

# DEPARTMENT OF THE ARMY PERMIT

**Permittee:** Port of Seattle

Port of Seattle  
17900 International Boulevard, Suite 402  
Seattle-Tacoma International Airport  
SeaTac, Washington 98188-4236

**Permit No:** 1996-4-02325

**Issuing Office:** Seattle 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:** Permanently impact 19.62 acres of wetlands and temporarily impact 5.51 acres of wetlands on-site and 23.27 acres of wetlands at Auburn for the construction of an 8,500 foot third runway, two Runway Safety Areas (RSA), the South Aviation Support Area (SASA), the mitigation both on-site and at Auburn, the relocation of South 154<sup>th</sup>/156<sup>th</sup> Way, the discharge of fill material in Borrow Area 1 and the upgrade of an existing gravel haul road (located northeast of Borrow Area 4) in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit. Up to 980 linear feet of Miller Creek will be filled and relocated. Drainage channels in the Miller Creek basin (1,290 linear feet) and in the Des Moines Creek basin (100 linear feet) will also be impacted (to meet the public need for an efficient regional air transportation facility to meet anticipated future demands).

**Project Location:** In the Miller Creek, Walker Creek, and Des Moines Creek watersheds and in wetlands at Seattle-Tacoma International Airport (STIA), located within and in the vicinity of the City of SeaTac, King County, Washington, and in wetlands at the mitigation site in Auburn, King County, Washington.

## **Permit Conditions:**

### *General Conditions:*

1. The time limit for completing the work authorized ends on DEC 13 2009. 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 1 month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in accordance 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 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 to 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.

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.

7. After a detailed and careful review of all the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps, nonetheless the permittee agreed to those conditions voluntarily to facilitate issuance of the permit; the permittee will comply fully with all the terms of all the permit conditions.

*Special Conditions:*

a. You must provide a copy of the permit transmittal letter, the permit form, and drawings to all contractors performing any of the authorized work.

b. The stormwater BMPs for better removal of dissolved metals, shall be selected from the Enhanced Treatment Menu found in August 2001 edition of the *Stormwater Management Manual for Western Washington*.

c. The Port shall sample stormwater above and below stormwater outfalls and monitor the hardness of the receiving waters (Miller, Walker, and Des Moines creeks).

d. The Port will perform the water quality toxicity testing on specific sensitive organisms. These organisms and testing protocols will be approved by Ecology prior to testing. Testing shall measure injury, as well as mortality of those organisms.

e. 100% of the stormwater management facility retrofit shall be completed by the time 50% of the paved impervious surfaces have been constructed. Status reports will be provided to U.S. Army Corps of Engineers, Seattle District, Regulatory Branch, every 6 months from the date of permit issuance documenting the amount of paved impervious surface constructed and the amount of retrofitting completed until the 100%/50% goal is reached.

f. The *Natural Resource Mitigation Plan, Master Plan Update Improvements, Seattle-Tacoma International Airport (NRMP)* dated November 2001 with the corrections dated January 2002, February 2002, and November 2002, will be implemented. The dates for the submittals of as-built drawings and monitoring reports are as described in the table titled "Reporting schedule for mitigation projects during the 15-year monitoring period". Year 0 is the year the as-built drawings are approved by the U.S. Army Corps of Engineers in writing.

**Reporting schedule for mitigation projects during the 15-year monitoring period.**

Mitigation Project	Monitoring Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Des Moines Way Nursery Site	□	■	■	■	◆	■	◆	■	◆	◆	■		■			■
Vacca Farm	□	■	■	■	■	■	◆	■	◆	◆	■		■			■
Miller Creek Relocation	□	■	■	■		■		■			■		■			■
Miller Creek Buffer	□	■	■	■		■		■			■		■			■
Stream Enhancement	□	■	■	■		■		■			■		■			■
Replacement Drainage Channels	□	■	■	■	■	■		■		■			■			■
Tyee Valley Golf Course	□	■	■	■		■		■		■	■		■			■
Restoration of Temporary Impacts	□	■	■	■	◆	■	◆	■	◆	◆	■		■			■
Monitoring for Indirect impacts	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Auburn Wetland Mitigation	□	■	■	■	◆	■	◆	■	◆		■		■			■
Contingency Actions	▣	▣	▣	▣	▣	▣	▣	▣	▣	▣	▣	▣	▣	▣	▣	▣

□ - As-built (record) survey and report. Submitted within 60-days of construction and planting.

■ - Detailed monitoring reports. Submitted by December 31<sup>st</sup> of each monitoring year. Monitoring reports for each project will be combined into a single document.

◆ - Hydrologic monitoring only.

⊙ - Monitoring and reporting follows requirements of the 401 Water Quality Certification.

▣ - Additional monitoring requirements or limited interim reporting may be required of any project if contingency actions are taken.

g. Water will be released from the low-flow vaults as described in the *Low Streamflow Analysis* dated December 2001 and at the rates as specified in Table 4-2 of the *Low Streamflow Analysis*, or as subsequently modified and approved by the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch. Documentation of this release will be included in the monitoring reports described in the NRMP.

h. The minimum number of test samples of the proposed fill shall be increased to reflect the number of samples required under MTCA.

i. The monitoring in Condition F(1) of the Section 401 Water Quality Certification is modified so that monitoring continues for as long as there are contaminants in the Airport Operations and Maintenance Area (AOMA).

j. A water right to use the water stored in the low-flow vaults for mitigation of low flow impacts in Walker Creek must be obtained before commencing paving of the third runway and the associated new taxiways west of the coordinates listed below. A water right to use the water stored in the low-flow vaults for mitigation of low flow impacts in Des Moines Creek must be obtained before commencing construction of the SASA building and associated paving. A copy of the water right(s) will be provided to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch prior to commencing paving and/or construction of the SASA building.

<u>Taxiway</u>	<u>Coordinate</u>
A	E12230
E	E12230
J	E12230
N	E11990
P	E12000
Q	E12230

k. A professional archaeologist must be on-site to monitor for the presence of archaeological resources during all ground disturbing construction within the channel excavation area at Vacca Farm and western portion of the Tyee Valley Golf Course areas. The archaeological monitoring plan prepared by Larson Anthropological Archaeological Services Limited, dated June 7, 2001, must be implemented in its entirety.

l. A summary report of the findings of the archaeological monitoring or status report must be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch within 13 months of permit issuance and yearly thereafter until construction in these areas have been completed.

m. If human remains or archaeological resources are encountered during construction, all ground disturbing activities shall cease in the immediate area and the permittee shall immediately (within one business day of discovery) notify the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch (Corps), Federal Aviation Administration and the State Historic Preservation Officer. The permittee shall perform any work required by the Corps in accordance with Section 106 of the National Historic Preservation Act and Corps regulations.

n. You must implement and abide by the ESA requirements and/or agreements set forth in the *Biological Assessment, Master Plan Update Improvements, Seattle-Tacoma International Airport*, dated June 2000, in its entirety. The U.S. Fish and Wildlife Service (USFWS) concurred with a finding of "may affect, not likely to adversely affect" based on this document in a Biological Opinion (BO) dated May 22, 2001 (USFWS Reference Number 1-3-96-I-29, 1-3-99-SP-0744). The BO contains mandatory measures that are incorporated by reference in this permit. The National Marine Fisheries Service (NMFS) concurred with a finding of "may affect, not likely to adversely affect" based on this document on May 31, 2001 (NMFS Reference Number WSB-00-318). Both agencies will be informed of this permit issuance. Failure to comply with the commitments made in this document and as described in the USFWS BO constitutes non-compliance with the ESA and your Department of the Army permit. The USFWS and/or NMFS are the appropriate authority to determine compliance with ESA.

o. Both the onsite and offsite wetland mitigation areas created, enhanced, and/or restored as mitigation for work authorized by this permit, shall not be made the subject of a future individual or general Department of the Army permit application for fill or other development, except as permitted in the restricted covenants found in Appendix G of the mitigation plan or for the purposes of enhancing or restoring the mitigation associated with this project. These covenants will be recorded with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records to or interest in real property. Proof of this documentation must be provided to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch within 90 days of permit issuance.

p. No irrigation can be performed in any mitigation area for more than 3 consecutive years without written approval from the U.S. Army Corps of Engineers (Corps). No irrigation may be performed after Year 4 in any mitigation area without written approval from the Corps.

q. The timing of the riparian buffer enhancement plantings (the area extending a horizontal distance of 100 feet from the OHWM of the stream or from the edge of riparian wetlands, whichever is greater) along Des Moines Creek will be coordinated with the construction schedule of the regional detention facility and will be planted no later than the end of 2007, without prior written approval of the U.S. Army Corps of Engineers.

r. All of the "Delineated Wetlands Verified by ACOE" as shown on Sheets 3 and 4 of the permit drawings that are not being filled as part of this permit will be redelineated in mitigation monitoring years 5, 10, and 15. For those wetlands where the NRMP proposes to expand or otherwise modify the existing wetland boundaries, the post mitigation construction wetland boundaries must be delineated to insure the area of the new wetlands at least equals the proposed NRMP wetland area. Maps will be included in the yearly mitigation monitoring report and provided to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch. If the size of any of the wetlands have decreased, additional mitigation may be required. There is one exception to this condition: 1) The boundary of Wetland 43 will not be redelineated because there are no anticipated indirect impacts.

s. To monitor for the occurrence of any unforeseen indirect impacts and to identify potential adaptive management strategies, the monitoring protocols outlined in the memorandum titled *Changes to groundwater monitoring protocol in wetlands adjacent to Master Plan Construction Projects* dated October 28, 2002 will be implemented. Results of the monitoring will be included in the yearly mitigation report and provided to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch.

**Further Information:**

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:
  - ( ) Section 10 of the Rivers and Harbor Act of 1899 (33 U.S.C. 403).
  - (X) 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 authorization 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 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 include, but are not limited to, the following:
  - a. You fail to comply with the terms and conditions of the permit.
  - b. The information provided by you in support of your 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.

*Chewitt*

12.13.02

\_\_\_\_\_  
PORT OF SEATTLE

\_\_\_\_\_  
(DATE)

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

*Ralph H. Graves*

13 Dec 02

\_\_\_\_\_  
RALPH H. GRAVES  
Colonel, Corps of Engineers  
District Engineer

\_\_\_\_\_  
(DATE)

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 and date below.

\_\_\_\_\_  
(TRANSFEE)

\_\_\_\_\_  
(DATE)

