



US Army Corps
of Engineers
Pittsburgh District

Public Notice

In reply refer to
Notice No. below

US Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Issuance Date: May 28, 1998

Notice No. CELRP-OR 98-R1

Expiration Date: May 28, 2003

REGIONAL PERMIT FOR STREAM RESTORATION
AND MANAGEMENT BY INDIVIDUAL LANDOWNERS WITHIN
THE PITTSBURGH DISTRICT IN THE
STATE OF WEST VIRGINIA

TO WHOM IT MAY CONCERN: In accordance with Title 33 CFR 325.5 (c) (1) as published on November 13, 1986, in the Federal Register, Volume 51, Number 219, the District Engineer, U.S. Army District, Pittsburgh, Pennsylvania, has issued a regional permit to individual landowners that would authorize certain stream restoration and management activities to be performed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

The regional permit authorizes a similar set of activities usually associated with stream restorations, including (1) excavation of silt, sand and/or rock deposits; (2) reduction of sand and gravel bars; (3) bank stabilization; (4) channel restorations; and (5) maintenance of approved work.

This regional permit applies to work on all streams within the Pittsburgh District in West Virginia, except those excluded by the attached special and general permit conditions. The projected dates that particular counties will be phased into the program are shown on an attachment to this notice.

A copy of the state water quality certification, issued by the WV Division of Environmental Protection is attached.

Individuals interested in using this regional permit for work in stream(s) on their property must contact one of the West Virginia Soil Conservation Districts to request technical assistance in developing a stream management plan. A flow chart of the process to obtain authorization is attached, as well as a map of the Soil Conservation Districts and other contact information.

Representatives from Federal and State agencies, listed in Special Condition "a", will be part of a team that will provide assistance to the landowner in development of the management plan. The completed plan will be forwarded to the Corps of Engineers for a final decision as to whether the proposed work qualifies for authorization by the regional permit.

The landowner is responsible for performance of the work in accordance with the individual management plan and conditions of the regional permit. Land ownership must be proven by the applicant prior to development of the plan.

All activities authorized in association with this regional permit are subject to compliance with the limitations specified in the special and general conditions and the attached water quality certification.

A usage assessment of the regional permit will be conducted annually by representatives of the agencies involved in preparation of the stream management plan.

The policies of this regional permit will be subject to reconsideration at any time, but at least every five years. At that time a complete reevaluation will be performed according to regulations governing the use of regional permits. The WV Division of Environmental Protection specifies that after the first two years water quality certification for the permit will be subject to evaluation to determine if the process is functioning as designated. Certification for the remaining three years of the permit will be based on those evaluation findings.

FOR THE DISTRICT ENGINEER:



Albert H. Rogalla
Chief, Regulatory Branch

Attachments

SPECIAL CONDITIONS FOR FORMULATION OF THE STREAM RESTORATION AND MANAGEMENT PLANS:

a. A stream review team, consisting of one or more representative(s) from the WV Soil Conservation Agency and/or Soil Conservation District, Corps of Engineers, U.S. Fish and Wildlife Service, WV Division of Natural Resources, and the WV Division of Environmental Protection will have an opportunity to assist in development of the stream management plan. Each agency will be given adequate notification of team reviews. Decisions by the team on the acceptability of the proposed plan will be directed to the Corps of Engineers District office for evaluation of the proposed work and a decision as to whether the management plan qualifies for authorization under the regional permit. If the landowner's proposal is not acceptable to the team, the landowner will have the option of modifying the proposal to make it acceptable or applying directly to the Corps of Engineers for authorization as described in 33 CFR 320-330.

b. Excavation of silt, sand and rock deposits:

1. will not exceed 3,000 cubic yards of material from below the plane of the ordinary high water elevation of the stream.

2. must be completed as a single operation and will be performed during periods of low flow. For streams with no flow, excavation is limited such that the existing low flow channel can be maintained.

3. will not increase the original channel width or depth. A low-flow channel must be maintained.

4. Excavated material may be placed below the ordinary high water mark only if it is to be used as part of a bank protection project (as outlined in section "e").

5. Excavated material will be utilized as part of an approved bank stabilization plan or disposed of at a location that will preclude its reentry into the stream, in accordance with the approved stream management plan and local or state regulations. Any topsoil at the disposal site should be removed, stockpiled and redistributed over the excavated material to promote rapid revegetation.

c. Sand and/or gravel bar reduction activities:

1. will not extend below an elevation which is 12 vertical inches above the surface of the water at the time that the removal activity is performed.

2. will not include reduction of islands that support woody vegetation.

d. Restoration of stream channels:

1. is allowed to protect structures, cropland, pastures, and/or fences.

2. will not exceed a cumulative total of 1,000 linear feet per management plan.

3. will incorporate measures to prevent excessive turbidity and sedimentation during construction activities.

4. will incorporate mitigation measures (such as meanders, riffles, pools, low flow channels, etc.) into the restored channel.

e. Bank stabilization:

1. will consist of the minimum amount needed for erosion protection, and will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark.

2. will be planned and installed in a manner to prevent material from reentering the watercourse under normal or expected high flow conditions.

3. can consist of rock riprap, crushed concrete, gabions or other acceptable clean, uncontaminated material. Large concrete sections from pavement expansion joint repair and tires are not suitable materials.

4. may include the use of unconsolidated river material if used as a part of streambank reconstruction and it is stabilized by methods intended to prevent further erosion.

5. will not be placed in any special aquatic site, including wetlands, nor will it be placed in any location or in any manner so as to impair surface water flow into or out of a wetland.

6. Unconsolidated river material will be graded to a 2:1 or flatter slope. All dredged materials disposed of on the top of

the streambank will be stacked no higher than three feet above the top-of-bank, will be leveled and graded landward to a 3:1 or flatter slope, and will be adequately seeded and mulched where feasible.

f. Best Management Practices:

1. Points of ingress and egress will be identified to minimize streambed damage from equipment for instream work. Maintenance work should be done from the top-of-bank, whenever possible. Initial in-stream restoration may include the use of a bulldozer.

2. Removal of mature riparian vegetation not directly associated with the project is prohibited. Disturbance and removal of vegetation at construction areas will be limited to that absolutely necessary to perform the work.

3. All disturbed areas, including streambanks, access roads and disposal areas will be revegetated, where feasible. The approved stream management plan will include consideration of planting rates, species specifications and survival evaluation procedures. In low gradient streams, consideration will be given to mechanical and bioengineered reclamation of banks.

4. A copy of the approved plan must be available on-site for inspection by team members during implementation of restoration activities. Members of the public are not authorized to inspect the work without permission of the landowner.

5. Maintenance of the stream in accordance with an approved plan is permitted, provided the environmental effects resulting from such activities are similar in nature.

k. Historic and/or archaeological resources.

Activities which would affect historic, cultural or archaeological sites listed or eligible for listing in the National Register of Historic Places, are not authorized by this regional permit unless coordination as required by Section 106 of the National Historic Preservation Act has been completed with the State Historic Preservation Office and the Advisory Council on Historic Preservation. To determine if historic, cultural or archaeological sites have been listed at the proposed site, or are eligible for listing on the National Register, contact the Division of Culture and History.

l. Endangered species.

Due to the presence of endangered species of plants and animals, work on the following streams will not be authorized by the regional permit:

* Hackers Creek - Lewis County (Clubshell mussel, Pleurobema clava);

* Sleepy Creek and the Cacapon River - Morgan County (Harperella, Ptilimnium nodosum) (riverine emergent wetland habitat);

* Back Creek - Berkeley County (Harperella, Ptilimnium nodosum) (riverine emergent wetland habitat);

* Dunkard Creek - Monongalia County (Northeastern bullrush);

* Patterson Creek - Grant & Mineral Counties (Northeastern bullrush).

m. Work in designated components of the National or State Wild and Scenic Rivers Systems, a Federal or State designated wildlife management area or at sites included in the National Registry of Natural Landmarks, is not authorized by this regional permit, unless approval is granted from the administering agency.

n. Work proposed in National Rivers Inventory streams is not authorized by this regional permit unless coordinated with the National Park Service.

GENERAL CONDITIONS FOR STREAM RESTORATION AND MANAGEMENT:

a. The activity authorized by this permit must be maintained in good condition and in conformance with the terms and conditions of the permit. Abandonment of the permitted activity will not relieve this requirement, although a good faith transfer to a third party may be made. Cessation of maintenance of the authorized activity or abandonment without a good faith transfer, must be authorized by a modification of this permit by this office, which may require restoration of the area.

b. If any previously unknown historic or archaeological remains are discovered while accomplishing the activity authorized by this permit, notification must immediately be provided this office of what has been found. The Corps of Engineers will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort if the site is eligible for listing in the National Register of Historic Places.

c. Representatives from the Corps of Engineers will be allowed to inspect the authorized activity at any time deemed necessary to insure that it is being or has been accomplished in accordance with the terms and conditions of the regional permit. Landowners are encouraged to contact members of the agency

management team to resolve issues and/or request technical assistance.

d. Further information:

1. Congressional Authorities. This activity has been authorized pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

2. Limits of this authorization:

(a) This permit does not obviate the need to obtain other Federal, State or local authorizations 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:

(a) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted 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 the activity is not contrary to the public interest was made in reliance on the information provided pursuant to the notification requirement. Any change to the description may make the project ineligible for authorization by this regional permit.

5. Reevaluation of permit decision. This office may reevaluate its decision on the permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to the following:

(a) Failure to comply with the terms and conditions of this permit.

(b) If information provided in support of the project description is false, incomplete or inaccurate.

(c) Significant new information surfaces which was not considered 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 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring compliance with the terms and conditions of the permit and for the initiation of legal action where appropriate. The project proponent will be required to pay for any corrective measures ordered by this office, and for failure 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 the proponent for the cost.

6. Consent to Easement over and under lands identified as flowage easement is attached, if applicable.

Stream Access Permitting Program

Phase I - July 1, 1998

Potomac Valley SCD

Hampshire
Mineral

Tygarts Valley SCD

Randolph

Phase II - October 1, 1998

Potomac Valley SCD

Pendleton
Hardy
Grant

Greenbrier Valley SCD

Pocahontas
Monroe
Greenbrier

West Fork SCD

Harrison
Lewis
Doddridge
Gilmer

Phase III - January 1, 1999

Eastern Panhandle SCD

Jefferson
Berkeley
Morgan

Northern Panhandle SCD

Marshall
Brooke
Hancock
Ohio

Tygarts Valley SCD

Taylor
Tucker
Upshur
Barbour

Southern SCD

Wyoming
Raleigh
Mercer
Summers
McDowell
Fayette

Guyan SCD

Wayne
Logan
Lincoln
Boone
Mingo
Cabell

Western SCD

Mason
Jackson
Putnam

Phase IV - June 1, 1999

Little Kanawha SCD

Calhoun
Wirt
Ritchie
Roane
Wood

Elk SCD

Braxton
Nicholas
Clay
Webster

Upper Ohio SCD

Pleasants
Tyler
Wetzel

Capitol SCD

Kanawha

Monongahela SCD

Monongalia
Marion
Preston



DIVISION OF ENVIRONMENTAL PROTECTION

1201 Greenbrier Street
Charleston, WV 25311-1088

CECIL H. UNDERWOOD
GOVERNOR

JOHN E. CAFFREY
DIRECTOR

November 13, 1997

Mr. Albert H. Rogalla
Chief, Regulatory Branch
U.S. Army Corps of Engineers
Pittsburgh District - CEORP-OR
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222-4186

RE: PN# 97-R1, Proposed Regional Permit for
Stream Restoration and Management by
Individual Landowners within the Pittsburgh
District in the State of West Virginia.

Dear Mr. Rogalla:

The West Virginia Division of Environmental Protection (WVDEP), in consultation with the West Virginia Division of Natural Resources and the State Soil Conservation Agency, has completed its review of the above-referenced revised permit application and submits the following comments.

This permit would authorize removal of debris, silt and rock deposits from established stream channels. This permit does not include streams excluded by the special and general permit conditions, or conditions imposed by the State water quality certification.

Certification for the revised version of the Regional Permit, after the first two years, is subject to evaluation by the WVDEP and review team to determine if the process is functioning as designed. Certification for the remaining three years will be based on the status of the evaluation findings.

State 401 Certification, as required by the Clean Water Act, is granted subject to the above special condition and all conditions contained within the revised version. Certification shall be effective fifteen (15) days after receipt

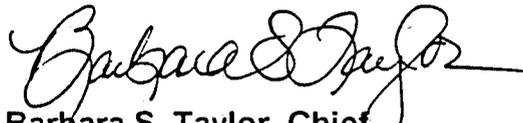
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Mr. Albert H. Rogalla
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unless appealed under Title 47, Series 5A, Section 8 of the Code of State Regulations, State Certification of Activities Requiring Federal Licenses and Permits. The appeal must be in writing and set forth action complained of and the grounds upon which the appeal is based. It should be directed to: Chief, Office of Water Resources, WV Division of Environmental Protection, 1201 Greenbrier Street, Charleston, West Virginia 25311-1088; Attention: Regulatory Review Program.

Sincerely,

OFFICE OF WATER RESOURCES



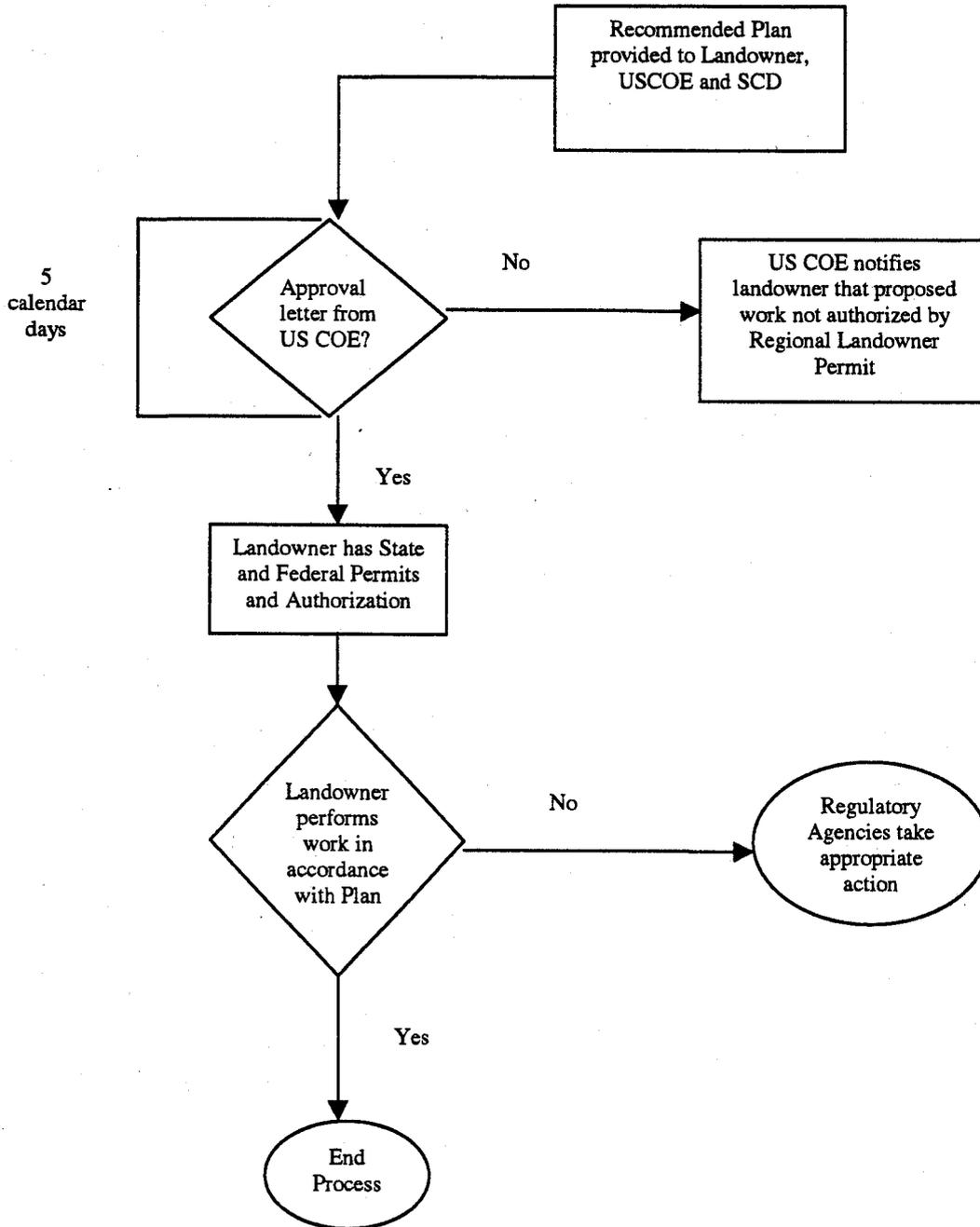
Barbara S. Taylor, Chief

BST/sas

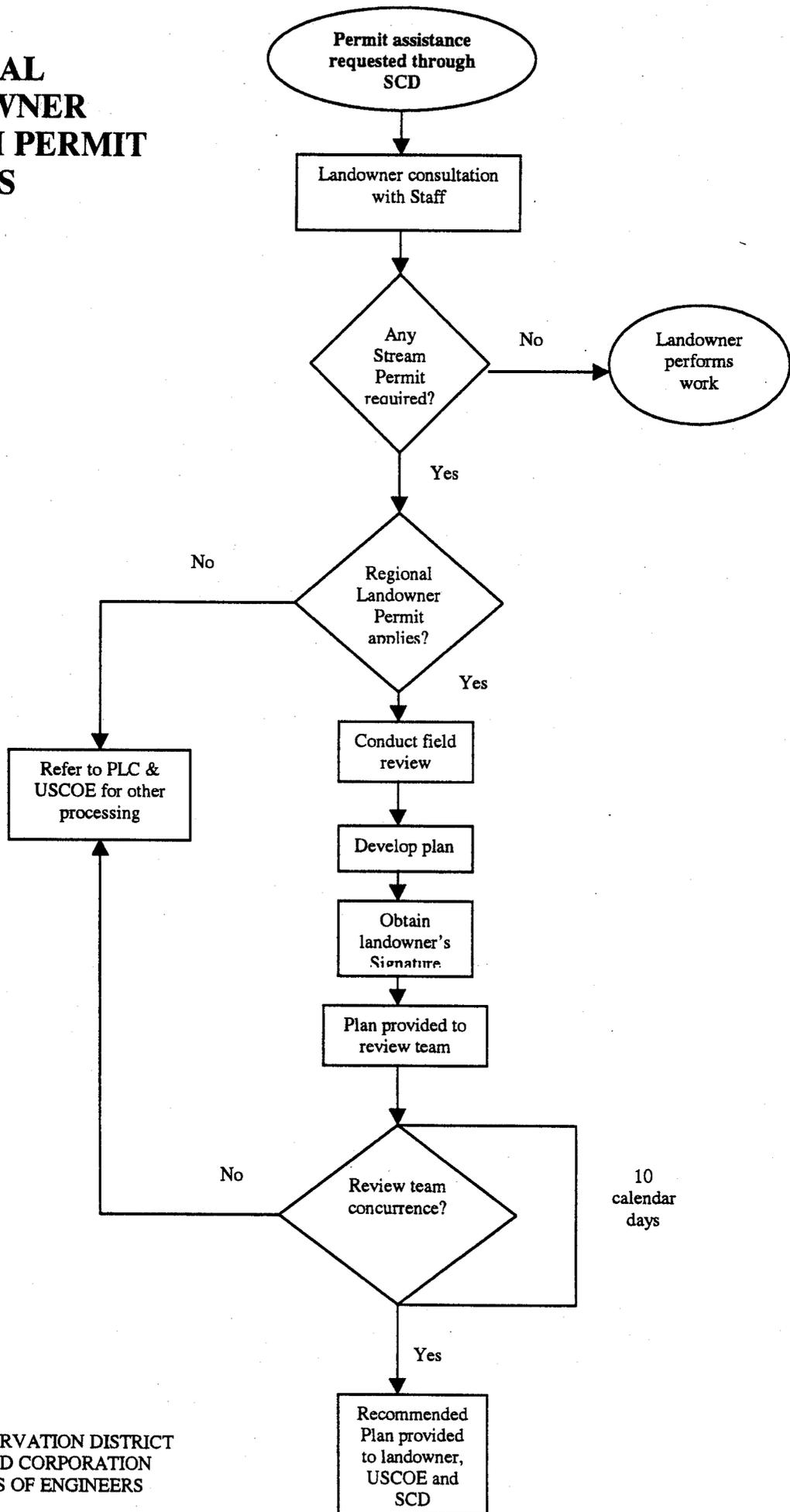
cc: Natural Resources Conservation Service
State Soil Conservation Agency
U.S. Environmental Protection Agency
U.S. Fish and Wildlife Service
WVDNR-Wildlife Resources Section, Elkins
WVDEP-Regulatory Review Program

REGIONAL LANDOWNER STREAM PERMIT PROCESS

(Continued)



REGIONAL LANDOWNER STREAM PERMIT PROCESS



SCD=SOIL CONSERVATION DISTRICT
 PLC=PUBLIC LAND CORPORATION
 USCOE=US CORPS OF ENGINEERS

ADDRESSES AND TELEPHONE NUMBERS FOR
WEST VIRGINIA SOIL CONSERVATION DISTRICTS

West Virginia Soil Conservation Agency
(304) 558-2204, FAX (304) 558-1635

CAPITOL

Kanawha County
418 Goff Mountain Road, Suite 102
Cross Lanes, WV 25313
776-5272

EASTERN PANHANDLE

Berkeley, Jefferson and Morgan Counties
1450-1 Edwin Miller Blvd.
Martinsburg, WV 25401
263-4376

ELK

Braxton, Clay, Nicholas and Webster Counties
801 State Street
Gassaway, WV 26624
364-5105

GREENBRIER VALLEY

Greenbrier, Monroe and Pocahontas Counties
717 North Jefferson Street, Room 102
Lewisburg, WV 24901
645-6173

GUYAN

Boone, Cabell, Lincoln, Logan, Mingo and
Wayne Counties
2631 5th Street Road
Huntington, WV 25701
528-0108

LITTLE KANAWHA

Calhoun, Ritchie, Roane, Wirt and
Wood Counties
Rt. 5, Box 1000
Parkersburg, WV 26101
422-9088

MONONGAHELA

Marion, Monongalia and Preston Counties
Monongahela SCD Building
201 Scott Avenue-Vista Del Rio
Morgantown, WV 26505
296-0081

NORTHERN PANHANDLE

Brooke, Hancock, Marshall and Ohio Counties
Federal Building, 324 Seventh Street
Moundsville, WV 26041
845-8085

POTOMAC VALLEY

Grant, Hampshire, Hardy, Mineral and Pendleton
Counties
500 East Main Street
Romney, WV 26757-1836
822-5174

SOUTHERN

Fayette, McDowell, Mercer, Raleigh, Summers
and Wyoming Counties
475 Ragland Road
Beckley, WV 25801
253-0261

TYGARTS VALLEY

Barbour, Randolph, Taylor, Tucker and
Upshur Counties
P. O. Box 579, Philippi, WV 26416
457-3026

UPPER OHIO

Pleasants, Tyler and Wetzel Counties
Agricultural Service Center, Main Street
P. O. Box 125
Middlebourne, WV 26149
758-2512

WEST FORK

Doddridge, Gilmer, Harrison and Lewis Counties
Agricultural Service Center
Rt. 1, Box 204-E
Mt. Clare, WV 26408
627-2160

WESTERN

Jackson, Mason and Putnam Counties
224-C First Street
Point Pleasant, WV 25550
675-3054

