



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

Regulatory Branch

July 21, 2021

Mr. Richard Fallquist  
Lakeshores Group  
5061 84<sup>th</sup> Avenue Northeast  
Mercer Island, Washington 98040

Reference: NWS-2018-800  
Lakeshores Group  
(Pier Repair and Extension)

Dear Mr. Fallquist:

We have reviewed your application to repair up to 672 square feet of existing pier decking, repair up to three piling, install up to 246 square feet of a pier extension, and install up to six piles to support the pier extension in Lake Washington at Mercer Island, Washington. Based on the information you provided to us, this "Letter of Permission" (LOP) permit authorizes your proposal as depicted on the enclosed drawings dated April 28, 2020, which are made part of this permit. In order for this LOP authorization to be valid, you must ensure that the work is performed in accordance with the enclosed *Letter of Permission General Conditions* and the following special conditions:

a. In order to meet the requirements of the Endangered Species Act and protect Puget Sound Chinook, Puget Sound steelhead, and Coastal-Puget Sound bull trout, the authorized in-water activities may be conducted from July 16 through December 31 in any year this permit is valid. The in-water activities authorized by this permit may not be conducted from January 1 through July 15 in any year.

b. In order to meet the requirements of the Endangered Species Act (ESA) and Magnuson-Stevens Fishery Conservation and Management Act (MSA) *Restoration and Permitting* (RAP) programmatic consultation (National Marine Fisheries Service (NMFS) Reference Number WCRO-2016-00008), you must implement and abide by the ESA requirements and/or agreements set forth in the Biological Opinion (BO) dated February 17, 2017, the enclosed NMFS' *RAP Implementation Guide* dated July 25, 2019, the enclosed RAP Calculator, Sheet 7 of 7 of the project drawings dated April 28, 2020, and the enclosed RAP form for your individual project (NMFS Reference Number WCRO-2016-00008-2090). The BO is available on the U.S. Army Corps of Engineers (Corps) website (Permit Guidebook, Endangered Species, Programmatic Consultations, Activities on Lakes Washington and Sammamish). Upon

completion of the permitted work, you must submit an As-Built Report (see RAP Implementation Guide, Appendix E) to the Corps (NWS.Compliance@usace.army.mil) and the NMFS (rap-reports.wcr@noaa.gov). You must visually monitor the work area during construction when the substrate is disturbed and ensure that observable turbidity increases do not extend beyond a 150-foot radius around the work area. If turbidity increases occur beyond this area, you must include it in your As-Built Report. You must comply with any required RAP planting plan (see RAP Implementation Guide, Appendices C and D) requirements and submit annual monitoring reports for five years to the Corps (NWS.Compliance@usace.army.mil) and the NMFS (rap-reports.wcr@noaa.gov). All reports must prominently display the reference number NWS-2018-800. Failure to comply with these requirements constitutes non-compliance with the ESA and your Corps permit. The NMFS is the appropriate authority to determine compliance with the terms and conditions of its 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

c. In order to meet the requirements of the Endangered Species Act (ESA) programmatic letter of concurrence for selected activities in the Lake Washington/Lake Sammamish Basins (U.S. Fish and Wildlife Service (USFWS) Reference Number 13410-2009-I-0386-R001) you must comply with the relevant conservation measures in the document titled, *Conservation Measures for Activities Covered under the Lake Washington Programmatic Consultation Letter of Concurrence* available on the U.S. Army Corps of Engineers (Corps) website (Permit Guidebook, Endangered Species, Programmatic Consultations, Activities on Lakes Washington and Sammamish). If you cannot comply with these conservation measures, 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. The USFWS is the appropriate authority to determine compliance with the ESA.

d. You must implement and abide by the shoreline planting plan, as detailed on sheet 7 of 7 of the project drawings dated April 28, 2020. The plants shall be installed before or concurrent with the work authorized by this permit. A report, as-built drawing, and photographs demonstrating the trees/plants have been installed or a report on the status of project construction must be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch, within 12 months from the date of project construction. You can meet this reporting requirement by completing and submitting the enclosed *Report for Mitigation Work Completion* form.

e. You must maintain and monitor the survival of installed shoreline plantings for five years after the U.S. Army Corps of Engineers accepts the as-built report. Installed plants shall achieve 100% survival during monitoring Years 1 and 2. Installed trees/plants shall achieve at least 80%

survival during monitoring Years 3, 4 and 5. Percent survival is based on the total number of plants installed in accordance with the approved shoreline planting plan. Individual plants that die must be replaced with native riparian species in order to meet the survival performance standards.

f. You must submit annual monitoring reports for five years (Monitoring Years 1-5). Each annual monitoring report shall include written and photographic documentation on plant mortality and replanting efforts and must document whether the performance standards are being met. Photos must be taken from established points used for each monitoring year. In addition to photos at designated points, photo documentation must include a panoramic view of the entire planting area. Submitted photos must be formatted on standard 8 ½” x 11” paper, dated with the date the photo was taken, and clearly labeled with the direction from which the photo was taken. The photo location points must be identified on an appropriate drawing. Annual shoreline planting monitoring reports must be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch, by November 31 of each monitoring year (NWS.Compliance@usace.army.mil). You can meet this reporting requirement by completing and submitting the enclosed *Mitigation Planting Monitoring Report* form.

g. To ensure the long-term protection of the mitigation site, you shall record on the mitigation site property deed a copy of this Department of the Army permit and a description of the mitigation area identified in the final mitigation plan. These documents shall be recorded with the Registrar of Deeds or other appropriate official charged with maintaining records on real property. Proof of this recorded documentation must be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch within 60 days from the date of construction.

h. To insure that light transmission is not impacted, grating must not be covered with or blocked by any objects, such as, but not limited to, buildings, planters, storage sheds or boxes, nets, carpets, boards, tables, lawn furniture, or utility conduits or boxes.

We have reviewed your project pursuant to the requirements of the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act in regards to Essential Fish Habitat. The U.S. Army Corps of Engineers has determined that this project will comply with the requirements of the above laws provided you comply with special conditions “a” through “c” listed above.

Please be reminded that Special Condition “b” 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, you must provide an As-Built Report,

implement the approved planting plan, and submit annual monitoring and maintenance reports, as described in the BO.

Lake Washington is a water of the U.S. The Section 10 jurisdictional boundaries are shown on the enclosed permit drawings. If you believe these boundaries are inaccurate, you may request a preliminary or approved jurisdictional determination (JD). If one is requested, please be aware that we may require the submittal of additional information to complete the JD and work authorized in this letter may not occur until the JD has been completed.


An individual Coastal Zone Management Act consistency decision was not required by the Washington Department of Ecology. Any change in the plans for this work will require that you submit revised drawings to this office and receive our written approval of those changes prior to conducting the work. If you object to any terms or conditions of this LOP or the JD, you may request an administrative appeal under our regulations (33 CFR Part 331) as described in the enclosed *Notification of Administrative Appeal Options and Process and Request for Appeal* form.

Your authorization to conduct the proposed work under this permit expires 3 years from the date of this letter. Within 30 days of completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit*. Your signature on this form is our assurance you have conducted the work and any required mitigation in accordance with the terms and conditions of this LOP, including all special conditions. All compliance reports should be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch at [nws.compliance@usace.army.mil](mailto:nws.compliance@usace.army.mil). Please remember that failure to comply with the terms and conditions of this LOP, including any special conditions, will invalidate your authorization and could result in a violation of Federal law.

Thank you for your cooperation during the permitting process. We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey form. This form and information about our program is available on our website at: [www.nws.usace.army.mil](http://www.nws.usace.army.mil) (select "Regulatory Branch, Permit Information").

While this project will not require further authorization from us, please note that it must comply with all local, State, and other Federal requirements that may apply. An electronic copy of this letter with enclosures will be furnished to you by email at rfallquist@msn.com, and to Mr. Evan Wehr, of Ecco Design Inc., by email at evan@eccodesigninc.com. If you have any questions about this letter or our regulatory program, please contact Ms. Daisy Douglass at daisy.p.douglass@usace.army.mil or by phone at (206) 764-6903.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

  
*for* Alexander "Xander" L. Bullock  
Colonel, Corps of Engineers  
District Engineer

Enclosures

cc:  
USFWS (wfwoctap@fws.gov);  
Ecology (ecyrefedpermits@ecy.wa.gov);  
NMFS (rap-wa.wcr@noaa.gov)