Appendix E

Permits

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

REPLY TO
ATTENTION OF

Regulatory Branch

DEC 18 2012

Mr. Karan Soi
King County
201 South Jackson, 7th Floor
Seattle, Washington 98104

Reference: NWS-2012-818
King County (East Lake Sammamish Trail, North Sammamish Segment)

Dear Mr. Soi:

We have reviewed your application to develop a 2.4-mile-long paved and soft-surface regional trail and related improvements as the third phase of the 10.33-mile-long East Lake Sammamish Master Plan Trail in steams and jurisdictional ditches in Sammamish, Washington. As part of the project, culverts will be replaced on five streams. Permanent project impacts will occur to 0.48 acres of wetland buffer. Temporary impacts will occur to ~0.01 acres of wetland, 0.27 acres of wetland buffer, and 0.35 acres of stream buffer. Two jurisdictional ditches (542 square feet) will be filled and relocated. Based on the information you provided to us, Nationwide Permit (NWP) 14, *Linear Transportation Projects* (Federal Register February 21, 2012, Vol. 77, No. 34), authorizes your proposal as depicted on the enclosed drawings dated August 2012 provided you implement the mitigation plan depicted in the drawings dated July 2012.

In order for this authorization to be valid, you must ensure the work is performed in accordance with the enclosed *NWP 14, Terms and Conditions* and the following special conditions:

a. You must implement and abide by the Endangered Species Act (ESA) requirements and/or agreements set forth in the *Biological Assessment – East Lake Sammamish Trail Master Plan, dated June 2007*, in their 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 on September 17, 2007 (USFWS Reference Number 13410-2007-I-0500). The National Marine Fisheries Service (NMFS) concurred with a finding of "may affect, not likely to adversely affect" based on this document on February 14, 2008 (NMFS Reference Number 2007/05319). Both agencies will be informed of this permit issuance. Failure to comply with the commitments made in this document constitutes non-compliance with the ESA and your Corps permit. The USFWS/NMFS is the appropriate authority to determine compliance with ESA.

b. In order to protect the Essential Fish Habitat (EFH) for Pacific salmon listed under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), any conservation recommendations as agreed to by Federal Highway Administration and coordinated with NMFS are incorporated by reference in this permit. Failure to comply with the commitments made in this negotiation constitutes non-compliance with the MSA and your Corps permit.

c. In order to protect the listed threatened and endangered species in the project area, you may conduct the authorized activities in the work window as agreed to and documented in writing through consultation by the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service (Services) in any year this permit is valid. If changes to the originally authorized work window are proposed, you must re-coordinate these changes with the Services and receive written concurrence on the changes. Copies of the concurrence(s) must be sent to the U.S. Army Corps of Engineers, Regulatory Branch, within 10 days of the date of the revised concurrence.

d. The Programmatic Agreement (PA), entitled *Programmatic Agreement Between King County, Federal Highway Administration, Washington State Department of Transportation, The Washington State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Development of the East Lake Sammamish Master Plan Trail*, and signed by these entities, will be implemented in its entirety. The Federal Highway Administration has been designated the lead federal agency responsible for implementing and enforcing the PA as signed. You must notify the Corp if you fail to comply with the implementation and associated enforcement of the PA. The Corps may determine that you are out of compliance with the conditions of the Department of the Army permit or authorization and suspend the permit or authorization. Suspension may result in modification or revocation of the authorized work.

For this project, the Federal Highway Administration is the Federal lead agency responsible for compliance with the ESA, the Magnuson-Stevens Fishery Conservation and Management Act, and the National Historic Preservation Act. For the purpose of this Department of the Army authorization, we have determined this project will comply with the requirements of these laws provided you comply with all of the permit general and special conditions.

We are unable to determine whether or not your project requires individual Water Quality Certification (WQC) and/or a Coastal Zone Management (CZM) consistency determination response from the Washington State Department of Ecology (Ecology). Before you may proceed with the work authorized by this NWP, you must contact Ecology regarding these requirements at: Washington Department of Ecology, Federal Permit Coordinator, P.O. Box 47600, Olympia, Washington 98504-7660; telephone: (360) 407-6068; or email: ecyrefedpermits@ecy.wa.gov.

If more than 180 days pass from when you provide Ecology a copy of this letter and request your individual WQC and CZM consistency determination concurrence review, your requirement to obtain an individual WQC and CZM consistency determination response becomes waived. You may then proceed to construction.

We have prepared and enclosed a *Preliminary Jurisdictional Determination* (JD) dated December 11, 2012, which is a written indication that wetlands and waterways within your project area may be waters of the United States. Such waters will be treated as jurisdictional waters of the U.S. for purposes of computation of impact area and compensatory mitigation requirements associated with your permit application. If you believe the Preliminary JD is inaccurate, you may request an Approved JD, which is an official determination regarding the presence or absence of waters of the United States. If one is requested, please be aware that we may require the submittal of additional information to complete an approved JD and work authorized in this letter may not occur until the approved JD has been finalized.

Our verification of this NWP authorization is valid for two years from the date of this letter unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date, please contact us to discuss the status of your authorization. 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. You must also obtain all State and local 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* form. 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 (select "Regulatory Branch, Permit Information". A copy of this letter without enclosures will be furnished to Mr. Colin Worsley, Parametrix, Inc., 411 108th Avenue Northeast, Suite 1800, Bellevue, Washington 98004. If you have any questions, please contact me at susan.m.powell@usace.army.mil or at (206) 764-5527.

Sincerely,

Susan Powell

Susan Powell, Project Manager
Regulatory Branch

Enclosures

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

January 7, 2013

Karan Soi
King County
201 S. Jackson Street, 7th Floor
Seattle, WA 98104

RE: U.S. Army Corps of Engineers Reference #NWS-2012-818
East Lake Sammamish Master Plan Trail, North Sammamish Segment Project, Sammamish, King County, Washington

Dear Soi Karan:

On December 18, 2012, the Department of Ecology (Ecology) received the U.S. Army Corps of Engineers' letter dated December 18, 2012, approving coverage under Nationwide Permit (NWP) #14 for the above project. Ecology has determined that the above project meets the requirements for Washington State 401 Water Quality Certification and Coastal Zone Management Act Consistency under NWP #14. Therefore, an individual 401 certification will not be required for this project and you may proceed as directed by the Corps.

Any changes to your project that would impact water quality should be submitted in writing to Ecology before work begins for additional review.

This letter does not exempt you from other requirements of federal, state, and local agencies.

Please contact me if you have any questions regarding this letter at (425) 649-7129 or e-mail Rebekah.Padgett@ecy.wa.gov.

Sincerely,

Rebekah R. Padgett
Federal Permit Manager
Shorelands and Environmental Assistance Program

RRP:cja

cc: Susan Powell, U.S. Army Corps of Engineers
Colin Worsley, Parametrix, Inc.

e-cc: ecyrefedpermits@ecy.wa.gov

Washington Department of FISH and WILDLIFE

HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - See appeal process at end of HPA

North Puget Sound
16018 Mill Creek Boulevard
Mill Creek, WA 98012-1296
(425) 775-1311

Issue Date: November 05, 2012
Project Expiration Date: November 05, 2015

Control Number: 128344-1
FPA/Public Notice #: N/A

PERMITTEE	AUTHORIZED AGENT OR CONTRACTOR
King County	Parametrix Inc
ATTENTION: Karan Soi	ATTENTION: Colin Worsley
201 S Jackson St, 7th Floor	411 108th Ave NE Ste 1800
Seattle, WA 98104	Bellevue, WA 98004
206-263-7283	425-458-6282
Fax: 206-263-6217	Fax: 425-458-6363

Project Name: East Lake Sammamish Master Plan Trail

Project Description: Develop a 2.4 mile long paved and soft surface regional trail and related improvements within the City of Sammamish as the third phase of the master trail plan

PROVISIONS

1. TIMING LIMITATIONS: The project may begin November 6, 2012 and shall be completed by November 5, 2015; Provided: Work below the ordinary high water line (OHWL) shall only occur between June 16 and September 30 of each year in the specified allotted time

2. Work shall be accomplished per plans and specifications approved by the Washington Department of Fish and Wildlife entitled, 'PROPOSED: EAST LAKE SAMMAMISH MASTER PLAN TRIAL, NORTH SAMMAMISH SEGMENT KOKOMO DRIVE TO REDMOND CITY LIMITS', dated July and August 2012, except as modified by this Hydraulic Project Approval. A copy of these plans shall be available on site during construction.

3. NOTIFICATION REQUIREMENT: The Area Habitat Biologist listed below shall receive written notification (FAX or mail) from the person to whom this Hydraulic Project Approval (HPA) is issued (permittee) within seven days of completion of work to arrange for a compliance inspection. The notification shall include the permittee's name, project location, starting date for work or completion date of work, and the control number for this HPA.

4. All trash and unauthorized fill, including concrete blocks or pieces, bricks, asphalt, metal, treated wood, glass, and paper, below the OHWL in and around the applicant's project area shall be removed and deposited above the limit of flood water in an approved upland disposal site.

5. All applicable Best Management Practices as described in 'Regional Road Maintenance, Endangered Species Act, Program Guidelines' (January 18, 2002) shall be implemented to assure protection of fish life.

6. All work operations shall be conducted in a manner that causes little or no siltation to adjacent areas. If work activity causes sediments to become suspended in the water, a temporary bypass or containment structure (example sand bags) to divert flow around the work areas or sections of the work areas shall be in place prior to initiation of other work in the wetted perimeter.

7. Photos of these project areas shall be taken showing the site prior to and after work is complete, including the mitigation site. These photos shall be submitted to Stewart Reinbold at Stewart.Reinbold@dfw.wa.gov or 1775 12th Avenue NW, Suite 201, Issaquah, WA 98027 within 30 days for the project completion.

8. Removal of the vegetation shall be limited to that necessary to gain access to complete work.

9. All waste material such as construction debris, silt, excess dirt or overburden resulting from this project shall be deposited above the limits of flood water in an approved upland disposal site.

10. The new/replaced/repaired culverts shall consist of a single barrel and shall be installed to maintain structural integrity to the 100-year peak flow with consideration of the debris likely to be encountered.

11. Fill associated with the culvert installation shall be protected from erosion to the 100-year peak flow.

12. If fish are present, the culvert and/or manhole facilities shall be maintained by the owner(s) per RCW 77.57.030 to ensure continued, unimpeded fish passage. If the structure becomes a hindrance to fish passage, the owner(s) shall be responsible for obtaining a Hydraulic Project Approval and providing prompt repair. Financial responsibility for maintenance and repairs shall be that of the owner(s). WDFW shall allow Tributary #0143M to be substituted for Tributary #0143 D.

13. Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into the stream.

14. If high flow conditions that may cause siltation are encountered during this project, work shall stop until the flow subsides.

15. Equipment used for this project may operate below the ordinary high water line, provided the drive mechanisms (wheels, tracks, tires, etc.) shall not enter or operate below the OHWL.

16. Equipment used for this project shall be free of external petroleum-based products while working around the streams. Equipment shall be checked daily for leaks and any necessary repairs shall be completed prior to commencing work activities along the stream.

17. If fish are present, the culvert facility shall be maintained by the owner(s) per RCW 77.57.030 to ensure continued, unimpeded fish passage. If the structure becomes a hindrance to fish passage, the owner(s) shall be responsible for obtaining a Hydraulic Project Approval and providing prompt repair. Financial responsibility for maintenance and repairs shall be that of the owner(s). This shall include tributary #0143M.

18. If at any time, as a result of project activities, fish are observed in distress, a fish kill occurs, or water quality problems develop (including equipment leaks or spills), immediate notification shall be

made to the Washington Department of Ecology at 1-800-258-5990, and to the Area Habitat Biologist listed below.

19. Alteration or disturbance of the shoreline and associated vegetation shall be limited to that necessary to perform the project. Within seven calendar days of the project completion, all disturbed areas shall be protected from erosion using vegetation and other means. Prior to the start of the first subsequent growing season (March 1), the disturbed critical area buffers shall be revegetated with native or other woody species approved by WDFW. Vegetative cuttings shall be planted at a maximum interval of three feet (on center). Planting shall be maintained as necessary for three years to ensure 80 percent or greater survival

PROJECT LOCATIONS

Location #1

WORK START: November 06, 2012					WORK END: November 05, 2015	
WRIA:	Waterbody:			Tributary to:		
08.0000	Various			Various		
1/4 SEC:	Section:	Township:	Range:	Latitude:	Longitude:	County:
All	18	25 N	06 E	N 47.62366	W 122.07104	King

Location #1 Driving Directions

From eastbound 1-90 take exit 17 for Front Street toward East Lake Sammamish Parkway SE. Turn left on Front Street N. Front Street becomes East Lake Sammamish Parkway SE. project begins at the interim trail near Kokomo Drive and continues north to 187th Ave NE (see Sheet 1).

Take SR 520 eastbound to the Redmond Way (SR 202) exit immediately before SR 520 ends. Turn right onto Redmond Way. Turn right onto East Lake Sammamish Parkway NE. The project begins at the interim trail near 187th Ave NE and continues south to Kokomo Drive.

Location #2

WORK START: November 06, 2012					WORK END: November 05, 2015	
WRIA:	Waterbody:			Tributary to:		
08.0000	Various			Various		
1/4 SEC:	Section:	Township:	Range:	Latitude:	Longitude:	County:
All	19	25 N	06 E	N 47.62366	W 122.07104	King

Location #2 Driving Directions

From eastbound 1-90 take exit 17 for Front Street toward East Lake Sammamish Parkway SE. Turn left on Front Street N. Front Street becomes East Lake Sammamish Parkway SE. project begins at the interim trail near Kokomo Drive and continues north to 187th Ave NE (see Sheet 1).

Take SR 520 eastbound to the Redmond Way (SR 202) exit immediately before SR 520 ends. Turn right onto Redmond Way. Turn right onto East Lake Sammamish Parkway NE. The project begins at the interim trail near 187th Ave NE and continues south to Kokomo Drive.

Issue Date: November 05, 2012
Project Expiration Date: November 05, 2015

Control Number: 128344-1
FPA/Public Notice #: N/A

Location #3

WORK START: November 06, 2012					WORK END: November 05, 2015	
WRIA: 08.0000	Waterbody: Various			Tributary to: Various		
1/4 SEC:	Section:	Township:	Range:	Latitude:	Longitude:	County:
All	20	25 N	06 E	N 47.62366	W 122.07104	King

Location #3 Driving Directions

From eastbound 1-90 take exit 17 for Front Street toward East Lake Sammamish Parkway SE. Turn left on Front Street N. Front Street becomes East Lake Sammamish Parkway SE. project begins at the interim trail near Kokomo Drive and continues north to 187th Ave NE (see Sheet 1).

Take SR 520 eastbound to the Redmond Way (SR 202) exit immediately before SR 520 ends. Turn right onto Redmond Way. Turn right onto East Lake Sammamish Parkway NE. The project begins at the interim trail near 187th Ave NE and continues south to Kokomo Drive.

Location #4

WORK START: November 06, 2012					WORK END: November 05, 2015	
WRIA: 08.0000	Waterbody: Various			Tributary to: Various		
1/4 SEC:	Section:	Township:	Range:	Latitude:	Longitude:	County:
SE 1/4	29	25 N	06 E	N 47.62366	W 122.07104	King

Location #4 Driving Directions

From eastbound 1-90 take exit 17 for Front Street toward East Lake Sammamish Parkway SE. Turn left on Front Street N. Front Street becomes East Lake Sammamish Parkway SE. project begins at the interim trail near Kokomo Drive and continues north to 187th Ave NE (see Sheet 1).

Take SR 520 eastbound to the Redmond Way (SR 202) exit immediately before SR 520 ends. Turn right onto Redmond Way. Turn right onto East Lake Sammamish Parkway NE. The project begins at the interim trail near 187th Ave NE and continues south to Kokomo Drive.

APPLY TO ALL HYDRAULIC PROJECT APPROVALS

This Hydraulic Project Approval pertains only to those requirements of the Washington State Hydraulic Code, specifically Chapter 77.55 RCW (formerly RCW 77.20). Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this Hydraulic Project Approval is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.

This Hydraulic Project Approval shall be available on the job site at all times and all its provisions followed by the person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work.

Issue Date: November 05, 2012 | Control Number: 128344-1

Project Expiration Date: November 05, 2015 | FPA/Public Notice #: N/A

This Hydraulic Project Approval does not authorize trespass.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day and/or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued under RCW 77.55.021 are subject to additional restrictions, conditions, or revocation if the Department of Fish and Wildlife determines that changed conditions require such action. The person(s) to whom this Hydraulic Project Approval is issued has the right to appeal those decisions. Procedures for filing appeals are listed below.

NOTE: You may request changes to this HPA. If you paid an application fee for your original HPA you must include payment of $150 with your written request or request billing to an account previously established with Washington Department of Fish and Wildlife. If you did not pay an application fee for the original HPA, no fee is required for a change to it. Requests for changes must include the HPA number, check number or billing account number, and a description of the requested change. Send your written requests and payment, if applicable, by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. If you are charging the fee to a billing account number or you are not subject to the fee, you may email your request to HPAapplications@dfw.wa.gov.

APPEALS INFORMATION

If you wish to appeal the issuance, denial, conditioning, or modification of a Hydraulic Project Approval (HPA), Washington Department of Fish and Wildlife (WDFW) recommends that you first contact the department employee who issued or denied the HPA to discuss your concerns. Such a discussion may resolve your concerns without the need for further appeal action. If you proceed with an appeal, you may request an informal or formal appeal. WDFW encourages you to take advantage of the informal appeal process before initiating a formal appeal. The informal appeal process includes a review by department management of the HPA or denial and often resolves issues faster and with less legal complexity than the formal appeal process. If the informal appeal process does not resolve your concerns, you may advance your appeal to the formal process. You may contact the HPA Appeals Coordinator at (360) 902-2534 for more information.

A. INFORMAL APPEALS: WAC 220-110-340 is the rule describing how to request an informal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete informal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request an informal appeal of that action. You must send your request to WDFW by mail to the Washington Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. WDFW must receive your request within 30 days from the date you receive notice of the decision. If you agree, and you applied for the HPA, resolution of the appeal may be facilitated through an informal conference with the WDFW employee responsible for the decision and a supervisor. If a resolution is not reached through the informal conference, or you are not the person who applied for the HPA, the HPA Appeals Coordinator or designee will conduct an informal hearing and recommend a decision to the Director or designee. If you are not satisfied with the results of the informal appeal, you may file a request for a formal appeal.

B. FORMAL APPEALS: WAC 220-110-350 is the rule describing how to request a formal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete formal appeal procedures. The following information summarizes that rule.

Issue Date: November 05, 2012
Project Expiration Date: November 05, 2015

Control Number: 128344-1
FPA/Public Notice #: N/A

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request a formal appeal of that action. You must send your request for a formal appeal to the clerk of the Pollution Control Hearings Boards and serve a copy on WDFW within 30 days from the date you receive notice of the decision. You may serve WDFW by mail to the Washington Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, you may request a formal appeal within 30 days from the date you receive the Director's or designee's written decision in response to the informal appeal.

C. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS: If there is no timely request for an appeal, the WDFW action shall be final and unappealable.

ENFORCEMENT: Sergeant Chandler (34) P3

Habitat Biologist Stewart Reinbold	425-313-5660		for Director WDFW

CC: