



# Oregon

Theodore R. Kulongoski, Governor

Department of Environmental Quality  
Northwest Region Portland Office  
2020 SW 4<sup>th</sup> Avenue, Suite 400  
Portland, OR 97201-4987  
(503) 229-5263  
FAX (503) 229-6945  
TTY (503) 229-5471

August 15, 2006

Ms. Kathryn Harris  
U.S. Army Corps of Engineers  
ATTN: CENWP-OP-GP  
PO Box 2946  
Portland, OR 97208

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Dear Ms. Harris:

The Department of Environmental Quality (DEQ) has reviewed the U.S. Army Corps of Engineers Permit application #2004-00803-2 [Division of State Lands #34119-FP]. The applicant, Oregon Department of Administrative Services, proposes to fill wetlands and waters of the state to construct a phased multi-use development to include industrial, business, service center and open space uses, and to be known as the Mill Creek Industrial Park. The project is located amid wetlands adjacent to and unnamed tributaries of Mill Creek, in the City of Salem, in Marion County, Oregon (Section 8, T8S/R2W).

Project elements include fill, excavation, and grading for construction of various use buildings, parking, roads and other associated infrastructure. Site plans depicting development of individual parcels will be prepared by individual developers or a master developer and approved by City of Salem as phased construction moves forward, with full build-out anticipated in 2025. The applicant has submitted a letter detailing agreements between the State of Oregon, the City of Salem, and a future owner's association for implementation and maintenance of the master stormwater management plan which has been developed and submitted by the applicant. Stormwater management details and individual parcel plans will be prepared as phased construction progresses and will be designed to comply with the NPDES MS-4 Permit held by the City of Salem such that reasonable implementation of Best Management Practices (BMPs) to prevent or treat pollution in stormwater anticipated to be generated by the proposed project, will comply with state water quality standards, Total Maximum Daily Load (TMDL) Load Allocations (LAs), or NPDES permit requirements (if needed). Individual NPDES discharge permits will be obtained for each lot as required. Responsibility for implementation, operation, inspection, and maintenance of the stormwater management system components for the life of the facilities will be shared by or transferred between the State of Oregon, City of Salem and an owner's association as described in the applicant's letter, to insure proper function for water quality, since treated stormwater will be a main component of hydrology supplied to the mitigation and avoided on-site wetlands. Total potential impacts to waters of the state will be approximately 15.05-acres. Compensatory mitigation for these permanent wetland and tributary impacts will be accomplished by a combination of on-site enhancement, restoration and creation of approximately 22.65-acres of wetlands and waters of the state.

**Mill Creek is classified as a water quality limited under the Clean Water Act on Section 303(d) list of impaired waterbodies for the parameters of: Temperature; Fecal Coliform; and E Coli, and with potential concern for the parameter of Alkalinity.**

**Beneficial uses impaired by the above listed parameters in Mill Creek include: salmonid fish spawning and rearing; anadromous fish passage; resident fish and aquatic life; water contact recreation; and aesthetics.**

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Based on information provided by the applicant, DEQ does not anticipate any long-term violations of State Water Quality standards, including Oregon Administrative Rule (OAR) 340-041-0004, Antidegradation, provided the conditions which follow are incorporated into the permit.

- 1) **Duration of Certificate:** This 401 WQC expires five years from the date of issuance of the USACE permit. A new 401 WQC must be obtained prior to any substantial modification of the USACE permit.
- 2) **Fish protection/ODFW timing:** All in-water work shall occur within the Oregon Department of Fish and Wildlife's (ODFW) preferred time window as specified in Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources, June 2000. Exceptions to the timing window must be reviewed and approved by ODFW and DSL.
- 3) **Aquatic life movements:** No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Unobstructed fish passage must be provided at all times during any authorized activity.
- 4) **Turbidity/erosion controls:** The authorized work shall not cause turbidity of affected waters to exceed 10% over natural background turbidity 100 feet downstream of the fill point. Turbidity monitoring shall take place at 2-hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented.  
  
Turbidity shall be monitored during active in-water work periods. Monitoring points shall be an undisturbed site (representative background) 100 feet upstream from turbidity causing activity (i.e., fill or discharge point), 100 feet downstream from the fill point, and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. *Turbidity that is visible over background is considered an exceedance of the standard.*  
  
Turbidity shall be measured (or visually assessed) and recorded at the designated monitoring interval prescribed above during periods of active construction. The designated person monitoring turbidity shall be responsible for notifying the project foreman of any exceedance of the turbidity standard. If a 10% exceedance of the background level occurs at 100 feet below the project site, modify the activity causing the problem and continue to monitor at the proper interval. If exceedances occur with two consecutive measurements stop the activity causing the turbidity until the problem is resolved.
- 5) **Erosion Control:** The applicant is referred to DEQ's Oregon Sediment and Erosion Control Manual, April 2005. The following erosion control measures (and others as appropriate) or comparable measures as specified in an NPDES 1200-C permit (if required) shall be implemented:

- a. Filter bags, sediment traps or catch basins, vegetative strips, berms, Jersey barriers, fiber blankets, bonded fiber matrices, geotextiles, mulches, wattles, sediment fences, or other measures used in combination shall be used to prevent movement of soil from uplands into waterways or wetlands;
  - b. An adequate supply of materials needed to control erosion must be maintained at the project construction site;
  - c. To prevent stockpile erosion, use compost berms, impervious materials or other equally effective methods, during rain events or when the stockpile site is not moved or reshaped for more than 48 hours;
  - d. Erosion control measures shall be inspected and maintained daily, or more frequently as necessary, to ensure their continued effectiveness and shall remain in place until all exposed soil is stabilized;
    - i. If monitoring or inspection shows that the erosion and sediment controls are ineffective, mobilize work crews immediately to make repairs, install replacements, or install additional controls as necessary.
    - ii. Remove sediment from erosion and sediment controls once it has reached 1/3 of the exposed height of the control.
  - e. Unless part of the authorized permanent fill, all construction access points through, and staging areas in, riparian or wetland areas shall use removable pads or mats to prevent soil compaction.
  - f. Flag or fence off avoided wetlands and planted areas to protect from disturbance and/or erosion.
  - g. Dredged or other excavated material shall be placed on upland areas with stable slopes to prevent materials from eroding back into waterways or wetlands;
  - h. Sediment from disturbed areas or able to be tracked by vehicles onto pavement shall not be allowed to leave the site in amounts that would reasonably be expected to enter waters of the state and impair water quality. Placement of clean aggregate at all construction entrances, and other BMPs such as truck or wheel washes if needed, will be used when earth moving equipment will be leaving the site and traveling on paved surfaces; and,
  - i. Projects which disturb one acre or more require an NPDES 1200C Storm Water Discharge Permit. Contact the appropriate DEQ regional office for more information (Contact information can be found at: <http://www.deq.state.or.us/wq/wqpermit/stormwaterhome.htm>).
- 6) **Deleterious waste materials:** Biologically harmful materials and construction debris including, but 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 shall not be placed in or where they could enter waterways or wetlands.
- a. Cast-in-place concrete or placement of cement or grout shall occur in complete isolation from flowing waters and must be cured for a minimum of 24-hours prior to allowing contact with waters of the State;
  - b. Use only clean fill, free of waste and polluted substances, to maintain water quality;
  - c. BMPs shall be employed in order to prevent discharges of spills of deleterious materials to surface or ground water;

