BIOLoGiCAL EVALUATION

For informal ESA Consultation

For:       (Corps Reference Number)

*Version: May 2012*

*\*\* This form is for projects that have insignificant or discountable impacts on listed species. It contains all the information required for a biological evaluation, but in abbreviated form and with minimal instructions on how to fill it out. For more detailed instructions, a format for development of a biological assessment or biological evaluation can be found on the Seattle District Corps website (www.nws.usace.army.mil – click on regulatory and then on endangered species, BA Template). You may also contact the Corps at 206-764-3495 for further information.*

**Drawings and Photographs** - ***Drawings and photographs must be submitted***. Photographs must be submitted showing local area, shoreline conditions, existing overwater structures, and location of the proposed project. Drawings must include a vicinity map; plan, profile, and cross-section drawings of the proposed structures; and over- and in-water structures on adjacent properties. (For assistance with the preparation of the drawings, please refer to our *Drawing Checklist* located on our website at [www.nws.usace.army.mil](http://www.nws.usace.army.mil/) Select Regulatory – Regulatory/Permits – Forms.) Submit the information to: U.S. Army Corps of Engineers, Regulatory Branch, P.O. Box 3755, Seattle, Washington 98124-3755.

Date:

|  |
| --- |
| **SECTION A - General Information** |
| 1. **Applicant name**:
 |
| Mailing address:       |
| Work phone:      | Home phone:      | Email:      | Fax:      |
| 1. **Joint-use applicant name (if applicable)**:
 |
| Mailing address:       |
| Work phone:      | Home phone:      | Email:      | Fax:      |
| 1. **Authorized agent name**:
 |
| Mailing address:       |
| Work phone:      | Home phone:      | Email:      | Fax:      |
| 1. **Location where proposed work will occur**

Address (street address, city, county): Location of joint-use property (street address, city, county):      Waterbody:       |
| ¼ Section:       | Section:       | Township:       | Range:       |
| Latitude:       | Longitude:       |

**5. Description of Work:**

***Include project drawings and site photographs.***

*Describe the proposed project in detail. Please describe any mitigation that is being proposed for impacts from your project. Attach a mitigation plan as an appendix, if appropriate.*

**For projects that include pile driving**

 *If steel or concrete piles are being installed with an impact hammer pile driver, marbled murrelets may be adversely impacted. For installation of any type of pile with a vibratory pile driver, marine mammals may be adversely impacted. A monitoring plan may be required to ensure protection of these species.*

| **Please fill out the following: (obtain information from contractor)** |
| --- |
| 5.1 Number of piles being replaced:  |  |
| 5.2 Replacement pile type: (e.g.: ACZA-treated wood, steel, coating used on steel piles)  |   |
| 5.3 Replacement pile size:(e.g. 12-inch) |  |
| 5.4 Installation method:(e.g.: vibratory, impact hammer) | **Note:** Vibratory or impact installation of wood, concrete, plastic, or other non-metal piles of any size is allowed. Impact installation of steel piles in marine waters is not covered under the programmatic and, in freshwater, is only covered programmatically for steel piles up to 10 inches. |
| 5.5 Anticipated dates, number of minutes and number of days vibratory pile driving | \_\_\_\_\_\_\_\_\_\_\_ minutes per day \_\_\_\_\_\_\_\_\_\_ number of days Anticipated dates:  |
| 5.6 For vibratory installation, will proofing be required? If so, how many pile strikes per pile? | Yes Number of pile strikes per pileNo  |
| 5.7 For impact hammer installation, estimate the number of pile strikes required per pile: |  |
| 5.8 For impact hammer installation or proofing, estimated number of pile strikes per day: | Minutes per day Number of days Anticipated dates:  |
| 5.9 For impact hammer pile driving or proofing, sound attenuation measures:  |  |
| 5.10 Anticipated dates, number of minutes and number of days of impact hammer pile driving or proofing: |  |
| 5.11 Describe substrate into which piling will be driven: |  |

**6. Construction Techniques**:

*Describe methods and timing of construction to be employed in building the project and any associated features. Identify actions that could affect listed / proposed species or designated / proposed critical habitat and describe in sufficient detail to allow an assessment of potential impacts. Consider actions such as vegetation removal, temporary or permanent elevations in noise level, channel modifications, hydrological or hydraulic alterations, access roads, power lines etc. Also discuss construction techniques associated with any interdependent or interrelated projects.*

*Address the following:*

A. Construction sequencing and timing of each stage (duration and dates):

B. Site preparation:

C. Equipment to be used:

D. Construction materials to be used:

E. Work corridor:

F. Staging areas and equipment wash outs:

G. Stockpiling areas:

H. Running of equipment during construction:

I. Soil stabilization needs / techniques:

J. Clean-up and re-vegetation:

K. Storm water controls / management:

L. Source location of any fill used:

M. Location of any spoil disposal:

**7. Action Area**

*Please describe the action area. The action area means all areas to be affected directly (e.g., earth moving, vegetation removal, construction noise, placement of fill, release of environmental contaminants) and indirectly by the proposed action. (Example: as a direct effect, the action area for pile driving would include the area out to where the noise from the pile driving falls below the level of harm or disturbance for listed species. For vibratory hammer pile driving impacts to killer whales, this level is 120 dB. Action area will include any area where the underwater noise level may exceed 120 dB).*

**8. Species Information**:

*Identify each listed or proposed species, including terrestrial species, as well as designated or proposed critical habitat in the action area. Please include information on which listed species use are expected to be found in the action area and the potential for them to be there during project activities..*

*To determine what listed or proposed species may occur in the action area, contact NOAA Fisheries at the address listed below and obtain a county list of federally listed/ designated and proposed species and critical habitat from the:*

 U.S Fish and Wildlife Service at: <http://westernwashington.fws.gov/se/SE_List/endangered_Species.asp>

National Marine Fisheries Service at:

510 Desmond Dr., SE # 103

Lacey, WA 98503

(360) 753-9530

<http://www.nwr.noaa.gov>

The following species are listed as of August 11, 2011:

**USFWS SPECIES**

**BIRDS**

Marbled murrelet

Northern spotted owl

Short-tailed albatross

Western snowy plover

**MAMMALS**

Canada lynx

Columbia white-tailed deer

Gray wolf (western WA)

Gray wolf (eastern WA)

Grizzly bear

Woodland caribou

Pygmy rabbit (Columbia Basin DPS)

**INSECTS**

Oregon silverspot butterfly

**PLANTS**

Bradshaw’s desert parsley

Marsh sandwort

Showy stickseed

Wenatchee Mtns. Checker-mallow

Golden paintbrush

Kincaid’s lupine

Nelson’s checker-mallow

Water howellia

Spalding’s catchfly

Ute ladies’-tresses

**FISH**

Bull trout, Columbia River

Bull trout, coastal-Puget Sound

Dolly varden, coastal-Puget Sound

**NMFS SPECIES**

**FISH**

Chum, Columbia River

Chum, Hood Canal summer

Chinook, lower Columbia River

Chinook, upper Columbia River spring

Chinook, Puget Sound

Chinook, Snake River fall

Chinook, Snake River spring-summer

Chinook, upper Willamette River

Coho, lower Columbia River

Sockeye, Ozette Lake

Sockeye, Snake River

Steelhead, upper Columbia River

Steelhead, middle Columbia River

Steelhead, lower Columbia River

Steelhead, Snake River

Steelhead, upper Willamette River

Steelhead, Puget Sound

Sturgeon, Green (southern DPS)

Eulachon, Pacific (southern DPS)

Bocaccio (Georgia Basin DPS)

Rockfish, canary (Georgia Basin DPS)

Rockfish, yelloweye (Georgia Basin DPS)

**MARINE MAMMALS**

Humpback whale

Blue whale

Fin whale

Sei whale

Sperm whale

Southern resident killer whale

Steller sea lion

**REPTILES-AMPHIBIANS**

Leatherback sea turtle

Loggerhead sea turtle

Green sea turtle

Olive Ridley sea turtle

**9. Existing Environmental Conditions**:

*Describe existing environmental conditions for the following:*

A. Shoreline riparian vegetation and habitat features

B. Aquatic substrate and vegetation (include information on the amount and type of eelgrass or macroalgae present at the site)

C. Surrounding land/water uses

D. Level of development

E. Water quality

F. Describe use of the action area by listed salmonid fish species.

G. Is the project located within designated / proposed bull trout or Pacific salmon critical habitat? If so, please address the proposed projects’ potential direct and indirect effect to primary constituent elements (Critical habitat templates can be found on the Corps website at: <http://www.nws.usace.army.mil/Missions/CivilWorks/Regulatory/PermitGuidebook/EndangeredSpecies.aspx>, select Forms, Tools and References; Forms and Templates; Critical Habitat Assessment Forms.

H. Describe use of the action area by other listed fish species (*green sturgeon, eulachon, bocaccio, canary rockfish and yelloweye rockfish)*.

I. Is the project located within designated/proposed critical habitat for any of the species listed below? If so please address the proposed projects’ potential direct and indirect effect to primary constituent elements. Please see the NOAA-Fisheries and US Fish and Wildlife websites ([www.nwr.noaa.gov](http://www.nwr.noaa.gov) and [www.fws.gov/pacific](http://www.fws.gov/pacific) respectively) for further information.

 *Southern resident killer whale Marbled murrelet*

 *Northern spotted owl Western snowy plover*

 *Green sturgeon Eulachon*

J. Describe use of action area by marbled murrelets. How far to the nearest marbled murrelet nest site or critical habitat? Some information is available on the Fish and Wildlife Service website: <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B08C>.

K. Describe use of action area by the spotted. How far to the nearest spotted nest site or critical habitat? Some information is available on the Fish and Wildlife Service website: <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B08B>.

L. **For marine areas only:** Describe use of action area by Southern Resident killer whales. How often have they been seen in the area and during what months of the year? For information on noise impacts on killer whales and other marine mammals, please see the National Marine Fisheries website: <http://www.nwr.noaa.gov/Marine-Mammals/MM-consults.cfm>.

M. **For marine areas and Columbia River:** How far is the nearest steller sea lion haulout site from the action area? Describe their use of the action area. See the National Marine Fisheries website: <http://www.nwr.noaa.gov/Marine-Mammals/MM-consults.cfm> for information on the steller sea lion and location of their haulout sites.

N. **For marine areas only: Forage Fish Habitat** – only complete this section if the project is in tidal waters.

Check box if Washington Department of Fish and Wildlife (WDFW) documented habitat is present. Go to the WDFW website for this information: <http://wdfw.wa.gov/fish/forage/forage.htm>, then search for each species under the link to Biology, then the link to Documented Spawning Grounds (if available, please attach a copy of the Hydraulic Project Approval from WDFW):

**Surf Smelt:** [ ]  **Pacific Herring:** [ ]  **Sand Lance:** [ ]

Check box if the proposed action will occur in potentially suitable forage fish spawning habitat:

**Surf Smelt:** [ ]  **Pacific Herring:** [ ]  **Sand Lance:** [ ]

If no boxes are checked, please explain why site is not suitable as forage fish spawning habitat.

Please describe the type of substrate and elevation and presence of aquatic vegetation at the project area. For example:

At +10 to +5 feet above MLLW, there is no aquatic vegetation, the substrate consists of large cobbles.

At +5 to +1 foot above MLLW, there is eelgrass and the substrate consists of fine sand.

**10**. **Effects Analysis**

*Describe the direct and indirect effects of the action on the proposed and listed species as well as designated and proposed critical habitat within the action area. Consider the impact to both individuals and the population. Discuss the short-term, construction-related, impacts as well as the long-term and permanent effects.*

***Direct Impacts:***

***Indirect Impacts:***

**11.** **Conservation measures:**

*Conservation measures are measures that would reduce or eliminate adverse impacts of the proposed activity (examples: work done during the recommended work window (to avoid times when species are most likely to be in the area), silt curtain, erosion control best management practices, percent grating on a pier to reduce shading impacts).*

**Proposed work window:**

**Other conservation measures:**

**12. Determination of Effect:**

*Provide a summary of impacts concluding with statement(s) of effect, by species. Even projects that are intended to benefit the species might have short-term adverse impacts and those must be addressed. Only the following determinations are valid for listed species or designated critical habitat:*

***No effect.*** Literally no effect. No probability of any effect. The action is determined to have ‘no effect’ if there are no proposed or listed salmon and no proposed or designated critical habitat in the action area or downstream from it. This effects determination is the responsibility of the action agency to make and does not require NMFS review.

***May Affect, Not Likely to Adversely Affect*** (NLAA) – Insignificant, discountable, or beneficial effects. The effect level is determined to be ‘may affect, not likely to adversely affect’ if the proposed action does not have the potential to hinder attainment of relevant properly functioning indicators and has a negligible (extremely low) probability of taking proposed or listed salmon or resulting in the destruction or adverse modification of their habitat. An insignificant effect relates to the size of the impact and should never reach the scale where take occurs. A ‘discountable effect’ is defined as being so extremely unlikely to occur that a reasonable person cannot detect, measure, or evaluate it. This level of effect requires informal consultation, which consists of NMFS and/or USFWS concurrence with the action agency’s determination.

***May Affect, Likely to Adversely Affect*** (LAA) **This form is not appropriate for use with a project that is LAA listed species. Please see the Biological Assessment (BA) template on the Corps website:** [**http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=mainpage\_ESA**](http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=mainpage_ESA)

**13. EFH Analysis**

*Essential Fish Habitat (EFH) is broadly defined by the Act (now called the Magnuson-Stevens Act or the Sustainable Fisheries Act) to include “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity”. This language is interpreted or described in the 1997 Interim Final Rule [62 Fed. Reg. 66551, Section 600.10 Definitions] -- Waters include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include historic areas if appropriate; substrate includes sediment, hard bottom, structures underlying the waters, and associated biological communities; necessary means the habitat required to support a sustainable fishery and the managed species’ contribution to a healthy ecosystem; and “spawning, breeding, feeding, or growth to maturity” covers a species’ full life cycle.*

*Additional guidance for EFH analyses can be found at the NOAA Fisheries web site under the Sustainable Fisheries Division.*

**A. Description of the Proposed Action** (may refer to BA project description)

**B. Addresses EFH for Appropriate Fisheries Management Plans** (FMP)

**C. Effects of the Proposed Action**

i. Effects on EFH (groundfish, coastal pelagic, and salmon EFH should be discussed separately)

ii. Effects on Managed Species (unless effects to an individual species are unique, it is not necessary to discuss adverse effects on a species-by species basis)

iii. Effects on Associated Species, Including Prey Species

iv. Cumulative Effects

**D. Proposed Conservation Measures**

**E. Conclusions by EFH** (taking into account proposed conservation measures)

**14. References:**

*Include any studies or papers that support statements made in this form (example: reference the source for the listed species that are covered).*

**15. Appendices:**

*As needed include mitigation, revegetation plans, monitoring plans, results of studies, water quality information, etc.*