

**DRAFT
FINDING OF NO SIGNIFICANT IMPACT**

For

**POST OFFICE LAKE, RIDGEFIELD NATIONAL WILDLIFE REFUGE,
SECTION 536 ECOSYSTEM RESTORATION PROJECT,
CLARK COUNTY, WASHINGTON**

I find the selected course of action, as described as the *Preferred Alternative* in the *Draft Implementation Report and Environmental Assessment for Post Office Lake Ridgefield National Wildlife Refuge Section 536 Ecosystem Restoration Project, Clark County, Washington* (Corps of Engineers, Portland District – (Corps), December 2012) (otherwise known as the draft EA), will not significantly affect the quality of the human environment and that an environmental impact statement is not required. The draft EA was prepared in cooperation with the U.S. Fish and Wildlife Service (USFWS). The Corps is the lead agency, and FWS is the cooperating agency per 40 Code of Federal Regulations (CFRs) 1501.5 and 1501.6.

NEED AND PURPOSE

The need for the Post Office Lake restoration project is to restore the loss of off-channel rearing, floodplain, tidal slough, and tidal wetland habitats along and adjacent to the Columbia River (CR). The project itself is currently a disturbed ecosystem previously altered by diking and agricultural use. The purpose of this proposed project is to restore juvenile salmonid access to Post Office Lake on the Ridgefield National Wildlife Refuge (Refuge), improve tidally-influenced habitat, improve floodplain connectivity, and develop streamside riparian habitat while ensuring that the primary trust resources associated with the established purpose of the Ridgefield National Wildlife Refuge are maintained.

BACKGROUND

The Post Office Lake site offers an opportunity to reintroduce juvenile salmonids to an historic floodplain lake and backwater slough that is currently an isolated water body. Currently, there is no tidal connection via the northern connection channel between Post Office Lake and the CR. The outlet tide gate and culvert have become non-functional. Historically, the northern connection channel outlet experienced CR tidal influence and offered fish passage opportunities. Fish were able to access the lake through this connection and may have been present year-round, although peak usage was likely in the spring with egress in the late summer as observed at the adjacent Campbell Slough reference site. Before approximately 1950, the site outlet was open and spanned by a concrete bridge. In the 1950s the levee opening was filled, and a tide gate was installed in order to improve agricultural usage conditions around Post Office Lake. In the 1990s, a new tide gate was installed to correct existing deficiencies which allowed flooding of the landward side of the levee. Existing progressive breaches in the associated levee, first identified in 1996, point to more frequent inundations into the future.

The lake is also disconnected from more frequent CR flood stages by a levee system. The existing levee is undergoing progressive breaching and has completely breached at river mile (RM) 95.1 (levee section is completely eroded away). The overtopping elevation is approximately 20.4 feet. The breach width is only about 20 feet at the lowest two overflow points, but most of the adjacent levee for 200 feet has been substantially eroded. It is likely to erode completely from a relatively short duration (2-5 days), high-water event (20 feet and over stage elevation, North American Vertical Datum, (NAVD)). The breach has not resulted in a permanent reconnection to the CR. Despite breaching, overtopping is not expected to create regularly accessible habitat for salmonids. Overtopping in the existing condition is

infrequent but did occur during the 2011 high water period (February-early July freshet) resulting in limited overland sheet flow into Post Office Lake. The lake did not fill appreciably, and interior flooding did not occur.

THE PROPOSED ACTION, PREFERRED ALTERNATIVE

The Corps and the USFWS propose to restore tidal flow and fisheries access to approximately 134 acres of Post Office Lake and the adjacent Dusky Lake and to restore approximately 15 acres of native riparian and floodplain habitat on the Ridgefield National Wildlife Refuge (Refuge) located between CR RMs 94.4 to 95.3 near the City of Ridgefield in Clark County, Washington. The proposed restoration actions will benefit a multitude of fish and wildlife species, including CR salmonids that are listed under the Endangered Species Act (ESA) as well as waterfowl and other migratory bird species. Proposed restoration of tidal sloughs and riparian habitat, particularly their connectivity to Mainstem CR, will better mimic the natural wetland/floodplain/riparian forest/tidal sloughs that were historically more prevalent in the CR estuary than under present conditions. The project is expected to be completed in one summer, though it could extend into two if project elements are more challenging than expected. Salient restoration project elements include:

- Restoring tidal reconnection and fish access by removing the culvert, tide gate, as well as adjacent levee segment over the culvert at the outlet of the northern connection channel.
- Creating a controlled floodplain reconnection at the worst progressive breach location, approximately RM 95.1. The entrance elevation of the breach point will be set at the 2-year CR flood stage of 18.7 feet. The approximate width of the expanded breach would be 250 feet. Existing overtopping is at 20.4 feet, at a 4-year overtopping frequency. A connection swale will be graded in, connecting the breach to the lake. The swale will facilitate controlled overland flows and provide some passage opportunity for fish ingress from the river during the high stage events.
- Improving northern connection channel configuration for better fish access. A two-stage channel will be created that passes the full tidal prism, and the side slopes will be stabilized, terraced, or flattened and vegetated. The high points along the channel, which currently may impede fish passage, will be removed. Where feasible, any required stabilization will be accomplished by bioengineering methods. Habitat features such as large wood and rootwads will be included to add immediate complexity and cover and are expected to increase over time as energy and wood move through the system.
- Creating a riparian buffer in vicinity of the northern connection channel. The native riparian buffer will be enhanced and late-successional development will be promoted within 50 feet of bankfull width and along both the connection channel and the existing levee. Plantings will be extended on the northern end to connect with the existing willow/cottonwood stands adjacent to the CR. Localized patches of invasive species will be removed in order to ensure successful establishment of native plantings.
- Deepening the north end of Post Office Lake/south end of ditch. The lake will be deepened at the north end to create a 6-ft deep pool, and the existing sill will be lowered to elevation 9 feet. This existing high point holds water in the lake to elevation 10 feet but will block fish passage at lower stages. Lowering the sill to 9-ft will increase connectivity and passage opportunity. Note that the deepest elevation of lake is 7.5 feet. Habitat features such as large wood and root-wads will be included to add immediate complexity and cover and are expected to increase over time as energy and wood move through the system.
- Restoring the riparian area along the levee, including scarification of asphalt. The remnant asphalt will be removed or scarified, thereby facilitating expansion of riparian vegetation. Scarification will be selected over removal in areas where it is determined to be less impactful to existing, mature woody riparian vegetation. An additional area for floodplain plantings has been identified beginning at the south boundary parking lot (terminus of River Road, milepost 11). This secondary area is not widely used by waterfowl and will create additional floodplain forest habitat to benefit a multitude of

wildlife species. The localized patches of invasive species will be removed in order to ensure successful establishment of native plantings.

- Building a single span bridge about 16 to 18-ft wide near the toe of levee/existing north connection channel. This bridge will span the mean high tide and two-year flood elevation and will allow the Refuge to access the western end of the lake during most high-water periods. The USFWS currently accesses the west side of Post Office Lake to mow the pasture areas and to apply herbicides, etc. This occurs twice a year – in spring (around February) and the beginning of fall (around October). The final crossing design will accommodate Refuge maintenance requirements as well as fluvial and tidal processes the project is seeking to restore.
- Expanding and updating the existing pump station. In order to ensure survival of waterfowl forage that relies on wetted conditions, the Refuge has requested prevention of Post Office Lake going completely dry during a drought (with an expected approximate frequency of about 3-5 years). Therefore, pumping capability at Post Office Lake will be provided to meet Refuge management needs. Based on initial analysis, the existing 40 horsepower pump located at the south end of Campbell Lake (approximately 0.3 mile from the north end of Post Office Lake) will be updated, and supplemental conveyance line (18-inch pipe) will be expanded to meet Refuge requirements. Pipe will be laid from the existing pump-station and piping north of Dusky Lake immediately adjacent to the existing road right-of-way on the eastern border of the unit. From the existing piping, new pipe will then branch and continue to Post Office Lake. Minimal wetland impacts may occur from the placement of the conveyance pipe along the road and stand pipe or equivalent structure in the area already slated for disturbance at the northern end of the lake. If concrete is used, either a pre-formed design will be used; if not, Best Management Practices (BMPs) will include measures to ensure that green concrete will be protected from contact with waters until completely cured. The Refuge currently has a water right from Lake River for 900 acre-feet per year. The right is sufficient to accommodate the approximately 32 acre-feet necessary to fill Post Office Lake to a depth of 1 foot should drought conditions dictate.
- Constructing project related staging areas and access roads, and stockpiling and fill placement locations. Stockpiling will occur for materials intended for use later elsewhere; otherwise, the materials will be placed in a thin layer to build elevation permanently in-place, or will be removed off-site. Wetland impacts will be avoided.
- Monitoring will occur to ensure the project meets its goals for fish and wildlife species.

PUBLIC AND AGENCY INVOLVEMENT

The Corps has coordinated the Post Office Lake Section 536 habitat restoration project with several agencies and members of the public, including; the USFWS; National Marine Fisheries Service (NMFS); Washington Department of Fish and Wildlife (WDFW); Washington Department of Ecology (WADOE); Washington Department of Archaeological and Historic Preservation (WADAHP); and adjacent landowners. The Corps will issue the draft EA for a 30-day public and agency comment period, which will serve as the forum for overall public input. The Corps will consider the comments received during the public notice posting of the EA and where applicable, will address and incorporate them in the final EA

ENVIRONMENTAL EFFECTS

The draft EA covered many environmental issues including: soils; sediment and water quality; hydrology; wetlands; floodplains; vegetation; wildlife; federally listed Threatened and Endangered (T&E) plant, fish, and wildlife species; properties on or eligible to the National Register of Historic Places (NRHP); and cumulative impacts. The following summarizes the environmental compliance activities of the leading issues.

Ground Disturbance: The majority of the preferred alternative is earthwork. The excavation is in an environmentally sensitive area and near designated wetlands. The Corps will provide careful attention to construction periods, access, and onsite monitoring. The Corps will perform earthwork during dry weather (i.e., late summer/early fall) to minimize the adverse environmental effects caused by construction activities and to minimize project costs associated with temporary project impacts. There will also be minimal permanent and temporary impacts to riparian and floodplain vegetation as some removal may be required for equipment passage and staging. Areas have been identified that avoid and minimize impacts to the maximum extent practicable. These areas will also be re-vegetated with appropriate native riparian and floodplain plantings.

Gravel placement, often required for temporary access roads or for equipment setup, is generally considered adverse to environmentally sensitive areas. Therefore, the Corps will keep these areas to a minimum, will completely remove them following completion of the project, and all but existing unimproved haul roads will be restored to their original preconstruction condition. The Corps will follow all federal and state requirements for invasive species control (herbicide spraying and mechanical removal), including following conditions, BMPS, and Conservation Measures (CMs) required by the NMFS, USFWS and U.S. Environmental Protection Agency (EPA). The Corps will wait to conduct permanent revegetation work until construction activities are complete, and weather conditions support the optimal survivability of plantings.

Permanent Effects: The Corps will remove about 18,000 cubic yards (cy) above ordinary high water (OHW) in an area encompassing about 7.9 acres. Below OHW, the Corps will affect about .01 acre with about 375 cy of temporary fill. Below OHW, the Corps will affect about 2.8 acres with the removal of about 13,500 cy of material.

Temporary Effects: The Corps will impact about 6 acres of riparian area to access and construct the restoration features, and all disturbed areas will be re-contoured and replanted to pre-project conditions or better after removal of invasive species. These temporary impacts will be associated with temporary fill to provide equipment access and are expected to be around 0.5 acre in the fringe wetland around the lake itself. In total the estimated temporary impacts above OHW will be approximately 15.7 acres and about 23,000 (cy).

Water Quality: During construction, the Corps will use heavy equipment and excavate substrate, which may affect water quality. However, these effects are expected to be short-term (limited to one season, two at the most), localized at the point-source of the action, and of short duration. A temporary and localized increase in turbidity may result from input of sediment into the slough during construction. Since the Corps will conduct the majority of excavation behind cofferdams (sheet piling or comparable structure) and in the dry, introduction of sediment into the channels is expected to be minor, and settlement will occur prior to releasing water into the CR. The Corps will remove the cofferdams at low tide to minimize impacts upon completion of each individual structure. However, for the exterior channel construction, the Corps will not use cofferdams. The Corps will use appropriate BMPs to ensure that no permanent adverse effects result from construction activities and will monitor turbidity to ensure the turbidity released is within the conditions of the WADOE water quality certification (WQC).

The Corps will develop a Stormwater Pollution Prevention Plan (SWPPP) with erosion controls that is in compliance with the Section 402 of the Clean Water Act (CWA) National Pollution Discharge Elimination System (NPDES) Construction General Permit (CGP) conditions. Further, the Corps will implement a spill prevention and response plan to further reduce the possibility of any unacceptable adverse effects from construction actions.

During construction and immediate operations and maintenance (O&M), the Corps likely will implement manual or mechanical controls and follow conservation measures for invasive plant treatment, including herbicide management and restrictions on the use of certain herbicides and pesticides. The Corps will comply with all applicable environmental requirements including those in the appropriate NPDES permit, the applicable Biological Opinion (BiOp), which has conservation measures related to herbicide application, and the WQC.

Hydrology: The Corps will restore connectivity at the northern channel by removing the tide gate and creating a two-stage channel, thereby providing passage of the full tidal prism. The Corps anticipates the winter and freshet periods will generate higher water level variations in the lake than are currently experienced; and in August and September, low CR levels will translate to much lower water levels within the lakebed itself, leading to drier summer conditions. It is likely that CR stages may drop to as low as elevation 5.0 feet NAVD. The existing lake bottom elevation is 7.5 feet, therefore some drainage of the lake towards the Columbia could occur. However, the Mean Higher High Tide (MHHT) elevation is periodically above this level even during summer, low-flow periods. Therefore, the Corps expects some limited mixing and inundation during this season. Floodplain inundation frequency and duration also will increase via the channel inlet and the widened levee breach. The breach is currently at an average elevation that overtops with an interval of approximately 4.5 years, which will be increased so that frequency of inundation occurs at the 2-year elevation event. Both measures will re-introduce a more natural hydrograph and disturbance regime to the system.

Endangered Species Act (ESA) Listed Species and Refuge Trust Species: Overall, effects to fish, wildlife, and plants will be beneficial and long-term. There will be some acute temporary effects in the form of short-term disturbance by construction activities, short-term sedimentation to water quality, and ground-disturbance of the landscape. However, the construction schedule will be limited, and all applicable conservation measures, reasonable and prudent measures, BMPs, and terms and conditions will be implemented according to the anticipated Biological Opinion and CWA Section 401 WQC. An in-water work window (IWWW) variance will be requested from NMFS and USFWS. In order to protect aquatic species, the Corps will dewater and re-water using protocols described in its BiOp, which expected to be similar to the representative 2008 WA joint programmatic restoration BiOp (held by Corps Seattle District – NMFS, Lacey WA Tracking #: 2008/03598 – USFWS Tracking #: 13410-2008-FWS #F-0209). The Corps will develop fish salvage and work area isolation plans according to BiOp requirements.

Resource agencies expressed concerns regarding potential juvenile stranding and creation of an attractive nuisance post-project such that juveniles could be exposed to higher summer water temperatures in a potentially shallower lake. The shallower lake conditions might create depredation issues as waterfowl could have an easier time capturing juveniles in shallower water conditions. These concerns have been addressed in project design via several factors including; regular water-level overtopping of the lake sill allowing fish egress opportunities via the mean higher high tide, thermal refugia via pocket pools at the north end of the lake, and installation of large wood for cover.

The reduction in submergent vegetation and the anticipated increase in emergent vegetation could impact waterfowl use of the site. USFWS anticipates that use by diving ducks could be reduced by replacement of submergent vegetation with emergent vegetation, changes to the macroinvertebrate community, and conversion of openwater habitat. The Corps minimized some of these effects by incorporating a pumping capacity that will provide water for forage maintenance and inundated habitat during drier seasons. Waterfowl changes in use likely would be local, shifting areas of use within the Refuge.

FINAL DETERMINATION

Authority: This project is under the authority of Section 536 of the Water Resources Development Act (WRDA) of 2000 (Public Law 106-541), which authorizes the Corps to conduct studies and implement ecosystem restoration projects necessary to protect, monitor, and restore fish and wildlife habitat in the lower CR and Tillamook Bay estuaries. The Corps is required to fulfill all statutory authorized project purposes and directions provided by the Congress in the project authorization documents.

In fulfilling the authorization, the Corps also is required to take into account other applicable legal mandates. While acknowledging the impacts discussed in the draft EA and outlined above, the Corps is required by the National Environmental Policy Act (NEPA) to determine if the impacts of the selected alternative are significant. 40 CFR 1508.27 lists ten tests of significance, whether impacts rise to the level of “significantly affecting the human environment”. Following is the ten tests from (1) to (10):

- 1) Significant Effect(s) Even Though the Overall Effect Is Beneficial. The proposed restoration actions will benefit a multitude of fish and wildlife species, including CR salmonids that are listed under the Endangered Species Act as well as waterfowl and other migratory bird species. Proposed restoration of tidal sloughs and riparian habitat, particularly their connectivity to the Mainstem CR, will better mimic the natural wetland/floodplain/riparian forest/tidal channel sloughs that were historically more prevalent in the CR estuary than under present conditions. The Corps expects the selected alternative to provide limited measurable ecosystem benefits given the scope and size. A finding of no significant environmental impact is not biased by the beneficial effects of the action.
- 2) The Degree to which the Action Affects Public Health and Safety: The construction effects will be short-term, localized, and temporary, and as such will have no adverse effects on public health and safety. The Corps will delineate the work area to exclude non-construction workers from construction zones. Post-project flowage discussions and agreements are under development with Washington Department of Natural Resources (WADNR) and adjacent landowners whose property may be more frequently inundated. However, inundation on private land will increase regardless of the project, and landowners are highly likely to implement a fish mitigation bank adjacent to the Corps’ project area.
- 3) Unique Characteristics of Geographical Area: The project site is a floodplain lake located on an island within the Vancouver Lowlands geographic area and also is part of the Refuge. The Corps will: protect historic and cultural resources through project design; buffer riparian areas including wetlands, shorelines, and streams from construction activities to the maximum extent practicable and will enhance them where feasible. There will not be any measurable adverse effects to Essential Fish Habitat (EFH). There are no prime farmlands, wild and scenic rivers, wilderness, ecologically critical areas, or other unique natural features in the project area, and therefore, no effects will occur to unique geographical characteristics.

Wetlands: In accordance with Executive Order 11990, Protection of Wetlands, the Corps closely evaluated the proposed restoration plan and its wetland impacts. The Corps developed and refined the design and planned construction methods for restoration at Post Office Lake to take advantage of opportunities to avoid and minimize the project’s ecological impacts to habitats and species. However, there will be temporary and permanent unavoidable effects to wetlands and shallow-water habitat from excavation and conversion to a more natural and dynamic hydrologic regime. The Corps expects tidal reconnection via the north connection channel will eventually provide a different hydrologic regime than present conditions, favoring native emergent tidal wetland/marsh vegetation and potentially reducing the coverage of submergent vegetation. This may also result in conversion from permanent to semi-permanent wetlands. Temporary impacts will also occur to about 0.5 acre of wetlands and about 4 acres of waters of the U.S. (other than wetlands) in order to accommodate equipment and staging

operations required for in-water channel and lake work. There will be minimal permanent wetland impacts from placement of the stand-pipe and pipe extension required to provide pumping capacity to the lake. The maximum acreage will be less than 0.6 acres. Placement and stockpile of resulting fill will avoid wetland impacts. The Corps does not propose mitigation because there will be long-term beneficial effects to the wetlands with project implementation, including restoration of the tidal and flood regime as a result of the more natural hydro-periods. The Corps has determined that its actions fit within the scope and conditions indicated in the Clean Water Act Section 404 Nationwide #27 Permit and intends to conform with associated General, Regional, and State Conditions and Water Quality Certification.

4) Highly Controversial Effects on the Quality of the Human Environment: The Corps and resource agencies such as NMFS and USFWS analyzed the effects of the selected alternative on the human environment, and to date, results show that the project will have no measurable negative effects on the quality of the human environment in or near Post Office Lake or adjacent action areas. Rather, the project will result in ecological benefits. Therefore the Corps anticipates the effects on the quality of the human environment are not likely to be highly controversial. Adjacent landowners are pursuing similar restoration actions based on assumptions about restored tidal and floodplain hydrology. Appropriate real estate instruments between the Corps and adjacent landowners will be in place prior to construction. The types of restoration activities proposed are relatively conventional methods and generally are supported by the resource agencies. The effects are well-known and understood, as proposed restoration components are generally recommended by the NMFS CR Estuary Module for recovery of salmonids species.

The Corps does not expect adverse effects for public services, utilities, or land uses as a result of the preferred alternative. The preferred alternative will not negatively impact the public's experience on the Refuge but will instead enhance habitat for some trust species and restore areas currently surrounded by levees to more natural conditions. The preferred alternative is aligned with Refuge management goals described in the Comprehensive Conservation Plan (CCP), which involves public exclusion from this unit so that it may serve as a sanctuary for overwintering waterfowl. The preferred alternative is not providing additional public exclusion or access measures outside of current CCP management parameters.

Some minimal impact to current agriculture and hunting practices conducted by the adjacent private landowners to the south could occur. The changing hydrology could affect farming, cattle ranching, and waterfowl hunting. However, appropriate real estate instruments are being discussed in order to meet Corps and landowner needs. In anticipation of changing hydrologic conditions with or without the project, adjacent landowners appear to be moving forward with development of a mitigation banking option. New hydrologic conditions along with the Corps proposed actions could increase the likelihood of success should landowners choose to transition these areas from agricultural to conservation purposes.

5) Highly Uncertain, Unique, or Unknown Risks: The Corps will prepare the restoration design and conduct all associated construction activities using Best Management Practices and in accordance with all terms and conditions of the anticipated Biological Opinion and Letter of Concurrence to be issued by NMFS and USFWS, respectively, and the WQC issued by WADOE. The Corps reduced risk of juvenile salmonid stranding and depredation through project design. Cover will be provided along with pockets of thermal refugia and expected periodic tidal egress opportunities during most of the low-water timeframe. The Corps will minimize effects to diving ducks and macroinvertebrates by incorporating a pumping option that will provide water for forage and openwater habitat during drier seasons. The Corps expects waterfowl changes in use would be local, and regional populations of any avian or invertebrate species would not be measurably impacted. The Corps does not anticipate the

project to present unique or uncertain risks beyond those addressed in the analyses in the draft EA. This project is also under consideration as a research site for the CR Fish Mitigation project through the Corps, and any concerns identified during monitoring studies by the Corps and USFWS will be addressed immediately under an adaptive management approach coordinated between the two agencies and other applicable jurisdictional agencies.

6) Future Precedents: Section 536 of the Water Resources Development Act (WRDA) of 2000 (Public Law 106-541) authorizes the U.S. Army Corps of Engineers (Corps) to conduct studies and implement ecosystem restoration projects necessary to protect, monitor, and restore fish and wildlife habitat in the lower CR and Tillamook Bay estuaries. Ecosystem restoration is a beneficial effect and does not constitute an irrevocable or irretrievable step toward future changes in the scope, scale, orientation, or design of the current levee system, nor in the current and historic method or approach to maintaining the Refuge. For these reasons, the action will not establish a precedent for future actions that have not been previously taken as restoration strategies in the CR estuary or elsewhere.

7) Significant Cumulative Impacts: The draft EA considered the effects of implementing the proposed action in association with past, present, and reasonably foreseeable actions in and near the Post Office Lake project site. The potential cumulative effects associated with the proposed action were evaluated with respect to each resource evaluation category, and significant cumulative adverse effects were not identified.

8) National Register of Historic Places and Other Historical and Culturally Significant Places: The Area of Potential Effect (APE) was formulated in consultation with the WADAHP. A cultural resources survey of the APE was performed in late September and early October 2011 by Portland District archaeologists. Ground inspections and subsurface shovel testing did not reveal any historic properties or archaeological deposits in the vicinity. Work in these areas has little chance of impacting historic resources, though there is the possibility of encountering Native American remains. Coordination of findings from the Corps' recent fieldwork is currently in progress with DAHP and potentially affected tribes. Although it is anticipated that DAHP will concur with the Corps' determination of "No Effect" on historic properties, additional stipulations that require monitoring by a professional archaeologist during ground disturbing activities and development of an approved, long-term monitoring plan may be issued.

9) Endangered or Threatened Species or Habitat: Although there will be impacts as a result of the project, every effort has been made to minimize those impacts by incorporating anticipated conservation measures and BMPs. The Corps selected construction staging and storage areas to avoid and minimize impacts to 'waters of the United States' as required under Executive Order 11990 and the Clean Water Act. Further, the Corps will implement both a dewatering work area isolation plan and a fish exclusion and salvage plan to avoid and reduce impacts to aquatic species. The Corps will complete consultation with and comply with any and all Terms and Conditions and Conservation Measures stipulated by NMFS in the forthcoming Biological Opinion.

There are multiple threatened and endangered fish species and associated critical habitat (following species name with a CH in parentheses) under NMFS jurisdiction that may be present in or adjacent to the project site including: Upper CR spring-run Chinook (CH); Lower CR Chinook (CH); Upper Willamette River (WR) Chinook (CH); Snake River (SR) spring/summer-run Chinook (CH); SR fall-run Chinook (CH); chum (CH); Upper CR steelhead (CH); Upper WR steelhead (CH); Middle CR steelhead (CH); Lower CR steelhead (CH); SR steelhead (CH); SR sockeye (CH); Lower CR coho (proposed CH); green sturgeon; and eulachon (CH). Northern spotted owl, Columbia white-tailed deer, bull trout (CH), and four plants comprise the listed species under USFWS that may be present or have critical habitat on or near the project area. In accordance with Section 7(a) (2) of this Act, federally

funded, constructed, permitted, or licensed projects must take into consideration impacts to federally listed or proposed T&E species. The Corps will provide NMFS with a Biological Assessment (BA) for review and consultation. The Corps will provide NMS with an essential fish habitat (EFH) assessment under the Magnuson-Stevens Act as part of the Biological Assessment submitted for the proposed action. A project description will be submitted to the USFWS Refuge, and the Corps anticipates a no-effects determination after intra-agency consultation occurs for USFWS T&E-managed species.

10) Other Legal Requirements: Discussion of compliance with applicable environmental laws or requirements is identified in the draft EA. This project will not violate any environmental laws and regulations.

CONCLUSION

No construction actions will begin until receipt of all applicable environmental clearance documents, including concurrence with use of the State 401 WQC, the BiOp, the NPDES permit, and concurrence from DAHP. Construction is expected to begin at the earliest during summer, 2013. Upon receipt of the BiOp, NPDES permit, and SHPO concurrence, I will review all existing environmental documentation to determine if conditions have changed or whether existing documentation and clearances continue to adequately describe the effects of the proposed action.

Currently, I have determined these impacts, both individually and cumulatively, are not “significant” as defined by the NEPA legal statute, regulations, and case law. This determination is based on the anticipated receipt of the following: concurrence with use of the CWA the Section 401 WQC; the NPDES permit; the BiOp from NMFS; and concurrence from the WADAHP regarding the Corps’ determination of effect under the National Historic Preservation Act.

Based upon the draft EA, I have determined that the proposed action would not significantly affect the quality of the human environment and that an environmental impact statement is not warranted.

Date: _____

John W. Eisenhauer, P.E.
Colonel, Corps of Engineers
District Commander