

**From:** [BrownScott, Jennifer](#)  
**To:** [Stenvall, Charlie](#)  
**Subject:** FYI: JST Mtg at 9:30  
**Date:** Monday, April 5, 2021 9:34:32 AM  
**Attachments:** [Agenda and info 04052021.docx](#)  
[SIP-Permit-NWS-2007-1213.pdf](#)

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Just wanted you to know that Kevin K, Vanessa and I are meeting with JST this morning to discuss their request for assistance in preparation of a monitoring plan in association with their permit conditions for commercial aquaculture farming operations in Dungeness Bay.

I've attached the proffered permit and the agenda for today's meeting.

Hope you are having a sunny Monday morning.

-jennifer

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# Dungeness Oyster Farm

Agenda 4/5/2021

1. Introductions
2. Set Schedule
3. Project and Permit Review
4. Review Outline of Required Tasks
5. Attached documents review
  - a. Dungeness Bay Oyster Farm General Operations Plan
  - b. JST Dungeness Shellfish Farm Monitoring and Mitigation Plan
  - c. JST Gear Surveillance Retrieval Plan
6. Review Next Steps

## Project and Permit Review

### Location

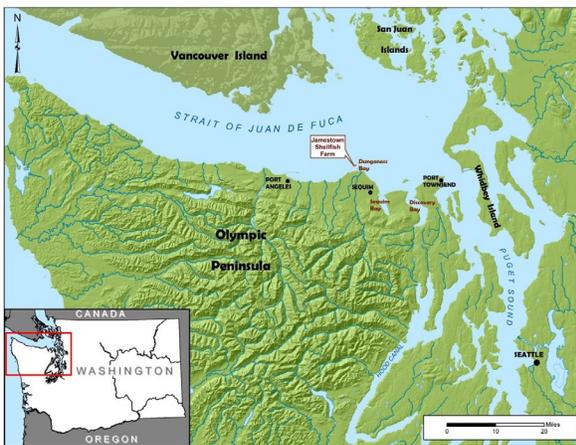


Photo Aerial 1 — Oblique photo looking north over the leased parcel and adjacent areas.



## Project Summary

The Jamestown S’Klallam Tribe (JST) is planning to resume shellfish cultivation on its leased DNR tidelands within Dungeness Bay for commercial and cultural purposes. The proposed aquaculture project is on Washington State Department of Natural Resource (DNR) managed tidelands where the Tribe has previously engaged in shellfish cultivation. JST is solely interested in this site due to its ongoing investments and its cultural ties to the site. Beginning in 1990 the Tribe has paid lease fees and operated a shellfish farm at the proposed project site. Harvesting at the farm was curtailed because of deteriorating water quality conditions and a Washington Department of Health (DOH) reclassification of the site. Following the downgrade, the Tribe provided leadership, funding and a commitment to improve conditions, securing significant local, State and Federal resources. The Tribe supports DOH monthly marine water sampling of Dungeness Bay stations by providing technician and/or boat support as needed. The express purpose of these expenditures and years of collaborative effort was to upgrade the Dungeness shellfish growing area classification so that commercial shellfish activity may resume.

## Project Details

The Tribe will resume farming pacific oysters using on-bottom culture methods on up to 34 acres of the 50 acre parcel. Sixteen acres will be avoided completely due to the presence of eelgrass. The Tribe recognizes and values the ecosystem services provided by eelgrass and the goals of the Dungeness Wildlife Refuge in protecting habitat to promote migrating waterfowl. It is with conservation in mind that farming will not take place within 25 feet of eelgrass observed during the eelgrass survey completed in July 2016 by USFWS and Jamestown S’Klallam Tribe. Oyster cultivation will occur within the lease parcel between tidal elevations of +3 ft. and -2 ft. MLLW. A phased approach will be taken and only Phase I can take place, without returning to Clallam County’s Hearing Examiner for review. Phase I is limited to 5 acres of on-bottom bag cultivation at a maximum commercial bag density of 4,000 bags per acre, as well as on-bottom beach harvest of mature oysters. The overall project includes:

- **On-Bottom Bag Culture:** Up to 20 acres will be used, in rotation, to grow oysters in 2 ft. x 3 ft. x 3 in. mesh bags. The bags are secured to a line and the line is anchored to the substrate using 3 ft. x 3 in. screw anchors or metal posts (see Project Drawings pg. 6). Oysters typically grow out for approximately 14-15 months in the bags, and are then spread out onto the beach after reaching a larger size.
- **On-Bottom Beach Harvest:** Oysters are grown to maturity on tidal beaches with silty, sandy or rocky bottoms. On-bottom beach oysters grow freely on the substrate with no need for equipment. They are harvested by hand and placed into harvest bags. Harvest bags are containers that can be easily lifted onto a marine vessel.

## Project Permit Requirements

For this project, JST has been working to re-establish its oyster farm in Dungeness Bay for well over a decade. To this end, JST has created the following documents and acquired the following permits that are pertinent to our efforts.

### Documents

1. Dungeness Bay Oyster Farm General Operations Plan
2. JST Dungeness Shellfish Farm Monitoring and Mitigation Plan
3. JST Gear Surveillance Retrieval Plan

### Permits

1. Clallam County Shoreline Substantial Development Permit
2. Clallam County Shoreline Conditional Use Permit
3. Department of Ecology Coastal Zone Consistency for Corps NWS-2007-1213
4. Department of Ecology Water Quality Certification (No. 19591) under Section 401
5. US Army Corp of Engineers initial proffered permit (NWS-2007-1213)

Before we can start any work on this site, we need to fulfill the following requirements (these are just the items pertinent to our task):

1. From Clallam County: “Prior to operation of the oyster farm, the Applicant shall enter into a Memorandum of Understanding (MOU) with the Olympic Peninsula Audubon Society or USFWS concerning the monitoring of shorebirds and waterfowl. The MOU should address the scientific approach that will be taken toward monitoring impacts of the proposal on the Refuge. In the event that the Applicant is unable to reach an agreement with either party such that an MOU can be signed, the Clallam County Department of Community Development shall select an independent third-party to address the monitoring of shorebirds and waterfowl and the scientific approach that will be taken toward monitoring impacts of the proposal on the Refuge. The cost of this third-party review shall be paid by the Applicant.”
2. From USACE:
  - a. “You shall provide to the Seattle District U.S. Army Corps of Engineers, Seattle District, Regulatory Branch, a copy of the U.S. Fish and Wildlife Service’s determination of the work activities authorized by this permit being compatible with U.S. Fish and Wildlife Service’s management, laws and executive orders, policies, and treaties and lease agreement prior to work activities starting.”
  - b. “You shall submit to the U.S. Army Corps of Engineers, Seattle District, Regulatory Program, a monitoring plan for assessing disturbance to wildlife from work activities and structures and from the potential impacts to accretion and long-shore transport of sediment. This plan should be developed in coordination with U.S. Fish and Wildlife Service. This monitoring plan must include goals and objectives of plan, current baseline conditions, least invasive monitoring techniques/methods, spatial/temporal sampling protocols, schedule/timelines, data analysis, personnel and

responsibilities, report submittals, contingency plan, and agency contact information and coordination procedures. This plan must be approved by the U.S. Army Corps of Engineers, Seattle District, Regulatory program prior to starting work activities.”

### Outline of Required Tasks

1. Set goals and objectives for a monitoring plan to assess disturbance to wildlife from
  - i. work activities
  - ii. structures
  - iii. potential impacts to accretion and long-shore transport of sediment
2. Identify the scientific approach that will be taken toward monitoring impacts of the proposal on the Refuge.
3. Determine current baseline conditions.
4. Identify
  - a. least invasive monitoring techniques/methods,
  - b. spatial/temporal sampling protocols,
  - c. schedule/timelines,
  - d. data analysis,
  - e. personnel and responsibilities,
  - f. report submittals,
  - g. contingency plan, and
  - h. agency contact information and coordination procedures.
5. Write up a monitoring plan.
6. Write up a Memorandum of Understanding (MOU) with the Olympic Peninsula Audubon Society or USFWS concerning the monitoring of shorebirds and waterfowl.
7. USFW need to write a determination that the work activities authorized by USACE permit is compatible with U.S. Fish and Wildlife Service’s management, laws and executive orders, policies, and treaties and lease agreement.

### Next Steps

1. What parts of the current documents can we use to meet our requirements?
2. What other monitoring plans and MOU’s exist that we could use as guidelines?

### For Information Only - Historical Background to the Present

The Dungeness is unique for the Jamestown S’Klallam Tribe, and the only suitable site because of cultural identity. Dungeness Bay is the ancestral home of Jamestown S’Klallam people. Within a few miles of the proposed project site are six known S’Klallam heritage sites including four villages and two camp sites. In the immediate vicinity of Dungeness Bay there are multiple locations of cultural significance that are named in the

S'Klallam language (*Whale lookout, knoll at base of Dungeness Spit; cicák<sup>w</sup>č - Dungeness Spit; xáλ'sən – sandbar between Dungeness and Jamestown; məmək<sup>w</sup>ənək<sup>w</sup> - area on inside of Dungeness Spit, where the ground is rough*).

Harvesting, consuming and trading shellfish has always been a way of life for S'Klallam Indians. In 1907, archaeologist Harlan Smith recorded multiple 'shell-heaps' in the current day Dungeness Spit, Cline Spit, Dungeness bluff and Town of Dungeness areas; including 'a rather extensive shell-heap, which in places is from two – three meters high.' These massive "heaps," or shell middens as they are known today, were the physical remnants of hundreds of years of shellfish consumption by the S'Klallam. The Puget Sound Weekly Argus (published in Port Townsend, April 8, 1880) described Indians and Indian huts near the Town of Dungeness declaring that ' Their chief occupation is fishing, digging of clams (of which there is an abundance) and using cedar canoes when opportunity offers in the local trade with white people, to earn a few dollars...'. The 1880 Census records the majority of Clallam Indians at or near Dungeness.

There are S'Klallam burial sites in this vicinity, the specifics of which Tribal Elders wish to keep private. However, these sites have a very important spiritual importance, and their presence is part of the Tribe's ongoing connection to the Bay.

In 1990 Tribal Elders sought to establish a shellfish farm in a traditional place – so that S'Klallam could renew the practice of their ancestors and earn a living from Dungeness Bay. The Tribe purchased the assets of an existing oyster farm on a DNR aquaculture lease in Dungeness Bay in 1990. What follows is a historical timeline of oyster farming on this land.

**1953:** The oyster farm operation was owned by a succession of private owners prior to 1953. The first lease of tidelands for the purpose of oyster farming occurred in 1953. At that time oyster seed was brought from Japan (*Crassostrea gigas*) since Olympia oysters had been harvested out of Washington waters.

**1964:** In 1964 Mr. Joe Engman of Sequim became the owner, under the name D.C Oyster Farms. (The Tribe purchased the assets of this company in 1990.)

**1968:** Oysters were grown as "bottom culture", using seed naturally spawned and set on oyster shell in Quilcene and Dabob Bays. The mature oysters (2 to 3 years) were harvested by hand or by an oyster "dredge", sometimes referred to as a shallow dredge, on a barge-like boat.

**1970-71:** In 1970-71, according to a letter to the editor by Mr. Engman, the Washington State Department of Fisheries conducted a study of the impact of oyster farming on Dungeness crab, clams, and soil erosion. He states that there were no harmful effects from 17 years of oyster farming.

**1972:** D.C. Oyster Farm began growing oysters by "long-line", meaning the oyster shell containing oyster seed is hung from a line about 2 feet off the ground, strung on pvc pipe set into the substrate. They strung 100,000 shells with seed on them according to Mr. Engman. They also continued with bottom culture.

**1988:** WA Department of Natural Resources did not renew Mr. Engman's lease, pending Mr. Engman conducting an official survey of the tideland lease boundaries.

**February 1990:** Nancy Curry, Refuge Manager of the US Fish and Wildlife Service Coastal Refuge Office wrote a letter to the State Department of Natural Resources stating they had no objection to renewing the tideland lease to the Tribe. However, they requested several conditions including, that the restriction of oyster culture to landward of eelgrass beds be retained in the new lease, that the operation be conducted in such a manner as to minimize interference with waterfowl, and that harvest be by hand or shallow dredge. The letter repeats that it is imperative that no eelgrass beds be lost.

**August 1990:** The Tribe purchased the assets of the company and continued bottom culture and the shucking operation. The Tribe formed a company called JKT Oyster Company, Dungeness Oyster House. Harvesting was done by hand and by dredge of the oysters already on the tidelands. Oysters were planted as bottom culture and the long-line culture area was gradually expanded on the inside of the main Dungeness Spit.

**Water Quality in Dungeness Bay:** The Washington Department of Health Shellfish Program is responsible for ensuring that the water in which shellfish for human consumption are grown meets rigorous federal and state standards. The standards are based primarily on levels of fecal coliform bacteria. Multiple years of data are collected and analyzed to classify shellfish growing areas. Water samples are collected throughout the inner and outer Bay and the 30 most recent samples are used for analysis.

**1995:** The State Department of Health (DOH) warned that water quality was deteriorating in the Bay. The Tribe initiated monitoring of fresh water inputs to the Bay, to identify potential sources of fecal coliform. Over the years the Tribe was joined by Clallam County, Clallam Conservation District, Washington Department of Ecology, Washington Department of Health and Battelle Marine Laboratory to conduct a robust series of monitoring and assessments of pollution sources, controls and fixes.

**1997:** DOH closed shellfish harvesting at NW corner of the lease due to elevated fecal coliform levels. They issued a warning that water quality elsewhere in the Bay was close to failing the standards.

**1999:** DOH closed shellfish harvest in front of the dock and shucking plant, and on Graveyard Spit due to water monitoring failing fecal coliform standards. The Tribe stopped planting oysters and closed the shucking plant.

**2003:** The DOH closed shellfish harvest in the inner Bay from November through January, based on analysis that those months were the ones contributing to the failing fecal coliform levels.

**2005:** The oyster farm was closed, and remnant PVC pipe and rope were removed from the inner Bay tidelands. However, the Tribe continued to cultivate a low number of oysters and

lease the 50 acre parcel on the main Dungeness Spit while concurrently contributing their efforts to improve water quality in Dungeness Bay.

**2015 to present:** Improvements in water quality in recent years led to DOH upgrades for shellfish growing in the bay. These upgrades motivated the Tribe to utilize their current DNR lease agreement to increase oyster cultivation on the parcel. The Tribe has been working with the appropriate regulatory agencies to acquire growing permits to utilize the DNR lease they have held and renewed since 1990.

The Jamestown S’Klallam Tribe currently leases the project site from DNR for the continued cultivation of shellfish. However, the Tribe’s oyster farm has not been in production since poor water quality caused the Tribe to scale down operations in 2005. Some remnant equipment and many mature oysters ready for harvest still remain on the property. The USFWS Dungeness Wildlife Refuge holds a use easement deed with DNR on the parcel.

# DEPARTMENT OF THE ARMY PERMIT

**Permittee:** Jamestown S'Klallam Tribe

1033 Old Blyn Highway  
Sequim, Washington 98382

**Permit No:** NWS-2007-1213

**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:** To cultivate 34 acres of Pacific oyster (*Crassostrea gigass*) using two on-bottom methods: 1) mesh bag culture and 2) loose culture. Up to 5 acres would be the on-bottom mesh bag culture method and the remaining acreage would be the on-bottom loose culture method. Work would occur within a 50-acre tideland parcel leased from Washington State Department of Natural Resources (DNR) within the Dungeness National Wildlife Refuge. The contiguous 5-acre area for on-bottom bag culture would be located near the northeastern boundary of the lease. Work would occur in accordance with the plans and drawings dated April 9, 2020, attached hereto which are incorporated in and made a part of this permit. The purpose of the project is to install a commercial shellfish aquaculture operation for cultivation of oysters within the Jamestown S'Klallam Tribe's cultural lands and historic shellfish harvesting areas, which include Dungeness and Sequim Bays.

**Project Location:** In Dungeness Bay, near Sequim, Clallam County, Washington.

## **Permit Conditions:**

### *General Conditions:*

1. The time limit for completing the work authorized ends on \_\_\_\_\_. 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 permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
- c. The authorized work shall not interfere with the public's right to free navigation on navigable waters of the U.S.
- d. Permittee shall comply with the conditions specified in the Washington State Department of Ecology Coastal Zone Management Consistency Determination dated February 18, 2021.
- e. You shall provide the Dungeness National Wildlife Refuge management and Washington State Department of Natural Resources a copy of the U.S. Army Corps of Engineers permit transmittal letter, permit form, and permit drawings.
- f. You shall provide to the Seattle District U.S. Army Corps of Engineers, Seattle District, Regulatory Branch, a copy of the U.S. Fish and Wildlife Service's determination of the work activities authorized by this permit being compatible with U.S. Fish and Wildlife Service's management, laws and executive orders, policies, and treaties and lease agreement prior to work activities starting.
- g. You shall provide a copy of your Department of Natural Resources lease agreement with the Jamestown S'Klallam Tribe to the U.S. Corps of Engineers, Seattle District, Regular Branch, prior to work activities starting.
- h. You shall provide a copy of your Washington State Department of Fish and Wildlife shellfish transfer permit specific to this site to prevent the introduction or spread of disease or harmful species such as the invasive European green crabs (*Carcinus maenas*) to other water bodies to the U.S. Corps of Engineers, Seattle District, Regulatory Branch, prior to work activities starting.
- i. You shall submit to the U.S. Army Corps of Engineers, Seattle District, Regulatory Program, a monitoring plan for assessing disturbance to wildlife from work activities and structures and from the potential impacts to accretion and long-shore transport of sediment. This plan should be developed in coordination with U.S. Fish and Wildlife Service. This monitoring plan must include goals and objectives of plan, current baseline conditions, least invasive monitoring techniques/methods, spatial/temporal sampling protocols, schedule/timelines, data analysis, personnel and responsibilities, report submittals, contingency plan, and agency contact information and coordination procedures. This plan must be approved by the U.S. Army Corps of Engineers, Seattle District, Regulatory program prior to starting work activities.

j. This U.S. Army Corps of Engineers (Corps) permit does not authorize you to take a threatened or endangered species. In order to legally take a listed species, you must have a separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or ESA Section 7 consultation Biological Opinion with non-discretionary "incidental take" provisions with which you must comply). The Programmatic Biological Opinions for Shellfish Activities in Washington State Inland Marine Waters (BOs) - the National Marine Fisheries Service (NMFS) and Errata, dated September 2, 2016 and September 30, 2016, respectively (NMFS Reference Number WCR-2014-1502), and the U.S. Fish and Wildlife Service (USFWS), dated August 26, 2016 (USFWS Reference Number 01EWF00-2016-F-0121), contain mandatory terms and conditions to implement the reasonable and prudent measures associated with the specified "incidental take". The authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the BOs. These terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BOs, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The USFWS and NMFS are the appropriate authorities to determine compliance with the terms and conditions of its BO and with the ESA.

k. In order to meet the requirements of the Endangered Species Act (ESA) and Magnuson-Stevens Fishery Conservation and Management Act (MSA), you must comply with the conservation measures in the *Programmatic Biological Opinions for Shellfish Activities in Washington State Inland Marine Waters* (BOs) - the National Marine Fisheries Service (NMFS) and Errata, dated September 2, 2016 and September 30, 2016, respectively (NMFS Reference Number WCR-2014-1502), and the U.S. Fish and Wildlife Service (USFWS), dated August 26, 2016 (USFWS Reference Number 01EWF00-2016-F-0121), as modified below. These conservation measures are included in the enclosed document, Enclosure 1, Conservation Measures for Activities Covered under the Shellfish Activities Programmatic Consultation Biological Opinions. If you cannot comply with these conservation measures, you must, prior to commencing construction, contact the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch for individual ESA/MSA consultation. The USFWS and NMFS are the appropriate authorities to determine compliance with the ESA.

l. The conservation measures in the *Programmatic Biological Opinions for Shellfish Activities in Washington State Inland Marine Waters* (BOs) - the National Marine Fisheries Service (NMFS) and Errata, dated September 2, 2016 and September 30, 2016, respectively (NMFS Reference Number WCR-2014-1502), and the U.S. Fish and Wildlife Service (USFWS), dated August 26, 2016 (USFWS Reference Number 01EWF00-2016-F-0121), are hereby modified as follows:

1. Due to the location of the proposed project within the vicinity of areas in the Dungeness National Wildlife Refuge (Refuge) closed to access to protect Refuge wildlife and vegetation communities, the following conservation measure from the *Programmatic Biological Opinions for Shellfish Activities in Washington State Inland Marine Waters* (U.S. Fish and Wildlife Service (USFWS) Reference Number 01EWF00-2016-F-0121, National Marine Fisheries Service (NMFS) Reference Number WCR-2014-1502) shall not occur within the boundaries of the Refuge: "At least once every three months, beaches in the project vicinity will be patrolled by crews who will retrieve debris (e.g., anti-predator nets, bags, stakes, disks, tubes) that escape from the project area. Within the project vicinity, locations will be identified where debris tends to accumulate due to wave, current, or wind action, and after weather events these locations shall be patrolled by crews who will remove and dispose of shellfish related debris appropriately. A record shall be maintained with the following information and the record will be made available upon request to the Corps, NMFS, and USFWS: date of patrol, location of areas patrolled, description of the type and amount of retrieved debris, other pertinent information."

2. You shall implement the Jamestown S'Klallam Tribe Gear Monitoring and Retrieval Plan to Satisfy Conservation Measure #22 dated August 28, 2020, within the boundaries of the Dungeness National Wildlife Refuge.

**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 United States Code (U.S.C.) 403).
- 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 Code of Federal Regulations (CFR), Part 325.7 or enforcement procedures such as those contained in 33 CFR, Parts 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, Part 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.

\_\_\_\_\_  
Chairman Ron Allen

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

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

\_\_\_\_\_  
Alexander L. Bullock  
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.

\_\_\_\_\_  
(TRANSFEREE)

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