

DEPARTMENT OF THE ARMY PERMIT

Permittee: City of Albany
333 Broadalbin Street Southwest
Albany, Oregon 97321

Permit No: NWP-2019-141

Issuing Office: U.S. Army Corps of Engineers, Portland District

NOTE: The term "you" and its derivatives as used in this permit means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: You are authorized to fill up to a total of 1.19 acres of wetlands to construct road improvements along Lochner Road Southeast. Specifically, you are authorized to grade and permanently fill approximately 0.25 acre of Wetland A, 0.84 acre of Wetland B, and 0.1 acre of Wetland C with crushed rock, topsoil, concrete, and asphalt.

Purpose: The project purpose is to provide improved traffic and public safety within the southern Albany area of Linn County.

Project Location: The project site is within wetlands and other waters (Santiam-Albany Canal) located along Lochner Road Southeast from its intersection at Marion Street Southeast to 0.5 miles south/southeast, in the city of Albany, Linn County, Oregon.

Drawings: Nine (9) drawings/maps (Attachment 1)

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 20, 2024. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith

transfer to a third party in compliance with General Condition No. 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions (Attachment 2).

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

a. Upon starting the activities authorized by this permit, Permittee shall notify the U.S. Army Corps of Engineers, Portland District, Regulatory Branch that the work has started. Notification shall be provided by e-mail to cenwp.notify@usace.army.mil and the email subject line shall include: NWP-2019-141, Linn County.

b. This Corps permit does not authorize you to take an endangered species in particular those species identified in Attachment 3. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a biological opinion under ESA Section 7, with "incidental take" provisions with which you must comply). The National Marine Fisheries Service (NMFS) Stormwater, Transportation and Utilities programmatic biological opinion dated March 14, 2014 (NMFS Reference Number NWR-2013-10411), contains the mandatory terms and conditions to implement the reasonable and prudent measures that are provided in the "incidental take" statement associated with the opinion. Your authorization under this Corps permit is conditional upon your compliance with all of the applicable mandatory terms and conditions associated with the incidental take statement. Failure to comply with the applicable terms and conditions associated with incidental take of this opinion,

where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute noncompliance with your Corps permit. The NMFS is the appropriate authority to determine compliance with the terms and conditions of its opinion and with the ESA.

c. Permittee shall fully implement all applicable Project Design Criteria (PDC) of the SLOPES V Stormwater, Transportation, and Utilities programmatic biological opinion. A detailed list of the PDCs are enclosed (Attachment 3). The applicable PDCs for the project include numbers: 5, 6, 7, 13, 25, 26, 27, 30, 31, 33, 36, 38, and 42.

d. Permittee shall obtain 1.19 credits from the One Horse Slough Mitigation Bank. Prior to performing work in waters of the U.S. authorized by this permit, permittee shall submit documentation of the completed mitigation bank transaction to the U.S. Army Corps of Engineers, Portland District, Regulatory Branch. Documentation shall be submitted by e-mail to cenwp.notify@usace.army.mil and the email subject line shall include: NWP-2019-141, Linn County.

e. Permittee shall complete and sign the enclosed Compliance Certification (Attachment 4). Permittee shall submit the completed certification to the U.S. Army Corps of Engineers, Portland District, Regulatory Branch within 30 days of completion of the authorized activity. The completed certification shall be provided by e-mail to cenwp.notify@usace.army.mil and the email subject line shall include: NWP-2019-141, Linn County. If you are submitting files larger than 10 MB, contact your county Regulatory Project Manager for instructions.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- Section 404 of the Clean Water Act (33 U.S.C. 1344).
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this Authorization:

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures

by contract or otherwise and bill you for the cost.

6. Extensions: General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.


Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Lori L. Schumacher 12/20/2019
(PERMITTEE SIGNATURE) (DATE)

Lori L. Schumacher Civil Engineer II
(PRINTED NAME) (TITLE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

**FOR THE COMMANDER, AARON L. DORF, COLONEL, CORPS OF ENGINEERS,
DISTRICT COMMANDER:**

FOR:  O'MEARA.MELANIE.S.1503497154
(DISTRICT COMMANDER) (DATE)
2019.12.20 16:38:41 -08'00'

William D. Abadie
Chief, Regulatory Branch

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

PERMIT TRANSFEREE:

Transferee Signature

DATE

Name (Please print)

Address

City, State, and Zip Code