



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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Colonel Richard Hobernicht, District Engineer
U.S. Army Corps of Engineers, Portland District
P.O. Box 2946
Portland, Oregon 97208-2946

RE: Request for Concurrence Regarding Changes to the Columbia River Channel
Improvement Project Restoration Projects

Dear Colonel Hobernicht:

The U.S. Fish and Wildlife Service (Service) is responding to your November 13, 2003 letter requesting the Service's written concurrence that changes to restoration actions in the Columbia River Channel Improvement Project (CRCIP) biological opinion (BO) do not require reinitiation of formal consultation under Section 7 of the Endangered Species Act (Act). Formal consultation was completed on the CRCIP May 20, 2002 and the project modifications discussed in your letter were imposed based on the State of Oregon's Coastal Zone Management Act (CZMA) review and the State of Washington's Clean Water Act 401 Water Quality Certification (401 Certification) review. The restoration projects being affected are the Miller-Pillar and Lois Island ecosystem restoration projects and the Martin Island Embayment tidal marsh development project.

The Miller-Pillar and Lois Island ecosystem restoration projects were proposed as Section 7(a)(1) projects by which the Army Corps of Engineers (Corps) would use its authorities to further conservation of listed species in the lower Columbia River. The ecosystem restoration projects were not included as measures to avoid or minimize the adverse effects or incidental take of listed species from the overall project. In addition, the analysis in the BO did address the short-term adverse effects of the ecosystem restoration projects themselves in the context of the entire CRCIP.

The Martin Island Embayment Project was designed to mitigate for wildlife habitat loss due to upland dredge material disposal. The Corps proposed creating tidal marsh habitat that, in addition to benefiting certain wildlife species, would also benefit salmonids. The potential short-term adverse effects of this wildlife mitigation project were analyzed and accounted for in the BO. Following the changes in Washington's 401 Certification, the Corps will relocate its wildlife mitigation efforts from tidal marsh habitat creation in the embayment to acquiring and reforesting 80 acres of upland habitat on Martin Island. There should be no adverse effects from this project to listed species beyond those addressed in our May 20, 2002 BO.

Based on the information provided in your letter regarding state CZMA and 401 Certification changes to the Lois Island and Miller-Pillar and the Martin Island restoration projects and the analysis from our May 20, 2002 BO for the CRCIP, the Service concurs that the described changes to these projects do not constitute a need to reinitiate formal consultation on the CRCIP.

However, regarding the stipulations to the Lois Island ecosystem restoration project imposed by the State of Oregon, the Service recommends this project not be abandoned, but rather put on hold for now, due to the uncertainty of whether the Select Area Fishery at Lois Island will continue to be funded. This project is a valuable opportunity to provide tidal marsh habitat in the Columbia estuary. Because of the limited opportunity for such large-scale restoration projects in the estuary, options for future implementation should be considered.

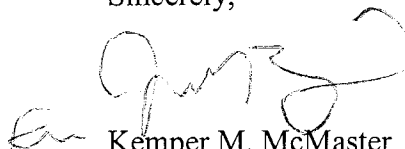
The Service is disappointed with the States' decisions not to support these restoration projects aimed at listed salmonid conservation and recovery. Despite these difficulties the Service will continue to support the remaining ecosystem restoration projects included in the CRCIP and will continue to pursue avenues to facilitate a solution to the Lois Island project.

The Corps has also requested the Service's position in writing concerning whether the analysis of effects in the CRCIP biological assessment (BA) was sufficient for conferencing on proposed critical habitat for the bull trout. Bull trout critical habitat was proposed November 29, 2002 after the CRCIP BO was finalized. The CRCIP BA and BO contain extensive effects analysis covering numerous salmonid runs and species, including bull trout. The Service believes the effects analyses in the BA and BO are most likely sufficient to analyze the effects of the action on proposed bull trout critical habitat, and recommends that the Corps review the constituent elements of the critical habitat proposal and compare those to the analyses in the BA and BO. The Corps should then document this cross-walked analysis and make a determination regarding the effects of the CRCIP on proposed critical habitat for the bull trout. A copy of the bull trout critical habitat proposal can be found through the following link: <http://pacific.fws.gov/bulltrout/criticalhab.htm>. The Service will also provide a copy of our guidance on conferencing for proposed bull trout critical habitat to you electronically.

If the Corps chooses to complete this conferencing approach, once critical habitat is finalized it can request that the Service roll over its conference opinion to a final biological opinion. Otherwise the Corps would need to reinitiate consultation on bull trout critical habitat once it is designated. The Service anticipates finalizing bull trout critical habitat in September of 2004.

If you have any further questions regarding this letter please contact David Leal or Joe Zisa at (503) 231-6179.

Sincerely,



Kemper M. McMaster
State Supervisor

cc: Laura Hicks, Army Corps of Engineers, Portland District, Oregon
Kim Larson, Army Corps of Engineers, Portland District, Oregon