US Army Corps of Engineers
Seattle District

Programmatic Consultation – Phase I
General Implementation Conditions

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Permittees must follow these general conditions, as well as stipulations specifically related to the work, in order for the permit to be covered by this informal programmatic consultation. For the purposes of this document, "adjacent" is defined as within 25 linear feet. This is used when restricting projects from impacting special aquatic sites (such as an eelgrass bed or wetland) and/or salmonid or forage fish spawning areas.

I. General Conditions:

1. **Notification**. Applicants and permittees must notify the Corps via *Programmatic Endangered Species Act (ESA) Consultation Specific Project Information Form* for all actions proposed or completed under this programmatic consultation. If the notification is accomplished prior to completing the work, applicants must complete the *Programmatic ESA Consultation Specific Project Information Form* and submit it with their JARPA or pre-construction notification package.

2. **Agency Access.** Permittee must provide access to the work site to representatives of the Corps, National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), Washington Department of Ecology (Ecology), and Washington Department of Fish and Wildlife (WDFW) during all hours of construction or operation.

3. **Suitable Material**. Only clean, suitable material shall be used as dredged or fill material (e.g., no trash, debris, car bodies, asphalt, etc.,). Material must be free from toxic pollutants in toxic amounts.

4. **Removal of Temporary Fills**. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation and contours.

5. **No work in a Superfund or Model Toxic Clean up Site**. No work shall occur in or adjacent to an existing or previously designated Superfund Clean-up site by the U.S. Environmental Protection Agency (EPA), or a site currently or previously designated for clean up under the Washington State Model Toxic Control Act (173-340 WAC), except for projects meeting conditions of Nationwide Permit 20.

II. In-water Work Conditions:

1. **In-Water Work Period.** Where specified, all in-water work shall occur within the approved work window as outlined in the Programmatic Consultation – Phase I: Approved Work Windows. Allowable in-water work periods are subject to revision as new information on ESA listed or proposed fish use is obtained.

2. **In-Stream Work Prohibited.** Work shall be done from the top of the bank. Operation of heavy equipment directly in the active flowing channel is not covered by this consultation.

3. **Restrictions on Heavy Equipment.** Permittee shall use equipment having the least impact. Hand labor rather than heavy equipment will be used when possible and as required for individual actions under this informal programmatic consultation. Heavy equipment working in wetlands must be placed on mats, or other temporary structures to minimize soil disturbance and compaction. If gravel is used, the gravel must be placed on a mat and the gravel and mat removed in their entirety immediately after completion of construction.

4. **No Disturbance to Woody Riparian Vegetation.** Woody riparian vegetation shall not be disturbed or removed within 300 feet landward of the ordinary high water mark (OHW) of the stream, lake or the high tide line of the marine/estuarine area.

5. **No Dumping.** Material shall be carefully placed, not dumped, into the stream, lake or marine/estuarine area.

6. **Discharges in Special Areas.** Discharges into or adjacent to fish spawning area or areas with submerged vegetation are not authorized.

7. **No Herbicides Use**. No herbicides, pesticides, fertilizers, or other toxic substances are to be applied within 300 feet of a stream, lake or marine/estuarine area.

III. Erosion Control and Water Quality Monitoring: Permittees must ensure they take all practicable steps to control erosion during construction, and establish permanent erosion protection upon completion of the work, or during extended work stoppages.

1. **Erosion Control**. Erosion and siltation controls (such as hydro seeding, filter bags, silt fences, grass and rock-lined swales, check dams, sediment traps, truck wheel wash, soil coverings (bonded fiber matrix), organic or fabric soil detention systems, leave strips, berms, temporary sediment basins, etc.) must be used and maintained in effective operating condition during construction to protect all exposed soil, stock piles and fills from erosion. Permittees are expected to implement the following erosion control measures as appropriate:

    a. Stabilize exposed ground. All exposed ground surfaces are stabilized prior to the closure of the approved work window and/or within one week of project completion, whichever occurs first. Rock check dams will be used, although sterile straw bales may be used as an adjunct.

    b. Stockpiling to minimize erosion. Stockpiles shall be constructed in a manner that minimizes erosion, and is permanently stabilized at the earliest practicable date. Material will be stockpiled to reduce erosion by preventing runoff from the top of the stockpile from flowing down the stockpile face. Stockpiles shall be sloped away from the side facing the waterbody or wetland at all times (i.e. placing fill in tiers). Stockpiles shall be stabilized by hydroseeding (for long-term stockpiles) or covered with visqueen or other appropriate material for short-term erosion control of the stockpile.

    c. No stockpiling in a wetland or the waterbody. No stockpiling shall occur in a wetland, riparian zone, or waterward of the OHW in any stream or lake, or high tide line in any marine/estuarine area.

d. Excess material stockpiled in uplands. All excess dredged or excavated material shall be placed in an upland location.

e. Temporary erosion control. Permittee shall install and maintain temporary erosion control and ensure that erosion control measures are inspected on a regular basis during the life of the construction.

f. Use non-persistent and non-invasive plants. If plants are utilized for temporary erosion control, species selected shall be non-persistent and non-invasive. Sterile straw or hay bales shall be used to prevent introduction of weeds. Native vegetation will be planted on disturbed sites (including project site, disposal and staging areas, and access roads) when necessary to reduce soil erosion, establish cover, prevent invasive plant colonization, and provide shade.

g. Stabilize and restore temporary upland access areas. Any temporary access areas will be built to avoid impacts to fish, wildlife, wetlands, or other sensitive resources. Construction of access roads and associated staging areas shall be protected with appropriate matting, i.e. sheet piling or geo-textile fabric placed under a gravel blanket or other suitable material. Any temporary roads or staging areas and associated matting constructed for the project will be removed and the area restored to pre-existing or enhanced conditions upon project completion.

h. Use existing access areas. Where specified, existing upland access areas will be used to access the beach or stream areas.

i. Sedimentation ponds. Sedimentation ponds, sump ponds, swales, pumps, and any supplemental treatment facilities (may include chemical batch treatment cells, high-volume mechanical filtering devices, with or without chemical treatment, flow-through clarifiers, with or without chemical treatment, flow-through ponds, with chemical treatment) necessary for a particular project must be constructed and operational prior to fill placement. The facilities will be designed to accommodate the runoff flow that can be expected depending on the time of the year project construction will take place.

j. Wet season construction. If construction occurs during 1 November through 30 April of any year, only fill material containing less than 5 percent of very fine particles (such as silts, clays or the like) will be placed in the project area to reduce the amount of sedimentation generated in the construction stormwater runoff.

k. Stormwater treatment. Stormwater collected in temporary sedimentation basins must be treated before release into any waterbody or wetland and monitored for pH, turbidity, and settleable solids, as well as bioassays to assess treated water toxicity.

l. Pumping of stormwater. Pumping of stormwater runoff to sedimentation ponds will be used when such a procedure can minimize impacts and/or allow flexibility in locating sedimentation ponds.

m. Construction runoff. During construction, runoff from undisturbed areas will be routed around disturbed areas. This will reduce runoff quantities from exposed surfaces to further assure water quality standards are met. Diversion will be accomplished using diversion swales and/or temporary piping around construction areas. Pipe outlets, level spreaders, swales, or other devices may be used to reduce erosion at the discharges of these diverted clean water flows.

n. Stormwater management maintenance. The stormwater management facilities will be regularly maintained throughout the life of the project. Maintenance may include soil and turf repair as necessary, removal of sediment accumulation from the swales and ponds, and restoration of silt fencing, pipe outlets, and outfalls.

2. **Water Quality Limited Streams**. Before beginning work on Water Quality Limited streams with limits on toxic substances, metals or organic chemicals, the permittee shall coordinate with the Washington State Department of Ecology (Ecology) to develop a sediment-testing plan. The plan shall include the proper testing protocol and reporting requirements. The results shall be submitted to Ecology, and permittee must receive Ecology approval before beginning work. The Washington State Water Quality Standards (WAC 173-201A) requires that runoff from construction projects not increase receiving stream turbidity by more than 5 NTU (Nephelometric Turbidity Units).

IV. Spill Prevention and Control: Petroleum products, chemicals, fresh cement, construction, or deleterious materials shall not be allowed to enter waters (streams, lakes, or marine/estuarine areas) or wetlands. Permittees shall take the following precautions:

1. **No fuel storage in or adjacent to waterbody.** Areas for fuel storage, and refueling and servicing of construction equipment and vehicles, shall be located a minimum of 300 feet landward from the edge of any water body or wetlands.

2. **No uncured concrete.** No uncured concrete shall be placed in any water body. Where specified in this informal programmatic consultation, concrete must be cured before it comes into contact with the waterbody.

3. **Use Biodegradable[1] Hydraulic Fluids**. Hydraulic fluids for machinery used for in-water work should be biodegradable in case of accidental loss of fluid.

4. **Use Clean Equipment and no "washout" of equipment in or adjacent to a waterbody.** All equipment that is used for in-water work shall be cleaned to remove external oil, grease, dirt and mud prior to placing the equipment in the water. Wash sites shall be placed so that wash water does not flow into the water body or a wetland without adequate treatment, no sediment will enter the waterbody or wetland, and it is located at a minimum of 300 feet landward from the edge of any waterbody or wetland.

[1] According to established ASTM (American Society of Testing Material) procedures the following is the definition of biodegradability: A minimum of 40% of the original sample has been decomposed to inert ingredients within twenty-eight (28) days.

5. **Report Accidental Spills to Ecology**. In the event of a spill, permittee shall stop work immediately and notify the Washington State Department of Ecology (Ecology). For Northwest Washington, contact Ecology's Northwest Regional Spill Response Office at (425) 649-7000. For Southwest Washington, contact Ecology's Southwest Regional Spill Response Office at (360) 407-6300. For Central Washington, contact Ecology's Central Regional Spill Response Office at (509) 575-2490. For Eastern Washington, contact Ecology's Eastern Regional Spill Response Office at (509) 456-2926. In addition, for Endangered Species Act purposes, accidental spills must also be reported immediately (within one business day) to the Corps at (206) 764-3495, NMFS at (360) 753-9530, and USFWS at (360) 753-9467.

V. Minimization and Revegetation Guidelines:

1. **Minimization.** All projects and associated construction activities must be designed so that impacts to waters of the U.S., wetlands, and habitat for listed or proposed fish species are avoided and minimized to the full extent practicable.

2. **Natural Beach/Stream Complexity Features.** Boulder, rock, and woody debris material must not be removed from any stream or shoreline area.

3. **Revegetation Guidelines.** Upon completion of work covered in this informal programmatic consultation, all disturbed herbaceous areas of the site shall be replanted with native herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody vegetation components shall be planted in the Fall or early Winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success.

    a. Planting Plan. A planting plan must be submitted to the Corps for approval, including species names of all plants proposed and method of planting (i.e. hydroseeding, density of cuttings, etc.).

    b. As-built Drawings. "As-built" drawings and photographs of the planted areas or a status report must be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch (the Corps) and USFWS within 13 months of the date of permit issuance.

    c. Submittal of Monitoring Reports. Two monitoring reports with photographs must be submitted to the Corps and USFWS: the first monitoring report one year after the Corps written approval of the "as-built" drawings and a final monitoring report three years after the Corps written approval of the "as-built" drawings. Monitoring reports must include information on the percent of plants replaced, by species. Monitoring reports should state what caused plant failure.

    d. Performance Standard - Year 1. At the end of "Year 1" (Year 0 being the year of "as-builts"), planted species must have a survival rate of 100%, and be considered viable and healthy. Replanting shall be done as necessary to meet the 100% performance standard.

e. Final Performance Standard – Year 3. At the end of "Year 3", planted species must have a survival rate of 80% and be considered viable and healthy. Eighty percent (80%) of the herbaceous revegetated area must be covered with native planted species or native recruit species.

f. Contingency Plan. If the percent survival and cover of planted species (herbaceous and woody as outlined in the planting plan) does not achieve success (*guidelines d and e*), then remedial measures (e.g. replanting, soil amendments, or additional monitoring) may be required until the Corps and USFWS have determined that success has been achieved.

g. Non-native, invasive plant control. The presence of non-native, invasive plant species shall not exceed 10% coverage of the revegetated area during the three-year monitoring period. A list of non-native, invasive wetland plant species for Western Washington is provided in Table 1.

h. Preservation. During and after the three-year monitoring period, any planted woody vegetation within the revegetated areas shall not be removed, cut, or otherwise disturbed unless specifically approved, in writing, by the Corps. Herbaceous plants may be cut or mowed but not removed.

Table 1: Common Non-native Plants Often Found in Western Washington
(Source: Methods for Assessing Wetland Functions, Part 2: Procedures for Collecting Data, Washington State Department of Ecology (99-116), 1999.)

Washington's Wetlands

SPECIES NAME	***COMMON NAME***
Agropyron repens	Quackgrass
Alopecurus pratensis, A. aequalis	Meadow foxtail
Arcticum minus	Burdock
Bromus tectorum, B. rigidus, B. brizaeformis, B. secalinus, B. japonicus, B. mollis, B. commutatus, B. inermis, B. erectus	Bromes
Cenchrus longispinus	Sanbur
Centaurea solstitialis, C repens C cyanus, C maculosa, C diffusa	Knapweeds
Cirsium vulgare, C. arvense	Thistles
Cynosurus cristasus, C echinatus	Dogtail
Cytisus scoparius	Scot's broom
Dactylis glomerata	Orchardgrass
Dipsacus sylvestris	Teasel
Digitaria sanguinalis	Crabgrass
Echinochloa crusgalli	Barnyard grass
Euphorbia peplus, E. esula	Spurge
Festuca arundinacea, F. pratensis, F. rubra	Fescue
Holcus lanatus, H. mollis	Velvet grass
Hordeum jabatum	Foxtail barley
Hypericum perforatum	St. John's Wort
Iris pseudacorus	Yellow iris
Ilex aquifolium	English holly

SPECIES NAME	***COMMON NAME***
Lolium perenne, L. multiflorum, L. temulentum	Ryegrass
Lotus corniculatus	Birdsfoot trefoil
Lythrum salicaria.	Purple loosestrife
Matricaria matricarioides	Pineapple weed
Medicago sativa	Alfalfa
Melilotus alba, M. offiinalis	Sweet clover
Phalaris arundinacae	Reed canarygrass
Phleum pratense	Timothy
Phragmites australis	Common reed
Poa compressa P. palustris, P. pratensis	Bluegrass
Polygonium aviculare, P. convolutus, P. cuspidatum, P. lapathifolium, P. persicaria, P. sachalineuse	Knotweeds
Ranunculus repens	Creeping buttercup
Rubus procerus (discolor), R. lacinatus, R. vestitus, R. macrophyllus, R. leucodermis	Non-native blackberries
Salsola kali	Russian thistle
Setaria viridis	Green bristlegrass
Sisymbrium altissimum, S. loeselii, S. officinale	Tumblemustards
Tanacetum vulgare	Tansy
Trifolium dubium, T. pratense, T. repens, T. arvense, T. subterraneum, T. hybridium	Clovers
Misc. cultivated species	Wheat, corn, barley, rye, etc.