



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT
4735 EAST MARGINAL WAY SOUTH, BLDG 1202
SEATTLE, WA 98134-2388

Regulatory Branch

May 5, 2025

Ms. Christina Kereki
Kitsap County Department of Community Development
614 Division Street
Port Orchard, Washington 98366

Reference: NWS-2024-60
Kitsap County Dept of
Community Development
(Dyes Inlet Lagoon
Bulkhead Removal)

Dear Ms. Kereki:

We have reviewed your application to remove 514 linear feet of rock and concrete bulkheads and 14 creosote piles, set back 61 linear feet of bulkhead, lower 15 linear feet of existing rockery sections, construct 27 linear feet of return wall, remove scattered rock and concrete debris, remove fill behind the existing bulkhead, re-grade the shoreline, and place sediment for beach nourishment in Dyes Inlet near Silverdale, Kitsap County, Washington. Based on the information you provided to us, Nationwide Permit (NWP) 13, *Bank Stabilization* (Federal Register December 27, 2021, Vol. 86, No. 245), authorizes your proposal as depicted on the enclosed drawings dated December 19, 2023.

In order for this authorization to be valid, you must ensure the work is performed in accordance with the enclosed *NWP 13, Terms and Conditions* and the following special conditions:

a. In order to meet the requirements of the Endangered Species Act you may conduct the authorized activities from July 16 through February 15 in any year this permit is valid. You shall not conduct work authorized by this permit from February 16 through July 15 in any year this permit is valid. Your work window is also subject to the forage fish restriction detailed in Special Condition "b" below.

b. Forage fish may be spawning in the project area during the allowed work window. If work is occurring between August 31 and February 15, in order to meet the requirements of the Endangered Species Act and for the protection of Pacific herring, sand lance, and surf smelt, prior to construction, you must have an approved biologist

confirm, in writing, that no forage fish are spawning in the area. For information on approved biologists for conducting forage fish surveys, contact the Washington Department of Fish and Wildlife (WDFW). If a WDFW Habitat Biologist has volunteered to conduct a survey as part of the Hydraulic Project Approval, this survey may be submitted to the U.S. Army Corps of Engineers (Corps). The letter or memorandum from the approved biologist or the WDFW Habitat Biologist must include the date of the inspection, the forage fish spawning findings, and must be provided to the Corps, Seattle District, Regulatory Branch via email to sarah.l.albright@usace.army.mil (with a copy sent to nws.compliance@usace.army.mil), prior to construction. Include reference number NWS-2024-60. If the approved biologist or WDFW Habitat Biologist confirms that no forage fish are spawning in the project area, you have two weeks from the date of the inspection to complete all work waterward of the High Tide Line.

c. In order to meet the requirements of the Endangered Species Act (ESA) and the Magnuson Stevens Fishery Conservation and Management Act (MSA), you must implement and abide by the applicable terms and conditions to implement the reasonable and prudent measures that are associated with “incidental take” and the applicable Essential Fish Habitat Conservation Recommendations as set forth in the Salish Sea Nearshore Programmatic (SSNP) Biological Opinion (BO) (National Marine Fisheries Service (NMFS) Reference Number WCRO-2019-04086) dated June 29, 2022, and U.S. Fish and Wildlife Service (USFWS) Reference Number FWS/R1/2022-0048454 dated July 29, 2022). The specific General Construction Measures, Project Design Criteria, Essential Fish Habitat Conservation Measures, and monitoring and/or reporting requirements applicable to this permit are identified in the enclosed Notification Summary Sheet dated December 17, 2024 (NMFS Reference Number WCRO-2019-04086-8179; USFWS Reference Number 2022-0048454-S7-187). The BO is available on the U.S. Army Corps of Engineers (Corps) website (<https://www.nws.usace.army.mil/Missions/Civil-Works/Regulatory/Permit-Guidebook/Endangered-Species/>). You must provide the Corps and NMFS the information requested in the enclosed Notification Summary Sheet. All information must prominently display the reference number NWS-2024-60. Failure to comply with these requirements constitutes non-compliance with the ESA and your Corps permit. The NMFS and USFWS is the appropriate authority to determine compliance with the terms and conditions of their BO and with the ESA. If you cannot comply with the terms and conditions of this programmatic consultation, you must, prior to commencing construction, contact the Corps, Seattle District, Regulatory Branch for an individual consultation in accordance with the requirements of the ESA and/or the MSA.

We have reviewed your project pursuant to the requirements of the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act and the National Historic Preservation Act. We have determined this project complies with

the requirements of these laws provided you comply with all of the permit general and special conditions.

Please be reminded that Special Condition “c” of your permit requires that you implement and abide by the Endangered Species Act (ESA) requirements set forth in the programmatic Biological Opinion (BO) for this project. In particular, note that the BO requires you submit the enclosed *Certificate of Compliance with Department of the Army Permit*. All documents must be submitted to the Corps at nws.compliance@usace.army.mil, NMFS at projectreports.wcr@noaa.gov, and USFWS at SSNP_WA@fws.gov. Failure to comply with the commitments above constitutes non-compliance with the ESA and with this authorization.

As part of our permit application review process, we notified Native American tribes that have an interest in this area. The Suquamish Tribe requested to be notified two weeks in advance of the scheduled start date. Based on our coordination, you agreed to provide that notice. Please contact Mr. Rod Malcom at rmalcom@suquamish.nsn.us prior to commencing construction.

Please note that National General Condition 21, *Discovery of Previously Unknown Remains and Artifacts*, found in the *Nationwide Permit Terms and Conditions* enclosure, details procedures that must be followed should an inadvertent discovery occur. You must ensure that you comply with this condition during the construction of your project.

A conditioned Water Quality Certification (WQC) (Order Number: 23617, dated April 17, 2025) and Coastal Zone Management (CZM) consistency determination decision dated April 21, 2025, has been issued by the Washington State Department of Ecology for your project and is enclosed. You must comply with the conditions specified in the WQC and CZM decision for this NWP authorization to be valid.

You have not requested a jurisdictional determination for this proposed project. If you believe the U.S. Army Corps of Engineers does not have jurisdiction over all or portions of your project you may request a preliminary or approved jurisdictional determination (JD). If one is requested, please be aware that we may require the submittal of additional information to complete the JD and work authorized in this letter may not occur until the JD has been completed.

Our verification of this NWP authorization is valid until March 14, 2026, unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work for the NWP authorization has not been completed by that date and you have commenced or are under contract to commence this activity before March 14, 2026, you will have until March 14, 2027, to complete the activity under the enclosed terms and conditions of this

NWP. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. You must also obtain all local, State, and other Federal permits that apply to this project.

Upon completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit*. All compliance reports should be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch electronically at nws.compliance@usace.army.mil. Thank you for your cooperation during the permitting process. We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey. Referenced documents and information about our program are available on our website at www.nws.usace.army.mil, select "Regulatory Permit Information". If you have any questions, please contact me at sarah.l.albright@usace.army.mil or (206) 561-6746.

Sincerely,

A handwritten signature in black ink that reads "Sarah Albright". The signature is written in a cursive style with a large, looped 'S' and 'A'.

Sarah Albright-Garland, Project Manager
Regulatory Branch

Enclosures

cc:
Ecology (ecyrefedpermits@ecy.wa.gov)
USFWS (SSNP_WA@fws.gov)