United States Department of the Interior

FISH AND WILDLIFE SERVICE

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Reply To: 8330 l0027(07)
File Name. Port of Portland T-4 CDF
TS Number: 07-66, 07-145

NOV 0 6 2006

Mr. Sean Sheldrake
U.S. Environmental Protection Agency, Region 10
1200 Sixth Ave. M/S ECL-111
Seattle, Washington 98101

Subject: Informal Consultation for the proposed Terminal 4 Confined Disposal Facility in the Willamette River within the City of Portland, Multnomah County, Oregon; (Fish and Wildlife Service consultation code: 13420-2007-1-0027)

Dear Mr. Sheldrake:

The Fish and Wildlife Service (Service) has reviewed your biological assessment (BA) regarding the proposed Terminal 4 Confined Disposal Facility (CDF) at the Port of Portland site in the Willamette River, within the City of Portland, Multnomah County, Oregon. Of interest to the Service are effects to the threatened bald eagle (Haliaetus leucocephalus) from your proposed action. Your Final BA was received in our office on October 11,2006. A request for concurrence that your proposed action "may affect, but is not likely to adversely affect" bald eagle, in accordance with the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.) was received on October 19, 2006.

The proposed action, as described in your BA, involves the dredging, transport, disposal, and capping of contaminated sediments associated with Slip 1 and Slip 3, and Wheeler Bay at the Port of Portland Terminal 4 facility. The project is within the Portland Harbor Superfund project area, located between River Miles 4 and 5 on the eastern bank of the Willamette River. Sediments will be removed using either a hydraulic dredge or a conventional clamshell dredge bucket with material loaded on to a sealed-hull barge. Sediments will be transported by barge and off-loaded to the constructed CDF at Slip 1.

Construction of a CDF within Slip 1 is designed to contain sediments dredged from Slip 3; an earthen containment berm will be constructed at the mouth of Slip 1 to serve as isolation/retaining structure for dredged sediments within the CDF. In addition, the CDF will have excess capacity available for other dredged sediments from the Portland Harbor Superfund Site or other clean-up actions. Approximately 105,000 cubic yards (cy) of contaminated sediments from Slip 3 and 28,000 cy of sediments from beneath the containment berm will be placed in the CDF. The CDF will retain the ability to receive an additional 542,000 cy of

material in the future.

Dredging at Slip 3 will be conducted primarily with a hydraulic dredge with a clamshell bucket to remove debris. Contaminated sediments will be placed on barges

Primary project elements include, but are not limited to the following:

- construction of a CDF in Slip 1;
- a combination of dredging, capping, and monitoring in Slip 3
- a combination of capping and monitoring in Wheeler Bay and Berth **401**
- monitoring, dredging, and/or capping for the area north of Berth **414**

A detailed discussion and schedule of proposed procedures that will be followed to accomplish construction of the CDF, removal of contaminated sediments, disposal, capping operations, and monitoring are presented in the BA and are in our administrative record and incorporated herein by reference.

Based upon information in the BA, we concur with the U.S. Environmental Protection Agency's (EPA) determination that the proposed action is not likely to adversely affect bald eagle for the following reasons:

1. Proposed project activity could temporarily displace foraging bald eagles; however, there is abundant suitable foraging habitat throughout the lower Willamette River and displaced eagles would likely forage elsewhere during construction activities.

2. The nearest bald eagle nest or communal roost is greater than two miles from the proposed project area. In addition, because of the existing level of human activity at the project area, and absence of bald eagle nesting or roosting habitat, it is unlikely that bald eagles will use areas near the proposed action.

3. The risk assessment indicated a potential for exposure of some contaminants to bald eagles at concentrations slightly above no-effect levels. However, eagles do not forage exclusively at the site (as conservatively assumed in the assessment) and will likely forage elsewhere during project construction. In addition, project Best Management Practices have been designed to minimize the discharge (and therefore bioavailability) of contaminants at the site.

4. Ultimately, this project is designed to reduce exposure of contaminated sediments to the environment and improve the environmental health of the lower Willamette River. This will result in long-term beneficial effects to bald eagles in the area.

CONSERVATION MEASURES

Section 7(a)(1) of the ESA directs Federal agencies to utilize their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of endangered and threatened species. Conservation measures are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information.

The creation of a CDF will eliminate approximately 15 acres of open water habitat which serves as foraging habitat for bald eagles and supports benthic habitat for other Service species of concern, such as Pacific lamprey (Lampetra tridentata). The Service recommends that the EPA incorporate the following conservation measures into project designs, contract specifications, and management plans to the extent practicable:

1. Any mitigation that may occur should include improvements to nearshore and riparian habitat for bald eagles by planting cottonwoods or similar trees that will eventually support bald eagle nesting and roosting.

2. To increase the general knowledge of Pacific lamprey occupancy and habitat needs in the lower Willamette River, the EPA, with assistance from the Service, National Marine Fisheries Service, Oregon Department Fish and Wildlife, and Corps of Engineers, should develop and implement a lower Willamette River Pacific lamprey investigation. These efforts would complement and focus ongoing research efforts and habitat needs in the lower Willamette River, particularly within the greater Superfund site.

The requirements established under section 7(a)(2) and 7(c) of the Act, 1973, as amended, have been met, thereby concluding the consultation process for bald eagle. If you have any questions on this consultation, or need more information, please contact Greg Smith or Jeremy Buck at (503) 231-6179.

Sincerely,

for Kemper M. McMaster
State Supervisor