



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

Regulatory Branch

April 5, 2021

Mr. Charlie Lyford  
9529 Lake Washington Boulevard  
Bellevue, Washington 98004

Reference: NWS-2021-24  
Lyford, Charlie  
(Pile Repair)

Dear Mr. Lyford:

We have reviewed your application to maintain the existing pier by repairing eleven piles using the stubbing method in Lake Washington at Bellevue, Washington. Based on the information you provided to us, Nationwide Permit (NWP) 3, Maintenance (Federal Register January 6, 2017, Vol. 82, No. 4), authorizes your proposal as depicted on the enclosed drawings dated March 4, 2021.

In order for this authorization to be valid, you must ensure the work is performed in accordance with the enclosed *NWP 3, Terms and Conditions* and the following special conditions:

a. 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 NMFS' RAP Implementation Guide dated July 25, 2019, and the RAP form for your individual project (NMFS Reference Number WCRO-2016-00008- 2940). 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 and the NMFS ([rap-reports.wcr@noaa.gov](mailto: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. All reports must prominently display the reference number NWS-2021-24. 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.

b. To be in compliance with Special Condition "a", you must request an invoice from the King County Mitigation Reserves Program (ATTN: Ms. Megan Webb, [megan.webb@kingcounty.gov](mailto:megan.webb@kingcounty.gov); In-lieu Fee Mitigation and Transfer of Development Rights, King County Water and Land Resources Division, Department of Natural Resources and Parks, 201 South Jackson Street, Room 600, Seattle, Washington, 98104-3855) and provide the U.S. Army Corps of Engineers a receipt that you have paid the required conservation fees of \$ 200.00 within 60 days from the date of permit authorization. This information must prominently display the reference number NWS-2021-24.

c. Incidents where any individuals of fish species, marine mammals and/or sea turtles listed by National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the U.S. or structures or work in navigable waters of the U.S. authorized by this Nationwide Permit verification shall be reported to NOAA Fisheries, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the Seattle District of the U.S. Army Corps of Engineers at (206) 764-3495. The finder should leave the animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

d. 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.

e. In order to meet the requirements of the Endangered Species Act you may conduct the authorized activities from July 16 through April 30 in any year this permit is valid. You shall not conduct work authorized by this permit from May 1 through July 15 in any year this permit is valid.

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 “a” 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, within 60 days you must provide an As-Built Report, annual monitoring reports, and a receipt for the conservation fees, as described in the BO.

The authorized work complies with the Washington State Department of Ecology’s (Ecology) Water Quality Certification (WQC) requirements and Coastal Zone Management (CZM) consistency determination response for this NWP. No further coordination with Ecology for WQC and CZM is required.

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.

Our verification of this NWP authorization is valid until March 18, 2022, unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date and you have commenced or are under contract to commence this activity before March 18, 2022, you will have until March 18, 2023, 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*. 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. These documents and information about

our program are available on our website at [www.nws.usace.army.mil](http://www.nws.usace.army.mil), select "Regulatory Branch, Permit Information" and then "Contact Us." A copy of this letter with enclosures will be furnished to Ms. Kelsey Meyer of Seaborn Pile Driving Company, at [kelsey@seabornpiledriving.com](mailto:kelsey@seabornpiledriving.com). If you have any questions, please contact me at [colleen.c.anderson@army.mil](mailto:colleen.c.anderson@army.mil) or at (206) 764-3262.

Sincerely,

A handwritten signature in black ink that reads "Colleen Anderson". The signature is written in a cursive, flowing style.

Colleen Anderson, Project Manager  
Regulatory Branch

Enclosures