

and safe, NMFS recommends that the Corps release pipeline-dredged materials into as deep a depth as possible.

### **10.2.8 Control of Non-Indigenous Species**

NMFS recommends that the Corps continue its efforts to minimize and/or avoid future, non-indigenous species introductions from deep draft vessel traffic associated with the deepened navigation channel by assisting the Coast Guard, and States of Oregon and Washington, in implementing rules to minimize ballast discharge and associated invasive species introductions.

### **10.2.9 Involvement of the Columbia River Tribes in Project Implementation**

The Columbia River Tribes, represented by the Columbia River Intertribal Fish Commission (CRITFC), have specific technical expertise that should be included into the Project implementation. The Corps should encourage CRITFC participation in the following Project activities: Adaptive management process, monitoring program, ecosystem research program, and the annual contaminants review team activities (*see* Table 3.5). The Corps should also encourage CRITFC participation with the Regional Sediment Evaluation Team that is updating the DMEF manual. The Corps should provide funding for CRITFC involvement in these Project and Project-related activities.

## **11. REINITIATION OF CONSULTATION**

Consultation must be reinitiated as follows:

This concludes formal consultation on these actions in accordance with 50 C.F.R. 402.14(b)(1). Reinitiation of consultation is required: (1) If the amount or extent of incidental take is exceeded; (2) if the action is modified in a way that causes an effect on ESA-listed salmonids that was not previously considered in the BA and this Opinion; (3) if through the monitoring and adaptive management process, or by any other means, new information or project monitoring reveals effects on the action that may affect the ESA-listed salmonids in a way not previously considered or in a way not predicted by the 2001 BA or this Opinion; or (4) a new species is listed or critical habitat is re-designated in a manner that may be affected by the action (50 C.F.R. 402.16)

## **12. INCIDENTAL TAKE STATEMENT**

### **12.1 Introduction**

Sections 4(d) and 9 of the ESA prohibit any taking (harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct) of listed species without a specific permit or exemption. Harm in the definition of “take” in the ESA means an act which actually kills or injures fish or wildlife. Such an act may include significant habitat modification or degradation which actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including, breeding, spawning, rearing, migrating, feeding or sheltering (50 C.F.R. 222.102, 2001). Harass is defined as actions that create the likelihood of injuring listed species to such an extent as to significantly alter normal behavior patterns which include, but are