



REPLY TO  
ATTENTION OF

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

Regulatory Branch

February 25, 2016

Ms. Cindy Dittbrenner  
Snohomish Conservation District  
528 91<sup>st</sup> Avenue Northeast, Ste A  
Lake Stevens, Washington 98258

Reference: NWS-2015-723  
Snohomish Conservation  
District

Dear Ms. Dittbrenner:

We have reviewed your application to remove two stream barriers, excavate 0.55 miles of relic side-channel, install two 12 foot diameter culverts, install large woody material within a relic side-channel, and plant 5 acres of riparian forest to restore a relic side-channel in the Snohomish River near Snohomish, Snohomish County, Washington. Based on the information you provided to us, Nationwide Permit (NWP) 27, Aquatic Habitat Restoration, Establishment, and Enhancement Activities (Federal Register February 21, 2012, Vol. 77, No. 34), authorizes your proposal as depicted on the enclosed drawings dated December 30, 2015.

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

a. If human remains, historic resources, or archaeological resources are encountered during construction, all ground disturbing activities shall cease in the immediate area and you shall immediately (within one business day of discovery) notify the U.S. Army Corps of Engineers (Corps), Seattle District, Regulatory Branch. You shall perform any work required by the Corps in accordance with Section 106 of the National Historic Preservation Act and Corps regulations.

b. In order to meet the requirements of the Endangered Species Act you may conduct the authorized activities from July 1 through September 15 in any year this permit is valid. You shall not conduct work authorized by this permit from September 16 through June 30 in any year this permit is valid.

c. In order to meet the requirements of the Endangered Species Act (ESA) 2008 Fish Passage and Restoration Programmatic Consultation (National Marine Fisheries Reference

Number 2008/03598; U.S. Fish and Wildlife Service Reference Number 1341-2008-FWS- #F-0209), you must comply with the conditions included in the *Specific Project Information Form* dated October 27, 2015, and the enclosed electronic approval from the U.S. Fish and Wildlife Service dated December 7, 2015. If you cannot comply with the terms and conditions of this programmatic consultation, you must, prior to commencing construction, contact the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch for an individual consultation in accordance with the requirements of the ESA and/or the Magnuson-Stevens Fishery Conservation and Management Act.

d. This U.S. Army Corps of Engineers (Corps) permit does not authorize you to take a threatened or endangered species, in particular the Pacific Salmon. In order to legally take a listed species, you must have a separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permits, or ESA Section 7 consultation Biological Opinion (BO) with non-discretionary “incidental take” provisions with which you must comply). The Habitat Restoration Program Limit 8 BO prepared by the National Marine Fisheries Service (NMFS) dated February 28, 2007, contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with the specified “incidental take” in the BO (NMFS Reference Number 2006/05601). Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the BO. These terms and conditions are incorporated by reference in this permit. Failure to comply with the commitments made in this document constitutes non-compliance with the ESA and your Corps permit. The NMFS is the appropriate authority to determine compliance with the ESA.

e. Incidents where any individuals of fish species, marine mammals and/or sea turtles listed by National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) 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 NOAA Fisheries, 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 NOAA Fisheries to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

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

1. Project completion date.

2. Fish capture and release report for projects requiring dewatering. (For additional details, see Appendix A “Dewatering and Fish Capture Protocol” in the Specific Project Information Form you submitted).

3. Sediment monitoring report for projects requiring in-water work, including the extent and duration of downstream turbidity impacts measured every 20 minutes during construction. (For additional details, see question I.R. of the Specific Project Information Form you submitted).

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

As part of our permit application review process, we notified Native American tribes that have an interest in this area. The Snoqualmie Indian Tribe requested their archeology staff be present to observe construction. Based on our coordination, you agreed to allow Adam Osbekoff and/or Snoqualmie Indian Tribal archeological staff access. Please contact Adam Osbekoff at (425) 753-0388 prior to commencing construction.

The authorized work complies with the Washington State Department of Ecology’s (Ecology) Water Quality Certification and the Coastal Zone Management Act requirements for this NWP. No further coordination with Ecology is required.

We have prepared and enclosed a *Preliminary Jurisdictional Determination* (JD) dated February 23, 2016, which is a written indication that wetlands and waterways within your project area may be waters of the U.S. Such waters will be treated as jurisdictional waters of the U.S. for purposes of computation of impact area and compensatory mitigation requirements associated with your permit application. If you believe the Preliminary JD is inaccurate, you may request an Approved JD, which is an official determination regarding the presence or absence of waters of the U.S. If one is requested, please be aware that we may require the submittal of additional information to complete an approved JD and work authorized in this letter may not occur until the approved JD has been finalized.

The Snohomish River is a water of the U.S. If you believe this is inaccurate, you may request a preliminary or approved jurisdictional determination (JD). If one is requested, please be aware that we may require the submittal of additional information to complete the JD and work authorized in this letter may not occur until the JD has been completed.

Our verification of this NWP authorization is valid until March 18, 2017, unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date and you have commenced or are under contract to commence this activity before March 18, 2017, you will have until March 18, 2018, to complete the activity under the enclosed terms and conditions of this NWP. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. You must also obtain all local, State, and other Federal permits that apply to this project.

Upon completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form. Thank you for your cooperation during the permitting process. We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey form. This form and information about our program is available on our website at [www.nws.usace.army.mil](http://www.nws.usace.army.mil) select "Regulatory Branch, Permit Information" and then "Contact Us." If you have any questions, please contact me at [frank.t.nichols@usace.army.mil](mailto:frank.t.nichols@usace.army.mil) or (206) 764-6182.

Sincerely,



Frank Nichols, Project Manager  
Regulatory Branch

Enclosures