

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for Regional General Permit 6 for Bonneville Power Administration-Funded Habitat Improvement Projects Within the Columbia River Basin in Oregon

This document constitutes the Environmental Assessment, Section 404(b)(1) Guidelines Evaluation, Public Interest Review, and Statement of Findings for the subject Regional General Permit.

1.0 Introduction and Overview

This document concerns the issuance of a Department of the Army Regional General Permit (RGP) by the U.S. Army Corps of Engineers (Corps), Portland District. An RGP is a type of general Department of the Army permit issued on a regional basis to authorize a category or categories of activities that are substantially similar in nature and cause only minimal individual and cumulative environmental impacts. This RGP would authorize work and the discharge of dredged or fill material into waters of the United States for Bonneville Power Administration (BPA)-funded habitat improvement projects provided the activities result in a net gain in aquatic resource functions and services. This RGP would also authorize temporary structures, fills, and work necessary to conduct the authorized activity.

In accordance with 33 CFR 325.2(e)(2), the Portland District is reissuing RGP 6 with modifications. RGP 6 would facilitate the authorization of BPA-funded habitat improvement projects within the Columbia River Basin in Oregon. BPA funds these projects in fulfillment of its obligations under the Northwest Power and Conservation Council's Columbia River Basin Fish and Wildlife Program and the various biological opinions issued to BPA under Section 7(a)(2) of the Endangered Species Act. When funding a project, BPA serves as the lead federal agency for completing the consultation requirements of the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act and the National Historic Preservation Act. When evaluating applications for authorization by RGP 6 the Corps would review BPA's documentation to ensure the consultation requirements of these laws was completed for the proposed project. The prospective permittees for authorization by RGP 6 are any entities proposing to implement BPA-funded habitat improvement projects within the Columbia River Basin in Oregon.

This RGP includes terms and conditions to ensure that authorized activities cause only minimal individual and cumulative environmental impacts. Several conditions require documentation and a case-by-case review by the Corps (e.g., conditions regarding endangered species, historic properties, wild and scenic rivers). In some cases, activities authorized by this RGP may require other federal, state, or local authorizations. Examples of such cases include, but are not limited to: activities that may result in discharges into waters of the United States and require Clean Water Act Section 401 water quality certification or activities in or affecting the coastal zone and require state concurrence under the Coastal Zone Management Act. In such cases, a

provision of the RGP states that the RGP does not obviate the need to obtain other authorizations required by law. This RGP has additional safeguards to include provisions that allow the district engineer to assert discretionary authority and require an individual permit for a specific activity; to modify this RGP for specific activities by adding special conditions on a case-by-case basis; or to take action to suspend or revoke this RGP authorization.

Information about this RGP is provided in Section 1, detailed evaluation of the activities that would be authorized by this RGP are found in Sections 2 through 11 and findings are documented in Section 12 of this memorandum. RGP 6 and its terms and conditions and appendices are attached and incorporated in this memorandum.

1.1 Background and Modifications

A general permit may be valid for no more than five years. The Portland District first issued RGP 6 in 2011 and reissued RGP 6 in 2018. The 2018 RGP 6 expired on 31 July 2023. On average, RGP 6 is used to authorize 11 BPA-funded habitat improvement projects per year. The Corps estimates a reissued RGP 6 would authorize 55 projects over the five-year term of the RGP.

This RGP 6 includes modifications to the 2018 RGP 6. This RGP has been reorganized and edited for clarity. Specific modifications to the 2018 RGP incorporated in this RGP include the following:

- a. Activities authorized by this RGP: The categories of activities authorized by this RGP are consistent with the activities in the programmatic biological opinions issued by the National Marine Fisheries Service and U.S. Fish and Wildlife Service for BPA's Columbia River Basin Habitat Improvement Program. The modifications to the activity categories in this RGP are to identify certain categories and sub-categories as not applicable to this RGP. For consistency with the list of activities in the programmatic biological opinions the numbers for the nonapplicable categories and sub-categories were retained and identified as "category number reserved." Additional text has been added to the categories to explain the work authorized by this RGP for each category.
- b. Gain in aquatic resource functions and services. This RGP has been modified to require that activities authorized by this RGP result in a net gain in aquatic resource functions and services. While this RGP authorizes BPA-funded habitat improvement projects, this modification ensures projects in waters subject to the Corps' authorities result in a net gain in aquatic resource functions and services.
- c. Pre-Construction Notification: This RGP has been modified to require the prospective permittee to submit pre-construction notification (PCN) and to receive the Corps' written verification that an activity is authorized by RGP 6 in all instances (See General Condition 1). The PCN requirement in all instances allows the Corps to review all proposed activities for compliance with the terms and conditions of this RGP including those activities that may need permission under Section 408

- (33 USC § 408) for activities that may alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project.
- d. Removal of Levels: The PCN requirements in the 2018 RGP were based on four “Levels.” Under Level 1 a permittee could conduct activities authorized by RGP 6 and submit documentation to the Corps within 60 days after completing the work. Under Levels 2 and 3 a prospective permittee was required to submit PCN to the Corps and the permittee could proceed if the Corps failed to respond within 45 days. Level 4 required the prospective permittee to submit PCN and could not start work until notified in writing by the Corps that the activity was authorized by the RGP. This RGP requires PCN in all instances and removes the complexity of having four different levels.
 - e. Removal of Project Notification Form. In addition to a permit application, the 2018 RGP required the prospective permittee to complete and submit a form to identify the applicable Level. With the removal of the levels this form is not applicable. The contents of a PCN under this RGP may be provided in a Joint Permit Application form or Corps Engineer Form 4345.
 - f. Removal of references to specific Endangered Species Act (ESA) conservation measures. BPA is the lead federal agency for completing ESA Section 7 consultation requirements for activities that would be authorized by this RGP. Section 7 can be completed through an individual or programmatic consultation and this RGP is not limited to conservation measures contained in any particular programmatic consultation.
 - g. Additional General Conditions (GC): The 2018 RGP included a limited number of GCs. GCs not included in the 2018 RGP have been added to facilitate administration of the RGP and to ensure that activities authorized by this RGP would cause only minimal individual and cumulative environmental impacts. The following GCs have been added to this RGP:
 - GC 1. Pre-Construction Notification. This condition has been added to require the submittal of PCN in all instances and describes the content that must be included in the PCN.
 - GC 3. Aquatic Life Movements. This condition has been added to ensure no activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity’s primary purpose is to impound water.
 - GC 4. Spawning Areas. This condition has been added to ensure activities in spawning areas during spawning seasons are avoided to the maximum extent practicable.
 - GC 5. Migratory Bird Breeding Areas. This condition has been added to ensure activities in waters of the United States that serve as breeding areas for migratory birds are avoided to the maximum extent practicable.
 - GC 6. Shellfish Beds. This condition has been added to preclude activities in areas of concentrated shellfish populations, unless the activity is a shellfish seeding or habitat restoration activity authorized by this RGP.
 - GC 8. Water Supply Intakes. This condition has been added to preclude activities in

the proximity of public water supply intakes. This condition does not apply to water intakes for irrigation.

GC 10. Management of Water Flows. This condition has been added to ensure, to the maximum extent practicable, that the pre-construction course, condition, capacity, and location of open waters are maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment and results in a net gain in aquatic resource functions and services (e.g., stream restoration activities).

GC 11. Fills Within 100-Year Floodplains. This condition has been added to ensure activities comply with applicable Federal Emergency Management Agency-approved state or local floodplain management requirements.

GC 12. Equipment. This condition has been added to require that heavy equipment working in wetlands or mudflats are placed on mats, or other measures are taken to minimize soil disturbance.

GC 13. Soil Erosion and Sediment Controls. This condition has been added to require that appropriate soil erosion and sediment controls are used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, are permanently stabilized at the earliest practicable date.

GC 14. Removal of Temporary Structures and Fills. This condition has been added to ensure that temporary structures are removed, to the maximum extent practicable, after their use has been discontinued. This condition requires that temporary fills in waters of the United States shall not exceed six months unless approved by the district engineer.

GC 16. Single and Complete Project. This condition has been added to ensure that each activity authorized is a single and complete project with independent utility from other projects.

GC 20. Essential Fish Habitat. This condition has been added to ensure activities comply with the consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act, as applicable.

GC 21. Migratory Birds and Bald and Golden Eagles. This condition has been added to ensure that activities comply with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

GC 23. Discovery of Previously Unknown Remains and Artifacts. This condition has been added to ensure procedures are implemented should any previously unknown historic, cultural or archeological remains or artifacts be discovered while accomplishing an authorized activity.

GC 24. Safety of Impoundment Structures. This condition has been added to ensure that all impoundment structures are safely designed.

GC 27. Transfer of RGP Verifications. This condition has been added to ensure that an RGP verification associated with a property is transferred to any new property owner.

GC 28. Activities Affecting Structures or Works Built by the United States. This condition has been added to ensure that any activity that may alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project is reviewed by the Corps.

GC 29. Mitigation. This condition has been added to ensure activities are designed and conducted to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable. This condition also clarifies that compensatory mitigation is not required for activities authorized by this RGP since these activities must result in a net gain in aquatic resource functions and services.

GC 30. Access for Inspection. This condition has been added to facilitate compliance inspections by the Corps.

GC 31. Contractor's Copy of Permit. This condition has been added to ensure that all contractors and any other parties performing authorized work are provided a copy of the RGP verification letter, conditions, and permit drawings for the specific project.

GC 32. Construction Notification. This condition has been added to ensure the Corps is notified when construction of authorized activities has started. This condition facilitates the Corps' management of authorized activities for compliance.

GC 33. Compliance Certification. This condition has been added to ensure the Corps is notified that an authorized activity has been completed. This condition facilitates the Corps' management of authorized activities for compliance.

- h. Removal of BPA reporting requirements. The 2018 RGP 6 required the BPA to submit an annual report documenting the activities completed under RGP 6 each year. This modified RGP includes conditions that require the permittee to notify the Corps upon starting and completing an activity authorized by this RGP. The BPA annual report requirement is an unnecessary administrative requirement and has been removed from this RGP.
- i. Removal of annual review requirement. The 2018 RGP 6 required BPA, upon request by the Corps, to conduct an annual coordination meeting with the Corps to discuss the annual program report. The Corps and BPA can coordinate on a program-level at any time. With the removal of the annual reporting requirement, a provision to require an annual meeting is not needed.

1.2 Location

This RGP would authorize activities in waters of the United States as defined in 33 CFR Part 328 and in navigable waters of the United States as defined in 33 CFR Part 329 located within the Columbia River Basin in Oregon. See Appendix 2 of RGP 6, which illustrates the RGP area boundary.

1.3 RGP 6 Activities

(a) This RGP authorizes work and the discharge of dredged or fill material into waters of the United States for habitat improvement projects provided the activities result in a net gain in aquatic resource functions and services.

(b) This RGP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the authorized activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After conducting the authorized activity, temporary structures, fills, and work must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

(c) Categories of habitat improvement projects¹ authorized by this RGP, to the extent that Department of the Army authorization is required, include the following:

1. Fish Passage Restoration (Profile Discontinuities and Transportation Infrastructure)

- a. Dams, Water Control, or Legacy Structure Removal
- b. Consolidate or Replace Existing Irrigation Diversions
- c. Headcut and Grade Stabilization
- d. Low Flow Consolidation
- e. Providing Fish Passage at an Existing Facility
- f. Bridge and Culvert Removal or Replacement
- g. Bridge and Culvert Maintenance
- h. Installation of Fords

Category 1 includes, but is not limited to, the following activities: a) removal of small dams, channel-spanning weirs, earthen embankments, subsurface drainage features, spillway systems, tide gates, outfalls, pipes, instream flow redirection structures (e.g., drop structure, gabion, groin), or similar devices used to control, discharge, or maintain water levels; b) consolidation or replacement of existing irrigation diversion check structures with pump stations or engineered riffles (including cross vanes, “W” weirs, or “A” frame weirs), improvements to diversion designs (with adequate fish-screening) to allow for fish passage, and removal of unneeded or abandoned irrigation diversion structures; c) installation of grade control structures (weirs, roughened channels, engineered log jams) from rock or

¹ The categories of habitat improvement projects are consistent with the proposed actions in the U.S. Fish and Wildlife Service biological opinion Endangered Species Act Section 7 programmatic consultation on BPA’s Columbia River Basin Habitat Improvement Program for the Columbia River Basin dated May 15, 2020 (TAILS # 01EOFW00-19FY-F-0710) and in the National Marine Fisheries Service biological opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Fish and Wildlife Habitat Improvement Program (HIP 4) dated May 7, 2020 (NMFS No: WCRO-2020-00102).

wood; d) modifications to stream channels or dam aprons that impeded fish passage; e) modifications or maintenance of fish passage or fish collection facilities and the installation of fish ladders; f) removal and/or replacement of bridges and culverts; g) maintenance of bridges and culverts to their as-built conditions; and h) installation of fords to allow improved stream crossing conditions.

2. River, Stream, Floodplain, and Wetland Restoration

- a. Improve Secondary Channel and Floodplain Connectivity
- b. Set-back or Removal of Existing, Berms, Dikes, and Levees
- c. Protect Streambanks Using Bioengineering Methods
- d. Install Habitat-Forming Instream Structures (Large Wood, Small Wood & Boulders)
- e. Riparian Vegetation Planting
- f. Channel Reconstruction
- g. Install Habitat-Forming Materials (Sediment and Gravel)

Category 2 includes, but is not limited to, the following activities: a) reconnections of historical stream channels within floodplains, restoration or modification of hydrologic and other essential habitat features of historical river floodplain swales, abandoned side channels, spring-flow channels, wetlands, and historical floodplain channels, and creation of new self-sustaining side channel habitats; b) the removal, lowering or setback, including setback of existing tide gates, of fill from past channelization projects, roads, trails, railroad beds, dikes, berms, and levees in order to restore natural estuary and freshwater floodplain functions; c) protection and restoration of eroding streambanks through bank shaping, installation of soil reinforcements (e.g., coir logs, large wood, etc.) and other bioengineering techniques; d) installation of in-stream structures comprised of natural habitat-forming materials (e.g., wood, boulders) to provide instream complexity and to support spawning, rearing, and resting habitat for salmonids and other aquatic species; e) planting of vegetation and placement of straw, mulch or other vegetation material for site stability; f) reconstruction of channels and reconnection of stream channels to floodplains; and g) installation of gravel and sediment to improve spawning habitat.

3. Invasive Plant Control

- a. Manage Vegetation using Physical Controls
- b. Not applicable to RGP. Category number reserved (i.e., Manage Vegetation using Herbicides (River System)).
- c. Not applicable to RGP. Category number reserved (i.e., Manage Vegetation using Herbicides (Estuarine System)).
- d. Juniper Removal
- e. Prescribed Burning

Category 3 includes, but is not limited to, the following activities: a) management of vegetation using manual (e.g., hand pulling and grubbing with hand tools; mulching with organic materials) and mechanical (mowing, tilling, disking, or plowing) control methods; d) removal of juniper; and e) prescribed burning through the measured application of fire to control invasive woody plants.

4. Piling Removal

Category 4 includes, but is not limited to, the following activities: removal of piling by extraction or cutting and filling holes left by each piling with clean, native sediment.

5. Road and Trail Erosion Control, Maintenance, and Decommissioning

- a. Maintenance of Roads
- b. Decommission Roads

Category 5 includes, but it not limited to, the following activities: a) maintenance of roads and trails by creating barriers to human access (e.g., gates, fences, boulders, logs, tank traps, vegetative buffers, and signs), by maintaining surfaces (e.g., building and compacting the road prism, grading, and spreading rock or surfacing material), by maintaining drainage and repair of inboard ditch lines, water bars, and sediment traps, by removing and hauling or stabilizing pre-existing cut and fill material or slide material, and by relocating portions of roads and trails to less sensitive areas outside of riparian buffer areas; and b) decommissioning of roads (obliterate, decompact, recontour, reshape) roads that are no longer needed.

6. Not Applicable to RGP. Category number reserved (i.e., In-Channel Nutrient Enhancement).

7. Irrigation and Water Delivery/Management Actions

- a. Convert Delivery System to Drip or Sprinkler Irrigation
- b. Convert Water Conveyance from Open Ditch to Pipeline or Line Leaking Ditches or Canals
- c. Convert from Instream Diversions to Groundwater Wells for Primary Water Sources
- d. Install or Replace Return Flow Cooling Systems
- e. Install Irrigation Water Siphon Beneath Waterway
- f. Livestock Watering Facilities
- g. Install New or Upgrade/Maintain Existing Fish Exclusion Devices and Bypass Systems

Category 7 includes, but is not limited to, the following activities: a) conversion of flood or other inefficient irrigation systems to drip or sprinkler irrigation by installing pipes and pumps to include buried pipes; b) conversion of open ditch irrigation

water conveyance systems into pipelines or lining open ditch irrigation water conveyance systems to reduce water loss; c) conversion of in-stream diversions to groundwater wells and removal or downsizing of in-stream diversion infrastructure; d) installation or replacement of return flow cooling systems including installing drainpipe outfalls; e) installation and maintenance of irrigation water siphons beneath waterways; f) installation of livestock watering facilities consisting of low-volume pumping or gravity-feed systems to move the water to a trough or pond at an upland site to include above-ground or underground piping; and g) installing, replacing, upgrading, removing, or maintaining fish exclusion screens and associated fish bypass systems to prevent fish entrapment in irrigation canals or other surface-water diversions.

8. Habitat, Hydrologic, and Geomorphologic Surveys

Category 8 includes, but is not limited to, the following activities: work, structures or discharges of dredged or fill material for information collection to include installing survey instruments, installing rebar or other markers, installing piezometers and staff gauges to assess hydrologic conditions, installing recording devices for stream flow and temperature, excavating cultural resource test pits, and installing PIT detector arrays.

9. Not Applicable to RGP. Category number reserved (i.e., Special Actions for Terrestrial Species, Categories 9a-9e).

1.4 Avoidance and minimization measures

Prospective permittees must design and conduct all activities to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable (see GC 29).

1.5 Exiting conditions

This RGP would authorize activities in waters of the United States located within the Columbia River Basin in Oregon. See Appendix 2 of RGP 6, which illustrates the RGP area boundary.

The Pacific Northwest environment is highly complex, principally because of the ocean and mountains. The ecoregions of the Columbia River Basin in Oregon consist of mountains and river valleys in the northwest and northeast portions of Oregon (portions of USDA Land Resource Regions (LRR) A, Northwest Forests and Coast, and E, Rocky Mountain Forests and Rangeland) and the arid areas of central and eastern Oregon (portions of LRR B, Interior Deserts and D, Columbia/Snake River Plateau).

Vegetation in natural areas in the mountain ecoregion is dominated mainly by coniferous forests at lower elevations and alpine tundra at the highest elevations. Natural areas in the valleys ecoregion contain meadows and high plateaus that often support grasses, forbs, or shrubs. The mountain and valley ecoregions generally

receive abundant rainfall and/or snow, have lower average temperatures, higher humidity, and lower evapotranspiration rates. Streams in the region are often perennial, whereas those in the arid region are generally intermittent or ephemeral. The major tributaries to the Columbia River within Oregon are the Willamette River, Deschutes River, John Day River, Grand Ronde River and the Snake River.

The arid ecoregion consists of desert and shrub-steppe ecosystems in the rain shadow of the Cascade Mountains. In general, the region is characterized by relatively high average temperatures, low humidity, and often extreme temporal and spatial variability in precipitation amounts.

Rivers and streams in the Columbia River Basin support a large number of anadromous fish species as well as varied populations of resident fish. The Columbia River and its tributaries are home to a variety of native salmonid and non-salmonid fish. A number of fish and wildlife species within the Columbia River Basin area are listed as threatened or endangered under the Endangered Species Act.

The Columbia River Basin in Oregon has undergone extensive changes over the last 150 years. Natural areas have been converted for urban development, agriculture and forestry. Dams have been constructed on the Columbia River and its tributaries for hydropower, flood protection and water supply. All of these changes in the basin have led to the degradation of terrestrial and aquatic habitats.

1.6 Statutory Authorities

Activities authorized by this RGP are regulated under Section 10 of the Rivers and Harbors Act (33 USC § 403) and/or Section 404 of the Clean Water Act (33 USC § 1344).

2.0 Scope of review for National Environmental Policy Act (i.e., scope of analysis), Section 7 of the Endangered Species Act (i.e., action area), and Section 106 of the National Historic Preservation Act (i.e., permit area)

2.1 Scope of analysis for National Environmental Policy Act (NEPA)

The NEPA scope of analysis always includes the specific activity requiring a Department of the Army permit that is located within the Corps' geographic jurisdiction. In addition, the application of the four factors found in 33 CFR Part 325, Appendix B are used to determine if there are portions of a larger project beyond the limits of the Corps' geographic jurisdiction where the federal involvement is sufficient to turn those portions of an essentially private action into a federal action.

The NEPA scope of analysis is the waters and uplands within the Columbia River Basin in Oregon where activities would be authorized by this RGP. Specific project site locations would be evaluated when a prospective permittee submits a PCN for authorization by RGP 6.

2.2 Action area for Section 7 of the Endangered Species Act (ESA)

For the purposes of Section 7 of the ESA, “action area” means all areas to be affected directly or indirectly by a federal action and not merely the immediate area involved in the action (50 CFR § 402.02). Activities authorized by this RGP would occur within the Columbia River Basin in Oregon. The Corps will determine the action area for specific projects when a prospective permittee submits a PCN for authorization by RGP 6.

2.3 Permit area for Section 106 of the National Historic Preservation Act (NHPA)

The scope of the NHPA review requires the Corps to determine the “permit area”. The permit area for an undertaking is essentially the area of the undertaking and all other activities the Corps has federal control and responsibility over for evaluating the effects of such activities on historic properties. The permit area is defined in 33 CFR Part 325, Appendix C and means those areas comprising waters of the United States that will be directly affected by the proposed work or structures and uplands directly affected as a result of authorizing the work or structures. Activities authorized by this RGP would occur within the Columbia River Basin in Oregon. The Corps will determine the permit area for specific projects when a prospective permittee submits a PCN for authorization by RGP 6.

3.0 Purpose and Need

3.1 The proposed action is the issuance of RGP 6, with modification, to authorize discharges of dredged or fill material into waters of the United States under Section 404 of the Clean Water Act and structures and work in navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899 for habitat improvement projects that result in no more than minimal individual and cumulative adverse environmental effects provided the activities result in a net gain in aquatic resource functions and services. Work that will not comply with these provisions is not authorized by this RGP and may require Department of the Army authorization by an individual permit. Moreover, compliance with the provisions of this RGP does not itself guarantee that the work would be authorized by this RGP.

3.2 The purpose of this RGP is to streamline the authorization process for habitat improvement projects that are funded by BPA. This proposed action is needed for effective implementation of the Corps’ Regulatory Program, by authorizing habitat improvement projects with little delay when those activities have no more than minimal individual and cumulative adverse environmental effects. Issuing an RGP instead of processing individual permit applications for these activities reduces regulatory burdens on the public and provides environmental benefits through avoidance and minimization of impacts to jurisdictional waters and wetlands in exchange for an expedited Department of the Army authorization for regulated activities. The issuance of this RGP also allows the Corps to allocate more of its resources towards evaluating proposed activities requiring Department of the Army authorization that have the potential to cause more substantial adverse environmental effects.

4.0 Coordination

4.1 Public Notice Results

A public notice soliciting comments on the proposal to reissue RGP 6, with modifications, was issued on 7 March 2023. The public notice included a copy of the draft RGP 6. The public notice was distributed by email to all parties on the Portland District Regulatory Branch's electronic mailing list.

Were comments received in response to the public notice? Yes

Was a public meeting and/or hearing requested, and if so, was one conducted? No. A public meeting and/or hearing was not requested.

Comments received in response to the public notice: The only comment received in response to the public notice was on 6 April 2023 from the U.S. Fish and Wildlife Service (USFWS) Oregon Fish and Wildlife Office. The USFWS stated it is currently commenting on estuarine and freshwater aquatic species that use the benthic environment to complete all or a substantial portion of their life cycle that may be adversely affected by dredging and dredge material placement within waterways in the western United States. The USFWS provided comments regarding native lampreys and freshwater mussels.

The USFWS commented that both lamprey and freshwater mussel populations in western rivers are considered in decline and that more information is needed to better understand these species' population status. Lamprey and freshwater mussels in the RGP area are not listed as threatened or endangered under the ESA, but the USFWS would be the listing entity for these species. The USFWS commented that efforts to collect more information on these species can better inform the USFWS if there is a need to list these species. The USFWS commented that efforts to minimize impacts can benefit these populations and potentially reduce the need to list these species.

The USFWS commented that direct impacts from activities that disrupt benthic communities (including lampreys and mussels) like dredging and dredge material placement result from:

- 1) Dredging in occupied habitats alters or removes the existing habitat and its inhabitants and results in death and injury to the benthic organisms in and nearby the dredged area. Death and injury occur primarily by crushing and asphyxiation as the sediments are dredged, removed, or disposed of. Heavy equipment used on the substrate can also crush and kill organisms.
- 2) Upland disposal of dredged sediments will result in death to all benthic aquatic organisms within the dredged materials, as upland habitats will not sustain aquatic organisms.
- 3) In-water disposal of dredged sediments may bury other existing, occupied habitats, resulting in the death of benthic organisms at the site as they are buried, suffocated, or crushed by the dredged sediments.
- 4) Dewatering areas (full and partial reservoir drawdowns, isolation of an area for

in-water work, etc.) can potentially strand hundreds to thousands of larval lamprey, freshwater mussels and estuarine invertebrates in the sediments, depending upon habitat suitability for these species and the extent of the affected area. This stranding, which can result in large die-offs, can negatively impact multiple age classes of these species and substantially reduce recruitment to future generations.

The USFWS provided the Corps with the following recommendations:

1. Prospective permittees should conduct site-specific surveys for lampreys and mussels at areas where sediments will be disturbed/removed and in areas where in-water disposal of dredged material will occur. If site-specific surveys are not conducted, the permittee should estimate the amount of suitable habitats (square meters) for each species, which can be used to determine appropriate mitigation. Without presence/absence surveys, the entire project area should be assumed to be suitable habitat.
2. Conduct dredging outside of the local spawning periods for lamprey (typically June through August depending on elevation/location) and egg incubation period (typically one month post spawning) in areas suitable for spawning to reduce impacts to spawning lamprey.
3. Salvage and relocate lamprey or mussels that would be impacted at a project site if possible.
4. Minimize effects of dredged material disposal for in-water disposal sites in areas determined to (or likely to if no surveys are conducted) have high densities of benthic invertebrates, mussels or lamprey, by using sites with less functional habitats that are sparsely or not occupied to avoid impacting functioning habitats. In addition, dredged material should be disposed in thin layers and limited to no more than 6 cm over a 24-hour period to allow benthic organisms to readjust.
5. The Corps should establish a process or mitigation bank for these species and require permittees to contribute funds monetarily to offset impacts to lamprey and benthic invertebrates commensurate to their impacts on these species and their habitats.
6. The Corps should fund and support studies to evaluate dredging and sediment disposal on fishes and benthic invertebrate communities to better document the impacts, so that appropriate mitigation can be implemented.
7. The Corps should submit reporting information to the USFWS with data collected by permittees on lamprey and mussels and benthic invertebrate communities to aid in the USFWS's understanding of these species. Information on presence, distribution, relative abundance, habitat, salvage efforts, and success, or alternative mitigation should be documented and reported to the USFWS, and include the permit number, permittee, location, dates, biological information collected on lamprey, mussels and benthic invertebrates, and any mitigation actions.

In summary, the USFWS submitted comments and recommendations under the Fish and Wildlife Coordination Act. The USFWS's primary concerns pertain to adverse effects to benthic ecosystems, including mussels and larval lampreys, from dredging, dredged material disposal, dewatering, and other similar actions that disrupt the river substratum and benthic communities along the west coast.

Corps' Evaluation: The categories of activities authorized by this RGP may disturb the benthic community, but dredging and dredged material disposal are not specific activities authorized by this RGP. The following is an evaluation of the USFWS's recommendations as listed above:

1. The USFWS recommended the Corps require prospective permittees to conduct site specific surveys, but in the absence of a survey to assume an entire project site provides suitable habitat for lamprey and mussels. The USFWS acknowledged in its comments that: "The Service notes there may not be an economical manner to survey, minimize, or avoid impacts on the benthic community from dredging activities and dewatering." This RGP includes terms and conditions intended to minimize impacts to the aquatic environment, which would include areas where lamprey or mussels may be present, without the need to conduct site-specific surveys. GC 4, Spawning Areas, requires that activities in spawning areas during spawning seasons be avoided to the maximum extent practicable. GC 6, Shellfish Beds, precludes activities in areas of concentrated shellfish populations, unless the activity is a shellfish seeding or habitat restoration activity authorized by this RGP. GC 10, Management of Water Flows, requires, to the maximum extent practicable, that the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity. GC 13, Soil Erosion and Sediment Controls, requires appropriate soil erosion and sediment controls be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. GC 14, Removal of Temporary Structures and Fills, requires that temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. GC 1 of this RGP lists the information required for a complete PCN. In addition to the information required for a complete PCN, the Corps may request the prospective permittee to submit information necessary to determine the activity meets the terms and conditions of the RGP. However, requiring prospective permittees to conduct site-specific habitat surveys for lamprey and freshwater mussels for any activity authorized by this RGP is not warranted. The Corps has not added a condition to this RGP to require site-specific surveys.
2. The USFWS recommended the Corps require prospective permittees to "conduct dredging" outside of the local spawning periods for lamprey (typically June

through August depending on elevation/location) and egg incubation period (typically one month post spawning) in areas suitable for spawning to reduce impacts to spawning lamprey. Lamprey are anadromous and typically occupy waters also occupied by ESA-listed salmon and steelhead. The BPA is the lead federal agency for ESA Section 7 consultation for activities that would be authorized by this RGP and has completed programmatic Section 7 consultation for the activity categories in this RGP. BPA's Section 7 consultation included an in-water timing restriction conservation measure to limit impacts to ESA species, but also to limit impacts to lamprey. Permittees would be required to conduct activities consistent with BPA's Section 7 consultation, which includes conservation measures. For the foregoing reason, adding an in-water timing restriction to this RGP is not necessary. The Corps has not added an in-water timing restriction condition to this RGP.

3. The USFWS recommended the Corps require permittees to salvage and relocate lamprey or mussels that would be impacted at a project site if possible. Lamprey are anadromous and typically occupy waters also occupied by ESA-listed salmon and steelhead. The BPA is the lead federal agency for ESA Section 7 consultation for activities that would be authorized by this RGP and has completed programmatic Section 7 consultation for the activity categories in this RGP. BPA's Section 7 consultation includes lamprey and mussel salvage conservation measures. Permittees would be required to conduct activities consistent with BPA's Section 7 consultation, which includes conservation measures. For the foregoing reason, adding a condition to this RGP to require permittees to salvage and relocate lamprey or mussels is not necessary. The Corps has not added a salvage and relocate condition to this RGP.
4. The USFWS recommended the Corps minimize effects of dredged material disposal for in-water disposal sites in areas determined to (or likely to if no surveys are conducted) have high densities of benthic invertebrates, mussels or lamprey, by using sites with less functional habitats that are sparsely or not occupied to avoid impacting functioning habitats. This RGP authorizes categories of habitat improvement projects that may affect benthic communities, but this RGP does not authorize in-water disposal of dredged material.
5. The USFWS recommended the Corps should establish a process or in-lieu fee mitigation bank for lamprey and freshwater mussels and require permittees to contribute funds to offset impacts to lamprey and benthic invertebrates. This RGP includes terms and conditions to minimize adverse effects and requires that activities result in a net gain in aquatic resource functions and services; as a result, compensatory mitigation is not required for activities authorized by this RGP. Creating an in-lieu fee mitigation program for lamprey, mussels, or other specific species is not warranted.
6. The USFWS recommended the Corps should fund and support studies to evaluate dredging and sediment disposal on fishes and benthic invertebrate communities to better document the impacts, so that appropriate mitigation can be implemented. This RGP authorizes categories of habitat improvement

projects that may affect benthic communities, but this RGP does not authorize in-water disposal of dredged material. This RGP includes terms and conditions to ensure activities authorized by this RGP cause no more than minimal individual and cumulative adverse environmental effects. Conducting studies is outside the scope of this RGP reauthorization and is not warranted.

7. The USFWS recommended the Corps should submit reporting information to the USFWS with data collected by permittees on lamprey and mussels and benthic invertebrate communities to aid in the USFWS's understanding of these species. The Corps seeks to avoid unnecessary regulatory controls. As described above, requiring permittees to perform surveys and to collect data under this RGP is not warranted. The USFWS may request information from the Corps regarding permitted actions at any time, but the Corps will not implement the recommendation to report to the USFWS on the use of RGP 6.

In summary, RGP 6 includes terms and conditions intended to minimize impacts to the aquatic environment, which would include areas where lamprey or mussels may be present. A federal agency's acceptance of conservation recommendations provided under the Fish and Wildlife Coordination Act is discretionary. The Corps has not included the USFWS's recommendations in this RGP.

4.2 Changes after the public notice

The public notice included a draft of RGP 6 for the public's review and comment. The Corps made the following revisions to the draft RGP following issuance of the public notice:

- a. Under "Activities Authorized by this RGP," added text with additional explanation and description of activities authorized under each category.
- b. Added additional text to GC 8, Water Supply Intakes, to clarify this condition does not apply to water intakes for irrigation.
- c. Revised GC 25, Water Quality, because the certifying authorities denied the Corps' request for general Section 401 water quality certification for this RGP.
- d. Revised GC 26, Coastal Zone Management, because the State objected to the Corps' coastal zone consistency determination for this RGP.
- e. Added GC 29, Mitigation, to specify that activities must be designed and conducted to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable.

These revisions to the RGP are minor and the Corps did not issue an additional public notice to solicit comments.

5.0 Alternatives Analysis

This evaluation includes an analysis of alternatives based on the requirements of NEPA, which requires a more expansive review than the Clean Water Act Section 404(b)(1) Guidelines. The alternatives discussed below are based on an analysis of the

potential environmental impacts and impacts to the Corps, federal, tribal, and state resource agencies, general public, and prospective permittees as described in this document. Since the consideration of off-site alternatives under the Section 404(b)(1) Guidelines does not apply to specific projects authorized by general permits, the alternatives analysis discussed below consists of a general NEPA alternatives analysis for this RGP.

5.1 No Action Alternative

The no action alternative is to not reissue RGP 6. Under the no action alternative, activities that would have otherwise qualified for authorization by RGP 6 would require authorization by an individual permit or by a Nationwide Permit, if applicable. RGP 6 has been prepared consistent with activities that are funded by BPA. BPA funds these projects in fulfillment of its obligations under the Northwest Power and Conservation Council's Columbia River Basin Fish and Wildlife Program and the various biological opinions issued to BPA under Section 7(a)(2) of the Endangered Species Act. The no action alternative would eliminate the permit streamlining measure of a BPA-specific general permit.

5.2 Reissue the RGP Without Modifications

This alternative consists of reissuing the 2018 version of RGP 6 without any modifications. Reissuing the 2018 version of RGP 6 would retain the four notification Levels and notification form. Reissuing the 2018 version of RGP 6 would not incorporate additional general conditions to ensure activities cause no more than minimal individual and cumulative adverse environmental effects and would not incorporate a general condition regarding Section 408 to ensure activities are reviewed for effects to structures or work built by the United States. Reissuing the 2018 version of RGP 6 without modifications would not address needed improvements to the RGP.

5.3 Reissue the RGP With Modifications (Proposed Action)

This alternative consists of reissuing RGP 6 with modifications. The modifications are listed in Section 1.1 above. This alternative clarifies the categories of activities authorized by this RGP. This alternative includes changes to the terms and conditions of this RGP to add a pre-construction notification requirement in all instances and to add other general conditions not contained in the 2018 version of RGP 6. These modifications ensure that this RGP authorizes only those activities that result in no more than minimal individual and cumulative adverse environmental effects and that result in a net gain in aquatic resource functions and services.

5.4 Least environmentally damaging practicable alternative under the Section 404(b)(1) Guidelines and environmentally preferable alternative under NEPA:

Reissue RGP 6 With Modifications (Proposed Action). Reissuing RGP 6 with modifications is a permit streamlining measure by using a general permit consistent with BPA's habitat improvement program. The Portland District continuously strives to

develop efficiencies to include the use of general permits. RGPs are reevaluated every five years and may be modified to address concerns for the aquatic environment. This RGP contains provisions intended to protect the environment, endangered species, historic properties, and to ensure activities authorized by this RGP would be substantially similar in nature and cause no more than minimal individual and cumulative adverse environmental effects.

6.0 Evaluation for Compliance with the Section 404(b)(1) Guidelines

For discharges of dredged or fill material into waters of the United States authorized by general permits, the analysis and documentation required by the Section 404(b)(1) Guidelines are to be performed at the time of issuance of a general permit, such as an RGP. The analysis and documentation will not be repeated when individual discharges of dredged or fill material into waters of the United States are conducted under the RGP. The Section 404(b)(1) Guidelines do not require reporting or formal written communication at the time individual discharges of dredged or fill material into waters of the United States are conducted under a general permit (40 CFR 230.6(b)); however, the terms and conditions of this RGP requires PCN in all instances.

The Section 404(b)(1) Guidelines compliance criteria for general permits are provided at 40 CFR § 230.7. A general permit for a category of activities involving the discharge of dredged or fill material complies with the Section 404(b)(1) Guidelines if it meets the applicable restrictions on discharge in 40 CFR § 230.10, to include applicable subparts, and the permitting authority determines that:

(1) The activities in such category are similar in nature and similar in their impact upon water quality and the aquatic environment:

The specific activities authorized by this RGP are sufficiently similar in nature and environmental impact to warrant authorization under a single general permit. Specifically, the purpose of this RGP is to authorize habitat improvement projects funded by BPA that result in a net gain in aquatic resources functions and services. The terms of this RGP authorize a specific category of activity (i.e., habitat improvement projects) in a specific category of waters (i.e., waters of the United States). The nature and scope of the impacts upon water quality and the aquatic environment are controlled by the terms and conditions of this RGP.

(2) The activities in such category will have only minimal adverse effects when performed separately:

This RGP includes terms and conditions to ensure that authorized activities cause only minimal adverse effects when performed separately. Each activity must be designed and conducted to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable. Several conditions require documentation and a case-by-case review by the Corps (e.g., conditions regarding endangered species, historic properties, wild and scenic rivers). All activities authorized by this RGP require the prospective permittee to submit a PCN and require

written verification from the Corps that the activity is authorized by the RGP. If a situation arises in which a specific activity requires further review, this RGP includes provisions to allow the district engineer to require review under the individual permit procedures.

(3) The activities in such category will have only minimal cumulative adverse effects on water quality and the aquatic environment:

This RGP includes terms and conditions to ensure that authorized activities will have only minimal cumulative adverse effects on water quality and the aquatic environment. This RGP may authorize BPA-funded habitat improvement projects located anywhere within the RGP area (see RGP 6, Appendix 2 area map). On average, RGP 6 is used to authorize 11 BPA-funded habitat improvement projects per year. The Corps estimates a reissued RGP 6 would authorize 55 projects over the five-year term of the RGP. GC 25 of this RGP requires prospective permittees to obtain a Clean Water Act Section 401 water quality certification or waiver from the applicable certifying authority (federal, state, or authorized tribe, as appropriate). To ensure activities will have only minimal cumulative adverse effects on water quality and the aquatic environment, this RGP includes provisions that allow the district engineer to assert discretionary authority and require an individual permit for a specific activity; to modify this RGP for specific activities by adding special conditions on a case-by-case basis; or to take action to suspend or revoke this RGP authorization. See Section 9 for an evaluation of cumulative effects.

6.1 Practicable alternatives

GC 29 of this RGP requires permittees to avoid and minimize discharges of dredged or fill material into waters of the United States to the maximum extent practicable on the project site. The consideration of off-site alternatives is not directly applicable to general permits (see 40 CFR § 230.7(b)(1)).

Practicable alternatives are evaluated in Section 5. The no action alternative would not meet the purpose of streamlining the permit process with a BPA-specific general permit. The alternative to reissue RGP 6 without modifications would not address needed improvements to RGP 6. The alternative to reissue RGP 6 with modifications meets the purpose of streamlining the permit process with a BPA-specific general permit and meets the applicable restrictions on discharges in 40 CFR § 230.10, to include applicable subparts, as evaluated below.

6.2 Candidate disposal site delineation (Subpart B, 40 CFR 230.11(f))

Each disposal site shall be specified through the application of these Section 404(b)(1) Guidelines:

The “disposal site” is the waters of the United States where a discharge of dredged or fill material is proposed. GC 1 requires prospective permittees to submit PCN and to provide a description of the proposed activity including category of habitat improvement

project, any structures and the amount and type of discharges of dredged or fill material, and the area (acreage) of waters of the United States to be affected. This RGP includes conditions to minimize the effect of discharges on the aquatic environment.

6.3 Potential impacts on physical and chemical characteristics of the aquatic ecosystem (Subpart C 40 CFR 230.20-40 CFR 230.25)

The following has been considered in evaluating the potential impacts on physical and chemical characteristics (see Table 2):

Table 2 – Potential Impacts on Physical and Chemical Characteristics						
Physical and Chemical Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Substrate					X	
Suspended particulates/ turbidity				X		
Water			X			
Current patterns and water circulation					X	
Normal water fluctuations			X			
Salinity gradients			X			

Discussion:

a. Substrate: Discharges of dredged or fill material into waters of the United States may result in minor changes to the substrate of those waters. Since the RGP authorizes habitat improvement projects, there should be beneficial changes to the physical, chemical, and biological characteristics of the substrate. The original substrate may be removed and replaced with material that will improve the growth and reproduction of vegetation or improve the aquatic habitat characteristics of the area. Some erosion may occur during construction, but GC 13 requires the use of appropriate measures to control soil erosion and sediment. Temporary fills may be placed upon the substrate, but must be removed and the area returned to pre-construction elevations upon completion of the activity (see GC 14). With the inclusion of the general conditions, the effects to substrate from activities authorized by this RGP would be minor and long term.

b. Suspended particulates/turbidity: Depending on the method of construction, soil erosion and sediment control measures, equipment, composition of the bottom substrate, and wind and current conditions during construction, dredged or fill material

placed in open waters is likely to temporarily increase water turbidity. Particulates may be resuspended in the water column during removal of temporary fills. The turbidity plume will normally be limited to the immediate vicinity of the disturbance and should dissipate shortly after each phase of the construction activity. GC 13 requires the permittee to stabilize exposed soils and other fills, which will reduce turbidity. In many localities, sediment and erosion control plans are required to minimize the entry of soil into the aquatic environment. RGP activities cannot create turbidity plumes that smother important spawning areas downstream (see GC 4). With the inclusion of the general conditions, effects due to suspended particulates and turbidity from activities authorized by this RGP would be minor and short term.

c. Water: The discharges of dredged or fill material may affect some characteristics of water, such as water clarity, chemical content, dissolved gas concentrations, pH, and temperature, but these effects are likely to be positive through habitat improvement projects with benefits to the local aquatic environment. Effects to water are likely to be temporary as the area subject to the habitat improvement project undergoes ecosystem development processes. The chemical and physical characteristics of the waterbody may be changed by the habitat improvement project, but such changes should be improvements or have negligible effects. Changes in water quality can affect the species and quantities of organisms inhabiting the aquatic area. Section 401 water quality certification is required for discharges into waters of the United States authorized by this RGP, which will ensure that those activities do not violate applicable water quality requirements. With the inclusion of the general conditions, effects to water from activities authorized by this RGP would be negligible.

d. Current patterns and water circulation: Discharges of dredged or fill material into waters of the United States may affect the movement of water in the aquatic environment. This RGP requires PCN in all instances and the district engineer will have an opportunity to review the proposed activity and assess potential impacts on current patterns and water circulation. Habitat improvement projects that restore streams and connect floodplains may affect current patterns and water circulation, but the effects are likely to be minor. GC 10 requires the authorized activity to be designed to withstand expected high flows and to maintain the course, condition, capacity, and location of open waters to the maximum extent practicable. With the inclusion of the general conditions, effects to current patterns and water circulation from activities authorized by this RGP would be minor and long term.

e. Normal water fluctuations: The discharges of dredged or fill material into waters of the United States for habitat improvement projects are likely to have negligible adverse effects on normal water level fluctuations. Water levels may fluctuate seasonally in response to precipitation or snow melt. Some discharges of dredged or fill material into waters of the United States for habitat improvement projects will likely alter the water level fluctuations of non-tidal waters. GC 10 requires the permittee to maintain the pre-construction course, condition, capacity, and location of open waters, to the maximum

extent practicable. With the inclusion of the general conditions, effects to normal water fluctuations from activities authorized by this RGP would be negligible.

f. Salinity gradients: The discharges of dredged or fill material into waters of the United States for habitat improvement projects are unlikely to adversely affect salinity gradients. River, stream, floodplain, and wetland restoration activities may reconnect aquatic resources, but are likely to have minimal affect to salinity. With the inclusion of the general conditions, effects to salinity gradients from activities authorized by this RGP would be negligible.

6.4 Potential impacts on the living communities or human uses (Subparts D, E and F)

6.4.1 Potential impacts on the biological characteristics of the aquatic ecosystem (Subpart D 40 CFR 230.30)

The following has been considered in evaluating the potential impacts on biological characteristics (see Table 3):

Table 3 – Potential Impacts on Biological Characteristics						
Biological Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Threatened and endangered species					X	
Fish, crustaceans, mollusks, and other aquatic organisms				X		
Other wildlife				X		

Discussion:

a. Threatened and endangered species: In accordance with GC 19 of this RGP, no discharge of dredged or fill material into waters of the United States is authorized by this RGP if that discharge is likely to jeopardize the continued existence of a threatened or endangered species as listed or proposed for listing under the Endangered Species Act of 1973, as amended, or to destroy or adversely modify the critical habitat of such species. See Section 10.1 below, which describes the requirements to comply with the Endangered Species Act for specific projects. With the inclusion of the general conditions, effects to threatened and endangered species from activities authorized by this RGP would be minor and long term.

b. Fish, crustaceans, mollusk, and other aquatic organisms: The discharges of dredged or fill material into waters of the United States for habitat improvement projects are likely to benefit most species of fish, crustaceans, mollusks, and other aquatic organisms in the food web. Some species may be affected in the short term by changes in habitat

characteristics. The discharges of dredged or fill material into waters of the United States are expected to increase or improve the habitat for these species, which will increase populations of those organisms. Fish and other motile animals are likely to avoid the project site during construction. Sessile or slow-moving animals in the path of discharges, equipment, and building materials may be harmed or destroyed. Some aquatic animals may be smothered by the placement of fill material. Motile animals are likely to return to those areas that are temporarily impacted by the activity and restored or allowed to revert back to pre-construction conditions. Benthic and sessile animals are expected to recolonize sites after construction. The removal of invasive plant species may benefit aquatic organisms in the food web. The district engineer may add special conditions to restrict or prohibit discharges during important stages of the life cycles of certain aquatic organisms. GCs 4 and 6 address protection of spawning areas and shellfish beds, respectively. GC 10 requires the pre-construction course, condition, capacity, and location of open waters be maintained to the maximum extent practicable, which will help minimize adverse impacts to fish, shellfish, and other aquatic organisms in the food web. GC 1 requires the prospective permit to submit PCN and the district engineer will review the proposed discharge of dredged or fill material into waters of the United States and assess potential impacts on fish and other aquatic organisms and ensure that those impacts are no more than minimal. With the inclusion of the general conditions, effects to fish, crustaceans, mollusk, and other aquatic organisms from activities authorized by this RGP would be minor and short term.

c. Other wildlife: Discharges of dredged or fill material into waters of the United States for habitat improvement projects are likely to benefit other wildlife associated with aquatic ecosystems, such as resident and transient mammals, birds, reptiles, and amphibians. However, certain species may benefit from these changes while other species may be harmed or displaced by the destruction of specialized habitat. GC 5 requires that activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable. With the inclusion of the general conditions, effects to other wildlife from activities authorized by this RGP would be minor and short term.

6.4.2 Potential impacts on special aquatic sites (Subpart E 40 CFR 230.40)

The following has been considered in evaluating the potential impacts on special aquatic sites (see Table 4):

Table 4 – Potential Impacts on Special Aquatic Sites						
Special Aquatic Sites	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Sanctuaries and refuges			X			
Wetlands				X		
Mud flats				X		

Table 4 – Potential Impacts on Special Aquatic Sites						
Special Aquatic Sites	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Vegetated shallows				X		
Coral reefs	X					
Riffle pool complexes				X		

Discussion:

a. Sanctuaries and refuges: The discharges of dredged or fill material into waters of the United States may affect sanctuaries or refuges designated by federal or state laws or local ordinances, but those effects are likely to be temporary as habitat improvement projects must result in a net gain in aquatic resource functions and services. National Oceanic and Atmospheric Administration-designated marine sanctuaries, marine monuments and National Estuarine Research Reserves do not occur within the RGP area. The district engineer will exercise discretionary authority and require an individual permit for specific projects in waters of the United States in sanctuaries and refuges if those activities will result in more than minimal adverse effects on the aquatic environment. With the inclusion of the general conditions, effects to sanctuaries and refuges from activities authorized by this RGP would be negligible.

b. Wetlands: The discharges of dredged or fill material into waters of the United States may affect wetlands, but those effects are likely to be temporary as the habitat improvement project develops through ecosystem development processes and produces net gains in aquatic resource functions and services. The district engineer will exercise discretionary authority and require an individual permit for specific projects in wetlands if those discharges will result in more than minimal adverse effects on the aquatic environment. With the inclusion of the general conditions, effects to wetlands from activities authorized by this RGP would be minor and short term.

c. Mudflats: The discharges of dredged or fill material into waters of the United States may affect mudflats, but those effects are likely to be temporary as the habitat improvement project develops through ecosystem development processes and produces net gains in aquatic resource functions and services. The district engineer will exercise discretionary authority and require an individual permit for specific projects in mudflats if those discharges will result in more than minimal adverse effects on the aquatic environment. With the inclusion of the general conditions, effects to mudflats from activities authorized by this RGP would be minor and short term.

d. Vegetated shallows: The discharges of dredged or fill material into waters of the United States may affect vegetated shallows, but those effects are likely to be temporary as the habitat improvement project develops through ecosystem

development processes and produces net gains in aquatic resource functions and services. The district engineer will exercise discretionary authority and require an individual permit for specific projects in vegetated shallows if those discharges will result in more than minimal adverse effects on the aquatic environment. With the inclusion of the general conditions, effects to vegetated shallows from activities authorized by this RGP would be minor and short term.

e. Coral reefs: Coral reefs do not occur within the RGP area and the discharges of dredged or fill material into waters of the United States authorized by this RGP would not occur in or affect coral reefs.

f. Riffle and pool complexes: The discharges of dredged or fill material into waters of the United States may affect riffle and pool complexes through stream habitat improvement projects, but those effects are likely to be temporary as the habitat improvement project develops through ecosystem development processes and produces net gains in aquatic resource functions and services. The district engineer will exercise discretionary authority and require an individual permit for specific projects in riffle and pool complexes if those discharges will result in more than minimal adverse effects on the aquatic environment. With the inclusion of the general conditions, effects to riffle and pool complexes from activities authorized by this RGP would be minor and short term.

6.4.3 Potential impacts on human use characteristics (Subpart F 40 CFR 230.50)

The following has been considered in evaluating the potential impacts on human use characteristics (see Table 5):

Table 5 – Potential Effects on Human Use Characteristics						
Human Use Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Municipal and private water supplies			X			
Recreational and commercial fisheries					X	
Water-related recreation					X	
Aesthetics			X			
Parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves			X			

Discussion:

a. Municipal and private water supplies: The discharges of dredged or fill material into waters of the United States may affect water supplies; however, GC 8 prohibits activities in the vicinity of public water supply intakes, except for irrigation intakes. Activities authorized by this RGP may affect both surface water and groundwater supplies. Surface water supplies may be affected by river, stream and floodplain restoration activities. Groundwater recharge may be improved by wetland restoration. Activities authorized by this RGP are likely to enhance water supplies by improving local water quality. With the inclusion of the general conditions, effects to municipal and private water supplies from activities authorized by this RGP would be negligible.

b. Recreational and commercial fisheries: The discharges of dredged or fill material into waters of the United States may affect economically important fish and shellfish species, but those effects are likely to be temporary as the habitat improvement project develops through ecosystem development processes and produces net gains in aquatic resource functions and services. The district engineer may add special conditions to restrict or prohibit discharges during important stages of the life cycles of certain aquatic organisms. GCs 4 and 6 address protection of spawning areas and shellfish beds, respectively. GC 10 requires the pre-construction course, condition, capacity, and location of open waters be maintained to the maximum extent practicable, which will help minimize adverse impacts to fish, shellfish, and other aquatic organisms in the food web. GC 1 requires the prospective permit to submit PCN and the district engineer will review the proposed discharge of dredged or fill material into waters of the United States and assess potential impacts on recreational and commercial fisheries and ensure those impacts are no more than minimal. With the inclusion of the general conditions, effects to recreational and commercial fisheries from activities authorized by this RGP would be minor and long term.

c. Water-related recreation: The discharges of dredged or fill material into waters of the United States may affect water-related recreation. Activities authorized by this RGP may change the recreational uses of the area. Certain recreational activities, such as bird watching, hunting, and fishing may be improved by providing habitat for species that attract bird watchers, hunters, and fishermen. GC 2 requires that no activity may cause more than a minimal adverse effect on navigation. With the inclusion of the general conditions, effects to water-related recreation from activities authorized by this RGP would be minor and long term.

d. Aesthetics: The discharges of dredged or fill material into waters of the United States may alter the visual character of some waters of the United States, but usually these alterations would be beneficial. The extent and perception of these changes will vary, depending on the size and configuration of the authorized activity, the nature of the surrounding area, and the public uses of the area. With the inclusion of the general

conditions, effects to aesthetics from activities authorized by this RGP would be negligible.

e. Parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves: The discharges of dredged or fill material into waters of the United States may affect parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves if located in or within the vicinity of these areas. This RGP can be used to authorize discharges of dredged or fill material into waters of the United States in parks, national and historical monuments, national seashores, wilderness areas, and research sites if those discharges will result in no more than minimal adverse effects on the aquatic environment. With the inclusion of the general conditions, effects to parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves from activities authorized by this RGP would be negligible.

6.5 Pre-testing evaluation (Subpart G, 40 CFR 230.60)

The following has been considered in evaluating the biological availability of possible contaminants in dredged or fill material (see Table 6):

Table 6 – Possible Contaminants in Dredged/Fill Material	
Physical substrate characteristics	X
Hydrography in relation to known or anticipated sources of contaminants	
Results from previous testing of the material or similar material in the vicinity of the project	
Known, significant sources of persistent pesticides from land runoff or percolation	
Spill records for petroleum products or designated hazardous substances (Section 311 of the Clean Water Act)	
Other public records or significant introduction of contaminants from industries, municipalities, or other sources	
Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities	

Discussion: GC 7, Suitable Material, requires that no activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

Activities authorized by this RGP may excavate and redeposit materials at the project site for the construction of habitat improvement projects. Dredged or fill material is most likely to be free from chemical, biological, or other pollutants where it is composed primarily of sand, gravel or other naturally occurring inert material. Where the discharge of material is adjacent to the extraction site and subject to the same sources of contaminants, and materials at the two sites are substantially similar, the fact that the

material to be discharged may be a carrier of contaminants is not likely to result in degradation at the discharge site. GC 1 requires the prospective permit to submit PCN and the district engineer will review the proposed discharge of dredged or fill material into waters of the United States and assess potential contaminate sources, as applicable. The district engineer may require the evaluation of proposed discharges in accordance with the *Sediment Evaluation Framework for the Pacific Northwest* to ensure that discharges would be suitable for use in the aquatic environment.

6.6 Evaluation and testing (Subpart G, 40 CFR 230.61)

Discussion: A general condition to require testing has not been added to this RGP, because the likelihood of contaminated material is acceptably low and GC 7 prohibits the use of unsuitable material. Discharges of dredged or fill material and other materials used for construction must be free from toxic pollutants in toxic amounts.

6.7 Actions to minimize adverse impacts (Subpart H)

The following actions, as appropriate, have been taken through application of 40 CFR 230.70-230.77 to ensure no more than minimal adverse effects of the proposed discharge (see Table 7):

Table 7 – Actions to Minimize Adverse Effects	
Actions concerning the location of the discharge	
Actions concerning the material to be discharged	
Actions controlling the material after discharge	
Actions affecting the method of dispersion	
Actions related to technology	
Actions affecting plant and animal populations	
Actions affecting human use	
Other actions	X

Discussion: This RGP contains provisions to minimize adverse effects from discharges. In accordance with GC 29, Mitigation, activities authorized by this RGP must be designed and conducted to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable.

6.8 Factual Determinations (Subpart B, 40 CFR 230.11)

The following determinations are made based on the applicable information above, including actions to minimize effects and consideration for contaminants (see Table 8):

Table 8 – Factual Determinations of Potential Effects						
Site	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Physical substrate					X	

Table 8 – Factual Determinations of Potential Effects						
Site	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Water circulation, fluctuation and salinity			X			
Suspended particulates/turbidity				X		
Contaminants			X			
Aquatic ecosystem and organisms				X		
Proposed disposal site			X			
Cumulative effects on the aquatic ecosystem			X			
Secondary effects on the aquatic ecosystem			X			

Discussion:

a. Physical substrate: As described for Subpart C above, discharges of dredged or fill material into waters of the United States may result in minor changes to the substrate of those waters, since the RGP authorizes habitat improvement projects. With the inclusion of the general conditions, the effects to substrate from activities authorized by this RGP would be minor and long term.

b. Water circulation, fluctuation and salinity: As described for Subpart C above, habitat improvement projects may affect current patterns and water circulation. Normal water fluctuations would generally be preserved by GC 10 that requires the permittee to maintain the pre-construction course, condition, capacity, and location of open waters, to the maximum extent practicable. The discharges of dredged or fill material into waters of the United States for habitat improvement projects are unlikely to affect salinity gradients. With the inclusion of the general conditions, the effects to water circulation, fluctuation and salinity from activities authorized by this RGP would be negligible.

c. Suspended particulates/turbidity: As described for Subpart C above, discharges of dredged or fill material to construct habitat improvement projects is likely to temporarily increase water turbidity. The turbidity plume will normally be limited to the immediate vicinity of the disturbance and should dissipate shortly after each phase of the construction activity. With the inclusion of the general conditions, the effects due to

suspended particulates/turbidity from activities authorized by this RGP would be minor and short term.

d. Contaminants: As described for Subpart G above, GC 7 requires that no activity may use unsuitable material. Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act). GC 1 requires the prospective permit to submit PCN and the district engineer will review the proposed discharge of dredged or fill material into waters of the United States and assess potential contaminate sources, as applicable. The district engineer may require the evaluation of proposed discharges in accordance with the *Sediment Evaluation Framework for the Pacific Northwest* to ensure that discharges would be suitable for use in the aquatic environment. With the inclusion of the general conditions, potential effects from contaminants from activities authorized by this RGP would be negligible.

e. Aquatic ecosystem and organisms: As described for Subpart C, D and E above, discharges of dredged or fill material into waters of the United States may affect aquatic ecosystems and organisms. Activities may affect waters of the ecosystem (particulates/turbidity, chemistry, temperature). Activities may affect aquatic organisms, wildlife and threatened and endangered species. Activities may also affect special aquatic sites. Most effects to aquatic ecosystems and organisms from the discharges of dredged or fill material into waters of the United States would be temporary as the habitat improvement project develops through ecosystem development processes and produces net gains in aquatic resource functions and services. With the inclusion of the general conditions, potential effects to the aquatic ecosystem and organisms from activities authorized by this RGP would be minor and short term.

f. Proposed disposal site: As described for Subpart B above, GC 1 requires prospective permittees to submit a PCN and to provide a description of the proposed activity including category of habitat improvement project, any structures and the amount and type of discharges of dredged or fill material, and the area (acreage) of waters of the United States to be affected. This RGP includes conditions to minimize the effect of discharges on the aquatic environment. With the inclusion of the general conditions, potential effects at disposal sites from activities authorized by this RGP would be negligible.

g. Cumulative effects on the aquatic ecosystem: See Section 9.0 for cumulative effects. With the inclusion of the general conditions, potential cumulative effects from activities authorized by this RGP would be negligible.

h. Secondary effects on the aquatic ecosystem: See Section 9.0 for secondary (i.e., indirect) effects. With the inclusion of the general conditions, potential secondary effects from activities authorized by this RGP would be negligible.

6.9 Findings of compliance or non-compliance with the restrictions on discharges (40 CFR 230.10(a-d) and 230.12)

Based on the information above, including the factual determinations, the proposed discharge has been evaluated to determine whether any of the restrictions on discharge would occur (see Table 9):

Table 9 – Compliance with Restrictions on Discharge		
Subject	Yes	No
1. Is there a practicable alternative to the proposed discharge that would be less damaging to the environment (any alternative with less aquatic resource effects, or an alternative with more aquatic resource effects that avoids other significant adverse environmental consequences?)		X
2. Will the discharge cause or contribute to violations of any applicable water quality standards?		X
3. Will the discharge violate any toxic effluent standards (under Section 307 of the Clean Water Act)?		X
4. Will the discharge jeopardize the continued existence of endangered or threatened species or their critical habitat?		X
5. Will the discharge violate standards set by the Department of Commerce to protect marine sanctuaries?		X
6. Will the discharge cause or contribute to significant degradation of waters of the United States?		X
7. Have all appropriate and practicable steps (Subpart H, 40 CFR 230.70) been taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem?	X	

Discussion: This RGP contains provisions intended to protect the environment, endangered species, and water quality to ensure activities authorized by this RGP would cause no more than minimal individual and cumulative adverse environmental effects.

7.0 General Public Interest Review (33 CFR 320.4 and Regulatory Guidance Letter 84-09)

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest as stated at 33 CFR 320.4(a). To the extent appropriate, the public interest review below also includes consideration of additional policies as described in 33 CFR 320.4(b) through (r). The benefits which reasonably may be expected to accrue from the proposal are balanced against its reasonably foreseeable detriments.

7.1 Public interest factors review

All public interest factors have been reviewed and those that are relevant to the proposal are considered and discussed in additional detail (see Table 10):

Table 10 – Public Interest Factors						
Factor	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
1. Conservation:					X	
2. Economics:					X	
3. Aesthetics:				X		
4. General Environmental Concerns:				X		
5. Wetlands:				X		
6. Historic Properties:	X					
7. Fish and Wildlife Values:					X	
8. Flood Hazards:				X		
9. Floodplain Values:				X		
10. Land Use:				X		
11. Navigation:				X		
12. Shoreline Erosion and Accretion:				X		
13. Recreation:					X	
14. Water Supply and Conservation:				X		
15. Water Quality:				X		
16. Energy Needs:				X		
17. Safety:				X		
18. Food and Fiber Production:				X		
19. Mineral Needs:				X		
20. Consideration of Property Ownership:				X		
21. Needs and Welfare of the People:				X		

Discussion of effects on factors above:

Conservation: The activities authorized by this RGP would improve the natural resource characteristics of the project area through habitat improvement activities, because the RGP requires all activities to result in a net gain in aquatic resource functions and services. There may be trade-offs with some aquatic resource functions and services to achieve those net gains, as some aquatic resource functions and services are increased while other aquatic resource functions and services decrease. Those trade-offs may also occur in a temporal scale, with some temporary adverse effects to aquatic resource functions and services occurring during regulated activities to improve habitats with the objective of producing long-term gains in aquatic resource functions and services as the aquatic habitat undergoes ecosystem development over time. Activities authorized by this RGP would have a beneficial effect on conservation.

Economics: During construction, these activities will generate jobs and revenue for local contractors as well as revenue to building supply companies that sell construction materials. Habitat improvement projects would have positive impacts on the local economy. The activities authorized by this RGP would benefit certain segments of the local economy. Activities authorized by this RGP would have a beneficial effect on economics.

Aesthetics: The activities authorized by this RGP may alter the visual character of some waters of the United States, but usually these alterations would be beneficial. The extent and perception of these changes will vary, depending on the size and configuration of the authorized activity, the nature of the surrounding area, and the public uses of the area. Activities authorized by this RGP would have a negligible effect on aesthetics.

General environmental concerns: Activities authorized by this RGP would not adversely affect general environmental concerns, such as water, air, noise, and land pollution, except during construction. The authorized activities will result in habitat improvements with a net gain in aquatic resource functions and services. Adverse effects to the chemical composition of the aquatic environment will be controlled by GC 7, Suitable Material, which states that the material used for construction must be free from toxic pollutants in toxic amounts. Specific environmental concerns are addressed in other sections of this document. Activities authorized by this RGP would have a negligible effect on general environmental concerns.

Wetlands: In general, activities authorized by this RGP would restore, enhance, or establish wetlands. Activities in waters of the United States for habitat improvement projects may result in the alteration of wetlands. Activities authorized by this RGP may result in ecological trade-offs where wetlands are altered or lost from activities such as stream and floodplain connectivity projects, but all projects must result in a net gain in aquatic resource functions and services. Some wetlands may be temporarily impacted by the activity when used for temporary staging areas and access roads. These wetlands will be restored, as required by GC 14, Removal of Temporary Structures and Fills. Wetlands provide habitat, including foraging, nesting, spawning, rearing, and resting sites for aquatic and terrestrial species. The alteration of wetlands may alter

natural drainage patterns. Wetlands reduce erosion by stabilizing the substrate. Wetlands also act as storage areas for stormwater and flood waters. Wetlands may act as groundwater discharge or recharge areas. The loss of wetland vegetation will adversely affect water quality because these plants trap sediments, pollutants, and nutrients and transform chemical compounds. Wetland vegetation also provides habitat for microorganisms that remove nutrients and pollutants from water. Wetlands, through the accumulation of organic matter, act as sinks for some nutrients and other chemical compounds, reducing the amounts of these substances in the water. GC 1 requires submittal of a preconstruction notification in all instances. The district engineer may exercise discretionary authority to require an individual permit if the effects to wetlands would result in no more than minimal adverse environmental effects. The district engineer can also add case-specific special conditions to an RGP authorization to reduce impacts to wetlands. Activities authorized by this RGP would have a negligible effect on wetlands.

Historic properties: GC 22, Historic Properties, requires that no activity is authorized by this RGP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. This RGP authorizes BPA-funded habitat improvement projects and BPA is the lead federal agency for completing the requirements of the NHPA. The BPA should follow its own procedures for complying with the requirements of Section 106 of the NHPA for proposed activities. BPA may demonstrate compliance with the NHPA for a proposed activity through a programmatic or individual consultation with the appropriate State and/or Tribal Historic Preservation Officer. GC 1(b)(7) requires a prospective permit to submit documentation from BPA demonstrating compliance with the NHPA. The action to reissue this RGP, as governed by GC 22, does not affect historic properties, because no activity which may have the potential to cause effects to historic properties is authorized by this RGP unless NHPA Section 106 consultation has been completed. See Section 10.3 below for additional information on compliance with Section 106 of the NHPA.

Fish and wildlife values: This RGP authorizes activities that would improve habitats for many species of fish and wildlife. Activities authorized by this RGP may alter the habitat characteristics of streams and wetlands, favoring certain species at the expense of other species. Wetland and riparian vegetation provides food and habitat for many species, including foraging areas, resting areas, corridors for wildlife movement, and nesting and breeding grounds. Open waters provide habitat for fish and other aquatic organisms. Fish and other motile animals would avoid the project site during construction. Woody riparian vegetation shades streams, which reduces water temperature fluctuations and provides habitat for fish and other aquatic animals. Riparian vegetation provides organic matter that is consumed by fish and aquatic invertebrates. Woody riparian vegetation creates habitat diversity in streams when trees and large shrubs fall into the channel, forming snags that provide habitat and shade for fish. The morphology of a stream channel may be altered by activities authorized by this RGP, which can affect fish populations, but such changes should improve the quality of

aquatic habitat. The project proponent may remove invasive non-native plant species to improve the quality of fish and wildlife habitat. Activities may result in short term effects during construction. All activities require PCN and the district engineer will review the proposed activity and assess potential impacts on fish and wildlife values to ensure that the authorized activity results in no more than minimal adverse environmental effects.

This RGP includes conditions that will reduce adverse effects to fish and wildlife. GC 3, Aquatic Life Movements, prohibits the substantial disruption of life cycle movements of aquatic species unless the project's primary purpose is to impound water. GCs 4, Spawning Areas, and GC 6, Shellfish Beds, ensure that an authorized activity has no more than minimal adverse effects on spawning areas and shellfish beds, respectively. The authorized activity cannot have more than minimal adverse effects on breeding areas for migratory birds, due to the requirements of GC 5. For an RGP activity, compliance with the Bald and Golden Eagle Protection Act (16 USC § 668(a)-(d)), the Migratory Bird Treaty Act (16 USC § 703; 16 USC § 712), and the Marine Mammal Protection Act (16 USC § 1361 et seq.) is the responsibility of the permittee. GC 21 states that the permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity. The district engineer can impose special conditions, as needed, to ensure that activities authorized by this RGP will result in no more than minimal adverse effects to fish and wildlife.

Activities authorized by this RGP must result in a net gain in aquatic resource functions and services. These activities would have a beneficial effect on fish and wildlife.

Flood hazards and floodplain values: Activities authorized by this RGP are unlikely to adversely affect the flood-holding capacity of 100-year floodplains. Compliance with GC 10, Management of Water Flows, requires the permittee to maintain, to the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters, except under certain circumstances. Compliance with GC 11, Fills Within 100-Year Floodplain, would reduce flood hazards.

Activities authorized by this RGP may affect floodplain values by changing plant communities, substrate, and elevations. In most cases, these changes would be beneficial to the aquatic environment. The flood-holding capacity of the floodplain is unlikely to be adversely affected by the activities authorized by this RGP. Some of the activities authorized by this RGP, such as improving floodplain connectivity, may be designed to increase the frequency of flooding to improve local water quality and benefit certain organisms that depend on flooding patterns as part of their life cycles. Modification of the floodplain may affect hydrological processes, such as groundwater recharge. The stream and wetland restoration and enhancement activities authorized by this RGP will have only minor adverse effects on floodplain values. GC 29, Mitigation, requires avoidance and minimization of impacts to waters of the United States to the maximum extent practicable at the project site, which will reduce losses of floodplain

values. Activities authorized by this RGP would have a negligible effect on flood hazards and floodplain values.

Land use: Activities authorized by this RGP would generally retain the natural land use of the project area. Since the primary responsibility for land use decisions is held by state, local, and Tribal governments, the Corps' control and responsibility is limited to significant issues of overriding national importance, such as navigation and water quality (see 33 CFR § 320.4(j)(2)). Activities authorized by this RGP would have a negligible effect on land use.

Navigation: Activities authorized by this RGP would not adversely affect navigation, because these activities must comply with GC 1, Navigation. The PCN requirement for this RGP will allow the district engineer to review proposed activities and assess the potential adverse effects on navigation. If there are navigation concerns, then the district engineer can exercise discretionary authority and require an individual permit for the proposed activity. Activities authorized by this RGP would have a negligible effect on navigation.

Shoreline erosion and accretion: Activities authorized by this RGP may affect shore erosion and accretion processes. These activities are likely to have minor adverse effects on shore erosion and accretion. The categories of activities authorized by this RGP include protection and restoration of eroding streambanks through bank shaping, installation of soil reinforcements (e.g., coir logs, large wood, etc.) and other bioengineering techniques. These habitat improvements would stabilize sediments and improve water quality. Activities authorized by this RGP would have a negligible effect on shoreline erosion and accretion.

Recreation: Activities authorized by this RGP may occur on private or public lands used for recreational activities. Activities authorized by this RGP may change the recreational uses of the area. Certain recreational activities, such as bird watching, hunting, and fishing may be improved by providing habitat for species that attract bird watchers, hunters, and fishermen. Some habitat improvement projects may eliminate certain recreational uses of the area, especially if the landowner restricts access to the area. Overall, the activities authorized by this RGP would have a beneficial effect on certain recreational uses of the area.

Water supply and conservation: Activities authorized by this RGP may affect both surface water and groundwater supplies. Surface water supplies may be affected by river, stream and floodplain restoration activities. Groundwater recharge may be improved by wetland restoration. Activities authorized by this RGP are likely to enhance water supplies by improving local water quality. GC 8 prohibits activities in the vicinity of public water supply intakes. Activities authorized by this RGP would have a negligible effect on water supply and conservation.

Water quality: The activities authorized by this RGP may affect water quality during construction, but the habitat improvement projects authorized by this RGP would

improve water quality. These activities will increase the functions and services of the aquatic environment. Activities that establish wetland and riparian vegetation would improve water quality because plants trap sediments, pollutants, and nutrients and transform chemical compounds. Wetland and riparian vegetation also provides habitat for microorganisms that remove nutrients and pollutants from water. Wetlands, through the accumulation of organic matter, act as sinks for some nutrients and other chemical compounds, reducing the amounts of these substances in the water column. Wetlands and riparian areas also decrease the velocity of flood waters, removing suspended sediments from the water column and reducing turbidity. Riparian vegetation also serves an important role in the water quality of streams by shading the water from the intense heat of the sun. Activities may result in increased turbidity during construction activities. Turbidity is not expected to have more than minimal adverse effects on overall water quality, because most construction would occur during a relatively short period of time. In accordance with GC 25, Water Quality, activities authorized by this RGP may require Clean Water Act Section 401 water quality certification. Most water quality concerns are addressed by the state or tribal certifying authority. Activities authorized by this RGP would have a negligible effect on water quality.

Energy needs: During construction, activities authorized by this RGP would temporarily increase energy consumption in the area, such as the use of fuel to operate equipment. After construction, habitat improvement projects would not affect energy needs. Activities authorized by this RGP would have a negligible effect on energy needs.

Safety: Activities authorized by this RGP would be subject to Federal, state, and local safety laws and regulations. Therefore, this RGP will not detrimentally affect the safety of the project area. Activities authorized by this RGP would have a negligible effect on safety.

Food and fiber production: Activities authorized by this RGP may affect food and fiber production, especially where habitat improvement projects are conducted on land used for agricultural production. Stream restoration and enhancement activities may decrease the amount of farmland, if, for example, a riparian zone is established along a stream that runs through cropland. The loss of farmland is more appropriately addressed through the land use planning and zoning authority held by state and local governments. Some aquatic habitat improvement projects may increase populations of economically important game species, which provide food for some citizens. Activities authorized by this RGP would have a negligible effect on food and fiber production.

Mineral needs: Activities authorized by this RGP may increase demand for aggregates and stone, which may be used to construct aquatic habitat improvement projects. Aggregates may be sourced from local quarries or businesses. The activities authorized by this RGP would have negligible effects on the demand for other building materials, such as steel, aluminum, and copper, which are made from mineral ores. Activities authorized by this RGP would have a negligible effect on mineral needs.

Consideration of property ownership: Activities authorized by this RGP may occur on private or public lands. This RGP complies with 33 CFR § 320.4(g), which states that an inherent aspect of property ownership is a right to reasonable private use. This RGP provides expedited authorization for landowners to implement habitat improvement projects provided the activity complies with the terms and conditions of the RGP and results in no more than minimal adverse environmental effects. Activities authorized by this RGP would have a negligible effect on property ownership.

Needs and welfare of the people: Activities that would be authorized by this RGP have been evaluated based on the probable impacts, including cumulative impacts, on the public interest. Activities that would be authorized by this RGP would result in net gains in aquatic resource functions and services. The benefits, which may be reasonably expected to accrue from authorized activities, have been considered against the reasonably foreseeable detriments. Activities authorized by this RGP would have a negligible overall effect on needs and welfare of the people.

7.2 Public and private need

The relative extent of the public and private need for the proposed structure or work:

This RGP authorizes activities in waters of the United States for habitat improvement projects that have no more than minimal individual and cumulative adverse environmental effects and that result in a net gain in aquatic resource functions and services. These activities satisfy public and private needs for aquatic resource functions, services, and values. This RGP is needed for effective implementation of the Corps' Regulatory Program, by authorizing habitat improvement projects with little delay when those activities have no more than minimal individual and cumulative adverse environmental effects.

7.3 Resource use unresolved conflicts

There are no unresolved conflicts identified as to resource use.

Most situations in which there are unresolved conflicts concerning resource use arise when environmentally sensitive areas are involved (e.g., special aquatic sites, including wetlands) or where there are competing uses of a resource. This RGP authorizes habitat improvement projects. Activities planned and conducted in accordance with the terms and conditions of this RGP reduce the likelihood of such conflict. The district engineer will exercise discretionary authority and require an individual permit if the proposed activity will result in more than minimal adverse environmental effects on the project site. The consideration of off-site alternatives can be required during the individual permit process.

7.4 Beneficial and/or detrimental effects on the public and private use

The extent and permanence of the beneficial and/or detrimental effects that the proposed work is likely to have on the public and private use to which the area is suited

is described below:

Detrimental effects are expected to be minimal and temporary.

Beneficial effects are expected to be minimal and permanent.

The nature and scope of the activities authorized by this RGP would likely limit the extent of the beneficial and detrimental effects to the area immediately surrounding the habitat improvement project. Based on the terms and conditions of this RGP, activities authorized by this RGP will have no more than minimal individual and cumulative adverse environmental effects.

7.5 Climate Change

The proposed activities within the Corps' federal control and responsibility likely will result in a negligible release of greenhouse gases into the atmosphere when compared to global greenhouse gas emissions. Greenhouse gas emissions have been shown to contribute to climate change. Aquatic resources can be sources and/or sinks of greenhouse gases. For instance, some aquatic resources sequester carbon dioxide whereas others release methane; therefore, authorized impacts to aquatic resources can result in either an increase or decrease in atmospheric greenhouse gas. These impacts are considered de minimis. Greenhouse gas emissions associated with the Corps' federal action may also occur from the combustion of fossil fuels associated with the operation of construction equipment, increases in traffic, etc. The Corps has no authority to regulate emissions that result from the combustion of fossil fuels. These are subject to federal regulations under the Clean Air Act and/or the Corporate Average Fuel Economy (CAFE) Program. Greenhouse gas emissions from the Corps' action have been weighed against national goals of energy independence, national security, and economic development and determined not contrary to the public interest.

8.0 Mitigation

(33 CFR § 320.4(r), 33 CFR Part 332, 40 CFR § 230.70-77, and 40 CFR § 1508.1)

8.1 Avoidance and minimization

GC 29, Mitigation, has been added to this RGP and requires that all activities must be designed and conducted to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable.

8.2 Compensatory mitigation requirement

Is compensatory mitigation required to offset environmental losses resulting from proposed unavoidable impacts to waters of the United States? No

Provide rationale: Compensatory mitigation for activities authorized by RGP 6 is not required since these activities must result in a net gain in aquatic resource functions and services. This RGP includes general conditions to ensure authorized activities would

cause no more than minimal individual and cumulative adverse environmental effects.

9.0 Consideration of Cumulative Effects

(40 CFR § 230.11(g-h), 40 CFR § 1508.1 & RGL 84-9) Under NEPA, cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor direct and indirect but collectively significant actions taking place over a period of time. Cumulative effects under the Section 404(b)(1) Guidelines are the changes in the aquatic ecosystem that are attributable to the collective effects of a number of individual discharges of dredged or fill material. Secondary effects under the Section 404(b)(1) Guidelines are the effects on an aquatic ecosystem that are associated with a discharge of dredged or fill material, but do not result from the actual placement of the dredged or fill material. To predict cumulative effects, the evaluation shall include the number of individual discharge activities likely to be regulated under a general permit (e.g., RGP) until its expiration, including repetitions of individual discharge activities at a single location.

A cumulative effects assessment should consider how the direct and indirect environmental effects caused by the proposed activity requiring Department of the Army authorization (i.e., the incremental impact of the action) contribute to the aggregate effects of past, present, and reasonably foreseeable future actions, and whether that incremental contribution is significant or not.

9.1 Identify/describe the direct and indirect effects which are caused by the proposed activity:

The proposed activities are BPA-funded habitat improvement projects as described in Section 1.3 above. These activities, to the extent that a Department of the Army permit is required, include: fish passage restoration (profile discontinuities and transportation infrastructure); river, stream, floodplain, and wetland restoration; invasive plant control; piling removal; road and trail erosion control, maintenance, and decommissioning; irrigation and water delivery/management actions; and habitat, hydrologic, and geomorphologic surveys.

These activities would have direct effects on stream, wetland and floodplain habitats during construction of the habitat improvement project. Activities may alter stream channels by installing gravel, boulders and large wood to restore essential habitat features and to provide instream complexity to support spawning, rearing, and resting habitat for salmonids and other aquatic species. Activities may remove or lower filled areas (e.g., roads, berms, levees) in order to restore natural estuary and freshwater floodplain functions. Activities may remove or alter existing structures (e.g., culverts, bridges, irrigation diversion structures) to improve fish passage. Activities may install grade control structures affecting stream geometry. Activities may plant wetland and riparian vegetation. During construction, activities would have a direct effect on water due to turbidity or temporary manipulations of flows by dewatering. These activities

would directly affect aquatic and/or upland habitats for construction access or construction staging areas. These activities would directly alter existing habitats in order to construct habitat improvement projects.

These activities would have indirect and secondary effects on stream, wetland and floodplain habitats as a result of the habitat improvement project. Projects may improve fish passage and improve aquatic life movements and allow species to access additional habitats. Activities may reconnect side channels and floodplains to provide rearing and refuge areas for aquatic species. The habitat improvement activities would have the secondary effects of allowing ecosystem development processes. Activities authorized by this RGP must result in the secondary effect of a net gain in aquatic resource functions and services.

In evaluating cumulative effects, the Corps expects this RGP to authorize 11 habitat improvement projects per year or 55 projects until the expiration of this RGP (five-year term). GC 16 requires that an activity be a single and complete project and thus does not authorize repetitions of individual discharges at a single location.

9.2 The geographic scope for the cumulative effects assessment is: The geographic scope is the Columbia River Basin (watershed) in Oregon. The Columbia River Basin covers approximately half of Oregon (see RGP 6, Appendix 2 map).

9.3 The temporal scope of this assessment covers: The temporal scope for this analysis is from 1900 to the present and five years beyond the present based on the term of this RGP and to consider reasonably foreseeable future actions.

9.4 Describe the affected environment:

Prior to human development, the Columbia River and its tributaries were free flowing rivers subject to a natural flow cycle of high spring flows from snow melt and low summer flows. River channels were not contained and the rivers flooded and meandered across the floodplain. Historic habitat types on the floodplain consisted of grasslands, riparian areas (shrub/forested), wetlands, and forests.

Major changes to the Columbia River watershed from the historic conditions to the present have occurred from the establishment of mining, agriculture, forestry, transportation infrastructure (roads, highways, railroads), urban development (residential, commercial, and industrial development), and flow control/flood control structures (dams, levees). These human uses have manipulated the flow of the Columbia River and many of its tributaries through the construction of dams and irrigation diversion structures. Many of the rivers in the watershed no longer follow a natural flow regimen and instead dams are used to store water in the spring, which is released throughout the summer growing season for irrigation. Water is also stored and release for the production of hydropower. Levees, roads and other infrastructure have disconnected rivers from their floodplains. Land uses in the floodplain has resulted in the loss of grassland, wetlands and forests and the loss and fragmentation of wildlife

habitat. Alterations in the watershed have led to the decline of salmonids, many of which are listed as threatened or endangered under the Endangered Species Act.

See Section 1.5 above for additional information on the affected environment.

9.5 Determine the environmental consequences:

Activities authorized by this RGP would result in impacts during construction. The impacts during construction are expected to be localized and short term. This RGP includes terms and conditions intended to protect the environment and to ensure activities authorized by this RGP would be substantially similar in nature and cause no more than minimal individual and cumulative adverse environmental effects. Activities authorized by this RGP must result in a net gain in aquatic resource functions and services. The environmental consequences of activities authorized by this RGP would result in a long-term net benefit to the watershed.

Reasonably foreseeable future actions in the watershed include ongoing urban development (residential, commercial, and industrial development) and ongoing maintenance and construction of transportation infrastructure (roads, highways, railroads). These future actions are generally consistent with current land use classifications and management, but may contribute to the loss or degradation of habitats or water quality/quantity in the watershed. These future actions may also include compensatory mitigation to offset environmental effects. Reasonably foreseeable future actions in the watershed also include other habitat restoration, enhancement, and establishment projects as a result of local, state or federal programs.

9.6 Conclusions regarding cumulative impacts:

When considering the direct and indirect impacts that will result from activities that would be authorized by this RGP during its five-year term, in relation to the overall direct and indirect impacts from past, present, and reasonably foreseeable future activities, the incremental contribution of activities that would be authorized by this RGP to cumulative impacts in the area described in section 9.2, are not significant. Activities authorized by this RGP must result in a net gain in aquatic resource functions and services and compensatory mitigation will not be required to offset the impacts of these activities to eliminate or minimize its incremental contribution to cumulative effects within the geographic area described in Section 9.2.

10.0 Compliance with Other Laws, Policies and Requirements

RGPs are a type of general permit designed to authorize certain activities that have no more than minimal individual and cumulative adverse environmental effects and generally comply with the related laws cited in 33 CFR § 320.3, but may require review and a case-by-case determination. Potential adverse impacts and compliance with the laws cited in 33 CFR § 320.3 are controlled by the terms and conditions of this RGP, by the review process that has been undertaken prior to the issuance of this RGP, and by

any special conditions the district engineer may add to specific projects authorized by this RGP.

10.1 Section 7(a)(2) of the Endangered Species Act (ESA)

See Section 2.2 above for a description of the Corps' action area for Section 7 of the ESA.

10.1.1 Lead federal agency for Section 7 of the ESA

This RGP authorizes BPA-funded habitat improvement projects within the Columbia River Basin in Oregon. The BPA is the lead federal agency for completing the ESA Section 7 consultation requirements for specific projects that would be authorized by this RGP.

10.1.2 Section 7 ESA consultation

Activities authorized by this RGP may affect ESA-listed species or designated critical habitat. In accordance with GC 19, Endangered Species, no activity is authorized by this RGP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the ESA, or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under this RGP which "may affect" a listed species or critical habitat, unless ESA Section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed.

The BPA should follow its own procedures for complying with the requirements of the ESA. BPA may demonstrate compliance with the ESA for a proposed activity through a programmatic or individual consultation with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS). Based on the BPA's consultation with the NMFS and/or USFWS, the district engineer may add special conditions to the authorization of activities under this RGP to ensure compliance with the ESA.

Authorization of an activity by this RGP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the NMFS or USFWS, the ESA prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife.

The action to reissue this RGP, as governed by GC 19, results in "no effect" to listed species or critical habitat, because no activity that "may affect" listed species or critical habitat is authorized by this RGP unless ESA Section 7 consultation with the NMFS

and/or USFWS has been completed. The district engineer will determine if BPA has completed ESA Section 7 consultation for a proposed activity.

If a prospective permittee does not comply with the terms and conditions of this RGP and does not submit the required PCN and does not receive written authorization from the district engineer, then the activity is not authorized by this RGP. In such situations, it is an unauthorized activity and the district engineer will determine an appropriate course of action under 33 CFR Part 326 to respond to the unauthorized activity. Unauthorized activities may also be subject to the prohibitions of Section 9 of the ESA.

The district engineer can modify this RGP at any time that it is deemed necessary to protect listed species or their critical habitat, either through: 1) modification, suspension, or revocation of this RGP or through 2) activity-specific permit conditions (modifications) or activity-specific suspensions or revocations of RGP authorizations. Therefore, the district engineer can address any ESA issue, if one should arise.

10.2 Magnuson-Stevens Fishery Conservation and Management Act (MSA), Essential Fish Habitat (EFH)

10.2.1 Lead federal agency for EFH provisions of the Magnuson-Stevens Act

This RGP authorizes BPA-funded habitat improvement projects within the Columbia River Basin in Oregon. BPA is the lead federal agency for completing the MSA Section 305 consultation requirements for specific projects that would be authorized by this RGP.

10.2.2 Magnuson-Stevens Act

Activities authorized by this RGP may affect EFH as defined under the MSA. In accordance with GC 20, Essential Fish Habitat, no activity is authorized under this RGP which may “adversely affect” EFH unless MSA Section 305 consultation addressing the consequences of the proposed activity on EFH has been completed.

The BPA should follow its own procedures for complying with the requirements of the MSA. BPA may demonstrate compliance with the MSA for a proposed activity through a programmatic or individual consultation with the NMFS. Based on the BPA’s consultation with the NMFS, the district engineer may add special conditions to the authorization of activities under this RGP to ensure compliance with the MSA.

The action to reissue this RGP, as governed by GC 20, results in “no effect” to EFH, because no activity that may “adversely affect” EFH is authorized by this RGP unless MSA Section 305 consultation with the NMFS has been completed. The district engineer will determine if BPA has completed MSA Section 305 consultation for a proposed activity.

If a prospective permittee does not comply with the terms and conditions of this RGP and does not submit the required PCN and does not receive written authorization from

the district engineer, then the activity is not authorized by this RGP. In such situations, it is an unauthorized activity and the district engineer will determine an appropriate course of action under 33 CFR Part 326 to respond to the unauthorized activity.

The district engineer can modify this RGP at any time that it is deemed necessary to protect EFH, either through: 1) modification, suspension, or revocation this RGP or through 2) activity-specific permit conditions (modifications) or activity-specific suspensions or revocations of RGP authorizations. Therefore, the district engineer can address any MSA issue, if one should arise.

10.3 Section 106 of the National Historic Preservation Act (NHPA)

See Section 2.3 above for a description of the Corps' permit area for Section 106 of the NHPA.

10.3.1 Lead federal agency for Section 106 of the NHPA

This RGP authorizes BPA-funded habitat improvement projects within the Columbia River Basin in Oregon. BPA is the lead federal agency for completing the NHPA consultation requirements for specific projects that would be authorized by this RGP.

10.3.2 National Historic Preservation Act

Activities authorized by this RGP may affect historic properties. In accordance with GC 22, Historic Properties, no activity is authorized under this RGP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the NHPA have been satisfied.

The BPA should follow its own procedures for complying with the requirements of Section 106 of the NHPA. BPA may demonstrate compliance with the NHPA for a proposed activity through a programmatic or individual consultation with the appropriate State and/or Tribal Historic Preservation Officer (SHPO/THPO). Based on BPA's consultation with the appropriate SHPO/THPO, the district engineer may add special conditions to the authorization of activities under this RGP to ensure compliance with the NHPA.

In accordance with GC 23, Discovery of Previously Unknown Remains and Artifacts, permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing an activity authorized by this RGP must immediately notify the Corps and BPA of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. In this situation, the district engineer or BPA will initiate the federal, tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

The action to reissue this RGP, as governed by GC 22 would not affect historic properties, because no activity which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places is authorized by this RGP unless NHPA Section 106 consultation has been completed. The district engineer will determine if BPA has completed NHPA Section 106 consultation for a proposed activity.

If a prospective permittee does not comply with the terms and conditions of this RGP and does not submit the required PCN and does not receive written authorization from the district engineer, then the activity is not authorized by this RGP. In such situations, it is an unauthorized activity and the district engineer will determine an appropriate course of action under 33 CFR Part 326 to respond to the unauthorized activity.

The district engineer can modify this RGP at any time that it is deemed necessary to protect historic properties either through: 1) modification, suspension, or revocation of this RGP or through 2) activity-specific permit conditions (modifications) or activity-specific suspensions or revocations of RGP authorizations. Therefore, the district engineer can address any NHPA issue, if one should arise.

10.4 Tribal Trust Responsibilities

10.4.1 Tribal government-to-government consultation

Was government-to-government consultation conducted with federally-recognized tribe(s)? No

By letter dated 28 March 2023 the Corps invited the following Native American Tribes to participate in government-to-government consultation regarding the proposal to reissue RGP 6, with modifications: Burns Paiute Tribe, Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Confederated Tribes of the Grand Ronde Community of Oregon, Confederated Tribes of Siletz Indians of Oregon, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon, Coquille Indian Tribe, Cow Creek Band of Umpqua Tribe of Indians, Cowlitz Indian Tribe, Fort Bidwell Indian Community of the Fort Bidwell Reservation of California, Klamath Tribes, Nez Perce Tribe, Quinault Indian Nation, Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation, and Tolowa Dee-ni' Nation.

Each tribe was notified by letter sent by U.S. Mail. With the exception of one letter, each of the letters included a staff-level courtesy copy transmitted by email. The letters and enclosure were sent by email to each respective courtesy copy addressee on 28 March 2023. The letter for the Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon did not include a staff-level courtesy copy and this letter was only sent by U.S. Mail.

The Corps did not receive a response from any of the notified tribes in regard to the invitation for government-to-government consultation.

GC 18, Tribal Rights, requires that no activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

10.5 Section 401 of the Clean Water Act – Water Quality Certification (WQC)

10.5.1 Section 401 WQC requirement

The Section 401 certifying authorities for activities in the area subject to this RGP are the Oregon Department of Environmental Quality (DEQ), the U.S. Environmental Protection Agency (EPA), Region 10, the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), and the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWS).

On 7 March 2023 the Corps requested a general WQC for this RGP from DEQ, EPA, CTUIR and CTWS. The Corps received the following responses:

DEQ: On 12 May 2023 DEQ denied the request for a general WQC.

EPA: On 5 May 2023 EPA denied the request for a general WQC.

CTUIR: On 3 May 2023 the CTUIR denied the request for general WQC.

CTWS: On 21 July 2023 the CTWS denied the request for general WQC.

GC 25, Water Quality, requires the prospective permittee to obtain a project-specific Section 401 WQC or WQC waiver from the respective certifying authority when applicable. If the certifying authority issues a WQC for the proposed discharge, the permittee must submit a copy of the certification to the Corps. The conditions of the WQC would be incorporated into the verification of the RGP for specific activities. Activities are not authorized by this RGP where the applicable certifying authority denies a project-specific request for a Section 401 WQC. GC 25 has been added to this RGP to ensure that activities authorized by this RGP result in no more than minimal degradation of water quality.

10.6 Coastal Zone Management Act (CZMA)

10.6.1 CZMA consistency concurrence

This RGP may authorize activities in or affecting the coastal zone of Oregon. On 7 March 2023 the Corps requested the Oregon Department of Land Conservation and Development's (DLCD) concurrence with the Corps' determination that activities that would be authorized by this RGP would be consistent with the enforceable policies of the Oregon Coastal Management Program to the maximum extent practicable. On 19 May 2023 DLCD objected to the Corps' request for concurrence. As a result, prospective permittees must obtain a project-specific individual state coastal zone management consistency concurrence or a presumption of concurrence must occur.

For activities in or affecting the coastal zone, GC 26, Coastal Zone Management, requires a prospective permittee to obtain a project-specific individual state coastal zone management consistency concurrence or a presumption of concurrence must occur. GC 26 has been added to this RGP to ensure that activities authorized by this RGP are consistent with the Oregon Coastal Management Program to the maximum extent practicable.

10.7 Wild and Scenic Rivers Act

10.7.1 National Wild and Scenic River System

For an activity that would occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, GC 1 requires that the PCN identify the Wild and Scenic River or the “study river” and include documentation from BPA demonstrating compliance with Section 7 of the Wild and Scenic Rivers Act. The district engineer will verify that the appropriate documentation has been submitted.

In accordance with GC 17, Wild and Scenic Rivers, no activity authorized by this RGP may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

10.8 Effects on Corps Civil Works Projects (33 USC § 408)

10.8.1 Permission requirements under Section 14 of the Rivers and Harbors Act (33 USC § 408)

For an activity that requires permission from, or review by, the Corps pursuant to 33 USC § 408 (Section 408) because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized Civil Works project, CG 1 requires that the PCN must include a statement confirming that the project proponent has submitted a written request for Section 408 permission from, or review by, the Corps office having jurisdiction over that Corps project.

In accordance with GC 28, Activities Affecting Structures or Works Built by the United States, an activity that requires review by, or permission from, the Corps pursuant to Section 408 is not authorized by this RGP until the appropriate Corps office issues the Section 408 permission or completes its review to alter, occupy, or use the Corps project, and the district engineer issues a written RGP verification.

10.9 Corps Wetland Policy (33 CFR 320.4(b))

10.9.1 Wetland Impacts

This RGP authorizes wetland restoration activities. Activities authorized by this RGP may also affect wetlands necessary to complete habitat improvement projects, provided those projects result in a net gain in aquatic resource functions and services.

10.9.2 Wetland impact public interest review

Based on the public interest review herein, the beneficial effects of activities that would be authorized by this RGP outweigh the detrimental impacts that may occur.

10.10 Compliance Statement

For the issuance of this RGP, the Corps has determined that it has fulfilled its responsibilities under the following laws, regulations, policies, and guidance:

Table 13 – Compliance with Federal Laws and Responsibilities		
Laws, Regulations, Policies, and Guidance	Yes	N/A
Section 7(a)(2) of the ESA	X	
EFH provisions of the Magnuson-Stevens Act	X	
Section 106 of the NHPA	X	
Tribal Trust	X	
Section 401 of the Clean Water Act	X	
CZMA	X	
Wild and Scenic Rivers Act	X	
Section 408 - 33 USC 408	X	
Corps Wetland Policy (33 CFR 320.4(b))	X	
Other: N/A		X

11.0 Special Conditions

11.1 Special condition requirements

The terms and conditions of this RGP require prospective permittees to submit PCN in all instances. The prospective permittee shall not begin the activity until notified in writing by the district engineer that the activity may proceed under the RGP with any special conditions imposed by the district engineer. The district engineer may add special conditions when such conditions are necessary to satisfy legal requirement, to address site-specific concerns, or to otherwise satisfy the public interest.

12.0 Findings and Determinations

12.1 Section 176(c) of the Clean Air Act General Conformity Rule Review:

The issuance of this RGP has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities authorized by this RGP will not exceed *de minimis* levels of direct or indirect emissions of a criteria pollutant or its precursors and are exempted by

40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this RGP action.

12.2 Presidential Executive Orders (EO)

12.2.1 EO 11988, Floodplain Management

The effects to floodplains were considered above. This RGP includes terms and conditions to minimize effects to floodplains.

12.2.2 EO 12898 and EO 14008, Environmental Justice

12.2.2.1 Provide details regarding screening and mapping tools and available information utilized during the review.

The Council on Environmental Quality's Climate and Economic Justice Screening Tool and the U.S. Environmental Protection Agency's EJScreen: Environmental Justice Screening and Mapping Tool were utilized during this review.

12.2.2.2 Have disadvantaged communities been identified within the RGP area?

12.2.2.3 Yes. The RGP area is illustrated in Appendix 2 of this RGP. The area where activities may be authorized by this RGP covers approximately half of Oregon and includes numerous counties and census tracts. Disadvantaged communities have been identified in these counties due to numerous factors including, but not limited to: minority populations; expected population rate loss, fatalities and injuries resulting from natural hazards each year; projected wildfire and flood risks; high energy costs as a share of household income; health (e.g., share of people with heart disease); low income, poverty and unemployment; lack of high school education; and exposure to pollutants.

12.2.2.4 What meaningful involvement efforts did the Corps take for potentially affected disadvantaged communities and other interested individuals, communities, and organizations?

The Corps issued a public notice soliciting comments on the proposal to reissue RGP 6, with modifications. The public notice included a copy of the draft RGP 6. The public notice was distributed by email to all parties on the Portland District Regulatory Branch's electronic mailing list and the public notice was posted to the Regulatory Branch's public website. In addition, the Corps notified the 17 Native American Tribes in the vicinity of the RGP area by letter and email.

12.2.2.5 Describe if resource impacts are high and adverse.

This RGP authorizes only those activities in waters of the United States that have no more than minimal individual and cumulative adverse environmental effects and result

in a net gain in aquatic resource functions and services; as a result, the reissuance of this RGP will not result in high and adverse resource impacts.

Do the impacts fall disproportionately on disadvantaged communities?

No. This RGP may be used to authorize BPA-funded habitat improvement projects anywhere in the RGP area, which covers approximately half of Oregon. This RGP may authorize activities in areas with minority populations and low-income populations or other factors. In addition, this RGP may authorize activities in areas with majority populations and high-income populations or other factors. The activities authorized by this RGP and their associated impacts will not fall disproportionately on disadvantaged communities.

12.2.2.6 Based upon the discussion and analysis in the preceding sections, the Corps has determined that reissuance of this RGP would not have a disproportionately high and adverse human health or environmental effect on disadvantaged communities.

12.2.3 EO 13112, Invasive Species, as amended by EO 13751

This RGP authorizes the discharges of dredged or fill material and work to control invasive species. The evaluation provided above included invasive species concerns in the analysis of this RGP.

12.2.4 EO 13212 and EO 13302, Energy Supply and Availability

This RGP would not authorize activities that will increase the production, transmission, or conservation of energy, or strengthen pipeline safety.

12.3 Findings of No Significant Impact

Based on the information in this document, I have determined that the discharges of dredged or fill material into waters of the United States and the structures and work in navigable waters of the United States authorized by the issuance of this RGP will not have a significant impact on the quality of the human environment. During the period this RGP is anticipated to be in effect (up to five years), the activities authorized by this RGP will result in only minor changes to the affected environment. Therefore, the preparation of an environmental impact statement is not required for the issuance of this RGP.

12.4 Compliance with the Section 404(b)(1) Guidelines

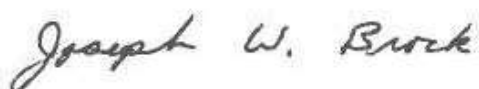
This RGP has been evaluated for compliance with the Section 404(b)(1) Guidelines. Based on the information in this document, I have determined that the discharges that would be authorized by this RGP comply with the Section 404(b)(1) Guidelines with the inclusion of appropriate and practicable general conditions that minimize adverse effects on the aquatic ecosystem. The discharges of dredged or fill material into waters of the United States authorized by this RGP will result in no more than minimal

individual and cumulative adverse effects on the aquatic environment during the period this RGP is anticipated to be in effect (up to five years).

12.5 Public interest determination

I have determined, based on the information in this document, that the issuance of this RGP to authorize discharges of dredged or fill material into waters of the United States and structures and work in navigable waters of the United States for habitat improvement projects that result in net gains in aquatic resource functions and services is not contrary to the public interest.

PREPARED BY:

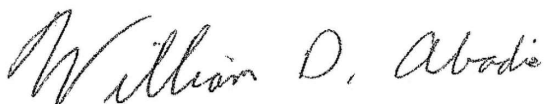


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Joseph W. Brock
NEPA Subject Matter Expert

Date

REVIEWED BY:



30 August 2023

William D. Abadie
Chief, Regulatory Branch

Date

APPROVED BY:



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Larry D. Caswell, Jr., PE, PMP
Colonel, U.S. Army
District Commander

Date