



United States Department of the Interior

FISH AND WILDLIFE SERVICE



Washington Fish and Wildlife Office
510 Desmond Dr. SE, Suite 102
Lacey, Washington 98503

DEC 23 2014

In Reply Refer To:
01EWFW00-2015-I-0127

Michelle Walker, Chief Regulatory Branch
Seattle District, U.S. Army Corps of Engineers
ATTN: Regulatory Branch (Urelius)
P.O. Box 3755
Seattle, Washington 98124-3755

Dear Ms. Walker:

Subject: Port of Port Townsend (NWS-2013-430)

This letter is in response to your November 18, 2014, request for our concurrence with your determination that the proposed action in Port Townsend Bay at Port Townsend Boat Haven at 385 Benedict Street, Port Townsend, Jefferson County, Washington, "may affect, but is not likely to adversely affect" federally listed species. We received your letter, Memorandum for the Services, 2013 Addendum to the 2009 Biological Assessment for the Boat Haven Launch Ramp Improvements, Joint Aquatic Resources Permit Application Form, and project maps and diagrams, providing information in support of "may affect, not likely to adversely affect" determinations, on November 20, 2014. Insert the project description. A copy of your transmittal document(s) describing the proposed action is enclosed. Specifically, you requested informal consultation pursuant to section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) for the federally listed species and critical habitat identified below.

- Bull trout (*Salvelinus confluentus*)
- Marbled murrelet (*Brachyramphus marmoratus*)

We believe that sufficient information has been provided to determine the effects of the proposed action and to conclude whether it would adversely affect federally listed species and/or designated critical habitat. Our concurrence is based on information provided by the action agency, best available science, and complete and successful implementation of agreed-upon conservation measures.

EFFECTS TO BULL TROUT

Effects and Disturbance

Temporary and/or long-term effects from the action are not expected to measurably disrupt normal bull trout behaviors (i.e., the ability to successfully feed, move, and/or shelter), and are therefore considered insignificant and/or discountable:

- The action will occur during the recommended in-water work window (July 16 to February 15), when bull trout are least likely to be present in the project area.
- Work will occur in a tidally influenced area and construction will occur in the dry or at low tide to the maximum extent possible and minimal amounts of sediments will be discharged into waters that may be used by bull trout. Due to the scope of work, some construction will be conducted in the water. Conservation measures have been incorporated into the project to minimize environmental impacts.
- The action will result in temporary impacts to water quality, including potential temporary increases in elevated levels of turbidity, suspended sediments, contaminants, and underwater sound. These effects will be intermittent and limited in physical extent and duration.
- The action includes pile driving or activities that will result in elevated sound pressure levels. However, because a vibratory pile driver will be used to the maximum extent possible, project-related effects are unlikely to result in injury to bull trout or to disrupt normal bull trout behaviors. Eighty feet of sheet piles will be installed in the dry with a vibratory driver and some proofing may occur. Four 12-inch steel piles will be installed: two in the dry, two in water. Only a vibratory pile driver will be used.
- Long-term use and operations of the small boat launch ramp within the marina will not disrupt normal bull trout behaviors (i.e., the ability to successfully feed, loaf, move, and/or shelter).

Effects to Bull Trout Habitat and Prey Sources

With successful implementation of the agreed-upon conservation measures, we expect that temporary impacts from the action will not measurably degrade or diminish habitat functions or prey resources in the action area, and effects are therefore considered insignificant and/or discountable:

- Work will occur in the dry or at low tide to the maximum extent possible, although some work will occur in water, and minimal amounts of sediments will be discharged into waters that may be used by bull trout. The concentration and duration of turbidity will be episodic and/or of short duration.

- Construction methods and proposed permanent features may impact habitat that supports bull trout and/or their prey sources. These impacts will be limited in physical extent and/or duration, and will not measurably degrade habitat functions, including prey resources, that are important to bull trout within the action area:
 - Construction of the small boat launch and mitigation measures may result in periodic and/or temporary impacts to water quality through elevated levels of turbidity, contaminants, and/or underwater sound; however, these effects will be intermittent and of short duration.
 - The action is not expected to result in shading, destruction, or long-term impacts to submerged aquatic vegetation, and there will be minimal loss of prey resource abundance.
 - Actions in marine waters will occur only during the recommended in-water work window, from July 16 to February 15, when prey fish presence, spawning, and/or holding is least likely to occur.
 - No potential or documented forage fish spawning occurs within Boat haven Marina. Sand lance spawning occurs along the shoreline immediately adjacent to the entrance to the marina. Project impacts will not extend outside the marina.
 - The project removes 300 square feet of moorage structures to mitigate for the 226 square feet of new floats added to the marina. The project will reduce overwater structure providing a benefit to macroinvertebrates. .
 - The project creates 1,050 square feet of new shallow water habitat to mitigate for the removal of 969 square feet of habitat lost for the construction of the boat launch. The project will increase shallow water habitat providing a benefit to macroinvertebrates.

EFFECTS TO MARBLED MURRELET

Effects - Terrestrial Environment

Temporary exposures and effects from the action are not expected to measurably disrupt normal marbled murrelet behaviors while in the terrestrial environment (i.e., the ability to successfully feed, move, and/or shelter) and are therefore considered insignificant and/or discountable:

- The project will not result in sound that will extend into nesting habitat or impact nesting marbled murrelets or their young. Thus, nesting marbled murrelets are extremely unlikely to be exposed to project stressors, including sound and visual disturbance.

Effects - Marine Environment

Temporary exposures and effects from the action are not expected to measurably disrupt normal marbled murrelet behaviors (i.e., the ability to successfully feed, move, and/or shelter) and are therefore considered insignificant and/or discountable:

- Work will occur in the dry or at low tide to the maximum extent possible and minimal amounts of sediments will be discharged into waters that may be used by marbled murrelets. Due to the scope of work, some construction will be conducted in the water. Conservation measures have been incorporated into the project to minimize environmental impacts.
- Marbled murrelets are not expected to be present in the action area during project construction because action area is Boat Haven Marina which is surrounded by a breakwater, fill material covered by riprap. The Service does not expect marbled murrelets to be present within the confined shallow water area of the marina.
- The action will result in temporary impacts to water quality, including potential temporary increases in elevated levels of turbidity, suspended sediments, contaminants, and/or underwater sound. These effects would be intermittent and limited in physical extent and duration.
- Long-term use and operations of the small boat launch ramp within the marina will not disrupt normal marbled murrelet behaviors (i.e., the ability to successfully feed, loaf, move, and/or shelter).

Effects to Marbled Murrelet Foraging Habitat and Prey Sources

With successful implementation of the included conservation measures, we expect that temporary impacts from the action will not measurably degrade or diminish habitat functions or prey resources in the action area, and effects are therefore considered insignificant and/or discountable:

- Work will occur in the dry or at low tide to the maximum extent possible, although some work will occur in water, and minimal amounts of sediments will be discharged into waters that may be used by marbled murrelets. The concentration and duration of turbidity will be episodic and/or short duration.
- Construction methods and proposed permanent features may impact habitat that supports marbled murrelets and/or their prey sources. These impacts will be limited in physical extent and/or duration and will not measurably degrade habitat functions, including prey resources that are important to marbled murrelets within the action area:
 - Construction of the small boat launch and mitigation may result in periodic impacts to water quality through elevated levels of turbidity, contaminants, and/or underwater sound; however, these effects will be intermittent and short duration.

- The action is not expected to result in shading, destruction, or long-term impacts to submerged aquatic vegetation, and there would be minimal loss of prey resource abundance.
- Actions in marine waters would occur during the recommended in-water work window, from July 16 to February 15, when prey fish presence, spawning, and/or holding is least likely to occur.

Conclusion

This concludes consultation pursuant to the regulations implementing the Endangered Species Act (50 CFR 402.13). Our review and concurrence with your effect determination is based on the implementation of the project as described. It is the responsibility of the Federal action agency to ensure that projects that they authorize or carry out are in compliance with the regulatory permit and/or the Endangered Species Act, respectively. If a permittee or the Federal action agency deviates from the measures outlined in a permit or project description, the Federal action agency has the obligation to reinitiate consultation and comply with section 7(d).

This project should be re-analyzed and re-initiation may be necessary if 1) new information reveals effects of the action that may affect listed species or critical habitat in a manner, or to an extent, not considered in this consultation, 2) if the action is subsequently modified in a manner that causes an effect to a listed species or critical habitat that was not considered in this consultation, and/or 3) a new species is listed or critical habitat is designated that may be affected by this project.

This letter and its enclosures constitute a complete response by the U.S. Fish and Wildlife Service to your request for informal consultation. A complete record of this consultation is on file at the Washington Fish and Wildlife Office, in Lacey, Washington. If you have any questions about this letter or our joint responsibilities under the Endangered Species Act, please contact the consulting biologist identified below.

U.S. Fish and Wildlife Service Consultation Biologist(s):
Jim Muck (206-526-4740)

Sincerely,


for Thomas L. McDowell, Acting Manager
Washington Fish and Wildlife Office

Enclosure(s)

MEMORANDUM FOR THE SERVICES (MFS)**CENWS-OD-RG****Re: Endangered Species Act and Essential Fish Habitat Consultation****Reference Number:** NWS-2013-430**Applicant's Name:** Port of Port Townsend**Project Manager:** Karen Urelius**Project Manager Telephone:** 206-764-3482**Project Manager Email:** karen.m.urelius@usace.army.mil**Date:** 18 November 2014

This memorandum conveys to the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) a summary of the effects to species and critical habitat protected under the Endangered Species Act (ESA) that the U.S. Army Corps of Engineers, Seattle District (Corps) has determined are likely to result from the proposed project. The purpose of this memorandum is to facilitate required Section 7 ESA consultation with NMFS and FWS regarding the proposed project. This document is not a Department of the Army permit and it does not authorize the applicant to commence work on the proposed project.

I. Project Location, Description, Purpose, and Compensatory Mitigation.

A. **Location.** The proposed project is located in Port Townsend Bay at Port Townsend Boat Haven at 385 Benedict Street, Port Townsend, Washington Section 11, Township 30N, Range 1W 48.107757 N latitude, -122.774803 W longitude

B. **Description.** The applicant proposes the following work at an existing boat launch and marina:

- Extend existing ramp lane by 13 feet (6.5 cubic yards of concrete fill).
- Add a new boat launch lane 70'x24'9" (47 cubic yards of concrete fill).
- Excavate 175 cubic yards of sediment below MHHW.
- Place 100 cubic yards of gravel for the base of the ramp.
- Place 125 cubic yards of angular rock around the toe of existing and new ramp for scour protection.
- Install a new ADA compliant handling float between the two lanes of the boat ramp. The float is 140 feet long and 6 feet wide (564 square feet of the float would be located below the MHHW).
- Drive four new 12.75" diameter steel piles to support the float.

C. **Purpose.** The purpose of the project is to provide boaters greater access to the water by providing additional launch capacity and ADA accessibility and extending the ramps for sufficient depth during minus tides.

D. **Compensatory Mitigation.** The mitigation for this project is to remove 300 square feet of moorage to compensate for the 225 square feet of shade from the new handling float. The applicant would create 1,050 square feet of new habitat to compensate for decreased substrate productivity of 969 square feet. As stated in the JARPA, the Port will also remove creosote-treated timber structures associated with the Quincy Street dock, including a 900-square-foot transfer span, a 225-square-foot apron, and a 160-square-foot headworks structure. Conservation measures are described on page 38 of the BA.

II. Consultation Requested From: The Corps requests ESA Section consultation from:
 National Marine Fisheries Service U.S. Fish and Wildlife Service

III. Corps Regulatory Jurisdiction.
 Clean Water Act, Section 404 Rivers and Harbors Act, Section 10

IV. Tidal Reference Area, Forage Fish, Eelgrass and Kelp, and Inwater Work Window.