

ADDENDUM NO. 3
TO THE CONTRACT DOCUMENTS
for the construction of
DOG RIVER PIPELINE REPLACEMENT

Date: May 2, 2022
Project No.: D3504800

To All Planholders and/or Prospective Bidders:

The following changes, additions, and/or deletions are hereby made a part of the Contract Documents for the construction of Dog River Pipeline Replacement dated March 2022 as fully and completely as if the same were fully set forth therein:

A. PART 1, PROCUREMENT REQUIREMENTS

1. No changes.

B. PART 2, CONTRACTING REQUIREMENTS

1. No changes.

C. PART 3, SPECIFICATIONS

1. Section 01 35 43, Environmental Procedures.

- a. Page 9, Article 3.08 Pesticide Use, Paragraph A., First sentence.
DELETE and REPLACE with the following:

“Pesticides (including herbicides), shall not be used outside of buildings in the permit area to control pests, including undesirable woody and herbaceous vegetation (including aquatic plants), insects, birds, rodents, or fish without prior written concurrence of the authorized USFS officer.”

- b. Page 9, Article 3.08 Pesticide Use. ADD the following:

“D. If USFS approves use of pesticides (including herbicides) and fertilizers the following conditions shall apply:

1. Pesticides, herbicides, and fertilizers, must be applied per manufacturer’s instructions by a professionally licensed applicator. If chemical treatment is necessary, the ensure that pesticide application laws, including with the NPDES System 2300-A general permit, are met. Please review the information on the following website for more information:

<https://www.oregon.gov/deq/wq/wqpermits/Pages/Pesticide.aspx>

2. For pesticide application within stormwater treatment facilities or within 150 feet of waters of the state, the Contractor shall adopt an Integrated Pest Management (IPM) plan that describes pest prevention, monitoring and control techniques with a focus on prevention of inputs to waters of the state, or coverage under an NPDES permit, if required.
3. Pesticide shall only be applied during the dry season and avoid direct water application.
4. Unless otherwise approved in writing by Oregon DEQ, applying surface fertilizer within stormwater treatment facilities or within 50 feet of any stream channel is prohibited.”

c. Page 10 , Article 3.10 Brooks Meadow Creek Culvert Installation, Paragraph A. Construction Area Isolation, Subparagraph 3. DELETE and REPLACE with the following:

- “3. Heavy equipment shall work from top of stream bank to the extent feasible and may not be positioned on or traverse areas below ordinary high water at any time unless; stream isolation and aquatic organism salvage is completed; equipment uses vegetable-based hydraulic fluids; equipment is steam cleaned and inspected for leaks prior to each use; and equipment is diapered to prevent leakage of fuels, oils, or other fluids below OHW elevation. Any equipment found to be leaking fluids must be immediately removed from and kept out of area below OHW until repaired. Existing Brooks Meadow Creek ford may not be used for construction traffic prior to construction of road re-alignment and new culvert.”

d. Page 10, Article 3.10 Brooks Meadow Creek Culvert Installation, Paragraph A. Construction Area Isolation. ADD the following:

- "4. The work area must be isolated from the water during construction as shown on Drawings. All structures and materials used to isolate the work area must be removed immediately following construction and water flow returned to pre-construction conditions. Work shall be performed as follows:
- a. There must be no operation of equipment in the active flowing stream except to connect the newly dug channel into the existing stream.
 - b. The new channel must be completely constructed and stabilized before diverting the stream flow.

- c. The old channel must be permanently blocked with impervious material protected by suitable bank protection.
 - d. Spoils from the excavation of the new channel must be stockpiled, and after the diversion has been accomplished, the material may be used to fill the abandoned channel.”
- e. Page 13, Article 3.10 Brooks Meadow Creek Culvert Installation, Paragraph E. Volitional Passage. ADD the following:
 - “1. Monitoring of the effectiveness of passage of fish is required for the Project.
 - 2. The Contractor’s Designated Lead Fish Moving Biologist shall monitor the effectiveness of fish passage during construction to determine whether or not the project is functioning as it was designed to function for fish passage, unless otherwise noted by the ODFW Fish Passage permit for Brooks Meadow Creek.”
- f. Page 16, Article 3.11 Oregon DEQ 401 Permit Requirements. ADD the following:
 - “G. Cure concrete, cement, or grout for at least 24 hours before any contact with flowing waters.
 - H. Use only clean fill, free of waste and polluted substances.
 - I. Employ all practicable controls to prevent discharges of spills of harmful materials to surface or groundwater.
 - J. Maintain at the project construction site, and deploy as necessary, an adequate supply of materials needed to contain deleterious materials during a weather event.
 - K. Remove all foreign materials, refuse, and waste from the project area prior to completion of the Work.
 - L. If any contaminated soil or groundwater is encountered, it must be handled and disposed of in accordance with local, state and federal regulations. If contaminated soil or groundwater is encountered, the Contractor shall notify the Owner’s representative, USFS representatives, and coordinate with the Owner and USFS for notification of the Oregon DEQ Environmental Cleanup Section of at (800) 452-4011.”

2. Section 01 50 00, Temporary Facilities and Controls.

a. Page 4, Article 1.05 Vehicular Traffic. ADD the following:

“D. A copy of the United States Forest Service road use permit shall be carried in all motor vehicles operated under this permit. When vehicles are parked in restricted areas, a copy of this permit shall be displayed on the dashboard. When a parked motor vehicle does not have a dashboard, a note shall be left on the parked vehicle and the permit copy locked in a vehicle compartment or carried in the operator’s possession. This permit shall be presented upon request to any United States Forest Service officer.”

b. Page 15, Article 3.06 Access Roads and Detours, Paragraphs D. and E. DELETE and REPLACE with the following:

“D. Roads must be maintained for safe passage including but not limited to prior to commencement of work and throughout construction: clearing of roadway obstructions; maintaining vegetation, such as brushing within roadway. Maintain road grade and crown to eliminate potholes, rutting, and other irregularities that restrict access or pose a hazard to safe passage.

E. Coordinate with Engineer detours, road closures, and other operations affecting traffic and access. Provide at least 72 hours’ notice to Engineer of operations that will alter access to Site, or traffic on USFS roads. Owner or Engineer will notify USFS a minimum of 48 hours in advance of any road closures.”

3. Section 01 57 13, Temporary Erosion and Sediment Control.

a. Page 12, Article 1.04 System Description, Paragraph N. Pollution Control, Subparagraph 1, second sentence. DELETE and REPLACE with the following:

“These pollutants include all hazardous materials, chemicals, materials treated with leachable preservatives, sandblasted materials, chipped paint, petroleum products (including fuel, hydraulic fluid, and other oils from vehicles and machinery), as well as debris, leftover paints, solvent and glues from construction operations, and shall be prevented from entering waters of the State.”

4. Section 31 23 23, Fill and Backfill.
 - a. Page 12, Article 3.07 Placing Riprap. ADD the following:
 - “J. Riprap shall be placed in a manner that does not increase the upland surface area.
 - K. Riprap must be placed in a way as to minimize impacts to the active stream channel.
 - L. All riprap must be placed, not dumped, from above the bank line.
 - M. Riprap above ordinary high-water elevation must be covered, and the voids filled with topsoil and revegetation to allow wildlife to move across it naturally.”
5. Section 32 11 23, Aggregate Base Course.
 - a. Page 2, Article 1.02 Definitions. ADD the following:
 - “G. Imported Material: Materials obtained from USFS approved weed-free sources offsite, suitable for specified use.”
 - b. Page 2, Article 1.03 Submittals, Paragraph A. Information Submittals. ADD the following:
 - “2. Certified weed-free documentation meeting United States Forest Service requirements for each imported material.”
6. Section 32 93 00, Plants.
 - a. Page 5, Article 3.03 Planting. ADD the following:
 - “E. Planting must be completed after completion of grading work and before the next growing season.”

D. DRAWINGS

1. DELETE and REPLACE Drawings 05-C-1004, 05-C-1201, and 10-C-3001 to clarify requirements for stripping/stockpiling/re-use of topsoil in wetland and waters areas and topsoil filling of riprap voids and reseeding in areas of riprap placement above ordinary high water level to comply with permit conditions.

E. PERMITS AND APPROVALS

1. The following permits and approvals have been obtained by the Owner and included herein as listed:
 - a. Oregon Department of State Lands (DSL) Removal Fill Permit.
 - b. Oregon Department of Environmental Quality (DEQ) CWA Section 401 Water Quality certification (NWS-2017-35).
 - c. City of The Dalles; Dog River Pipeline Project - Brooks Meadow Creek Culvert Installation --- ODFW Fish Passage Approval PA-03-0014.
 - d. City of The Dalles; Dog River Pipeline Project - Brooks Meadow Creek Water Supply Line Installation --- ODFW Fish Passage Approval PA-03-0015.

All Bidders shall acknowledge receipt and acceptance of this Addendum No. 3 in the Bid Form or by submitting the Addendum with the bid package. Bid Forms submitted without acknowledgment or without this Addendum will be considered in nonconformance.

JACOBS

Todd Dye, PE; Design Manager

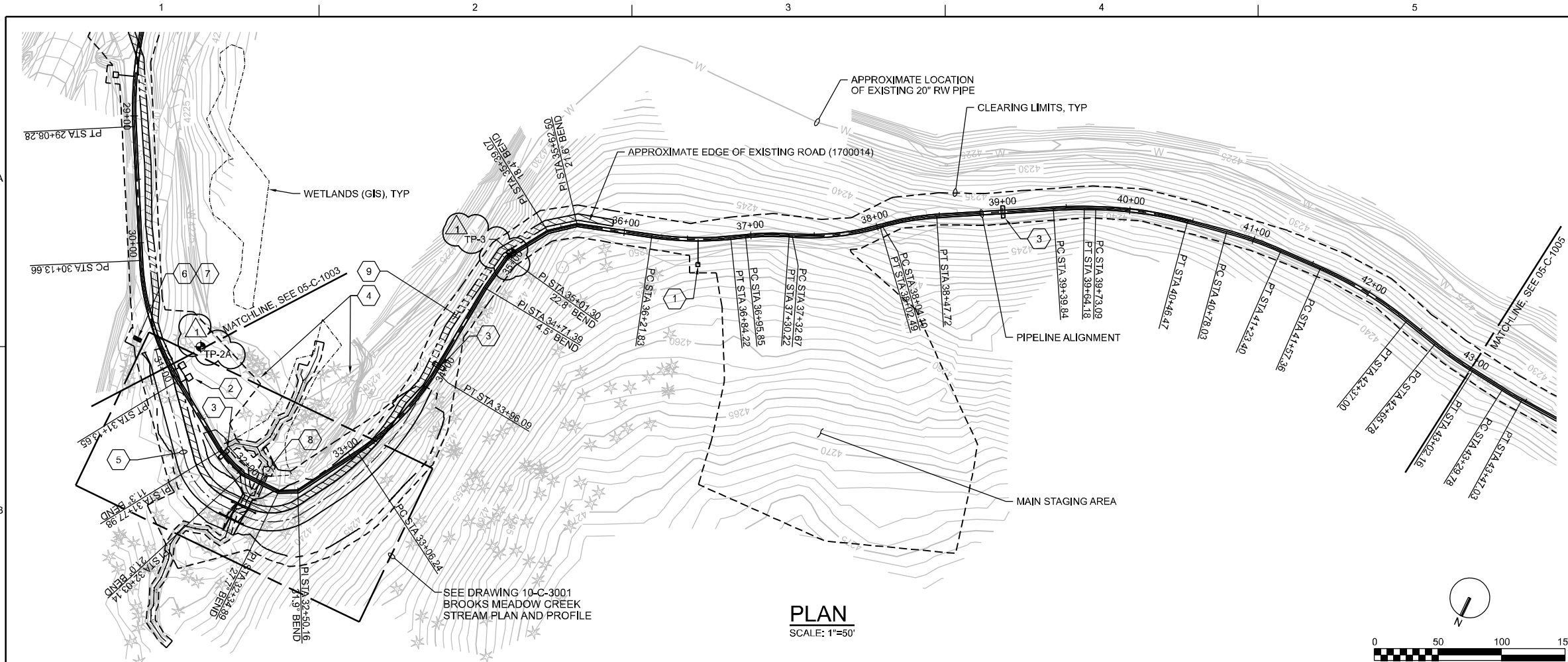
Appended hereto and part of Addendum No. 3:

- A. Drawings 05-C-1004, 05-C-1201, and 10-C-3001.
- B. Oregon Department of State Lands (DSL) Removal Fill Permit.
- C. Oregon Department of Environmental Quality (DEQ) CWA Section 401 Water Quality Certification (NWS-2017-35).
- D. City of The Dalles; Dog River Pipeline Project -Brooks Meadow Creek Culvert Installation --- ODFW Fish Passage Approval PA-03-0014.
- E. City of The Dalles; Dog River Pipeline Project -Brooks Meadow Creek Water Supply Line Installation --- ODFW Fish Passage Approval PA-03-0015.

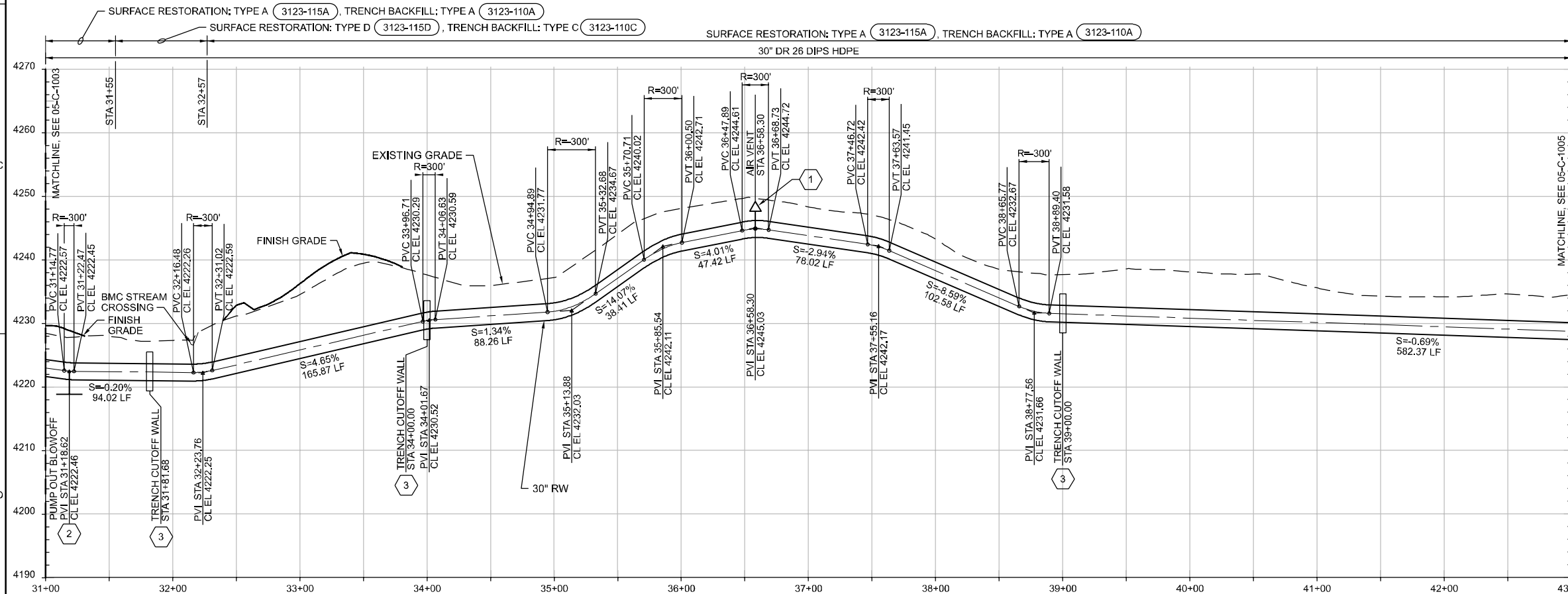
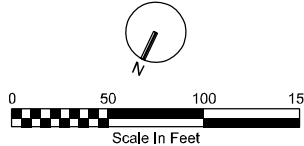
Appended hereto and NOT part of Addendum No. 3:

A. May 2, 2022 Bidder question Log.

END OF ADDENDUM



PLAN
SCALE: 1"=50'



PROFILE
HORIZONTAL SCALE: 1"=50'
VERTICAL SCALE: 1"=10'

GENERAL NOTES:

- PROTECT ALL EXISTING STRUCTURES AND TREES NOT SHOWN FOR DEMOLITION.
- FOR SURFACE RESTORATION AND TRENCH BACKFILL TYPES, SEE 99-C-0001.
- CONTRACTOR TO RE-GRADE DISTURBANCE AREA FROM PIPELINE CONSTRUCTION TO MATCH EXISTING WHERE NOT OTHERWISE SHOWN ON DRAWINGS.
- CONTRACTOR SHALL IMPLEMENT EROSION CONTROL MEASURES SHOWN ON EROSION CONTROL DRAWINGS, THESE ARE THE MINIMUM REQUIRED.
- FOR PIPELINE HORIZONTAL ALIGNMENT CONTROL, SEE DRAWINGS 05-C-1100 THROUGH 05-C-1102.
- FOR TEST PIT COORDINATES, SEE DRAWING 05-C-0100.

SHEET KEYNOTES

- FOR AIR VENT, SEE DETAIL 05-C-1501 UNLESS OTHERWISE NOTED.
- FOR PUMP OUT BLOWOFF COORDINATES, SEE DWG 05-C-1102, SEE DETAIL SIM, ACCESS PORT NOT SHOWN FOR CLARITY.
- FOR TRENCH CUTOFF WALL, SEE DETAIL 05-C-1501
- AFTER PROPOSED PIPELINE IS FULLY IN SERVICE, CUT INTO EXISTING 20" RW TRANSMISSION LINE AND FILL WITH CLSM UNTIL A WATERTIGHT PLUG IS FORMED ON BOTH SIDES OF THE BROOKS MEADOW CREEK STREAM. KEEP WORK OUTSIDE OF THE BOUNDARY OF THE BROOKS MEADOW CREEK STREAM AND WETLANDS.
- REALIGNED FOREST SERVICE ROAD 1700014 AT BROOKS MEADOW CREEK, SEE DRAWINGS 10-C-2001 AND 10-C-2002.
- MANUFACTURER: WOOD PRODUCTS SIGNS

PRODUCT: ONE WATERSHED BULLETIN BOARD PANEL WITH RICHMOND BULLETIN BOARD KIT. WOOD POSTS SHALL BE 6"x6" CCA TREATED ROUGH SAWN WESTERN RED CEDAR WITH OXFORD BROWN STAIN AND BEVELED TOPS.

HEADER AND FOOTER: HEADER PIECE ON BULLETIN BOARD SHALL READ "INFORMATION". FOOTER PIECE ON BULLETIN BOARD SHALL READ "MT HOOD NATIONAL FOREST". BOTH HEADER AND FOOTER SHALL BE FOREST SERVICE BROWN LETTERING WITH FOREST SERVICE YELLOW BACKGROUND.

PLACEMENT: PANELS SHALL BE MOUNTED ON FRAME STARTING AT 36-INCHES FROM GROUND. HEADER SHALL BE FLUSH WITH TOP OF POST. EMBED POSTS 30-INCHES INTO CONCRETE.

SHOP DRAWINGS AND PRODUCT DATA SHALL BE SUBMITTED FOR ALL WOOD PRODUCTS SIGNS. NO EQUALS OR SUBSTITUTIONS ALLOWED.
- 4" THICK CONCRETE PAD, 1' SQUARE, WITH #4@12" EW
- CONTRACTOR NOT ALLOWED TO USE EXISTING BMC FORD FOR VEHICULAR TRAFFIC.
- FILTER STRIP, SEE DETAIL 05-C-1503

GENERAL SHEET NOTES:

- ALL TEMPORARILY DISTURBED AREAS WITHIN WATERS OF THE STATE OR WETLANDS MUST BE RETURNED TO ORIGINAL GROUND CONTOURS AT PROJECT COMPLETION.
- DURING TRENCHING OR EXCAVATION OPERATIONS WITHIN WATERS OF THE STATE OR WETLANDS, THE TOP LAYER OF SOIL MUST BE SALVAGED AND SEPARATED FROM THE REST OF THE EXCAVATED MATERIAL AND PUT BACK ON TOP WHEN THE TRENCH OR EXCAVATED AREA WHEN IT IS BACKFILLED.



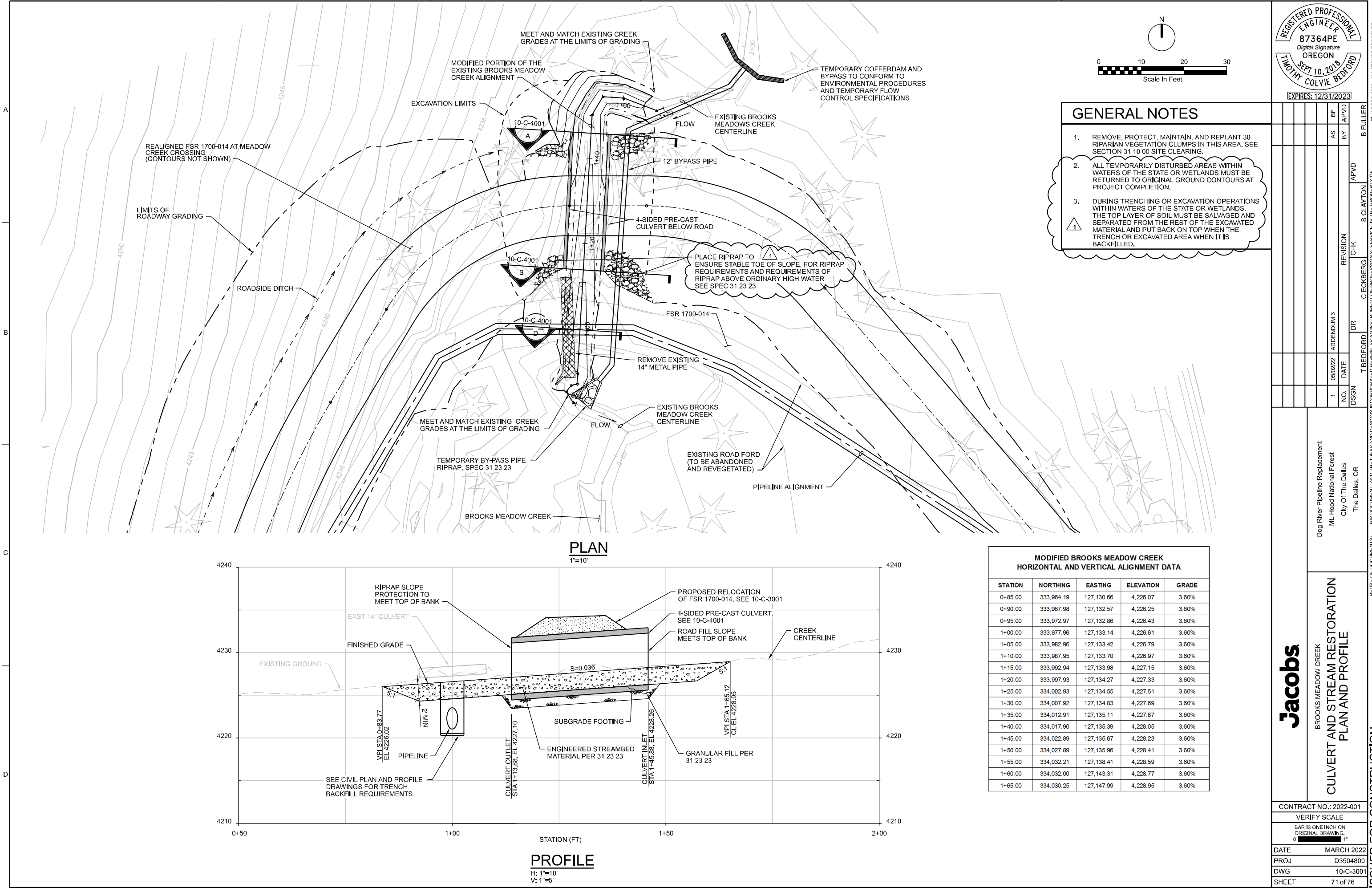
EXP 12-31-2023

NO.	DATE	REVISION	CHK	APVD
2	05/02/22	ADDENDUM 3		
1	04/26/22	ADDENDUM 2		

Dog River Pipeline Replacement
Mt. Hood National Forest
City Of The Dalles
The Dalles, OR

CIVIL
PIPELINE
PLAN AND PROFILE 4

CONTRACT NO.: 2022-001
VERIFY SCALE
BAR IS ONE INCH ON ORIGINAL DRAWING.
DATE MARCH 2022
PROJ D3504800
DWG 05-C-1004
SHEET 44 of 76





Oregon

Kate Brown, Governor

Department of State Lands

951 SW Simpson Ave., Suite #104

Bend, OR 97702

(541) 388-6112

FAX (541) 388-6480

www.oregon.gov/dsl

State Land Board

BEFORE THE DIRECTOR OF THE DEPARTMENT OF STATE LANDS OF THE STATE OF OREGON

In the Matter of Removal-Fill Permit)
Application 63644-RF) Proposed Permit Decision and Order;
By City Of The Dalles) Notice of Right to a Hearing
)

Kate Brown
Governor

Shemia Fagan
Secretary of State

Tobias Read
State Treasurer

Short and Plain Statement of the Permitting Decision: The permit application is approved because the Department of State Lands (DSL or the Department) has determined that, when carried out in compliance with all terms and conditions outlined in the permit, the proposed removal-fill activity is consistent with the protection, conservation, and best use of the water resources of this state and will not unreasonably interfere with the paramount policy of this state to preserve the use of its waters for navigation, fishing, and recreation. See ORS 196.825.

I. Applicable Law:

- a. ORS Chapter 196 governs removal fill permits in Oregon. The Department administers Oregon's Removal-Fill Law, Oregon Revised Statutes (ORS) 196.795 to ORS 196.990, which protects the state's wetlands and waterways. See ORS 196.805. Unless an exception applies, a person may not remove material from waters of this state or fill waters of this state without a permit from DSL. ORS 196.810. Waters of this state include the all-natural waterways, tidal and non-tidal bays, intermittent streams, constantly flowing streams, lakes, wetlands, the Pacific Ocean that is in the boundaries of this state, and other water bodies. ORS 196.800; Oregon Administrative Rule (OAR) 141-085-0515; OAR 141-093-0100.
- b. Specifically, the statutes that govern removal-fill permits in Oregon, including the permit application at issue in this case, generally include the following:

ORS 196.795 (Administration of State Removal or Fill Permits; General Permits);
ORS 196.800 (Definitions);
ORS 196.805 (Policy);
ORS 196.810 (Removal from Bed or Banks of Waters; Permits; Exceptions);
ORS 196.812 (Removal of Large Woody Debris);
ORS 196.815 (Permit Applications; Fees);
ORS 196.816 (Removal of Materials for Purpose of Maintaining Drainage and Protecting Agricultural Land);
ORS 196.817 (Removal or Fill General Permits);
ORS 196.818 (Wetland Delineation Reports; Fees);
ORS 196.820 (Smith Lake, Bybee Lake Prohibition);
ORS 196.825 (Permit Criteria; Consultation with Other Agencies);
ORS 196.830 (Estuarine Resource Replacement; Other Permit Conditions);
ORS 196.835 (Issuance of Permits; Procedure);
ORS 196.845 (Investigations and Surveys of Location); and
ORS 196.850 (Waiver of Permit Requirement; Notice; Review).

The full text of these statutes may be viewed online at:
https://www.oregonlegislature.gov/bills_laws/ors/ors196.html.

The full text of these statutes may also be inspected in person during normal business hours at:
Oregon Department of State Lands
775 Summer St NE STE 100
Salem, OR 97301.

- c. OAR Chapter 141, Divisions 85 and 93 implement the above statutory scheme and govern removal-fill permits in Oregon. The rules that govern removal-fill permits in Oregon, including the permit application at issue in this case, generally include the following:

Div. 85 Removal-Fill Authorizations:

OAR 141-085-0500 (General);
OAR 141-085-0506 (Policy);
OAR 141-085-0510 (Definitions);
OAR 141-085-0515 (Removal-Fill Jurisdiction by Type of Water);
OAR 141-085-0520 (Removal-Fill Jurisdiction by Volume of Material);
OAR 141-085-0525 (Measuring and Calculating Volume of Removal and Fill);
OAR 141-085-0530 (Exemptions for Certain Activities and Structures);
OAR 141-085-0534 (Exemptions for Certain Voluntary Habitat Restoration Activities);
OAR 141-085-0535 (Exemptions Specific to Agricultural Activities);
OAR 141-085-0540 (Types of Authorizations);
OAR 141-085-0545 (Fees; Amounts and Disposition);
OAR 141-085-0550 (Application Requirements for Individual Permits);
OAR 141-085-0555 (Individual Removal-Fill Permit Application Review Process);
OAR 141-085-0560 (Public Review Process for Individual Removal - Fill Permit Applications);
OAR 141-085-0565 (Department Determinations and Considerations in Evaluating Individual Permit Applications);
OAR 141-085-0575 (Permit Appeals);
OAR 141-085-0580 (Discovery in Contested Cases);
OAR 141-085-0585 (Permit Conditions, Permit Expiration Dates and Permit Transfer);
OAR 141-085-0590 (Renewal and Extension of Individual Removal-Fill Permits);
OAR 141-085-0595 (Permit Requirements and Interagency Coordination for Department of Environmental Quality Approved Remedial Action, Corrections Facilities, Solid Waste Land Fills and Energy Facilities);
OAR 141-085-0665 (Expedited Process for Industrial or Traded Sector Sites);
OAR 141-085-0676 (Emergency Authorizations);
OAR 141-085-0680 (Compensatory Mitigation (CM); Applicability and Principal Objectives);
OAR 141-085-0685 (Functions and Values Assessment);
OAR 141-085-0690 (Eligibility Requirements for CM);
OAR 141-085-0692 (Mitigation Accounting);
OAR 141-085-0694 (Special Requirement for CM);
OAR 141-085-0695 (Administrative Protection of CM Sites);
OAR 141-085-0700 (Financial Security for CM Sites);
OAR 141-085-0705 (Requirements for CM Plans);
OAR 141-085-0710 (Monitoring Requirements for CWM);
OAR 141-085-0715 (Mitigation for Temporary Impacts);
OAR 141-085-0720 (Mitigation Banking Purpose, Applicability and Policies);

OAR 141-085-0725 (Process for Establishing Mitigation Banks);
OAR 141-085-0730 (Establishment of Mitigation Credits);
OAR 141-085-0735 (Release, Use and Sale of Mitigation Credits);
OAR 141-085-0740 (Authorization for Mitigation Banks);
OAR 141-085-0745 (In-Lieu Fee Mitigation);
OAR 141-085-0750 (Payments to and Expenditures from the Oregon Removal-Fill Mitigation Fund);
OAR 141-085-0755 (Advance Mitigation); and
OAR 141-085-0768 (Advance Aquatic Resource Plans).

The full text of these rules may be viewed online at:

<https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=15700>.

The full text of these rules may also be inspected in person during normal business hours at:

Oregon Department of State Lands
775 Summer St NE STE 100
Salem, OR 97301.

II. Findings of Fact and Findings of Ultimate Fact:

1. The Department received a complete, written application from applicant on March 3, 2022 for the proposed removal-fill activity consisting of the repair of an existing water pipeline that contributes water to the City of The Dalles water supply, the repair of a diversion structure and fish screen installation on Dog River, culvert replacement on Brooks Meadows Creek, and upgrading the pipeline outlet through the construction of an energy dissipation structure on a tributary of S. Fork Mill Creek (611 cubic yards fill; 597.5 cubic yards removal).
2. The Department circulated the complete application for 30-day public comment period March 7, 2022 to April 5, 2022 to parties including, affected local, state and federal agencies, affected tribal governments, adjacent landowners, and other parties requesting notification.
3. Public comments were received from DSL proprietary division and forwarded to applicant on April 5, 2022. There were no comments that required a response to the Department.
4. Based on all the information in the agency file in this matter, including the complete application, comments received, applicant response to comments, and the agency's own investigations, the Department concludes as to the determinations in ORS 196.825(1) and (4), OAR 141-085-0565(3), and OAR 141-093-0115:
 - a. The project described in the permit application and as conditioned in the proposed permit, is consistent with the protection, conservation, and best use of the water resources of this state as specified in ORS 196.600 to 196.905;
 - b. The project described in the permit application and as conditioned in the proposed permit would not interfere with the paramount policy of this state to preserve the use of its waters for navigation, fishing, and public recreation.
5. Based on all the information in the agency file in this matter, including the complete application, comments received, applicant response to comments, and the agency's own investigations, the Department concludes, as to the considerations in ORS 196.825(3), OAR 141-085-0565(4), OAR 141-093-0115.

- a. The applicant is a public body, and the Department has relied upon the public body's findings as to local public need and local public benefit.
- b. There is not an identified economic cost to the public if the proposed fill or removal is not accomplished. However, due to the level of deterioration of the existing pipeline, if a failure were to occur, it could prove to be an economic cost to the public.
- c. The application describes four alternatives to the project for which the fill or removal is proposed. There are no practicable alternatives with lesser impact to waters of this state other than the no action alternative.
- d. The application describes no alternative sites for the proposed removal or fill because this project is upgrading existing infrastructure and is site-specific.
- e. The proposed project conforms to sound policies of conservation because adverse effects to the aquatic resources have been reduced to the extent practicable and the proposed permit contains operating conditions for best management practices to further minimize adverse effects. No interference with public health and safety was identified in the application evaluation and public review processes.
- f. There is not a conflict with existing public uses of the affected waters or adjacent land uses identified in the application evaluation and public review processes.
- g. The proposed fill or removal is not regulated by the governing comprehensive plan and land use regulations as described in the Land Use Compatibility Statement
- h. The proposed fill and removal is partially for streambank protection.
- i. No permanent adverse effects to aquatic resources are expected, therefore, compensatory mitigation is not required.

III. Conclusions of Law:

Based on the factors laid out in ORS Chapter 196 and OAR Chapter 141, Division 85, including ORS 196.825, OAR 141-085-0565, and OAR 141-093-0115, DSL should approve the permit application as conditioned in the proposed permit.

IV. Proposed Order:

The Department proposes approving the permit application with conditions and based on the factors laid out in ORS Chapter 196 and OAR Chapter 141, Division 85, including ORS 196.825, OAR 141-085-0565 and OAR 141-093-0130.

As described below, you have the right to request a hearing within 21 days. Prior to the expiration of the 21-day period, this proposed permit decision is not the final agency order on the matter, and the permittee should be aware that the decision could be changed prior to the expiration of the 21-day appeal period—either because the permittee requests a contested case hearing, or as otherwise allowed under the removal fill law. A permittee who begins work under a permit prior to issuance of a final order does so with acceptance of this risk.

V. Hearing:

You are entitled to request a hearing based on this Proposed Order as provided by the Oregon Administrative Procedures Act (ORS chapter 183) and the administrative rules implementing the Administrative Procedures Act, OAR Chapter 137, Division 3. See ORS 196.825(7); OAR 141-001-0005; OAR 141-001-0010; OAR 141-085-0575; OAR 141-093-0130.

If you want a hearing, you must file a written request for a hearing with the Department no later than 21 calendar days from the date of the permit decision. See ORS 196.825(7); OAR 141-085-0575; OAR 141-093-0130. If you are a corporation, partnership, limited liability company, unincorporated association, trust, or government body, you must either have an attorney licensed to practice law in Oregon submit a request for a contested case hearing on your behalf or ratify your hearing request within 28 days. See OAR 137-003-0550.

The Department has determined that due to the complexity of removal-fill permitting, a general denial of the matters or a general objection to all permit conditions in the request for a contested case proceeding does not provide sufficient information for a fair and efficient contested case and a more specific request is warranted. OAR 141-085-0575. All requests for a contested case proceeding under this section shall include a specific list of issues for the contested case proceeding. OAR 141-085-0575. The requester may amend their request to include additional issues or clarify existing issues within 15 days of the date that the case is referred to the Office of Administrative Hearings. OAR 141-085-0575.

You may mail a request for a hearing to:
Department of State Lands
Aquatic Resource Management Program
775 Summer Street NE STE 100
Salem, OR 97301.

If you request a hearing, you will be notified of the time and the place of the hearing. See OAR 137-003-0525. You may be represented by legal counsel at the hearing. ORS 183.417; OAR 137-003-0550. Corporations, partnerships, limited liability companies, unincorporated associations, trusts and government bodies must be represented by an attorney except as provided in OAR 137-003-0555 or as otherwise authorized by law. OAR 137-003-0550. Legal aid organizations may be able to represent you if you have limited financial resources. You will be given information on the procedures, right of representation, and other rights of parties relating to the substance and conduct of the hearing before commencement of the hearing. See ORS 183.413.

VI. Jurisdiction and Authority to Hold a Hearing:

The Department has jurisdiction over the issuance of removal-fill permits pursuant to ORS Chapter 196, and specifically, ORS 196.810. A permit decision constitutes an order in a contested case. See ORS 183.310(2)(a); ORS 196.825(7). If timely requested, a hearing is held as laid out in ORS 183.411 to ORS 183.471, OAR Chapter 137, Division 3, ORS Chapter 196, and OAR Chapter 141, Division 85. ORS 196.825(7).

VII. Final Order and Defaults:

If a request for a hearing is not received by the Department within this 21-day period, your right to a hearing shall be waived and this Proposed Order shall become the Final Order by default. See ORS 196.825(7); OAR 141-085-0575; OAR 141-093-0130.

If you request a hearing and then either withdraw your hearing request, notify the Department or administrative law judge that you will not appear, or fail to appear at a scheduled hearing, the Department may issue a final order by default. See ORS 183.417.

If the Department issues a final order by default, it designates its file on this matter, including any materials submitted by you that relate to this matter, as the record for purposes of supporting its decision.

If you proceed to a contested case hearing, a Final Order will not be issued until after the hearing concludes. See ORS 183.464; OAR 141-085-0575; OAR 141-093-0130.

VIII. Federal Servicemembers Civil Relief Act:

Active duty servicemembers have a right to stay contested case proceedings under the federal Servicemembers Civil Relief Act. See *generally* 50 USC 3901 *et seq.* For more information, contact the Oregon State Bar (800-452-8260), the Oregon Military Department (503-584-3571), or the nearest United States Armed Forces Legal Assistance Office (<http://legalassistance.law.af.mil>). The Oregon Military Department does not have a toll-free telephone number.

Department of State Lands
951 SW Simpson Ave., Suite 104
Bend, OR 97702
☎ 541-388-6112

Permit No.:	<u>63644-RF</u>
Permit Type:	<u>Removal/Fill</u>
Waters:	<u>Wetland/Dog River, Brooks Meadow Creek, unnamed tributary of S. Fork Mill Creek</u>
County:	<u>Hood River</u>
Expiration Date:	<u>04/11/2023</u>

CITY OF THE DALLES

IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE REFERENCED APPLICATION, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:

1. This permit does not authorize trespass on the lands of others. The permit holder must obtain all necessary access permits or rights-of-way before entering lands owned by another.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action, which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. Employees of the Department of State Lands (DSL) and all duly authorized representatives of the Director must be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
6. Any permit holder who objects to the conditions of this permit may request a hearing from the Director, in writing, within twenty-one (21) calendar days of the date this permit was issued.
7. In issuing this permit, DSL makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390, and related administrative rules.
8. Permittee must defend and hold harmless the State of Oregon, and its officers, agents and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.
9. Authorization from the U.S. Army Corps of Engineers may also be required.

NOTICE: If removal is from state-owned submerged and submersible land, the permittee must comply with leasing and royalty provisions of ORS 274.530. If the project involves creation of new lands by filling on state-owned submerged or submersible lands, you must comply with ORS 274.905 to 274.940 if you want a transfer of title; public rights to such filled lands are not extinguished by issuance of this permit. This permit does not relieve the permittee of an obligation to secure appropriate leases from DSL, to conduct activities on state-owned submerged or submersible lands. Failure to comply with these requirements may result in civil or criminal liability. For more information about these requirements, please contact Department of State Lands, 541-388-6112.

Patricia Fox, Southern Operations Manager
Aquatic Resource Management
Oregon Department of State Lands

Patricia
a Fox

Digitally signed
by Patricia Fox
Date: 2022.04.11
12:55:24 -07'00'

Authorized Signature

ATTACHMENT A

Permit Holder: City of The Dalles

Project Name: Dog River Pipeline Replacement Project

Special Conditions for Removal/Fill Permit No. 63644-RF

READ AND BECOME FAMILIAR WITH CONDITIONS OF YOUR PERMIT.

The project site may be inspected by the Department of State Lands (DSL) as part of our monitoring program. A copy of this permit must be available at the work site whenever authorized operations are being conducted.

1. **Responsible Party:** By signature on the application, Dave Anderson is acting as the representative of City of The Dalles. By proceeding under this permit, City of The Dalles agrees to comply with and fulfill all terms and conditions of this permit, unless the permit is officially transferred to another party as approved by DSL. In the event information in the application conflicts with these permit conditions, the permit conditions prevail.
2. **Authorization to Conduct Removal and/or Fill:** This permit authorizes 0.052 acres of wetland and 264 linear feet of waterway work with associated removal and fill of material in T1S R10E Section 34, Tax Lot(s) 100, and T2S, R10E, Sections 2, 3, 4, 9, 10, 11, Tax Lot 100, in Hood River County, as referenced in the application, map and drawings (See Attachment B for project location(s)), dated March 3, 2022.
3. **Work Period in Jurisdictional Areas:** Fill or removal activities below the ordinary high-water elevation of Dog River and Brooks Meadow Creek must be conducted between July 15 and September 30 and in the unnamed tributary of the S. Fork Mill Creek between July 15 and August 31, unless otherwise coordinated with Oregon Department of Fish and Wildlife and approved in writing by DSL. If fish eggs are observed within the project area, work must cease, and DSL contacted immediately.
4. **Changes to the Project or Inconsistent Requirements from Other Permits:** It is the permittee's responsibility to ensure that all state, federal and local permits are consistent and compatible with the final approved project plans and the project as executed. Any changes made in project design, implementation or operating conditions to comply with conditions imposed by other permits resulting in removal-fill activity must be approved by DSL prior to implementation.
5. **DSL May Halt or Modify:** DSL retains the authority to temporarily halt or modify the project or require rectification in case of unforeseen adverse effects to aquatic resources or permit non-compliance.
6. **DSL May Modify Conditions Upon Permit Renewal:** DSL retains the authority to modify conditions upon renewal, as appropriate, pursuant to the applicable rules in effect at the time of the request for renewal or to protect waters of this state.

Pre-Construction

7. **Stormwater Management Approval Required Before Beginning Work:** Prior to the start of construction, the permittee must obtain a National Pollution Discharge Elimination System (NPDES) permit from the Oregon Department of Environmental Quality (DEQ), if one is required by DEQ.
8. **Pre-construction Resource Area Fencing or Flagging:** Prior to any site grading, the boundaries of the avoided wetlands, waterways, and riparian areas adjacent to the project site must be surrounded by noticeable construction fencing or flagging. The marked areas must be maintained during construction of the project and be removed immediately upon project completion.

General Construction Conditions

9. **Water Quality Certification:** The Department of Environmental Quality (DEQ) may evaluate this project for a Clean Water Act Section 401 Water Quality Certification (WQC). If the evaluation results in issuance of a Section 401 WQC, that turbidity condition will govern any allowable turbidity exceedance and monitoring requirements.
10. **Erosion Control Methods:** The following erosion control measures (and others as appropriate) must be installed prior to construction and maintained during and after construction as appropriate, to prevent erosion and minimize movement of soil into waters of this state.
 - a. All exposed soils must be stabilized during and after construction to prevent erosion and sedimentation.
 - b. Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or other measures must be used to prevent movement of soil into waterways and wetlands.
 - c. To prevent erosion, use of compost berms, impervious materials or other equally effective methods, must be used to protect soil stockpiled during rain events or when the stockpile site is not moved or reshaped for more than 48 hours.
 - d. Unless part of the authorized permanent fill, all construction access points through, and staging areas in, riparian and wetland areas must use removable pads or mats to prevent soil compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL. At project completion, disturbed areas with soil exposed by construction activities must be stabilized by mulching and native vegetative plantings/seeding. Sterile grass may be used instead of native vegetation for temporary sediment control. If soils are to remain exposed more than seven days after completion of the work, they must be covered with erosion control pads, mats or similar erosion control devices until vegetative stabilization is installed.
 - e. Where vegetation is used for erosion control on slopes steeper than 2:1, a tackified seed mulch must be used so the seed does not wash away before germination and rooting.
 - f. Dredged or other excavated material must be placed on upland areas having stable slopes and must be prevented from eroding back into waterways and wetlands.
 - g. Erosion control measures must be inspected and maintained as necessary to ensure their continued effectiveness until soils become stabilized.
 - h. All erosion control structures must be removed when the project is complete, and soils are stabilized and vegetated.

- 11. Fuels, Hazardous, Toxic, and Waste Material Handling:** Petroleum products, chemicals, fresh cement, sandblasted material and chipped paint, material treated with leachable preservatives or other deleterious waste materials must not be allowed to enter waters of this state. Machinery and equipment staging, cleaning, maintenance, refueling, and fuel storage must be at least 150 feet from OHW and wetlands to prevent contaminants from entering waters of the state. Refueling is to be confined to a designated area to prevent spillage into waters of this state. Barges must have containment system to effectively prevent petroleum products or other deleterious material from entering waters of this state. Project-related spills into waters of this state or onto land with a potential to enter waters of this state must be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311.
- 12. Archaeological Resources:** If any archaeological resources, artifacts or human remains are encountered during construction, all construction activity must immediately cease. The State Historic Preservation Office must be contacted at 503-986-0674. You may be contacted by a Tribal representative if it is determined by an affected Tribe that the project could affect Tribal cultural or archeological resources.
- 13. Construction Corridor:** There must be no removal of vegetation or heavy equipment operating or traversing outside the designated construction corridor or footprint (Drawing(s) 05-C-2101, 05-C-0100).
- 14. Hazards to Recreation, Navigation or Fishing:** The activity must be timed so as not to unreasonably interfere with or create a hazard to recreational or commercial navigation or fishing.
- 15. Operation of Equipment in the Water:** Heavy equipment may be positioned below ordinary high water if the area is isolated from the waterway and aquatic organism salvage is completed, as shown in (Drawing(s) 05-C-002, 05-C-2101) of the application. All machinery operated below ordinary high water (OHW) elevation must use vegetable-based hydraulic fluids, be steam cleaned and inspected for leaks prior to each use, and be diapered to prevent leakage of fuels, oils, or other fluids below OHW elevation. Any equipment found to be leaking fluids must be immediately removed from and kept out of OHW until repaired.
- 16. Work Area Isolation:** The work area must be isolated from the water during construction in accordance with the work area isolation plan in the application. All structures and materials used to isolate the work area must be removed immediately following construction and water flow returned to pre-construction conditions.
- 17. Fish Salvage Required:** Fish must be salvaged from the isolation area. Permits from NOAA Fisheries and Oregon Department of Fish and Wildlife, Fish Research are required to salvage fish. Fish salvage permit information may be obtained by contacting ODFW Fish Research at 503-947-6254 or Fish.Research@state.or.us.
- 18. Fish Passage Required:** The project must meet Oregon Department of Fish and Wildlife requirements for fish passage, as required in ORS 509.585.
- 19. Raising or Redirecting Water:** The project must not cause water to rise or be redirected and result in damage to structures or property on the project site as well as adjacent, nearby, upstream, and downstream of the project site.

- 20. Trenching in Wetlands:** During trenching or excavation, the top layer of soil must be separated from the rest of the excavated material and put back on top when the trench or pit is backfilled. If the native underlying soils are not used as bedding material and a course, non-native soil or other material is used, preventative measures such as clay or concrete plugs must be used so that underground hydraulic piping does not dewater the site and adjacent wetlands.
- 21. Temporary Ground Disturbances:** All temporarily disturbed areas must be returned to original ground contours at project completion.
- 22. Channel Relocation:** The new channel must be constructed under these conditions:
- There must be no operation of equipment in the active flowing stream except to connect the newly dug channel into the existing stream.
 - The new channel must be completely constructed and stabilized before diverting the stream flow.
 - The old channel must be permanently blocked with impervious material protected by suitable bank protection.
 - Spoils from the excavation of the new channel must be stockpiled, and after the diversion has been accomplished, the material may be used to fill the abandoned channel.
- 23. Riprap Placement Methods:** Riprap/rock must be placed under the following conditions:
- Only clean, erosion resistant rock from an upland source must be used as riprap. No broken concrete or asphalt must be used.
 - Riprap rock must be placed in a manner that does not increase the upland surface area.
 - Riprap must be placed in a way as to minimize impacts to the active stream channel.
 - Gravel or filter fabric should be placed behind the riprap rock, including the toe trench rock, as a filter blanket.
 - All riprap rock must be placed, not dumped, from above the bank line.
- 24. Riprap Must Be Covered:** Riprap above ordinary high-water elevation must be covered, and the voids filled with soil, gravel, and / or mulch sufficient to allow the performance standards to be achieved and wildlife to move across it naturally.

Rectification of Temporary Impacts

- 25. Site Rectification Required for Temporary Wetland Impacts:** Site rectification for temporary impacts to 0.034 acres of the Dog River Wetland and the Brooks Meadow Wetland must be conducted according to the 2021 Compensatory Wetland Mitigation Plan. Revegetation shall occur during the fall, winter, or spring immediately following the completion of grading within the required planting areas. Failure to rectify the site may result in compensatory mitigation.
- 26. Pre-construction Elevations Must Be Restored Within the Same Construction Season:** Construction activities within areas identified as temporary impact must not exceed two construction seasons and rectification of temporary impacts must be completed within 24 months of the initiation of impacts. However, if the temporary impact only requires one construction season, re-establishment of pre-construction contours must be completed within that same construction season, before the onset of fall rains.

27. Woody Vegetation Planting Required: Planting of native woody vegetation must be completed before the next growing season after re-establishment of the pre-construction contours as outlined in the 2021 Compensatory Wetland Mitigation Plan.

Monitoring and Reporting Requirements

28. Post-Construction Report Required: A post-construction report demonstrating as-built conditions and discussing the restoration of temporarily impacted wetlands, vegetation planting, and any variation from the approved mitigation plan. The report must be provided to DSL after the first growing season post-construction. The post-construction report must include:

- a. A scaled drawing clearly showing the following:
 - i. Finished contours of the site.
 - ii. Current tax lot and right-of-way boundaries.
 - iii. Photo point locations.
 - iv. Permanently and temporarily impacted wetland and waterway boundaries identified separately, with square foot listed.
 - v. The area seeded, with the square foot area listed.
 - vi. The area planted with trees and shrubs, with the square foot area listed.
- b. Photos from fixed photo points that clearly show the site conditions; including the temporarily impacted wetlands, revegetation areas.
- c. A narrative that describes any deviation from the approved mitigation plan.

ATTACHMENT B

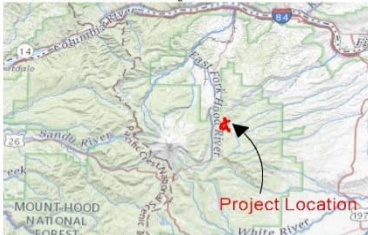
Permit Holder: City of The Dalles

Project Name: Dog River Pipeline Replacement Project

Maps and Drawings for Removal/Fill Permit No. 63644-RF



Locator Map



Legend

- Forest Service Roads
- Tax Lot Boundary
- Study Area Boundary

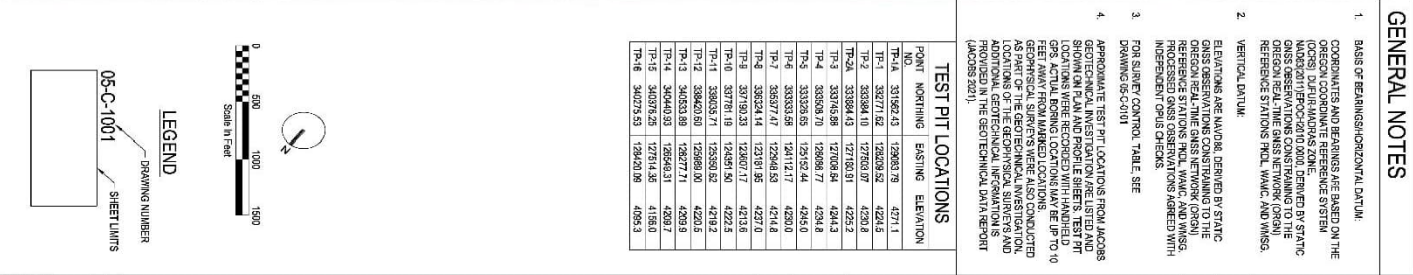
Source:
ESRI World Clarity Imagery
Hood River County Taxlots (accessed 9/2021)
USFWS Roads

0 0.25 0.5 Miles



Figure 2
Tax Lot Map

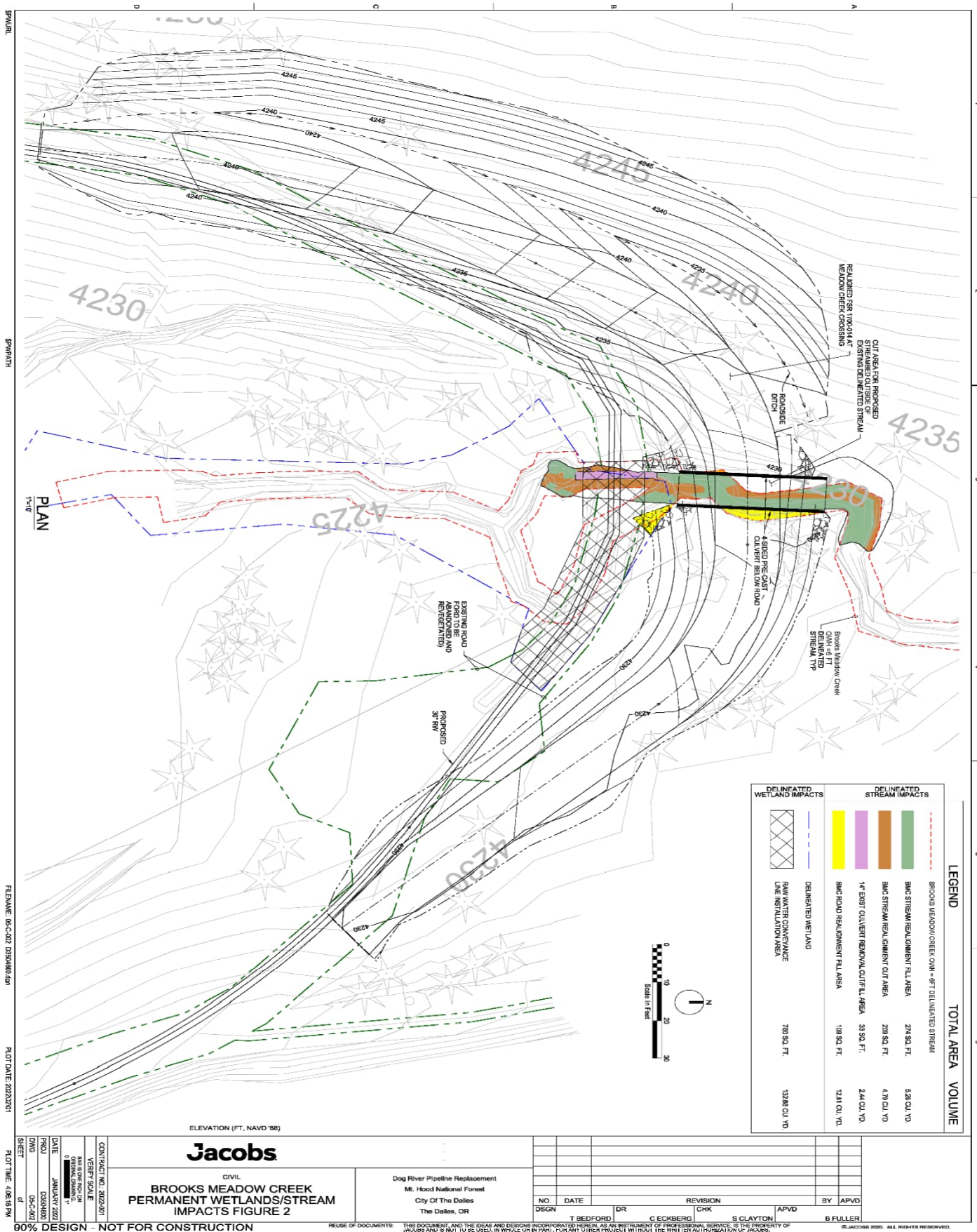
Dog River Pipeline Replacement Project
City of The Dalles, Oregon

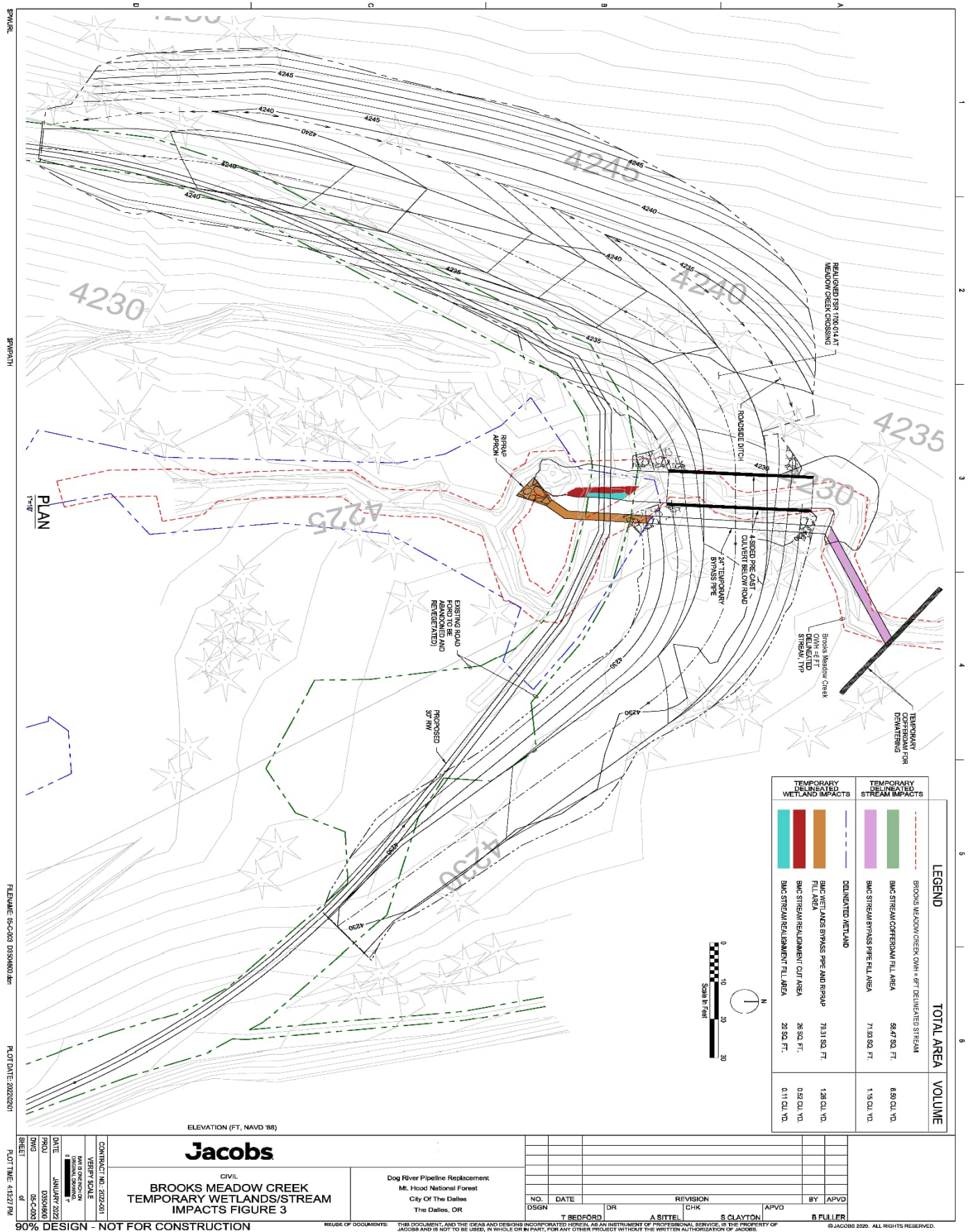


GENERAL NOTES

1. BASIS OF REBAR/SHO/CONCRETE DATUM.
COORDINATES AND BEARINGS ARE BASED ON THE OREGON COORDINATE REFERENCE SYSTEM (CCRS). DATE/RA/SHA/SHS TIME COORDINATES ARE DETERMINED BY STATE GPS STATIONING CONVENTIONS TO THE OREGON REAL-TIME GNSS NETWORK (ORGN). REFERENCE STATIONS: PCL, WJMC, AND WJSG.
2. VERTICAL DATUM.
ELEVATIONS ARE MANDATORY DERIVED BY STATE GPS STATIONING CONVENTIONS TO THE OREGON REAL-TIME GNSS NETWORK (ORGN). REFERENCE STATIONS: PCL, WJMC, AND WJSG. INDEPENDENT OPUS CHECKS
3. FOR SURVEY CONTROL TABLE SEE DRAWING OF CONTROL
4. APPROXIMATE FIRST PCL LOCATIONS FROM ACCESS TO GEOELECTRICAL INVESTIGATION LOCATED AND LOCATIONS WERE RECORDED WITH HANDHELD GPS. ACTUAL BORING LOCATIONS MAY BE UP TO 10 METERS DIFFERENT FROM THE GPS LOCATIONS. GPS LOCATIONS WERE NOT INDICATED AS PART OF THE GEOELECTRICAL INVESTIGATION, LOCATIONS OF THE GEOELECTRICAL SURVEYS AND LOCATIONS OF THE GPS LOCATIONS WERE NOT PROVIDED IN THE GEOELECTRICAL DATA REPORT (LACROSB-2021).

NO.	DATE	REVISION						BY	APVD
DSGN		DR	CHK	M BALDWIN	APVD				
	A SITTEL	C ECKBERG		B FULLER					







Oregon

Kate Brown, Governor

Department of Environmental Quality

Northwest Region

700 NE Multnomah Street, Suite 600

Portland, OR 97232

(503) 229-5263

FAX (503) 229-6945

TTY 711

April 1, 2022

Dave Anderson
City of The Dalles Public Works
1215 West First Street
The Dalles, OR 97058

RE: 401 Water Quality Certification Approval for 2021-561, Dog River Pipeline Replacement Project

The US Army Corps of Engineers (USACE) has determined that your project will be authorized under Nationwide Permit (NWP) category #14, #27, & #58. As described in the application package received and reviewed by the Oregon Department of Environmental Quality (DEQ), the project qualifies for the expedited 401 Water Quality Certification (WQC), subject to the conditions outlined below. If you cannot meet all conditions of this 401 WQC, you may apply for a standard individual certification. A standard individual certification will require additional information, a public notice, and a higher review fee.

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

Duration of Certificate: This 401 WQC for impacts to waters, including dredge and fill activities, is valid for the duration of the USACE Section 404 permit. A new 401 WQC must be requested with any modification of the USACE 404 permit.

In addition to all USACE national and regional permit conditions, the following 401 WQC conditions apply to all NWP categories that qualify for the Nationwide 401 WQC.

401 GENERAL CERTIFICATION CONDITIONS

- 1) **Responsible parties:** This 401 WQC applies to the Applicant. The Applicant is responsible for the work of its contractors and sub-contractors, as well as any other entity that performs work related to this WQC.
Rule: 40 CFR 121, OAR 340-048-0015
Justification: DEQ must be aware of responsible parties to ensure compliance.
- 2) **Work Authorized:** Work authorized by this 401 WQC is limited to the work described in the Permit Application and additional application materials (hereafter "the permit application

materials”), unless otherwise authorized by DEQ. If the project is operated in a manner not consistent with the project description contained in the permit application materials, the Applicant is not in compliance with this 401 WQC and may be subject to enforcement.

Rule: OAR 340-048-0015

Justification: To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.

- 3) **401 WQC on Site:** A copy of this 401 WQC must be kept on the job site and readily available for reference by the Applicant and its contractors and subcontractors, as well as by DEQ, USACE, National Marine Fisheries Service (NMFS), Oregon Department of Fish and Wildlife (ODFW), and other state and local government inspectors.

Rule: OAR 340-012

Justification: All parties must be aware of and comply with the 401 WQC, including on-site contractors.

- 4) **Project Changes:** DEQ may modify or revoke this 401 WQC, in accordance with OAR 340-048-0050, if the project changes or project activities are having an adverse impact on state water quality or beneficial uses, or if the Applicant is otherwise in violation of the conditions of this certification.

Rule: OAR 340-048-0050

Justification: To ensure the project will comply with water quality standards, DEQ must understand all work involved in the construction and operation of the project.

- 5) **Land Use Compatibility Statement:** In accordance with OAR 340-048-0020(2) (i), each Applicant must submit findings prepared by the local land use jurisdiction that demonstrates the activity’s compliance with the local comprehensive plan. Such findings can be submitted using Section 11 of the Joint Permit Application, signed by the appropriate local official and indicating:

- a. “This project is consistent with the comprehensive plan and land use regulations;” or,
- b. “This project will be consistent with the comprehensive plan and land use regulations when the following local approvals are obtained,” accompanied by the obtained local approvals.
- c. Rarely, such as for federal projects on federal land, “this project is not regulated by the comprehensive plan” will be acceptable.

In lieu of submitting the appropriate section of the USACE & Department of State Lands (DSL) Joint Permit Application, the Applicant may use DEQ’s Land Use Compatibility Statement form found at: <http://www.oregon.gov/deq/FilterDocs/lucs.pdf>

Rule: OAR 340-048-0020(2) (i), OAR 340-018

Justification: DEQ must ensure compliance with water quality land use laws at the local level.

- 6) **Access:** The Applicant and its contractors must allow DEQ access to the project site with or without prior notice, including staging areas, and mitigation sites to monitor compliance with these 401 WQC conditions, including:
- a. Access to any records, logs, and reports that must be kept under the conditions of this 401 WQC;
 - b. To inspect best management practices (BMPs), monitoring or equipment or methods; and

- c. To collect samples or monitor any discharge of pollutants.

Rule: OAR 340-012

Justification: DEQ must inspect facilities for compliance with all state rules and laws.

- 7) Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

Rule: OAR 340-012

Justification: If the project is not being constructed or operated as proposed, it may not be consistent with water quality requirements.

FOR PROJECTS THAT PROPOSE CONSTRUCTION, THE FOLLOWING GENERAL CONDITIONS APPLY

- 8) **Erosion and Sediment Control:** During construction, erosion control measures must be implemented to prevent or control movement of soil into waters of the state. The Applicant is required to develop and implement an effective erosion and sediment control plan. A project that disturbs more than one acre may be required to obtain a National Pollutant Discharge Elimination System (NPDES) 1200-C construction stormwater general permit. Contact the DEQ Stormwater Program for more information at: <https://www.oregon.gov/deq/wq/wqpermits/Pages/Stormwater-Construction.aspx>

In addition, the Applicant must:

- a. Maintain an adequate supply of materials necessary to control erosion at the project construction site.
- b. Prohibit erosion of stockpiles. Deploy compost berms, impervious materials, or other effective methods during rain events or when stockpiles are not moved or reshaped for more than 48 hours.
- c. Inspect erosion control measures daily and maintain erosion control measures as often necessary to ensure the continued effectiveness of measures. Erosion control measures must remain in place until all exposed soil is stabilized;
 - i. If monitoring or inspection shows that the erosion and sediment controls are ineffective, Applicant must mobilize immediately to make repairs, install replacements, or install additional controls as necessary.
 - ii. If sediment has reached 1/3 of the exposed height of a sediment or erosion control, Applicant must remove the sediment to its original contour.
- d. Use removable pads or mats to prevent soil compaction at all construction access points through, and staging areas in, riparian or wetland areas to prevent soil compaction, unless otherwise authorized by DEQ.
- e. Flag or fence off wetlands not specifically authorized to be impacted to protect from disturbance and/or erosion.
- f. Place dredged or other excavated material on upland areas with stable slopes to prevent materials from eroding back into waterways or wetlands.

- g. Place clean aggregate at all construction entrances, and utilize other BMPs, including, but not limited to as truck or wheel washes, when earth moving equipment is leaving the site and traveling on paved surfaces. The tracking of sediment off site by vehicles is prohibited.

Rule: OAR 340-041-0007(8), ORS 468B.050, CWA Section 402, OAR 340-045

Justification: DEQ must ensure that pollution does not enter waterways.

- 9) **Deleterious Waste Materials:** The Applicant is prohibited from placing biologically harmful materials and construction debris where they could enter waters of the state, including wetlands (wetlands are waters of the state). This includes, but is not limited to: petroleum products; chemicals; cement cured less than 24 hours; welding slag and grindings; concrete saw cutting by-products; sandblasted materials; chipped paint; tires; wire; steel posts; asphalt; and waste concrete.

The following specific requirements apply:

- a. Cure concrete, cement, or grout for at least 24 hours before any contact with flowing waters;
- b. Use only clean fill, free of waste and polluted substances;
- c. Employ all practicable controls to prevent discharges of spills of harmful materials to surface or groundwater;
- d. Maintain at the project construction site, and deploy as necessary, an adequate supply of materials needed to contain deleterious materials during a weather event;
- e. Remove all foreign materials, refuse, and waste from the project area

Rule: OAR 340-041-0007(8), ORS 468B.050, CWA Section 402

Justification: DEQ must ensure that pollution does not enter waterways.

- 10) **Spill Prevention:** The Applicant must fuel, operate, maintain and store vehicles, and must store construction materials, in areas that will not disturb habitat directly or result in potential discharges.

Rule: ORS 468B.025(1)(a)

Justification: DEQ must ensure that pollution does not enter waterways.

- 11) **Spill & Incident Reporting:**

- a. In the event that deleterious materials are discharged into state waters, or onto land with a potential to enter state waters, the discharge must be promptly reported to the Oregon Emergency Response Service (OERS, 1-800-452-0311) within 24 hours. Containment and cleanup must begin immediately and be completed as soon as possible.
- b. If the project operations cause a water quality problem that results in distressed or dying fish, the operator must immediately: cease operations; take appropriate corrective measures to prevent further environmental damage; collect fish specimens and water samples; and notify DEQ, ODFW, NMFS, and US Fish and Wildlife Service (USFW).

Rule: ORS 466.645(1); OAR 340-142-0030(1)(b)(B), OAR 340-041

Justification: DEQ must ensure that pollution does not enter waterways and must be protective of beneficial uses, including fish.

12) **Vegetation Protection and Site Restoration:**

- a. The Applicant must protect riparian, wetland, and shoreline vegetation in the authorized project area from disturbance through one or more of the following:
 - i. Minimization of project and impact footprint;
 - ii. Designation of staging areas and access points in open, upland areas;
 - iii. Fencing and other barriers demarking construction areas; and
 - iv. Use of alternative equipment (e.g., spider hoe or crane).
- b. If authorized work results in vegetative disturbance and the disturbance has not been accounted for in planned mitigation actions, the Applicant must successfully reestablish vegetation to a degree of function equivalent or better than before the disturbance.
- c. Pesticides (including herbicides) and fertilizers must be applied per manufacturer's instructions by a professionally licensed applicator. If chemical treatment is necessary, the Applicant is responsible for ensuring that pesticide application laws, including with the NPDES System 2300-A general permit, are met. Please review the information on the following website for more information:
<https://www.oregon.gov/deq/wq/wqpermits/Pages/Pesticide.aspx>
 - i. For pesticide application within stormwater treatment facilities or within 150 feet of waters of the state, the Applicant must adopt an Integrated Pest Management (IPM) plan that describes pest prevention, monitoring and control techniques with a focus on prevention of inputs to waters of the state, or coverage under an NPDES permit, if required.
 - ii. Pesticide application should be applied during the dry season and avoid direct water application;
 - iii. Unless otherwise approved in writing by DEQ, applying surface fertilizer within stormwater treatment facilities or within 50 feet of any stream channel is prohibited.

Rule: OAR 340-041, OAR 340-012, OAR 340-041-0033

Justification: Riparian, wetland, and shoreline vegetation help ensure excess sediment does not enter a waterway, and helps offset potential temperature impacts. DEQ must ensure that pollution does not enter waterways.

- 13) **Buffers:** The Applicant shall avoid and protect from harm, all wetlands and provide a 50 foot buffer to waters of the state, unless proposed, necessary, and approved as part of the project. If a local jurisdiction has a more stringent buffer requirement, that requirement will take the place of this certification requirement.

Rule: OAR 340-041, OAR 340-012

Justification: Riparian, wetland, and shoreline buffers help ensure excess sediment does not enter a waterway, and helps offset potential temperature impacts. DEQ must ensure that pollution does not enter waterways.

- 14) **Previously Contaminated Soil and Groundwater:** If any contaminated soil or groundwater is encountered, it must be handled and disposed of in accordance with the soil and groundwater management plan for the site, as well as local, state and federal regulations. The Applicant must notify the Environmental Cleanup Section of DEQ at 1-800-452-4011.

Rule: OAR 340-041, OAR 340-012, OAR 340-122, OAR 340-040

Justification: DEQ must ensure that pollution does not enter waterways. As sediments are disturbed, pollutants could become redistributed.

FOR PROJECTS THAT PROPOSE IN-STREAM WORK IN JURISDICTIONAL WATERS

- 15) **Fish protection/ Oregon Department of Fish and Wildlife timing:** The Applicant must perform in-water work only within the ODFW preferred time window as specified in the *Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources*, or as authorized otherwise under a USACE permit and/or DSL removal/fill permit. Exceptions to the timing window must be recommended by ODFW, NMFS and/or the USFW as appropriate, and approved by DSL when applicable.
Rule: OAR 340-041-0011
Justification: DEQ must be protective of all water quality standards, including beneficial uses such as fish.
- 16) **Aquatic life movements:** Any activity that may disrupt the movement of aquatic life living in the water body, including those species that normally migrate through the area, is prohibited. The Applicant must provide unobstructed fish passage at all times during any authorized activity, unless otherwise approved in the approved application.
Rule: OAR 340-041-0016; OAR 340-041-0028
Justification: DEQ must be protective of all water quality standards, including beneficial uses such as fish.
- 17) **Isolation of in-water work areas:** The Applicant must isolate in-water work areas from the active flowing stream, unless otherwise authorized as part of the approved application, or authorized by DEQ.
Rule: OAR 340-041, OAR 340-012, OAR 340-045
Justification: DEQ must ensure that pollution does not enter waterways.
- 18) **Cessation of Work:** The Applicant must cease project operations under high-flow conditions that will result in inundation of the project area. Only efforts to avoid or minimize turbidity or other resource damage as a result of inundation of the exposed project area are allowed during high-flow conditions.
Rule: OAR 340-041, OAR 340-012
Justification: DEQ must ensure that pollution does not enter waterways.
- 19) **Turbidity:** The Applicant must implement BMPs to minimize turbidity during in-water work. Any activity that causes turbidity to exceed 10% above natural stream turbidities is prohibited except as specifically provided below:
 - a. **Monitoring:** Turbidity monitoring must be conducted and recorded as described below. Monitoring must occur at two-hour intervals each day when in-water work is being conducted. A properly calibrated turbidimeter is required **unless another monitoring method is proposed and authorized by DEQ.**
 - i. **Representative Background Point:** The Applicant must take and record a turbidity measurement every two hours during in-water work at an undisturbed area. A background location shall be established at a representative location approximately 100 feet up-current of the in water activity unless otherwise authorized by DEQ. The background turbidity, location, date, tidal stage (if applicable) and time must be recorded immediately prior to monitoring down-current at the compliance point described below.
 - ii. **Compliance Point:** The Applicant must monitor every two hours. A compliance location shall be established at a representative location approximately 100 feet

down-current from the disturbance at approximately mid-depth of the waterbody and within any visible plume. The turbidity, location, date, tidal stage (if applicable) and time must be recorded for each measurement.

- b. **Compliance:** The Applicant must compare turbidity monitoring results from the compliance points to the representative background levels taken during each two – hour monitoring interval. Pursuant to OAR 340-041-0036, short term exceedances are allowed as followed:

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

c. **Reporting:**

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

d. **BMPs to Minimize In-stream Turbidity:** The Applicant must implement the following BMPs, unless accepted in writing by DEQ:

- i. Sequence/Phasing of work – The Applicant must schedule work activities so as to minimize in-water disturbance and duration of in-water disturbances.
- ii. Bucket control - All in-stream digging passes by excavation machinery and placement of fill in-stream using a bucket must be completed so as to minimize turbidity. All practicable techniques such as employing an experienced equipment operator, not dumping partial or full buckets of material back into the wetted stream, adjusting the volume, speed, or both of the load, or using a closed-lipped environmental bucket must be implemented;

- iii. The Applicant must limit the number and location of stream-crossing events. Establish temporary crossing sites as necessary at the least sensitive areas and amend these crossing sites with clean gravel or other temporary methods as appropriate;
- iv. Machinery may not be driven into the flowing channel, unless authorized in writing by DEQ; and
- v. Excavated material must be placed so that it is isolated from the water edge or wetlands, and not placed where it could re-enter waters of the state uncontrolled.
- vi. Containment measures such as silt curtains, geotextile fabric, and silt fences must be in place and properly maintained in order to minimize in-stream sediment suspension and resulting turbidity.

Rule: OAR 340-041-0036, OAR 340-041

Justification: DEQ must ensure that pollution does not enter waterways.

SPECIFIC CONDITIONS FOR POST-CONSTRUCTION STORMWATER MANAGEMENT

- 20) **Post Construction Stormwater Management:** For projects which propose new impervious surfaces or the redevelopment of existing surfaces, the Applicant must submit a post-construction stormwater management plan to DEQ. The plan must be reviewed and approved prior to construction to ensure compliance with water quality standards. The Applicant must implement BMPs as proposed in the stormwater management plan, including operation and maintenance. If proposed stormwater facilities change due to site conditions, the Applicant must notify DEQ in writing.

In lieu of a complete stormwater management plan, the Applicant may submit documentation of acceptance of the stormwater into a DEQ permitted NPDES Phase I Municipal Separate Storm Sewer System (MS4).

Rule: ORS 468B.050, OAR 340-045, OAR 340-041

Justification: DEQ must ensure that pollution does not enter waterways.

- 21) **Stormwater Management & System Maintenance:** The Applicant is required to implement effective operation and maintenance practices for the lifetime of the proposed facility. Long-term operation and maintenance of stormwater treatment facilities will be the responsibility of the applicant or the entity listed in the approved post-construction stormwater management plan.

Maintenance of stormwater treatment facilities subject to an MS4 permit is regulated by the permit.

Rule: OAR 340-041, OAR 340-012, OAR 340-045

Justification: DEQ must ensure that pollution does not enter waterways.

- 22) **Corrective Action May Be Required:** DEQ retains the authority to require corrective action in the event the stormwater management facilities are not built or performing as described in the plan.

Rule: OAR 340-041, OAR 340-012

Justification: DEQ must ensure that pollution does not enter waterways.

CATEGORY SPECIFIC CONDITIONS

In addition to all national and regional conditions of the USACE permit and the 401 Water Quality Certification general conditions above, the following conditions apply to the noted specific categories of authorized activities.

NWP 7 – Outfall Structures and Associated Intake Structures:

7.1) The following actions are denied certification:

a. Discharge outfalls that are not subject to an NPDES permit; and

b. Outfalls that discharge stormwater without pollutant removal demonstrated to meet water-quality standards prior to discharge to waters of the state.

Rule: OAR 340-041, OAR 340-012, OAR 340-048, OAR 340-045

Justification: DEQ must ensure that pollution does not enter waterways. Untreated stormwater is considered pollution.

7.2) If an Applicant cannot obtain an NPDES permit or submit an approvable stormwater management plan per DEQ's Guidelines found at: <http://www.oregon.gov/deg/FilterDocs/401wqcPostCon.pdf> the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.

Rule: OAR 340-041, OAR 340-012, OAR 340-048, OAR 340-045

Justification: DEQ must ensure that pollution does not enter waterways. Untreated stormwater is considered pollution.

NWP 13 – Bank Stabilization:

13.1) Projects that do not include bioengineering are denied certification, unless a registered professional engineer provides a written statement that non-bioengineered solutions are the only means of protection.

Rule: OAR 340-041, OAR 340-012, OAR 340-048

Justification: DEQ must ensure that pollution does not enter waterways. Hard armoring can increase erosion upstream and downstream of the structure.

13.2) Projects that propose permanent fill in adjacent wetlands are denied certification.

Rule: OAR 340-041, OAR 340-012, OAR 340-048

Justification: DEQ must ensure that pollution does not enter waterways. Water adjacent wetlands provide water quality benefits.

13.3) To apply for certification for a project without bioengineering, the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.

Rule: OAR 340-041-0059

Justification: DEQ must ensure that pollution does not enter waterways. Hard armoring can increase erosion upstream and downstream of the structure.

NWP 14 – Linear Transportation:

- 14.1) For projects that include bank stabilization, bioengineering must be a component of the project, unless a registered professional engineer provides a written statement that non-bioengineered solutions are the only means of protection.
Rule: OAR 340-041, OAR 340-012, OAR 340-048
Justification: DEQ must ensure that pollution does not enter waterways. Hard armoring can increase erosion upstream and downstream of the structure.
- 14.2) To apply for certification for a project without bioengineering, the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.
Rule: OAR 340-041-0059
Justification: DEQ must ensure that pollution does not enter waterways. Hard armoring can increase erosion upstream and downstream of the structure.

NWP 16 - Return Water from Contained Upland Disposal Areas: Water-quality criteria and guidance values for toxics, per OAR 340-041-0033, are available in Tables 30, 31, and 40 at: <https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=68746>.

- 16.1) Discharge of return water from contaminated dredged material that exceeds a chronic or acute toxicity water quality standard is prohibited.
Rule: OAR 340-041-0053(b)(A), OAR 340-041
Justification: DEQ must ensure that pollution does not enter waterways.
- 16.2) Water removed with contaminated dredged material that could or does exceed chronic water-quality criteria must be contained and disposed of at an appropriately sized and sealed upland facility by evaporation or infiltration.
Rule: OAR 340-041-0053(b)(A), OAR 340-041
Justification: DEQ must ensure that pollution does not enter waterways.
- 16.3) If a Modified Elutriate Test (MET) is performed for the known contaminants of concern (CoCs) and CoC concentrations are below DEQ chronic water-quality criteria, return water discharge is not limited.
- a. The MET must be performed before dredging.
 - a. DEQ must approve the list of CoCs and analytical method prior to the Applicant performing the MET.
 - b. DEQ must review the results and provide approval of discharge from return water, in writing, prior to dredging.
- Rule:* OAR 340-041, OAR 340-012, OAR 340-048
Justification: DEQ must ensure that pollution does not enter waterways.

NWP 20 – Response Operations for Oil and Hazardous Waste:

- 20.1) Coordination with DEQ's Emergency Response program is required. See: <http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/Emergency-Response.aspx>.
Rule: OAR 340-142-0130(3), OAR 340-041
Justification: DEQ must ensure that pollution does not enter waterways.

NWP 22 – Removal of Vessels:

- 22.1) Coordination with DEQ's Emergency Response program is required. See: <http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/Emergency-Response.aspx>.

Rule: OAR 340-041, OAR 340-012, OAR 340-048

Justification: DEQ must ensure that pollution does not enter waterways. Vessels may contain various fuels, lubricants, and other possible sources of pollution.

NWP 31 – Maintenance of Existing Flood Control Facilities:

- 31.1) Projects in streams with temperature TMDLs which result in a net reduction of riparian shade are prohibited.

Rule: OAR 340-041-0028, OAR 340-041

Justification: DEQ must ensure that pollution does not enter waterways.

NWP 38 – Cleanup of Hazardous and Toxic Waste:

- 38.1) For removal of contaminated material from waters, dredging method is limited to diver assisted hydraulic suction, hydraulic suction, closed-lipped environmental bucket, or excavation in the dry, unless otherwise authorized by DEQ.

a. For in-water isolation measures, the Applicant is referred to Appendix D of DEQ's Oregon Erosion and Sediment Control Manual, April 2005 (or most current version), at: [DEQ Erosion and Sediment Control Manual](#)

Rule: OAR 340-041, OAR 340-012, OAR 340-048

Justification: DEQ must ensure that pollution does not enter waterways.

- 38.2) Discharge to waters of the state resulting from dewatering during dredging or release of return water from an upland facility is prohibited except as provided below.

- a. All water removed with sediment must be contained and disposed of at an appropriately sized and sealed upland facility by evaporation or infiltration; or,
- b. A Modified Elutriate Test (MET) may be performed for the known Contaminants of Concern (CoCs) and if CoC concentrations are below DEQ chronic water-quality criteria; return water discharge is not limited.
 - i. The MET must be performed before dredging.
 - ii. DEQ must approve the list of CoCs and analytical method prior to the Applicant performing the MET.
 - iii. DEQ must review the results and provide approval of discharge from dewatering and return water in writing prior to dredging.

Rule: OAR 340-041, OAR 340-012, OAR 340-048

Justification: DEQ must ensure that pollution does not enter waterways.

- 38.3) Dredged material must be disposed of in compliance with DEQ Rules governing Hazardous Waste (see: <http://www.oregon.gov/deq/Hazards-and-Cleanup/hw/Pages/default.aspx>) or Solid Waste (see: <http://www.oregon.gov/deq/mm/swpermits/Pages/Solid-Waste-Disposal-Sites-and-Landfill.aspx>).

Rule: OAR 340-041, OAR 340-012, OAR 340-048

Justification: DEQ must ensure that pollution does not enter waterways.

- 38.4) The new in-water surface must be managed to prevent exposure or mobilization of

contaminants.

Rule: OAR 340-041, OAR 340-012, OAR 340-048

Justification: DEQ must ensure that pollution does not enter waterways.

NWP 41 - Reshaping Existing Drainage Ditches:

- 41.1) To the extent practicable, the Applicant must work from only one bank in order to minimize disturbance to existing vegetation, preferably the bank with the least existing vegetation;

Rule: OAR 340-041, OAR 340-012, OAR 340-048

Justification: DEQ must ensure that pollution does not enter waterways.

- 41.2) Following authorized work, the Applicant must establish in-stream and riparian vegetation on reshaped channels and side-channels using native plant species wherever practicable. Plantings must be targeted to address water-quality improvement (e.g., provide shade to water to reduce temperature or provide bank stability through root systems to limit sediment inputs). Planting options may include clustering or vegetating only one side of a channel, preferably the side which provides maximum shade.

Rule: OAR 340-041-0004(5)(a)

Justification: Riparian, wetland, and shoreline buffers help ensure excess sediment does not enter a waterway and helps offset potential temperature impacts. DEQ must ensure that pollution does not enter waterways.

NWP 42 – Recreational Facilities:

- 42.1) For facilities that include turf maintenance actions, the permittee must develop and implement an Integrated Pest Management Plan (IPM) that describes pest prevention, monitoring and control techniques with a focus on prevention of chemical and nutrient inputs to waters of the state, including maintenance of adequate buffers for pesticide application near salmonid streams, or coverage under an NPDES permit, if required (information is available at:

<http://www.oregon.gov/deq/wq/wqpermits/Pages/Pesticide.aspx>).

Rule: OAR 340-041-0033, OAR 340-041

Justification: DEQ must ensure that pollution does not enter waterways, including excess pesticides and fertilizers.

NWP 43 – Stormwater Management Facilities:

- 43.1) Projects that propose the following elements are denied expedited certification:
- a. In-stream stormwater facilities;
 - b. Discharge outfalls not subject to an MS4 NPDES permit; and,
 - c. Proposals that do not demonstrate pollutant removal to meet water quality standards prior to discharge to waters of the state.

Rule: OAR 340-041, OAR 340-012, OAR 340-048

Justification: DEQ must ensure that pollution does not enter waterways; stormwater is considered a pollutant.

- 43.2) To apply for certification for a project with in-stream stormwater facilities, without an NPDES permit, or without submittal of an approvable stormwater management plan per DEQ's Guidelines (at: <http://www.oregon.gov/deq/FilterDocs/401wqcertPostCon.pdf>), the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.

Rule: OAR 340-041-0059

Justification: DEQ must ensure that pollution does not enter waterways; stormwater is considered a pollutant.

NWP 44 – Mining Activities:

- 44.1) Projects that do not obtain an NPDES 700-PM or Individual permit are denied expedited certification.
Rule: OAR 340-045-0033, OAR 340-041
Justification: DEQ must ensure that pollution does not enter waterways. Excess turbidity can be considered pollution.
- 44.2) To apply for certification for a project without an NPDES permit, the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.
Rule: OAR 340-041-0059
Justification: DEQ must ensure that pollution does not enter waterways.
- 44.3) The State of Oregon requires an In-Water Blasting Permit be obtained per OAR, 635-425-0000. Permittee is advised to contact the nearest ODFW office for further information at: <https://www.dfw.state.or.us/lands/inwater/>
Rule: OAR 340-041-0011
Justification: DEQ must be protective of all water quality standards, including beneficial uses such as fish.

NWP 51 – Land-Based Renewable Energy Generation Facilities:

- 51.1) For associated utility lines with directionally-bored stream or wetland crossings proposed, condition D.1 must be applied.
Rule: OAR 340-041, OAR 340-012, OAR 340-048
Justification: DEQ must ensure that pollution does not enter waterways

NWP 53 – Removal of Low-Head Dams:

- 53.1) Projects that do *not* go through a PSET review if sediments are being dispersed are denied certification.
Rule: OAR 340-041, OAR 340-012, OAR 340-048
Justification: DEQ must ensure that pollution does not enter waterways. Sediments can be a carrier of contaminants.
- 53.2) To apply for certification for a project without a PSET, the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.
Rule: OAR 340-041-0059
Justification: DEQ must ensure that pollution does not enter waterways. Sediments can be a carrier of contaminants.

NWP 54 – Living Shorelines:

- 54.1) Projects that do not include bioengineering are denied certification, unless a registered professional engineer provides a written statement that non-bioengineered solutions are the only means of protection.
Rule: OAR 340-041, OAR 340-012, OAR 340-048
Justification: DEQ must ensure that pollution does not enter waterways. Hard armoring can increase erosion in the system.

NWP 58 – Utility Lines:

- 58.1) For proposals that include directionally-bored stream or wetland crossings:

- a. All drilling equipment, drill recovery and recycling pits, and any waste or spoil produced, must be completely isolated, recovered, then recycled or disposed of to prevent entry into waters of the state. Recycling using a tank instead of drill recovery/recycling pits is preferable;
- b. In the event that drilling fluids enter a water of the state, the equipment operator must stop work, immediately initiate containment measures and report the spill to the Oregon Emergency Response System (OERS) at 1-800-452-0311.
- c. An adequate supply of materials needed to control erosion and to contain drilling fluids must be maintained at the project construction site and deployed as necessary.
- d. The Applicant must have a contingency plan in place prior to construction for the inadvertent return of drilling lubricant.

Rule: OAR 340-142-0030, OAR 340-142-0040(1)

Justification: Drilling equipment and fluids that enter a waterbody would likely cause contamination of that waterbody.

58.2) For proposals that include utility lines through wetlands, include anti-seep collars or equivalent technology to prevent draining the wetlands.

Rule: OAR 340-041, OAR 340-012, OAR 340-048

Justification: DEQ must ensure that pollution does not enter waterways

If the Applicant is dissatisfied with the conditions contained in this certification, a hearing may be requested. Such request must be made in writing to DEQ's Office of Compliance and Enforcement at 700 NE Multnomah St, Suite 600, Portland Oregon 97232, within 20 days of the mailing of this certification.

The DEQ hereby certifies that this project complies with the Clean Water Act and state rules, with the above conditions. If you have any questions, please contact Jeff Brittain, DEQ 401 Dredge and Fill Program Coordinator, at 503-229-5395, by email at Jeffrey.Brittain@deq.oregon.gov, or at the address on this letterhead.

Sincerely,



Steve Mrazik,
Water Quality Manager
Northwest Region

ec: Benny Dean, USACE
Heidi Hartman, DSL
Claudia Steinkoenig, Jacobs



Oregon

Kate Brown, Governor

Department of Fish and Wildlife

Fish Division

4034 Fairview Industrial Drive SE

Salem, OR 97302

(503) 947-6201

FAX (503) 947-6202

www.dfw.state.or.us/

April 13, 2022

Dave Anderson
Public Works Dept. Director
City of The Dalles
1215 West First Street
The Dalles, OR 97058
danderson@ci.the-dalles.or.us



and

Steve Clayton
Senior Project Manager
Jacobs Engineering Group
999 W. Main St., Suite 1200
Boise, Id 93702
steve.clayton@jacobs.com

Re: City of The Dalles; Dog River Pipeline Project - Brooks Meadow Creek Culvert Installation --- ODFW Fish Passage Approval PA-03-0014 ---

Mr. Anderson and Mr. Clayton,

The Oregon Department of Fish and Wildlife (ODFW) has reviewed as required by Oregon Fish Passage Law (ORS 509.585), the fish passage design plans proposed by the City of The Dalles' Public Works Department to install a new culvert on Brooks Meadow Creek and as part of the larger Dog River Municipal Water Supply Project. Brooks Meadows Creek is a tributary of Dog River, a tributary of E. Fk Hood River, in Hood River County. As proposed, you plan to replace and existing low-water ford crossing with a new 32 ft-long by 8 ft-wide pre-cast 4-sided reinforced concrete box culvert structure on Forest Service Road (FSR) 1700-014 where it intersects Brooks Meadow Creek. In addition to the new culvert, the project will abandon the existing the ford crossing and restore to pre-treatment conditions and will realign FSR 1700-014. Project installation is planned for the in-water work window of 2022.

This action has triggered the state's fish passage rules and regulations. ODFW Fish Passage Program and Hood River Watershed District staff have reviewed the fish passage and corresponding engineering design plans associated with the project and we have determined the design plans are consistent with the state's fish passage design criteria, as defined in OAR 635-412-0035(1), (3)(a), (8) and (10) and therefore approve the project as required by Oregon fish passage law.

This ODFW fish passage authorization (PA-03-0014) is contingent on specific operational items which include:

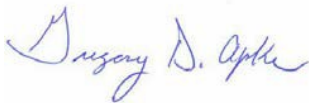
1. The City of The Dalles, or your designee, shall contact and coordinate with ODFW at least two-weeks prior to any in-water work activities.
2. All in-water work associated with the project shall be performed during the ODFW in-stream work window (July 15 – August 15), or as negotiated with ODFW.
3. Temporary Water Management and subsequent fish salvage and recovery are required prior to all in-water work activities (defined as all work at or below the Ordinary High Water Elevation) associated with the project area.
4. Pursuant to OAR 635-412-0035 (10e), prior to in-stream construction activities, all fish must be safely collected, removed from the construction site or dewatered reach, and placed in the flowing stream by an authorized person in possession of a separate valid permit issued by ODFW. An Oregon Scientific Take Permit (OR-STP) from ODFW is required to conduct fish salvage in Oregon and other additional authorization may be needed from NMFS or USFWS if work is in ESA waters. OR-STP's can take up to 4-6 weeks for processing and can be applied for at: <https://apps.nmfs.noaa.gov/index.cfm> or if you have questions about OR-STP permitting, please contact fish.research@state.or.us.
5. Volitional downstream passage of native migratory fish shall be maintained throughout and during implementation of the project.
6. At any point along, into or through the project, where fish may be exposed to materials necessary to construct the project (concrete, steel, etc.), all potential sharp or abrasive edges and surfaces shall be made smooth as to preclude harm or physical injury to fish.
7. The City of The Dalles shall be responsible for all maintenance required such that the project provides adequate passage for native migratory fish. Adequate fish passage is defined as volitional fish passage of native migratory fish species between the fish passage design flows (5% to the 95% exceedence flows) for the project.
8. Failure to maintain fish passage through the project area(s) and for the duration of this approval shall constitute a violation of this approval and applicable fish passage laws (ORS 509.585 and 509.610).
9. Monitoring and reporting on the effectiveness of passage of fish is required for the project. You or your designee shall monitor and report the effectiveness of fish passage during, throughout and after completion of the project, unless otherwise noted by this approval. This shall entail monitoring of the project during construction as well as channel bed stability throughout the project area(s) after construction and project completion. Monitoring will be performed by a qualified fisheries biologist to determine whether or not the project is functioning as it was designed to function for fish passage. Fish passage monitoring reports shall report on the effectiveness of passage of native migratory fish species through the project area and at a variety of passage flows. Monitoring and reporting shall coincide with the time of the year when native migratory fish species are migrating throughout the project area. Monitoring and reporting shall consist of a summary of the fish passage conditions and fish passage performance with particular emphasis on channel bed stability, flow velocities, water depths, and the volitional unimpeded bi-directional passage of native migratory fish during the appropriate fish passage design (5% to the 95% exceedence) flows.
10. Monitoring reports shall be completed and submitted by you or your designee, to the ODFW Statewide Fish Passage Program Coordinator and the ODFW Hood River Watershed District Fish Biologist annually for a period of 5-years after the completion of the project.
11. If monitoring, by The City of The Dalles, your designee, or Department indicates that volitional fish passage is questionable or not provided, you in consultation with the

- Department, shall determine the cause and, during a work period approved by the Department, shall modify the project to rectify fish passage problems as necessary.
12. Failure to monitor fish passage for the duration of the ODFW fish passage approval shall constitute a violation of this approval and applicable fish passage laws (ORS 509.585 and 509.610).
 13. The Department shall be allowed to inspect the project at reasonable times for the duration of this approval. Unless prompted by emergency or other exigent circumstances, inspection shall be limited to regular and usual business hours, including weekends.
 14. This Agreement in no way purports or authorizes take of a state or federally listed species.

This approval, as required by ORS 509.585, only provides fish passage approval under the authority administered by ODFW. It is the responsibility of the City of The Dalles to comply with all necessary and required local, county, state, and federal approvals and permits. Please distribute this fish passage authorization to the appropriate project stakeholders as necessary.

Please contact me at 503-947-6228 or by email at greg.d.apke@odfw.oregon.gov if you have questions with this fish passage authorization or any of its provisions. Please continue to work with Jason Seals, ODFW Hood River Watershed District Fish Biologist as you advance towards project implementation in 2022.

Sincerely,



Greg Apke
ODFW Statewide Fish Passage Program Coordinator

Cc:

Jason Seals, ODFW Hood River Watershed District Fish Biologist
Alan Ritchey, ODFW Fish Screening and Passage Program Manager
Katherine Nordholm, ODFW Fish Screening and Passage Program Coordinator
Scott Janssen, ODFW Fish Passage Engineer
US Forest Service
Oregon Division of State Lands
ODFW Project Files #PA-03-0014

401 Water Quality Certification Turbidity Monitoring Report

Project Name:	USACE Project #	DSL Project #
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Name of Inspector(s):	Turbidimeter Model:	Calibration Standard Type (Circle One) Formazin Solution or Gelex	Calibration Standard Expiration Date:
Sampling Date:	Calibration Values: _____ NTU (Standard) = _____ NTU (Reading) _____ NTU (Standard) = _____ NTU (Reading) _____ NTU (Standard) = _____ NTU (Reading)	*Upstream (Background) Point Location: Latitude: Longitude:	*Downstream (Compliance) Point Location: Latitude: Longitude:

In-Water Work Start Time:	In-Water Work End Time:	Description of In-Water Work:
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Upstream Sample		Downstream Sample		Change in Turbidity (NTU)	Observation of waterbody		NOTES (Describe any modifications made to BMPs)
Time	Turbidity (NTU)	Time	Turbidity (NTU)		Tidal Stage	Note any plume, sheen, floatables, color	

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

401 Water Quality Certification Turbidity Monitoring Report

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

Monitoring: Turbidity monitoring must be conducted and recorded as described below. Monitoring must occur at two hour intervals each day during daylight hours when in-water work is being conducted, including while dewatering or work area isolation measures are in place. A properly calibrated turbidimeter is required unless another monitoring method is proposed and authorized by DEQ.

Representative Background Point: The Applicant must take and record a turbidity measurement every two hours during in-water work at an undisturbed area. A background location shall be established at a representative location approximately 100 feet upcurrent of the in water activity unless otherwise authorized by DEQ. The background turbidity, location, date, tidal stage (if applicable) and time must be recorded immediately prior to monitoring downcurrent at the compliance point described below.

Compliance Point: The must monitor every two hours. A compliance location shall be established at a representative location approximately 100 feet downcurrent from the disturbance at approximately mid-depth of the waterbody and within any visible plume. The turbidity, location, date, tidal stage (if applicable) and time must be recorded for each measurement.

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

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

BMPs to Minimize In-stream Turbidity: The Applicant must implement the following BMPs, unless otherwise accepted by DEQ:

- i. Sequence/Phasing of Work – The Applicant must schedule work activities so as to minimize in-water disturbance and duration of in-water disturbances;
- ii. Bucket control - All in-stream digging passes by excavation machinery and placement of fill in-stream using a bucket must be completed so as to minimize turbidity. All practicable techniques such as employing an experienced equipment operator, not dumping partial or full buckets of material back into the wetted stream, adjusting the volume, speed, or both of the load, or using a closed-lipped environmental bucket must be implemented;
- iii. The Applicant must limit the number and location of stream-crossing events. Establish temporary crossing sites as necessary in the least sensitive areas and amend these crossing sites with clean gravel or other temporary methods as appropriate;
- iv. Machinery may not be driven into the flowing channel, unless authorized by DEQ; and
- v. Excavated material must be placed so that it is isolated from the water edge or wetlands, and not placed where it could re-enter waters of the state uncontrolled.

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

20220401_WQC_401Cert_DogRiver_PipelineReplacement_2021-561

Final Audit Report


2022-04-01

Created:	2022-04-01
By:	Chamille Hartman (chamille.hartman@deq.state.or.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAWrY10BDdQQF8Y-tO0e_1bwnBI8VuNYJt

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 Agreement completed.

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Oregon

Kate Brown, Governor

Department of Fish and Wildlife

Fish Division

4034 Fairview Industrial Drive SE

Salem, OR 97302

(503) 947-6201

FAX (503) 947-6202

www.dfw.state.or.us/

April 14, 2022

Dave Anderson
Public Works Dept. Director
City of The Dalles
1215 West First Street
The Dalles, OR 97058
danderson@ci.the-dalles.or.us



and

Steve Clayton
Senior Project Manager
Jacobs Engineering Group
999 W. Main St., Suite 1200
Boise, ID 93702
steve.clayton@jacobs.com

Re: City of The Dalles; Dog River Pipeline Project - Brooks Meadow Creek Water Supply Line Installation --- ODFW Fish Passage Approval PA-03-0015 ---

Mr. Anderson and Mr. Clayton,

The Oregon Department of Fish and Wildlife (ODFW) has reviewed as required by Oregon Fish Passage Law (ORS 509.585), the fish passage design plans proposed by the City of The Dalles' Public Works Department to replace an existing water supply pipeline underneath Brooks Meadow Creek and as part of the City's larger Dog River Municipal Water Supply Project. Brooks Meadows Creek is a tributary of Dog River, a tributary of E. Fk. Hood River, in Hood River County. As proposed, you plan to replace the existing water supply pipeline with a new 30-inch High Density Polyethylene (HDPE) pipe where it intersects Brooks Meadow Creek. The existing water supply line will be abandoned in place and the new water supply line will be installed using open trench installation techniques. The new water supply line will be constructed simultaneous with the new culvert installation project (ODFW Fish Passage Authorization PA-03-0014) and immediately downstream of the new culvert. Project installation is planned for the in-water work window during 2022.

This action has triggered the state's fish passage rules and regulations. ODFW Fish Passage Program and Hood River Watershed District staff have reviewed the fish passage and corresponding engineering design plans associated with the water supply line project and we have determined the design plans are consistent with the state's fish passage design criteria, as defined in OAR 635-412-0035(1), (2), (8) and (10) and therefore approve the project as required by Oregon fish passage law.

This ODFW fish passage authorization (PA-03-0015) is contingent on specific operational items which include:

1. The City of The Dalles, or your designee, shall contact and coordinate with ODFW at least two-weeks prior to any in-water work activities.
2. All in-water work associated with the project shall be performed during the ODFW in-stream work window (July 15 – August 31), or as negotiated with ODFW.
3. Temporary Water Management and subsequent fish salvage and recovery are required prior to all in-water work activities (defined as all work at or below the Ordinary High Water Elevation) associated with the project area.
4. Pursuant to OAR 635-412-0035 (10e), prior to in-stream construction activities, all fish must be safely collected, removed from the construction site or dewatered reach, and placed in the flowing stream by an authorized person in possession of a separate valid permit issued by ODFW. An Oregon Scientific Take Permit (OR-STP) from ODFW is required to conduct fish salvage in Oregon and other additional authorization may be needed from NMFS or USFWS if work is in ESA waters. OR-STP's can take up to 4-6 weeks for processing and can be applied for at: <https://apps.nmfs.noaa.gov/index.cfm> or if you have questions about OR-STP permitting, please contact fish.research@state.or.us.
5. Volitional downstream passage of native migratory fish shall be maintained throughout and during implementation of the project.
6. At any point along, into or through the project, where fish may be exposed to materials necessary to construct the project (concrete, steel, etc.), all potential sharp or abrasive edges and surfaces shall be made smooth as to preclude harm or physical injury to fish.
7. The City of The Dalles shall be responsible for all maintenance required such that the project provides adequate passage for native migratory fish. Adequate fish passage is defined as volitional fish passage of native migratory fish species between the fish passage design flows (5% to the 95% exceedence flows) for the project.
8. Failure to maintain fish passage through the project area(s) and for the duration of this approval shall constitute a violation of this approval and applicable fish passage laws (ORS 509.585 and 509.610).
9. Monitoring and reporting on the effectiveness of passage of fish is required for the project. You or your designee shall monitor and report the effectiveness of fish passage during, throughout and after completion of the project, unless otherwise noted by this approval. This shall entail monitoring of the project during construction as well as channel bed stability throughout the project area(s) after construction and project completion. Monitoring will be performed by a qualified fisheries biologist to determine whether or not the project is functioning as it was designed to function for fish passage. Fish passage monitoring reports shall report on the effectiveness of passage of native migratory fish species through the project area and at a variety of passage flows. Monitoring and reporting shall coincide with the time of the year when native migratory fish species are migrating throughout the project area. Monitoring and reporting shall consist of a summary of the fish passage conditions and fish passage performance with particular emphasis on channel bed stability, flow velocities, water depths, and the volitional unimpeded bi-directional passage of native migratory fish during the appropriate fish passage design (5% to the 95% exceedence) flows.
10. Monitoring reports shall be completed and submitted by you or your designee, to the ODFW Statewide Fish Passage Program Coordinator and the ODFW Hood River

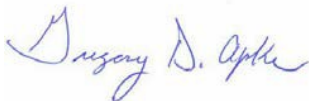
Watershed District Fish Biologist annually for a period of 5-years after the completion of the project.

11. If monitoring, by The City of The Dalles, your designee, or Department indicates that volitional fish passage is questionable or not provided, you in consultation with the Department, shall determine the cause and, during a work period approved by the Department, shall modify the project to rectify fish passage problems as necessary.
12. Failure to monitor fish passage for the duration of the ODFW fish passage approval shall constitute a violation of this approval and applicable fish passage laws (ORS 509.585 and 509.610).
13. The Department shall be allowed to inspect the project at reasonable times for the duration of this approval. Unless prompted by emergency or other exigent circumstances, inspection shall be limited to regular and usual business hours, including weekends.
14. This Agreement in no way purports or authorizes take of a state or federally listed species.

This approval, as required by ORS 509.585, only provides fish passage approval under the authority administered by ODFW. It is the responsibility of the City of The Dalles to comply with all necessary and required local, county, state, and federal approvals and permits. Please distribute this fish passage authorization to the appropriate project stakeholders as necessary.

Please contact me at 503-947-6228 or by email at greg.d.apke@odfw.oregon.gov if you have questions with this fish passage authorization or any of its provisions. Please continue to work with Jason Seals, ODFW Hood River Watershed District Fish Biologist as you advance towards project implementation in 2022.

Sincerely,



Greg Apke
ODFW Statewide Fish Passage Program Coordinator

Cc:

Jason Seals, ODFW Hood River Watershed District Fish Biologist
Alan Ritchey, ODFW Fish Screening and Passage Program Manager
Katherine Nordholm, ODFW Fish Screening and Passage Program Coordinator
Scott Janssen, ODFW Fish Passage Engineer
US Forest Service
Oregon Division of State Lands
ODFW Project Files #PA-03-0015

Bidder Question Log

May 2, 2022

City of The Dalles
Dog River Pipeline Replacement
Bidder Question Log
Jacobs Project D3504800
City Contract No. 2022-01
Last Updated: May 2, 2022

Note to bidders: Responses to bidder inquiries do not revise, change or qualify any information contained in the Bidding and Contract Documents. The bidder question log is provided as a convenience only.

	Date	Question / Comment	Contractor Name/ Contact Phone or Email	Reference	Official Response
1	18-Apr-22	I'm wondering if you could make CAD files available for this project to help in figuring out grading quantities? Also, it would be helpful if a copy of the specs could be provided that are editable. The current spec volume is protected and can be highlighted, bookmarked or changed at all. Please let me know if this can be done.	Jason Styger Granite Construction Company Washington Region-Olympia Office 3200 113th Ave. S.W. Olympia, WA 98512 Office (360) 570-5504 Fax (360) 570-5471 Mobile (360) 239-2866 jason.styger@gcinc.com	NA	In order to help ensure security of the bidding process and fairness to all bidders, we do not normally provide CAD drawings and/or unlocked specs until after award of the contract. We believe that the drawings are sufficiently detailed to support determination of quantities.
2	19-Apr-22	I left a voicemail for you this morning, and wanted to follow up with some additional information on AquaBlok. I saw in the bid plans for the Dog River Pipeline project that there appears to be 9 trench dams specified for the 32" Transmission Line. I wanted to see if you might consider allowing AquaBlok as an approved material for installation of these trench dams.	Andy Durham, P.E. Geotechnical Sales Manager 175 Woodland Ave. Swanton, OH 43558 o: 419-825-1325 m: 678-206-9483 adurham@aquablok.com www.aquablok.com	NA	Substitutions and equals will be considered after award.
3	29-Apr-22	To what pressure does the gravity bypass pipe need to be rated?	Adrian Carmichael, Core and Main 253-606-1864	NA	See 01 57 28 Temporary Flow Control. This identifies the minimum inside diameter of the pipe. Contractor means and methods would govern operating pressure of pipeline, and any related design requirements.
4	2-May-22	I am trying to confirm whether or not the city intends to buy the additional approx. 7000' of 30" HDPE DR 26 DIPS pipe direct or is the contractor going to be responsible for providing this remainder?	Josh Bennett Regional Estimator, Waterworks HD Fowler Company Vancouver Branch Phone: (360) 574-9377	NA	The contractor will purchase the remaining pipe.

