



## DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS, PORTLAND DISTRICT  
NORTH BEND FIELD OFFICE  
2201 N. BROADWAY SUITE C  
NORTH BEND OR 97459-2372

March 27, 2013

REPLY TO  
ATTENTION OF:

Operations Division  
Regulatory Branch  
Corps No. NWP-2005-566

Mr. Nathan Francis  
Rio Tinto Minerals  
14486 Borax Road  
Boron, California 93516

Dear Mr. Francis:

The U.S. Army Corps of Engineers (Corps) has received information Rio Tinto Minerals is in the final planning stages for a large multi-use development near Brookings, Curry County Oregon. The purpose of this letter is to advise you the site located on the east side of Highway 101 may contain tributaries and wetlands subject to the Corps' jurisdiction. A Department of the Army permit is required for the placement of dredged or fill material into such waters.

Under Section 404 of the Clean Water Act (CWA), the Corps has authority to issue permits for the placement of dredged or fill material into waters of the United States. The term "waters of the United States" includes the territorial seas and tidally influenced waters. "Waters" also include all other waters that are part of a surface tributary system to and including navigable (non-tidal) waters of the United States.

Enclosed is a document explaining our permit program in greater detail (Enclosure 1). We have also enclosed a joint permit application form with sample drawings and aids for your convenience (Enclosure 2).

We recommend you contact us to schedule an interagency pre-application meeting. Pre-application meetings are an opportunity for you to present your project to all of the agencies who would be involved in the evaluation of your application. If you have any questions regarding our regulatory authority or need additional information, please contact Mr. Tyler J. Krug at the letterhead address, telephone (541) 756-2097, or email [Tyler.J.Krug@usace.army.mil](mailto:Tyler.J.Krug@usace.army.mil).

Sincerely,

Tyler J. Krug  
Project Manager  
Regulatory Branch

Copy Furnished:

Consultant (Wright)

National Marine Fisheries Service (Phippen)

Oregon Department of State Lands (Lobdell)

Oregon Department of Environmental Quality (Christensen)

Oregon Department of Fish & Wildlife (Confer)

Oregon Department of Land Conservation and Development (Hickner)

U.S. Environmental Protection Agency (Nadeau)

U.S. Fish & Wildlife Service (Thrallkill)

## **Permit Process**

You are encouraged to contract the local U.S Army Corps of Engineers (Corps) office in your area prior to making a permit application. A list of project managers with county assignments can be obtained by visiting our “Contact Us” page. Early discussion of the work prior to submitting an application will help the process become more efficient. Discussions of permit applications may consist of onsite reviews or pre-application meetings. The purpose of these meetings is to discuss possible issues up front and to attempt to rectify initial concerns prior to the permit review.

After the application is received in the Corps office, it will be assigned an identification number and be reviewed for completeness. A request for additional information may be sent to notify you of any additional information, which may be necessary for the Corps to review your proposed project. Please see the helpful hints section of this document to see what is needed for review of a proposed project. Within 15 days of receiving all the required information, the Corps will determine whether the project qualifies for a general permit or require an individual permit.

If an individual permit is required, a public notice will be issued with a 15 to 30 day comment period. The proposal is then reviewed by the Corps, local, state and Federal agencies, special interest groups, and the general public.

### **Typical Processing Procedure for a Standard Individual Permit**

1. Pre-application consultation (optional)
  2. Applicant submits ENG Form 4345 to district regulatory office\*
  3. Application received and assigned identification number
  4. Public notice issued (within 15 days of receiving all information)
  5. 30-day comment period depending upon nature of activity
  6. Proposal is reviewed\*\* by Corps and:
    - o Public
    - o Federally Recognized Tribes
    - o Special interest groups
    - o Local agencies
    - o State agencies
    - o Federal agencies
  7. Corps considers all comments
  8. Other Federal agencies consulted, if appropriate
  9. District engineer may ask applicant to provide additional information
  10. Public hearing held, if needed
  11. District engineer makes decision
  12. Permit issued
- or
- Permit denied and applicant advised of reason

\* A local variation, often a joint federal-state application form may be submitted. <<Link to DSL application form?>>

\*\* Review period may be extended if applicant fails to submit information or due to requirements of certain laws.

Fees are required for any issued individual permit and consist of \$10.00 for individual, non-commercial projects, and \$100.00 for commercial projects.

### **General Permits**

In many cases, the formal processing of a permit application is not required because of general permits already issued to the public at large by the Corps of Engineers. These are issued on a regional and nationwide basis.

Separate applications may not be required for activities authorized by a general permit; nevertheless, reporting may be required. For specific information on general permits, contact your county project manager.

### **Concurrent Procedures**

Prior to finalizing any action, the Corps is responsible for completing a number of requirements under Federal Law. These procedures may affect any timeframes listed above. For more information regarding these coordination or consultation procedures, please contact your county project manager.

- Endangered Species Act/Magnuson Stevens Act
- Section 401 of the Clean Water Act
- Coastal Zone Management Act
- National Historic Preservation Act
- Wild and Scenic Rivers Act
- Tribal Trust Responsibilities
- Sediment Evaluation Framework



**US Army Corps  
Of Engineers (Portland District)**

# Joint Permit Application Form

DATE STAMP



AGENCIES WILL ASSIGN NUMBERS

Corps Action ID Number

Oregon Department of State Lands No

## SEND ONE SIGNED COPY OF YOUR APPLICATION TO EACH AGENCY

US Army Corps of Engineers:

District Engineer  
ATTN: CENWP-OD-GPPO  
Box 2946  
Portland, OR 97208-2946  
503-808-4373

AND

DSL - West of the Cascades:

State of Oregon  
Department of State Lands  
775 Summer Street, Suite 100  
Salem, OR 97301-1279  
503-986-5200

OR

DSL - East of the Cascades:

State of Oregon  
Department of State Lands  
1645 NE Forbes Road, Suite 112  
Bend, Oregon 97701  
541-388-6112

AND

Send DSL Application Fees to:

State of Oregon  
Department of State Lands  
PO Box 4395, Unit 18  
Portland, OR 97208-4395  
**(Attach a copy of the first page of the application)**

## (1) APPLICANT INFORMATION

Applicant  
Name and Address

Business Phone #  
Home Phone #  
Fax #  
Email

Authorized Agent  
Name and Address

Business Phone #  
Home Phone #  
Fax #  
Email

Check one  
Consultant   
Contractor

Property Owner  
Name and Address  
If different from above<sup>1</sup>

Business Phone #  
Home Phone #  
Fax #  
Email

## (2) PROJECT LOCATION

Street, Road or Other Descriptive Location		Legal Description (attach <a href="#">tax lot map*</a> )			
		Township	Range	Section	Quarter/Quarter
In or near (City or Town)	County	Tax Map #		Tax Lot # <sup>2</sup>	
Wetland/Waterway (pick one)	River Mile (if known)	<a href="#">Latitude (in DD.DDDD format)</a>		<a href="#">Longitude (in DD.DDDD format)</a>	
Directions to the site					

<sup>1</sup> If applicant is not the property owner, permission to conduct the work must be attached.

<sup>2</sup> Attach a copy of all tax maps with the project area highlighted.

- Italicized areas are not required by the Corps for a complete application, but may be necessary prior to final permit decision by the Corps.*

### (3) PROPOSED PROJECT INFORMATION

Type:    Fill        Excavation (removal)        In-Water Structure        Maintain/Repair an Existing Structure   

Brief Description:

**Fill**

Riprap        Rock        Gravel        Organics        Sand        Silt        Clay        Other:   

Wetlands	Permanent (cy)	Temporary (cy)				Total cubic yards for project (including outside OHW/wetlands)	
	Impact Area in Acres	Dimensions (feet)					
		L'		W'			
Waters below OHW	Permanent (cy)	Temporary (cy)				Total cubic yards for project (including outside OHW/wetlands)	
	Impact Area in Acres	Dimensions (feet)					
		L'		W'			

**Removal**

Wetlands	Permanent (cy)	Temporary (cy)				Total cubic yards for project (including outside OHW/wetlands)	
	Impact Area in Acres	Dimensions (feet)					
		L'		W'			
Waters below OHW	Permanent (cy)	Temporary (cy)				Total cubic yards for project (including outside OHW/wetlands)	
	Impact Area in Acres	Dimensions (feet)					
		L'		W'			

Total acres of construction related ground disturbance    (If 1 acre or more a [1200-C permit](#) may be required from DEQ)

Is the disposal area upland?    Yes        No        Impervious surface created?    <1 acre        >1 acre?   

Are you aware of any [state](#) or [federally](#) listed species on the project site?  
 Are you aware of any [Cultural/Historic Resources](#) on the project site?  
 Is the project site within a national [Wild & Scenic River](#)?  
*Is the project site within a State Scenic [State Scenic Waterway](#)?*\*

Yes	No

If yes, please explain in the project description (in block 4)

### (4) PROPOSED PROJECT PURPOSE AND DESCRIPTION

**Purpose and Need:**

*Provide a description of the public, social, economic, or environmental benefits of the project along with any supporting formal actions of a public body (e.g. city or county government), as appropriate.\**

• *Italicized areas are not required by the Corps for a complete application, but may be necessary prior to final permit decision by the Corps.*

## Project Description:

Please describe in detail the proposed removal and fill activities, including the following information:

- Volumes and acreages of all fill and removal activities in waterway or wetland separately
- Permanent and temporary impacts
- Types of materials (e.g., gravel, silt, clay, etc.)
- How the project will be accomplished (i.e., describe construction methods, equipment, site access)
- *Describe any changes that the project may make to the hydraulic and hydrologic characteristics (e.g., general direction of stream and surface water flow, estimated winter and summer flow volumes.) of the waters of the state, and an explanation of measures taken to avoid or minimize any adverse effects of those changes.*
- Is any of the work already complete?    Yes        No        If yes, please describe the completed work.

## Project Drawings

State the number of project drawing sheets included with this application:

A complete application must include a location map, site plan, cross-section drawings and recent aerial photo as follows and as applicable to the project:

- **Location map** (must be legible with street names)
  - Site plan including;
    - Entire project site and activity areas
    - Existing and proposed contours
    - Location of ordinary high water, wetland boundaries or other jurisdictional boundaries
    - Identification of temporary and permanent impact areas within waterways or wetlands
    - Map scale or dimensions and north arrow
    - Location of staging areas
    - Location of construction access
    - Location of cross section(s), as applicable
    - Location of mitigation area, if applicable
- **Cross section drawing(s)** including;
  - Existing and proposed elevations
  - Identification of temporary and permanent impact areas within waterways or wetlands
  - Ordinary high water and/or wetland boundary or other jurisdictional boundaries
  - Map scale or dimensions
- **Recent Aerial photo** (1:200, or if not available for your site, [the highest resolution available](#))

Will any construction debris, runoff, etc., enter a wetland or waterway?    Yes        No   

If yes, describe the type of discharge and show the discharge location on the site plan.

Estimated project start date:

Estimated project completion date:

## (5) PROJECT IMPACTS AND ALTERNATIVES

### Alternatives Analysis:

Describe alternative sites and project designs that were considered to avoid or minimize impacts to the waterway or wetland. (Include alternative design(s) with less impact and reasons why the alternative(s) were not chosen. Reference OAR [141-085-0565](#) (1) through (6) for more information\*).

### Measures to Minimize Impacts

Describe what measures you will use (before and after construction) to minimize impacts to the waterway or wetland. These may include but are not limited to the following:

- *For projects with ground disturbance include an erosion control plan or description of other best management practices (BMP's) as appropriate. (For more information on erosion control practices see DEQ's Oregon [Sediment and Erosion Control Manual](#))*
- *For work in waterways where fish or flowing water are likely to be present, discuss how the work area will be isolated from the flowing water.*
- *If native migratory fish are present (or were historically present) and you are installing, replacing or abandoning a culvert or other potential obstruction to fish passage, complete and attach a statement of how the [Fish Passage Requirements](#), set by the Oregon Department of Fish and Wildlife will be met.*



**Description of resources in project area**

Ocean  Estuary  River  Lake  Stream  Freshwater Wetland

Describe the existing **physical and biological characteristics** of the wetland/waterway site by area and type of resource (Use separate sheets and photos, if necessary).

**For wetlands**, include, as applicable:

- *Cowardin and Hydrogeomorphic(HGM) wetland class(s)\**
- *Dominant plant species by layer (herb, shrub, tree)\**
- Whether the wetland is freshwater or tidal
- *Assessment of the functional attributes of the wetland to be impacted\**
- Identify any vernal pools, bogs, fens, mature forested wetland, seasonal mudflats, or native wet prairies in or near the project area.)

**For waterways**, include a description of, as applicable:

- *Channel and bank conditions\**
- *Type and condition of riparian vegetation\**
- *Channel morphology (i.e., structure and shape)\**
- *Stream substrate\**
- Fish and wildlife (type, abundance, period of use, significance of site)
- *General hydrological conditions (e.g. stream flow, seasonal fluctuations)\**

*Describe the existing navigation, fishing and recreational use of the waterway or wetland.\**

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**Site Restoration/Rehabilitation**

- For temporary disturbance of soils and/or vegetation in waterways, wetlands or riparian areas, please discuss how you will restore the site after construction including any monitoring, if necessary\*

**Mitigation**

Describe the reasonably expected adverse effects of the development of this project and how the effects will be mitigated.\*

- For permanent impact to wetlands, complete and attach a Compensatory Wetland Mitigation (CWM) Plan. (See [OAR 141-085-0705](#) for plan requirements)\*
- For permanent impact to waters other than wetlands, complete and attach a Compensatory Non-Wetland Mitigation (CNWM) plan (See [OAR 141-085-0765](#) for plan requirements)\*
- For permanent impact to estuarine wetlands, you must submit a CWM plan.\*

**Mitigation Location Information (Fill out only when mitigation is proposed or required)**

- |  |   |   |
|--|---|---|
| Proposed mitigation<br>(Check all that apply): | <input type="checkbox"/> Onsite Mitigation  | Type of mitigation:   |
|  | <input type="checkbox"/> Offsite Mitigation | <input type="checkbox"/> Wetland Mitigation   |
|  | <input type="checkbox"/> Mitigation Bank    | <input type="checkbox"/> Mitigation for impacts to other waters                       |
|  | <input type="checkbox"/> Payment to Provide | <input type="checkbox"/> Mitigation for impacts to navigation, fishing, or recreation |

Street, Road or Other Descriptive Location		Legal Description (attach <a href="#">tax lot map</a> *)			
		Quarter/Quarter	Section	Township	Range
In or near (City or Town)	County	Tax Map #		Tax Lot # <sup>3</sup>	
Wetland/Waterway (pick one)	River Mile (if known)	<a href="#">Latitude (in DD.DDDD format)</a>		<a href="#">Longitude (in DD.DDDD format)</a>	
Name of waterway/watershed/ <a href="#">HUC</a>			Name of mitigation bank (if applicable)		

<sup>3</sup> Attach a copy of all tax maps with the project area highlighted.

- Italicized areas are not required by the Corps for a complete application, but may be necessary prior to final permit decision by the Corps.*

## (6) ADDITIONAL INFORMATION

Adjacent to R-F Site and Physical Mitigation Site Property Owners and Their Address (*if more than 5, attach printed labels\**)

Has the proposed activity or any related activity received the attention of the Corps of Engineers or the Department of State Lands in the past, e.g., wetland delineation, violation, permit, lease request, etc.?

Yes  No

If yes, what identification number(s) were assigned by the respective agencies:

Corps #

State of Oregon #

*Has a wetland delineation been completed for this site?*

Yes  No

*If yes by whom?\**

*Has the wetland delineation been approved by DSL or the COE?*

Yes  No

*If yes, attach a concurrence letter. \**

**(7) CITY/COUNTY PLANNING DEPARTMENT AFFIDAVIT  
(TO BE COMPLETED BY LOCAL PLANNING OFFICIAL) \***

I have reviewed the project outlined in this application and have determined that:

- This project is not regulated by the comprehensive plan and land use regulations.
- This project is consistent with the comprehensive plan and land use regulations.
- This project will be consistent with the comprehensive plan and land use regulations when the following local approval(s) are obtained.
- Conditional Use Approval
- Development Permit
- Other

This project is not consistent with the comprehensive plan. Consistency requires a

- Plan Amendment
- Zone Change
- Other

An application has  has not  been filed for local approvals checked above.

Local planning official name (print)	Signature	Title	City / County	Date

Comments:

**(8) COASTAL ZONE CERTIFICATION \***

If the proposed activity described in your permit application is within the [Oregon coastal zone](#), the following certification is required before your application can be processed. A public notice will be issued with the certification statement, which will be forwarded to the Oregon Department of Land Conservation and Development for its concurrence or objection. For additional information on the Oregon Coastal Zone Management Program, contact the department at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301 or call 503-373-0050.

CERTIFICATION STATEMENT

I certify that, to the best of my knowledge and belief, the proposed activity described in this application complies with the approved Oregon Coastal Zone Management Program and will be completed in a manner consistent with the program.

Print /Type Name	Title
Applicant Signature	Date

• *Italicized areas are not required by the Corps for a complete application, but may be necessary prior to final permit decision by the Corps.*

## (9) SIGNATURES FOR JOINT APPLICATION

Application is hereby made for the activities described herein. I certify that I am familiar with the information contained in the application, and, to the best of my knowledge and belief, this information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. By signing this application I consent to allow Corps or Dept. of State Lands staff to enter into the above-described property to inspect the project location and to determine compliance with an authorization, if granted. I hereby authorize the person identified in the authorized agent block below to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

I understand that the granting of other permits by local, county, state or federal agencies does not release me from the requirement of obtaining the permits requested before commencing the project. *I understand that payment of the required state processing [fee](#) does not guarantee permit issuance. The fee for the state application must accompany the application for completeness.*

Amount enclosed	\$
-----------------	----

Print /Type Name	Title	Print /Type Name	Title
<b>Applicant Signature</b>	Date	<b>Authorized Agent Signature</b>	Date

***Landowner signatures:*** *For projects and /or mitigation work proposed on land not owned by the applicant, including [state-owned submerged and submersible lands](#), please provide signatures below. A signature by the Department of State Lands for activities proposed on state-owned submerged/submersible lands only grants the applicant consent to apply for authorization to conduct removal/fill activities on such lands. This signature for activities on state-owned submerged and submersible lands grants no other authority, express or implied.*

Print /Type Name	Title	Print /Type Name	Title
<b>Property Owner Signature</b>	Date	<b>Mitigation Property Owner Signature</b>	Date

• *Italicized areas are not required by the Corps for a complete application, but may be necessary prior to final permit decision by the Corps.*