

**Table 3 – 60% Mitigation Plan Comments**

<b>Comment No.</b>	<b>Page No.</b>	<b>Section No.</b>	<b>Directed Comment (Yes/No)</b>	<b>Comment</b>
1.		General	Yes	<p>a. The Port states that the City of Portland will design the Ramsey Refugia project. Please note that the MOA or whatever type of agreement is reached between EPA, the City, and the Port on the construction and long-term maintenance and monitoring of such a project will need to provide EPA input into the design so that we can confirm ARARs for the T4 project have been complied with.</p> <p>b. Before EPA can approve the Mitigation Plan that includes any project where a third-party will be responsible for the construction and long-term operation and maintenance, a final agreement between EPA, the Port, and the third party must be reached.</p> <p>c. Also, the timing of when the Ramsey refugia project is constructed and completed, in relation to when the habitat is lost will be a factor in how much mitigation is sufficient to compensate for lost habitat. The Port's schedule for dredging and filling at T4 is within the next year or two, when will the city complete construction of the refugia?</p> <p>d. The final mitigation plan design needs to be included as an element of the 100% DAR, and must include complete plans and specifications for construction.</p>
2.		Section 2.2		Removal Action Activities Requiring Compensatory Mitigation – Mitigation should be proposed to replace the temporal loss of habitat in dredging & capping areas. Section 2.2- Loss of Habitat- The permanent loss of Slip 1 equates to a loss of habitat for other aquatic species, including large-scale sucker, sturgeon, panfish, pikeminnow, peamouth, lamprey, benthic invertebrates & birds. The loss of aquatic habitat for all species should be considered in what will be mitigated for.
3.		Section 2.2		Mitigation Project Options – The mitigation project does not seem to focus on the permanent loss of habitat in Slip 1. Piling removals & capping does not replace habitat permanently lost. Instead, it is modifying existing aquatic habitat area. The habitat bench may put back some of the degraded shoreline lost in Slip 1, but it shouldn't be viewed as a habitat improvement. The berm face will be a rock wall, which will provide habitat for a limited group of species, mostly panfish like smallmouth bass. The loss of aquatic riverbed, benthic community, & associated habitat for other aquatic species is 14 acres. This should be discussed in regard to creating permanent new habitat at a new location. The amount of this new habitat should be determined by properly scaling the loss from T-4 to include the loss from all relevant species, even if the replacement habitat is primarily shallow water habitat.
4.		Section 4		Significant Habitat Mitigation – Not all the actions listed here should be considered significant habitat mitigation. Options 1-3 do not replace area of aquatic habitat with new area, but make slight improvements in the aquatic habitat that will be left in the area. Benefits to the areas where pilings are removed may be minimal if the area is to be covered with rock.
5.		Section 4.4.2		Benefits to Other Aquatic Species – It is unlikely that the habitat created for the Ramsey Refuge, which is shallow water habitat that loses quite a bit of volume during the summer months, would provide new habitat for smallmouth bass, largescale sucker, carp & sunfish. Have these fish been found utilizing new habitat formed in the Ramsey Phase I project?

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6.		Section 5.1		Monitoring Measures – If mitigation such as the habitat bench, piling removal or capping activities are to be considered, they must be monitored to determine if they are providing the necessary habitat improvements to attract use by aquatic species.
7.	31	Section 5.4.1	Yes	Revise the 95% performance criteria for acreage to 100%, and delete related references to contingency actions if acreage requirement is not met. The implication that there is some inherent difficulty in achieving a specified target area for acreage is ridiculous. The Port should plan to build a slight excess of habitat area to ensure the target acreage is achieved. This type of hedging in achieving project performance standards is detrimental to building trust between EPA and Port.
8.	32	Section 5.4.1		Revise the future topography performance criteria to require corrective action based on a cumulative change a 1 foot from the baseline survey. Maintenance of appropriate elevations is particularly important for shallow water habitat. As written, the +/-2 ft variation would allow elevations to vary within 4-foot zone before corrective action occurs.
9.	33	Section 5.4.1		The Port should be providing regular maintenance of the mitigation site to ensure that weed species do not cover any substantial portion of the site at the 5-year mark.
10.				Overall, the mitigation plan does not reflect recent conversations between the government team and Port and needs revision to address these issues, such as, but not limited to, temporary impacts need some level of assessment and loss of habitat for all species (not just ESA species) needs to be reflected in the evaluation. As such, EPA comments on the mitigation plan are limited at this time and caveated on an ongoing discussion of overall mitigation adequacy.
11.			Yes	PERFORMANCE MEASURES: Ending performance standards at year 5 is unacceptable. The Port shall propose performance standards that are in force throughout the habitat mitigation project lifetime, i.e. maximum invasive species percent cover that applies regardless of the monitoring year. Maximum invasive percent cover performance standards shall be developed. Minimum percent cover shall be specified for native species. A full list of quantitative performance standards are listed in the Action Memo. At a minimum, annual monitoring over the first five years and every five years thereafter shall occur. EPA will re-Evaluate the monitoring schedule periodically.
12.		Section 5.4.2.2	Yes	Include the following language in the text, "After absence of fish over 3 consecutive seasons EPA may require corrective actions to be taken."