



US Army Corps
of Engineers®
Seattle District

Appeal Process Fact Sheet

27 April 2006



Our letter cites a Department of the Army administrative appeal rule for permit decisions and approved jurisdictional determinations that went into effect March 9, 1999. In accordance with this rule, we have included a *Notification of Administrative Appeal Options and Process and Request for Appeal* form of which Section I is the Notification of Appeal Process (NAP) fact sheet and Section II is the Request for Appeal (RFA) form.

If a permit decision was made, you may decline to accept a permit if you object to any of the terms or conditions, **and** you believe that these terms or conditions are based on procedural errors; incorrect data; omission of fact; incorrect application of current Federal manual or guidance associated with wetlands; or incorrect application of a law, regulation, or policy that governs our permit program. Once you accept the permit, you waive the right to further appeal unless we later modify the permit.

If you object to this permit decision or jurisdictional determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. As stated previously, enclosed you will find a *Notification of Appeal Options and Process and Request for Appeal* form. If you request to appeal this determination, you must submit a completed RFA form to the Division Engineer at the following address:

Division Engineer
U.S. Army Corps of Engineers, Northwest Division
Karen Kochenbach, Regulatory Program Manager
Post Office Box 2870
Portland, Oregon 97208-2870
Telephone: (503) 808-3888

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by the 60th day. "Day 1" is designated as the date of the NAP form. "Day 60" is designated as the 60th calendar day after the date of the NAP form, with the official counting of calendar days beginning on "Day 1" as designated above. When "Day 60" is a traditional non-working day (e.g., a holiday or a weekend), the 60 day timeframe is extended to the next business day. Our Division Office has 90 days to resolve the appeal with you once your completed and acceptable NAO-RFA form has been received.

It is not necessary to submit an RFA form to the Division office if you do not object to the decision or determination in our letter.

If you have any questions about your options or the appeal process in general, please contact the project manager indicated on the form.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Sagebrush Power Partners, LLC	File Number: NWS-2008-696-CRC	Date: SEP 12 2008
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Alisa Ralph, Project Manager
U.S. Army Corps of Engineers, Seattle District
Post Office Box 3755
Seattle, Washington 98124-3755
Telephone: (206) 764-3262

If you only have questions regarding the appeal process you may also contact:

Division Engineer
U.S. Army Corps of Engineers, Northwestern Division
David W. Gesl, Appeals Officer
Post Office Box 2870
Portland, Oregon 97208-2870
Telephone: (503) 808-3825

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

<hr/> Signature of appellant or agent.	Date:	Telephone number:
---	-------	-------------------