



REPLY TO  
ATTENTION OF

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

MAY 23 2006

Regulatory Branch

Ms. Betsy Peabody  
Puget Sound Restoration Fund  
590 Madison Avenue North  
Bainbridge Island, Washington 98110

Reference: 200600130  
Puget Sound Restoration Fund

Dear Ms. Peabody:

Our regulatory program utilizes a series of nationwide permits (NWP) to authorize specific categories of work that have minimal impact on the aquatic environment when conducted in accordance with the permit conditions (*Federal Register*, January 15, 2002, Vol. 67, No. 10). Based on the information you provided to us, NWP 4, *Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities*, authorizes your proposal to place up to 1,300 cubic yards of Pacific oyster shell, as depicted on the enclosed drawings dated January 27, 2006. The project would occur in Liberty Bay, Puget Sound near Poulsbo, Kitsap County, Washington.

In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the enclosed *Nationwide Permit 4, Terms and Conditions* and the following special condition that we have added to ensure that this project would have no more than a minimal adverse impact on the aquatic environment:

a. You must implement and abide by the Endangered Species Act (ESA) requirements and/or agreements set forth in the letters of concurrence from the U.S. Fish and Wildlife Service and National Oceanic and Atmospheric Administration Fisheries. The U.S. Fish and Wildlife Service (USFWS) concurred with a finding of "may affect, not likely to adversely affect" on May 16, 2006 (USFWS Reference Number 1-3-06-I-0262). The National Marine Fisheries Service (NMFS) concurred with a finding of "may affect, not likely to adversely affect" based on their Programmatic Biological Evaluation on May 4, 2006. Both agencies will be informed of this permit issuance. Failure to comply with the commitments made in this document constitutes non-compliance with the ESA and your U.S. Army Corps of Engineers permit. The USFWS/NMFS is the appropriate authority to determine compliance with ESA.



In order for this NWP authorization to be valid, the Washington State Department of Ecology (Ecology) must have issued or waived Section 401 Water Quality Certification (WQC) and, for Washington's 15 coastal counties, concurred with or waived a Coastal Zone Management (CZM) consistency determination. Based on our review of the proposed work, the Corps has determined that the proposed work will be in compliance with Ecology's WQC and CZM consistency determination concurrence requirements for this NWP. Therefore, no further coordination with Ecology is required.

For this project, the National Oceanic and Atmospheric Administration Restoration Center is the Federal lead agency responsible for compliance with Section 7 of the Endangered Species Act (ESA), the Magnuson-Stevens Fishery Conservation and Management Act (MSA), as amended by the Sustainable Fisheries Act of 1996, and Section 106 of the National Historic Preservation Act. For the purpose of this Department of the Army authorization, the U.S. Army Corps of Engineers has determined that this project will comply with the requirements of the above laws provided you comply with special condition "a" listed above.

Our verification of this NWP is valid for 2 years from the date of this letter unless the NWP is modified, reissued or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2007. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit.

If this project complies with all terms and conditions of this NWP, you will need no further authorization from us. However, you must still obtain all State and local permits that apply to your project. Also, we remind you that failure to comply with all terms and conditions of this NWP verification invalidates your authorization and could result in a violation of Section 10 of the Rivers and Harbors and Section 404 of the Clean Water Act.

Upon completing the authorized work, please fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form to the address indicated on the form. Your signature on this form is our assurance that the completed work was conducted in accordance with the terms and conditions of this NWP.

Thank you for your cooperation during the permit process. Your efforts help us protect our nation's aquatic resources, including wetlands. We are interested in your thoughts and opinions concerning 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), click on Regulatory – Regulatory/Permits.

If you have any questions about this letter or our regulatory program, please contact (206) 764-6906 or via email at [James.D.Green@usace.army.mil](mailto:James.D.Green@usace.army.mil).

Sincerely,



for

Jim Green, Project Manager  
South Application Review Section

Enclosures