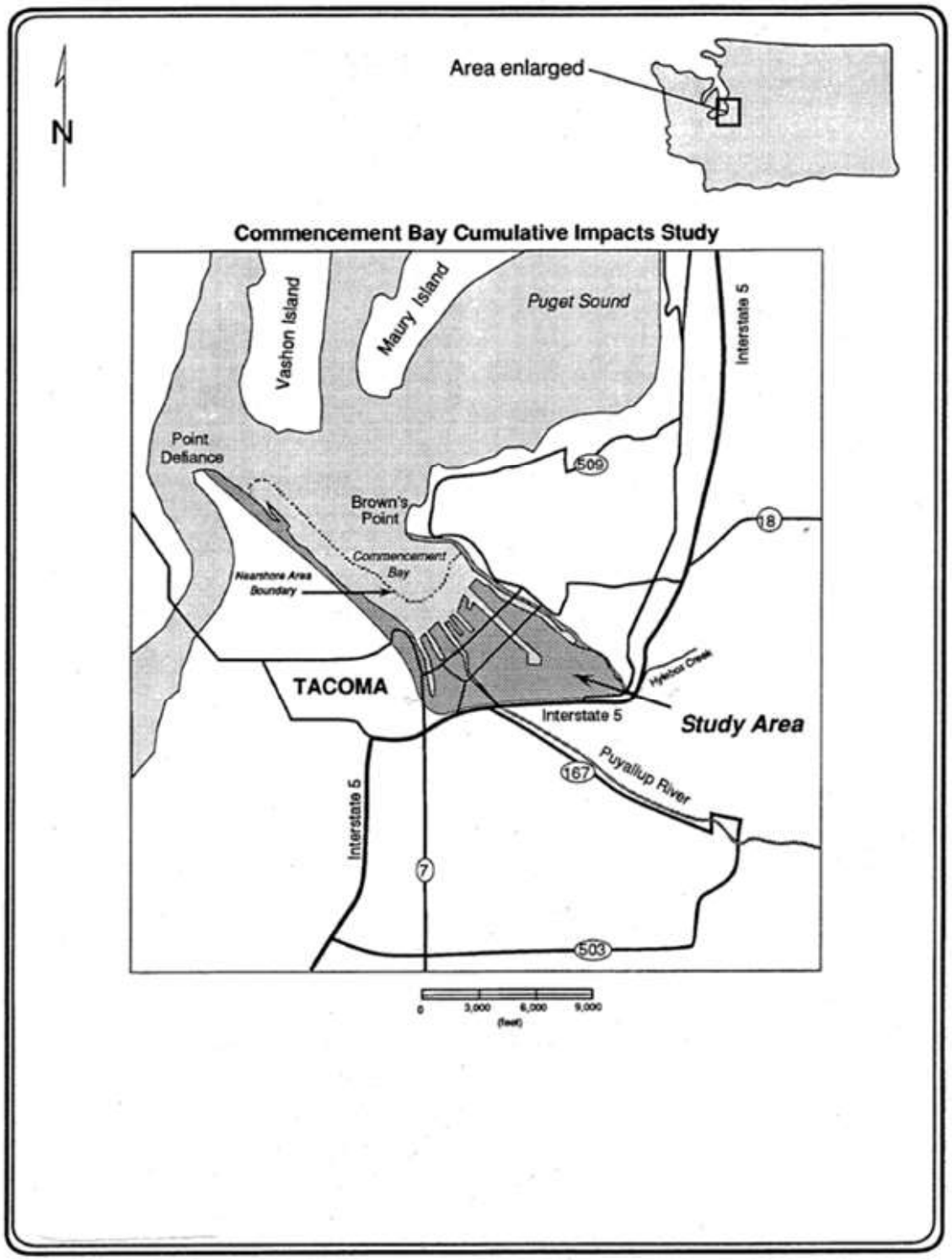
Figure 2. RGC 4 - Commencement Bay Study Area