



Reply To
Attention Of:

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
201 NORTH THIRD AVENUE
WALLA WALLA, WASHINGTON 99362-1876

April 12, 1995

RECEIVED

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Department of Water Resources
Eastern District Office

Operations Division

FYI

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SKIP [Signature]
DAVEW.

Mr. Donald W. Shenton
Water District No. 31
P.O. Box 33
Dubois, Idaho 83423

Dear Mr. Shenton:

This is in response to your letters of August 5 and September 23, 1994, regarding our regulatory jurisdiction over the removal of beaver dams. Under Section 404 of the Clean Water Act (33 U.S.C. 1344), a Department of the Army permit is required for discharges of dredged and fill material into waters of the United States, including wetlands. This includes excavation activities which result in the discharge of dredged material and destroy or degrade waters of the United States. Enclosed is a copy of our revised regulations published in the Federal Register on August 25, 1993, which addresses our jurisdiction over excavation activities.

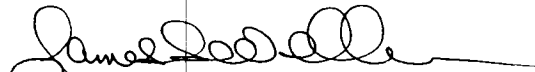
Based on the information provided, it appears that the removal of beaver dams is an excavation activity that would generally be regulated and a Department of the Army permit would be required. However, we believe that the removal of recently established (within 1 year) beaver dams might not result in the discharge of dredged material or destroy or degrade waters of the United States. Under these circumstances, a Department of the Army permit would not be required.

My legal staff has reviewed the Federal Court Decree referenced in your September 23, 1994, letter as your authority to conduct this work. Based on their review, it is our opinion that the court case cited does not alleviate the need to comply with the Clean Water Act.

I recommend that you coordinate your plans for removal of beaver dams with us and apply for the necessary permits. If, based on our review, we determine that the proposed removal of a beaver dam will not destroy or degrade waters of the United States, a Department of the Army permit will not be required. If we determine that a proposed removal of the beaver dam will destroy or degrade waters of the United States, a Department of the Army permit will be required and must be obtained prior to the start of construction.

Please contact Mr. Brad Daly, Chief of my Regulatory Branch at 509-522-6720 with regard to any questions you may have in this matter.

Sincerely,



James S. Weller
Lieutenant Colonel, Corps of Engineers
District Engineer

Enclosure

Copies Furnished:

Mr. Charles R. Vadnais, Chairman
Clark County Board of Commissioners
P.O. Box 205
Dubois, Idaho 83423

Idaho Department of Water Resources
Eastern Region
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Idaho Falls, Idaho 83402

Honorable Michael D. Crapo
House of Representatives
2539 Channing Way, Suite 330
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