

MEMORANDUM

DATE: January 17, 2003

TO: Regional Sediment Evaluation Team

FROM: Howard Cumberland
Taku Fuji

RE: December 10 and 11, 2002, RSET Meeting
15362-00

On December 10 and 11, 2002, the Regional Sediment Evaluation Team (RSET) held a meeting of RSET members and other interested parties from federal and state agencies and regional Port authorities to further discuss the policy and technical issues that were identified during the September 2002 workshop. The meeting was held at the U.S. Army Corps of Engineers (Corps) Portland District office. The meeting participants consisted of representatives from the same organizations as the September meeting. However, some agencies had additional or other personnel attend. The Agenda for the December 10 and 11, 2002, meeting is included in Attachment A.

DAY 1

Review of September RSET Report

The meeting began with a review of the report from the September RSET Workshop. The report was well received, and Hart Crowser received few comments on the report. The participants were urged to review the Tables provided in the text and continue to use them as a guide for determining the technical issues to be addressed by the subcommittees.

National Dredging Team Overview

David Moore, of MEC Analytical, presented an overview of the recent efforts the National Dredging Team (NDT) is undertaking to update and improve the consistency of the national guidance manuals for dredged material testing. The NDT has begun the process of identifying issues to be addressed in order to update and possibly combine the Ocean Testing (marine) and Inland Testing

(freshwater) manuals. The NDTs goal is similar to RSETs goal of updating and combining dredged material evaluation frameworks in the northwest. The complete presentation by David Moore is presented in Attachment B.

Draft Priority DMEF Issues and Corps Funding

It was discussed that the initial priority is to have Jim Reese and John Malek (RSET organizing chairpersons) meet with the Regional Administrators (RA), which comprise the Regional Dredging Team (RDT). This meeting is to discuss the scope items (e.g., schedule, budgets, technical issues, etc.) that RSET is proposing to complete the DMEF manual update and to get RA buy-off on the RSET process. Many attendees have attended the RSET meetings without clear commitment and funding from their respective RAs to participate in the RSET process. This RA meeting is planned for January 2003.

Jim Reese presented an overview of the proposed Corps tasks and funding requirements to conduct the RSET effort. The issues were prioritized to correspond with need and fiscal year funding and is presented in Attachment C. For example, the first task is to fund the RSET group facilitation for the DMEF manual update process. This task would include meeting coordination and facilitation, monitoring other on-going technical studies (e.g., WES, NOAA Fisheries) for information sharing and presentation at RSET meetings, assist and coordinate subcommittee development and meetings, etc. With the exception of Tasks 1 through 5, the other tasks can be re-prioritized, as necessary.

Review of SETAC Pellston Workshop on Use of Sediment Quality Guidelines

Dr. Taku Fuji provided a summary of the conclusions of the recent Pellston Workshop on the Use of Sediment Quality Guidelines. This talk highlighted the conclusions from the various workgroups that supported the sediment evaluation framework being developed and implemented by the DMEF and RSET process. An "Executive Summary Booklet" of the Pellston Workshop was provided to RSET participants. Dr. Fuji's presentation is provided in Attachment D.

Public Involvement Process and Discussion of FACA

We continued the discussion of the Public Involvement Process. It is believed that the public needs to be involved, but at what level of involvement is still a matter of debate. Some participants thought it is necessary to involve the public early and continuously (through outreach programs) in the process. Others believed that, while public involvement is necessary, the process of how to effectively involve the public warrants further consideration. For example, do we hold public

meetings throughout the process or just during key deliverable times? Or do we have a mailing list of interested parties, and send out public notices (fact sheets) regarding the progress? It was discussed that this is a potentially timely and costly process and we need to be aware of the implications of public outreach. Another major issue that was brought up is how to deal with public comments. Do we prepare a response to comment document or is a public workshop more appropriate.

To address these issues, the Public Involvement Plan will be finalized for review and comment at subsequent RSET Meetings.

Tribal Involvement – Tribes/Agency Tribal Coordinators

Tribal involvement and agency coordination was presented by Lynda Walker, Tribal Liaison for Northwestern Division Corps, and Gary Sims, Tribal Coordinator for NOAA Fisheries. Lynda Walker began with an overview of the Corps Native American policy. Gary Sims concurred that NOAA's process was similar but likely in different phases. Successful tribal involvement is centered on a communicative process with each tribe's council or appointed committee member. A number of handouts were circulated.

The Corps, as the action agency, needs to actively communicate and engage the tribes with project and its design elements upfront, prior to the biological assessment. Having a positive communication and outreach with the tribal communities will make NOAA Fisheries consultation with the Tribes on the biological opinion easier. The Corps' Project Management Business Process (PMBP) was discussed as a mechanism to facilitate this communication process. The PMBP Performance Objective is included in Attachment E.

Handouts passed around to RSET participants were:

1. Native American policy (NWDR 5-1-1) included in Attachment E
2. American Indian Reservation Figure (Corps NW Division)
3. NW Division – Native American Program Desk Guide (September 30, 2002) – [Request copy from L. Walker](#)
4. Policy guidance letter #57 Indian Sovereignty and Government Relations with Indian Tribes (February 18, 1998)
5. Portland District COE – A Native American Guide (DRAFT)

6. Department of Defense – American Indian and Alaska Native Policy – Request copy from L. Walker
7. Email from December 9, 2002, to Ann Gerner from Ian Kanair – Drought Contract Funding

Washington Department of Ecology: Freshwater Screening Guidelines Phase I Report

Brett Betts and Martin Payne of the Washington Department of Ecology provided a presentation of their recent efforts to develop “Freshwater Sediment Quality Values” for use in Washington State, the reliability assessment performed on existing Freshwater Sediment Quality data sets (including the LCRMA DMEF SLs and MLs), and a brief overview of SEDQUAL database. Their presentation is provided in Attachment F.

Discussions after their presentation focused on how this effort would integrate into the RSET process of developing regional sediment quality guidelines, and which agency would be in charge of maintaining and updating the SEDQUAL database.

Partnering Agreement

This partnering discussion presented the need for a guiding principles agreement among the participating agencies. This agreement presents guiding principles that will assist the RSET participants in their goal to amend the DMEF (see Attachment G). To the extent possible, the outcome of the revised DMEF is to have one regional manual that incorporates the dredged material assessment methodology and interpretive guidelines for all regulators and users throughout Washington, Oregon, and Idaho.

Because RSET is an interagency group, it was determined the primary contact person(s) representing each agency be identified. The agencies, with contact person, are:

- Jim Reese, USACE NWD
- John Malek, EPA Region 10
- Cathy Tortorici and Nancy Munn, NOAA Fisheries
- Bruce Hope and Jennifer Sutter, DEQ
- Russ Heaton, Corps Walla Walla District
- Brett Betts, WA Ecology
- Peter Leon and Leigh Espy, WA DNR

- Tim Sherman and Mark Siipola, Corps Portland District
- Stephanie Stirling and Dave Kendall, Corps Seattle District
- Jeremy Buck, USFWS
- State of Idaho representatives, unknown at this time
- Representatives of other agency group (e.g., DSL, ODFW, etc.), unknown at this time

Subcommittee Configuration, Focus Identification, Goals and Objectives

Technical subcommittees are to be formed in order to provide a focused evaluation of specific topics identified at the September workshop. The goals of the subcommittees are to provide RSET with information that is comprehensive, timely, and accurate. The subcommittees will perform initial queries, identify data gaps and focus research needs, and produce a report and/or policy recommendations to RSET.

It was understood that individual subcommittees might have slightly different organizational structures, but that the quality and structure of the deliverables should be similar. A number of procedural questions were identified that need to be addressed prior to the formation of the subcommittees. These questions include:

- What should the composition of the subcommittees be? How are the subcommittee chairs selected? Do other frameworks or organizational structures make more sense?
- Will subcommittee meetings be conducted via teleconference or will there be planned face to face meetings?
- Will the subcommittees develop specific budgets from the different agencies, and then conduct or oversee the work?
- What will be the structure of the subcommittee deliverables and acceptance process? Will subcommittee work be subjected to peer review?

There will be two types of subcommittees, standing and term (Attachment H). The standing subcommittees will function for longer durations until the subcommittee issue is resolved. Whereas, the term subcommittees will complete specific tasks that can be completed in shorter time frames. The proposed subcommittees include:

Standing subcommittees

Policy Development
Sediment Quality Guidelines
Freshwater and Marine Sediment Tests
Bioaccumulation Issues

Term subcommittees

Contaminant and Analyte List Identification
Beneficial Uses
Organizing Committee on DMEF Manual Structure

The proposed subcommittees were further discussed on Day 2 (see below).

DAY 2

NOAA Fisheries – Programmatic Biological Opinion

Nancy Munn, Ph.D., NOAA Fisheries, presented a summary of the process, content, and applicability of obtaining a programmatic biological opinion (BO) for actions conducted in accordance with the DMEF (Attachment I). A programmatic BO will enable routine DMEF actions with predictable effects to receive Endangered Species Act (ESA) Section 7 consultation coverage for incidental take of listed salmonids, and it will also save time and resources because the expectations are known up front and there will be no need to consult on individual actions which would result in less paperwork.

Although there are a number of positives to having a programmatic BO for DMEF actions, it does not equal blanket ESA protection. The actions and activities must be clearly non-jeopardy, there is a more significant up front commitment by the agencies to decide what is included and what isn't, and individual consultation would still be required for actions that do not fit under the programmatic BO.

As expected this topic included considerable questions and debate regarding what a programmatic BO means in order to update the DMEF and its applicability for DMEF actions. The debate centered on what the final DMEF will include. For example, the DMEF will, at a minimum, be a

sediment testing protocol manual. However, to support a programmatic BO, the DMEF may also have to include additional information that has historically been outside of the scope of a DMEF in order for NOAA Fisheries to grant a BO.

RDT Interaction Process

Larry Evans, Chief Regulatory Branch, Portland District, presented the interim process currently practiced by the Portland District Regulatory Branch for evaluating and issuing permits. A copy of his presentation materials is provided in Attachment J.

Proposed Subcommittees

There was additional discussion on the proposed subcommittees, and volunteers were solicited for specific subcommittees. The list of proposed subcommittees and volunteers is provided in Attachment H. There was considerable discussion at this time on some of the specifics of the subcommittees including: who can be on the subcommittees; the selection of subcommittee chairs; subcommittee etiquette; and schedule of subcommittee meetings and deliverables. Hart Crowser had hoped that we would be able to provide additional clarification on these issues in this deliverable but, because of funding challenges, we have been unable to complete the task of subcommittee formation and guidance at this point in time. We are hoping to take advantage of the upcoming SMARM meeting in May to have further discussions on this topic.

Refer to Attachment H for proposed subcommittee subjects and volunteers.

Future Needs

The meeting concluded with a discussion of future needs to continue the momentum of RSET. These items are listed below.

- Formation of Subcommittees;
- Provide information on RSET at the next SMARM meeting;
- Provide information on Pellston workshop at Pacific Northwest-SETAC;
- Have the Regional Administrators of the RDT sign charter;
- Get funding for continued involvement;
- Prepare the DMEF outline for RSET review and comment;

- Outreach to representatives of Oregon DSL, Idaho resource agencies, Tribes, and Washington Ports;
- Public outreach;
- Resolve NMFS travel funds issue;
- Have an informal meeting at SMARM or Pacific Northwest SETAC meetings if funding issues remain unresolved; and
- Further determine FACA process.

ATTACHMENT A

DECEMBER RSET MEETING AGENDA DECEMBER 10 AND 11, 2002

RSET Meeting Location
Portland District Corps of Engineers
333 SW First Avenue
Portland, Oregon 97208-2946

Day 1 – December 10th – Room 3J

8:30	Registration
9:00	Discussion of the RSET Workshop Report: Comments on Draft Report and presentation and prioritization of DMEF issues
10:00	Review of SETAC Pellston Workshop on Use of Sediment Quality Guidelines
10:30	Break
10:45	General Discussion: Public Involvement Process and Discussion of FACA
11:30	Lunch (on own)
12:45	Presentation: Tribal Involvement – Tribes/Agency Tribal Coordinators
1:15	Presentation by WA Dept of Ecology: Freshwater Screening Guidelines Phase I Report
2:00	Partnering Agreement – discussion and editing for production of draft final version
3:00	Subcommittee Configuration, Focus Identification, Goals, and Objectives
4:00	Adjourn

Day 2 – December 11th – 10 Floor

8:30	NMFS – Programmatic Biological Opinion
9:30	Focused discussion on RSET path forward Formation of subcommittees Interactions and coordination with other efforts Scope, schedules, funding, etc.
10:30	Break
10:45	RDT interaction process – Interim Measures, Permit Process – Larry Evans, Chief Regulatory Branch, Portland District
11:45	What's next? May Meeting Agenda
12:00	Adjourn

ATTACHMENT B

Revision of National Testing Manuals

Presented at the RSET MEETING
December 10th and 11th, 2002
Portland District Corps of Engineers
333 SW First Avenue
Portland, Oregon 972082946

OTM/ITM

- Meeting in Herndon, Va. (27-28 August)
- Participants included:
 - USACE – HQ
 - USEPA-HQ (OWOW)
 - USEPA Regions (2, 4, & 10)
 - USACE Divisions (NED, SAD, NWD)
 - USEPA & USACE labs (ORD & ERDC)

OTM/ITM

Goal

Examine ways to update and improve consistency of the two manuals with an eye toward possibly combining the two manuals into a single document.

OTM/ITM

Discussion Topics

- Reg. revisions
- When is testing required?
 - CWA vs. MRPSA requirements
 - Exclusions
- Revision of standard Four Tier approach
- Contaminants of Potential Concern
- What role do SQV's have in DM evaluations
- Recommended test species
- Implementation of Chronic tests

OTM/ITM

Discussion Topics cont.

- Improved interpretive guidance
 - Confounding factors
 - Bioaccumulation
- Other Issues
 - Appropriate MDLs
 - Statistical Issues
 - Outlier identification
 - Comparison to action levels
 - Relevancy of 0.01 safety factor for SPP LPCs.

OTM/ITM

Next Steps

- Draft straw guidance for topics identified (Feb? 03)
- Develop consensus guidance (Mar? 03)
- Prepare draft manual for agency review (Sep? 03)

ATTACHMENT C

RSET PRIORITIZATION/FUNDING STREAM (Will R testing in 03*)						
Item	Proj Cost	Agency	FY 03	FY 04	FY 05	
1 RSET group mgt and manual development	600	NWP, NWS, NWW	200	200	200	
2 Sediment quality database development**	150	NWP, NWS, NWW	150	**	**	
3 Reference site determination	250	EPA	250			
4 Test & eval for 04 Will R dredging	250	NWP*	250			
5 Test & eval for Will R DMMP	250	NWP*	250			
6 Sediment screening levels development	280					
7 Sediment toxicity testing, literature search	90					
8 Lab and field assessments	250	NWP		200	200	
9 Freshwater sediment tests development	380	NWS		200	200	
10 Bioaccum. screening levels/tissue residue guidelines	225	NWW		200	200	
11 Grain size exclusion evaluation	115	OTHER FED/STATE		170	170	
12 Beneficial uses	125					
13 Rapid screening methods evaluation	75					
TOTAL	3,040		1,100	970	970	
* if both 4 & 5 done same time results in 500K savings						
** to maintain data base requires min. of 100K/year						

ATTACHMENT D

Summary of the Pellston Workshop on the Use of Sediment Quality Guidelines

Presented at the RSET December 10 – 11, 2002 meeting

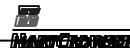
Taku Fuji, Ph.D.

December 10, 2002



“Use of Sediment Quality Guidelines and Related Tools for the Assessment of Contaminated Sediments”

- Pellston Workshop sponsored by SETAC.
- Held August 17 – 22, 2002 in Fairmont, MT.
- Participants included 55 international experts in the fields of sediment assessment and management.
- Full workshop proceedings to be published by SETAC in 2003.



Workshop Objectives and Framework

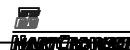
Participants were assigned to five different workgroups to address one of the following topics:

1. Review of the Scientific Underpinnings Associated with Different SQG Approaches.
2. The Use of SQG to Estimate the Potential Effects, or no Effects, of Sediment-Associated Contaminants in Laboratory Toxicity Tests and in Benthic Community Assessments.



Workshop Objectives and Framework

3. The Role of Other Assessment Tools Available for Evaluating Sediment Contamination.
4. The Role of SQGs and Related Chemical and Biological Assessment Tools in Different Sediment Assessment and Management Frameworks.
5. Use of SQGs and Related Tools for Evaluation of Sediments in Different Aquatic Environments.



Workshop Conclusions

Workgroup 1. (Scientific underpinnings)

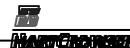
- Though scientific underpinnings of SQGs vary, none of the approaches appear to be intrinsically flawed.
- Chemically based SQGs can be effective for identifying concentrations ranges where adverse biological effects are unlikely, uncertain, and highly likely to occur.
- Users of SQGs must be cognizant of the types and rates of errors associated with the SQG.



Workshop Conclusions

Workgroup 1. (Scientific underpinnings)

- There are inherent limitations in the ability of any SQG approach to accurately and reliably indicate adverse effects on benthic communities, especially at sediment concentrations within the transition zone.
- SQGs should be incorporated into a larger weight-of-evidence framework to better evaluate the degree of adverse biological effects in sediments that fall within the transition zone of the concentration-response model.



Workshop Conclusions

Workgroup 2. (Predictive Ability)

- Incremental increases in effects has frequently been observed with an incremental increase in contamination as defined by SQGs. However, direct measurement of toxicity in the laboratory and/or benthic impacts in the field are required to determine if an individual sample with moderate contamination is toxic or nontoxic.



Workshop Conclusions

Workgroup 2. (Predictive Ability)

- Many confounding factors can cause spurious conclusions regarding the relationship between sediment-bound contaminants and occurrence of toxicity.
- Bioaccumulation, in and of itself, is not an effect, and none of the effect-based SQGs were designed to address bioaccumulation endpoints.



Workshop Conclusions

Workgroup 2. (Predictive Ability)

- While bioaccumulation SQGs have been proposed, the predictive ability of this approach has yet to be adequately validated by field experimentation.



Workshop Conclusions

Workgroup 3. (Sediment Assessment Tools)

- There are four key Lines of Evidence (LOE) that should be developed: 1) sediment contamination chemistry and geochemical characteristics, 2) benthic invertebrate community structure, 3) sediment toxicity, and 4) bioaccumulation and biomagnification data.
- Critical requirement for selecting appropriate sediment assessment tools is to ensure that the tools match the investigation question or objectives.



Workshop Conclusions

Workgroup 3. (Sediment Assessment Tools)

- More effective ecological assessment approaches are needed to link the magnitude, frequency, and duration of exposure with biological effects and to provide a better definition of when adverse ecological effects occur.



Workshop Conclusions

Workgroup 4. (Sediment Assessment Frameworks)

- A sediment assessment framework should be structured to ensure that any evaluation is complete and comprehensive in its consideration and analysis of present and future exposures, effects, and potential risks.
- Significant effort should be invested to develop a comprehensive conceptual model for contaminated sediments. The conceptual model is the basis for formulating project-specific questions that drive subsequent sediment assessment activities.



Workshop Conclusions

Workgroup 4. (Sediment Assessment Frameworks)

- Considerable effort should be devoted to formulating and refining specific and detailed questions that must be answered to reach conclusions about the presence and magnitude of risk.
- Making scientifically credible decisions about managing risks posed by contaminated sediments requires using multiple LOE.
- An example of an effective sediment assessment framework is presented in Figure 3 of Executive Summary Report.



Workshop Conclusions

Workgroup 5. (Different Aquatic Environments)

- There are physical, chemical, and biological factors in the environment that complicate and introduce uncertainty into the derivation and application of SQGs and other sediment assessment tools.
- In general, several LOE are needed to properly evaluate contaminated aquatic environments.



Workshop Conclusions

Workgroup 5. (Different Aquatic Environments)

- At present, chemical analysis of whole sediment is an adequate estimate of exposure; however adjustments to account for bioavailability or chemical speciation can improve exposure estimates.
- Different tools are needed to characterize sediment quality in different environments.



Future Activities

- Full technical workshop proceedings to be published by SETAC in 2003.
- Special session on Pellston Workshop and regional SQG issues to be held during Regional PNW-SETAC Meeting in Port Townsend, WA on April 17 – 19, 2003.



ATTACHMENT E

MEMORANDUM FOR HQUSACE STAFF PRINCIPALS AND
COMMANDERS/DIRECTORS, MAJOR SUBORDINATE COMMANDS, DISTRICT
COMMANDS AND FIELD OPERATING ACTIVITIES

SUBJECT: Project Management Business Process (PMBP) Performance Objective

1. The USACE 2001 Strategic Campaign Plan defines how we will achieve our vision to be the world's premier public engineering organization responding to our Nation's needs in peace and war. The Campaign Plan has three interdependent strategic goals: *People, Process and Communication*. The Process portion of the Plan outlines the Project Management Business Process (PMBP) -- the fundamental business process we will use throughout the Corps to deliver high-quality projects and services, including internal support services. Client-focused teamwork is key to PMBP.
2. The PMBP process will not be implemented overnight. A structured, comprehensive PMBP curriculum is being developed to promote understanding of the PMBP process. Self-study, small group discussion, mentoring and coaching, and formal training will all be used to foster the PMBP culture and develop necessary skills.
3. To effectively deploy PMBP, we must focus attention on this new way of doing business. Employees must be accountable for their commitment to the PMBP process. Beginning with the FY02 rating cycle, performance plans for GS13s and above, including SES, must include a PMBP performance objective. The objective should require the employee to learn about PMBP, to educate others about the PMBP concepts and culture, and to follow PMBP in their day-to-day work. The objective must be tailored for the employee's responsibilities and the work environment. Metrics must be developed to measure accomplishments. A sample objective is provided below.

SUPPORT PMBP - Develop an understanding of the USACE Project Management Business Process (PMBP) and educate team members about PMBP concepts. Use client-focused teamwork in accomplishing day-to-day work.

CEHR-D

31 January 2002

SUBJECT: Project Management Business Process (PMBP) Performance Objective

4. For additional information, please contact Nancy Stragand, CEHR-D, (202)761-0400.

FOR THE COMMANDER:

//s//

HANS A. VAN WINKLE
Major General, USA
Deputy Commander

RELEASED BY: Susan Duncan, Director of Human Resources

CF:

All USACE HROs/CPAC Chiefs

DEPARTMENT OF THE ARMY
Corps of Engineers, Northwestern Division
P.O. Box 2870
Portland, Oregon 97208-2870

CENWD-NA
Regulation
No. 5-1-1

15 August 2001

Management
NATIVE AMERICAN POLICY

History: This issue is a revised Northwestern Division regulation.

Summary: This regulation covers the policy, responsibilities, and implementation of the U.S. Army Corps of Engineers Tribal Policy Principles. This regulation has been renumbered to the Management series (5) to support the requirements and responsibilities associated with the Native American Policy Program. The Native American Policy Program is unique in itself receiving guidance from Presidential memorandums and executive orders, and only minimal guidance from Army series regulations as noted in the required references.

1. PURPOSE. This policy establishes guidance for the implementation of the U.S. Army Corps of Engineers Tribal Policy Principles.

2. APPLICABILITY.

a. This policy applies to all Northwestern Division commands having responsibility for Civil Works (CW), military and Hazardous, Toxic and Radioactive Waste (HTRW) functions.

b. For military functions of the Northwestern Division and for civil works functions operating on or using funds of military installations and activities, references 3c and 3d also apply.

3. REQUIRED REFERENCES.

a. White House Memorandum, Government-to-Government Relations, 29 April 1994.

b. CECW PLG 57, Indian Sovereignty and Government-to-Government Relations with Indian Tribes, 18 February 1998, and USACE Tribal Policy Principles.

c. DA Pamphlet 200-4, Cultural Resources Management, Appendix G, Guidelines for Army Consultation with Native Americans, 30 October 1997.

*This regulation supersedes NWDR 1130-1-1, 12 July 1999.

d. DOD American Indian and Alaska Native Policy, 20 October 1998.

e. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 6 November 2000.

4. POLICY. It is the policy of the Northwestern Division to apply the USACE Tribal Policy Principles in all division activities that may impact any federally recognized Indian Tribe. In those activities where consultation is warranted, it is the policy of the Northwestern Division to consult on a government-to-government level consistent with guidance found in references 3a - 3e and Tribal regulations.

5. RESPONSIBILITIES.

a. Division Commander Responsibilities.

(1) The Division Commander is responsible for integrating the USACE Tribal Policy Principles into all division activities that may impact any federally recognized Indian Tribe.

(2) The Division Commander will provide regional interface with Tribal governments for activities or issues involving multiple districts and refer appropriate actions to the affected district(s).

(3) The Division Commander will develop a Tribal account management plan to guide business development and outreach opportunities that promote USACE capabilities while fostering Tribal self reliance, capacity building and growth.

(4) The Division Commander will formally designate and train a Native American Coordinator(s) with primary or collateral duties to provide quality assurance of district Native American programs and activities.

b. District Commander Responsibilities.

(1) The District Commander is responsible for integrating the USACE Tribal Policy Principles into all district activities that may impact any federally recognized Indian Tribe.

(a) **TRIBAL SOVEREIGNTY** - The district will affirm the sovereign status of Tribal governments, and work to develop and enhance a relationship which acknowledges the right of federally recognized Tribes to set their own priorities, develop and manage tribal and trust resources.

(b) **TRUST RESPONSIBILITY** - The district will work to meet Tribal needs related to district activities and work to protect trust resources.

(c) **GOVERNMENT-TO-GOVERNMENT RELATIONS** - The District Commanders and their designated staff representatives shall meet with Tribal governments at the government-to-government level and observe tribal protocols and standards of dignity.

(d) Commanders and designated staff shall consult with Tribal governments following the general concepts of the Guidelines for Army Consultation with Native Americans and DOD American Indian and Alaska Native Policy.

(e) **SELF RELIANCE, CAPACITY BUILDING, AND GROWTH** - The district will actively promote USACE capabilities, business development and outreach opportunities with Tribes. The district will involve Tribes in district programs that foster self-reliance, build economic capacity and growth such as training, cultural and natural resources, recreation, watershed planning, environmental restoration, emergency management and contracting opportunities.

(f) **NATURAL AND CULTURAL RESOURCES** – Consistent with procedures set forth in applicable federal laws, regulations and policies, the district will proactively work to preserve and protect natural and cultural trust resources, establish Native American Graves Protection and Repatriation Act (NAGPRA) protocols and procedures; and allow reasonable access to sacred sites.

(2) The District Commander will formally designate and train a Native American Coordinator with primary or collateral duties to assist the Commander and other functional staff elements in ensuring that Tribal policy principles and consultation are integrated into all district activities. The District Commander shall ensure Native American issues, activities and contacts with Tribal governments are coordinated with the Native American Coordinator.

c. Servicing District. Coordination of Native American activities will be the responsibility of the servicing district consistent with established civil works, regulatory and military boundaries.

6. FUNDING. Native American coordination will be funded by the applicable division or district activity. Labor should be charged in accordance with civil works and military accounting and reporting regulations found in ER 37-2-10 and ER 37-345-10.

NWDR 5-1-1
15 August 2001

7. REPORTING REQUIREMENTS.

a. Commanders, Native American Coordinators and staff principals who have significant and noteworthy contacts with Tribal Chair or Tribal Councils shall include such meetings in the Weekly Significant Activities Report.

(1) Examples of significant and noteworthy contacts are those that involve policy issues having possible implications to other elements of the Command which may require the involvement of the Commanding General, other Corps leadership, an Assistant Secretary of the Army or other Army leadership.

(2) Generally, Tribal contacts concerning the status of a study or project, matters related to a single permit application or routine operation and maintenance activities are not considered significant contacts that should be reported.

b. Significant Native American activities should be included in the Annual Historic Report.

FOR THE COMMANDER:



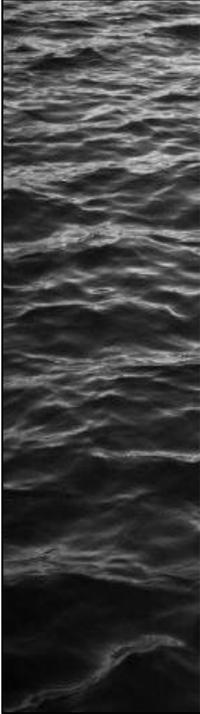
CLIFTON P. JACKSON, JR.
Executive Assistant

DISTRIBUTION:

<https://www.nwp.usace.army.mil/im/r/regs/nwdr.html>

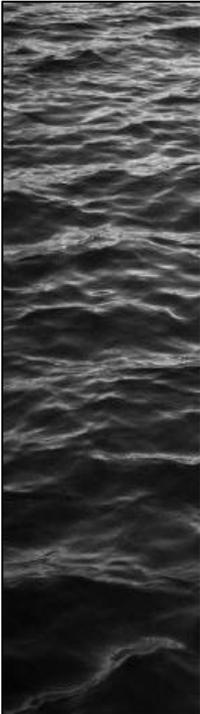
NWD – Directors and Staff Offices
NWK – Chiefs Divisions, Staff Offices and Field
NWO - Chiefs Divisions, Staff Offices and Field
NWP – Chiefs Divisions, Staff Offices and Field
NWS – Chiefs Divisions, Staff Offices and Field
NWW - Chiefs Divisions, Staff Offices and Field

ATTACHMENT F



Development of Freshwater Sediment Quality Values for Use in Washington State

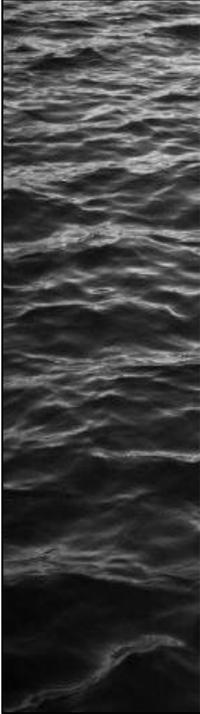
Department of Ecology
Sediment Management



Objectives

- Compile, describe and prioritize North American SQV sets
- Evaluate prioritized SQV sets for use in Washington State
- Identify and/or develop freshwater SQVs for regulatory decision-making e.g., cleanup site identification

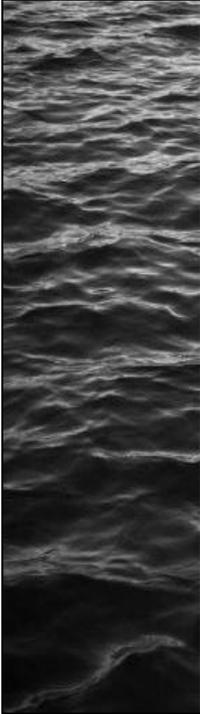
Department of Ecology
Sediment Management



Methods

- 18 North American SQV sets identified and prioritized
- Subset of 8 SQV sets evaluated using regional freshwater sediment bioassay data
- Evaluation based on SMS rule two-parallel line paradigm: No adverse effects/minor adverse effects
- Reliability analyses conducted

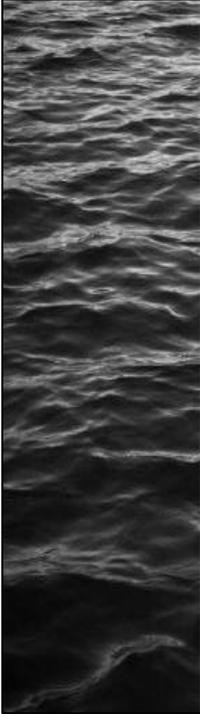
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Sediment Quality Value Sets

- Apparent Effects Thresholds / Probable AETs
- No Effects Concentrations - USGS/GLNPO
- Effects Range Low and Median - USGS/GLNPO
- Threshold Effects Levels / Probable Effects Levels - USGS/GLNPO
- Threshold Effects Levels / Probable Effects Levels - MacDonald / CCME
- Average Effects Levels / Probable Effects Levels - MacDonald / British Columbia
- Consensus-Based Sediment Quality Guidelines - Ingersoll/SAG
- Screening Level Concentrations - Ontario ME
- Screening Level Concentrations - Quebec
- Equilibrium Partitioning Values - USEPA
- Equilibrium Partitioning Values - New York DEC

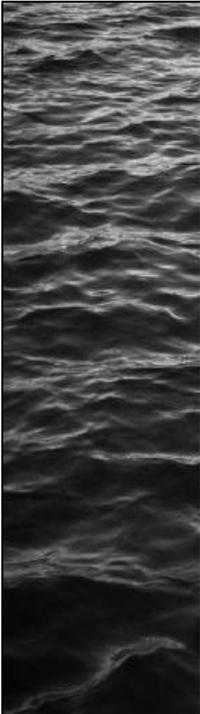
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Reliability Analyses

- Based on 1988 AET reliability measures
- Added new reliability measure to evaluate no-hit predictions

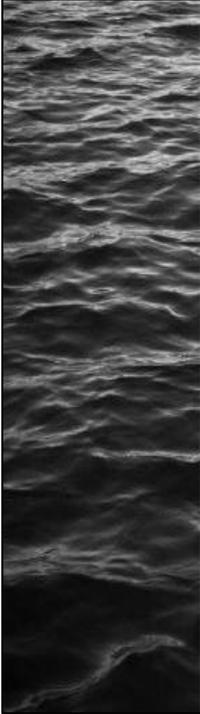
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Reliability Analyses

- Are all biologically impacted sediments identified?
- Are only biologically impacted sediments identified?
- Proportion of correct predictions (hit/no hit) to all predictions made

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Reliability Analyses

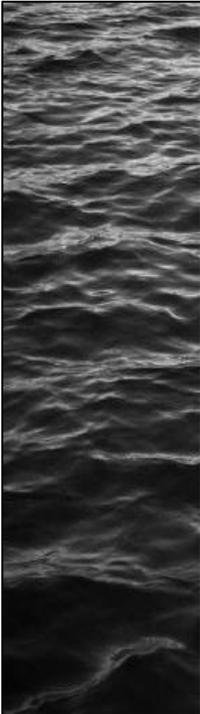
Sensitivity: $\frac{\text{Correctly predicted hits}}{\text{All hits}}$
(100%-false negs)

1988 Efficiency: $\frac{\text{Correctly predicted hits}}{\text{All predicted hits}}$

Reliability: $\frac{\text{Correctly predicted hits/non-hits}}{\text{Total stations}}$

2002 Efficiency: $\frac{\text{Correctly predicted non-hits}}{\text{All non-hits}}$
(100%-false positives)

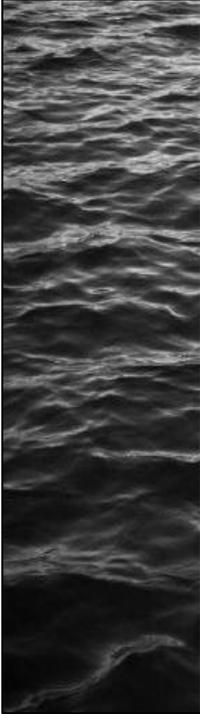
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Results

- Low/stringent SQVs associated with high rates of false positives
- High/less stringent SQVs associated with high rates of false negatives
- Completed major redevelopment of SEDQUAL Bioassay Statistical Analysis tool

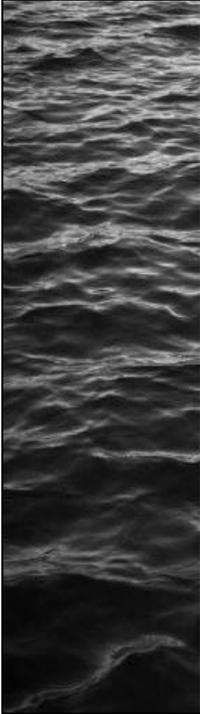
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Recommendations

- Individual SQV sets could be selected to prioritize/de-prioritize sediments for regulatory analysis e.g., cleanup
- Most freshwater sediments will fall between levels requiring further testing
- Interim: Conduct both chemistry and biological testing (bioassays/benthos)

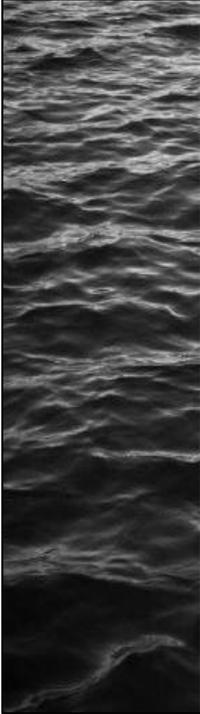
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Next Steps

- Develop revised freshwater sediment Apparent Effects Threshold values
- Develop freshwater sediment floating percentile method values
- SEDQUAL Revisions
 - ▣ Floating percentile method sediment value calculation function
 - ▣ Freshwater/marine Benthic Analysis Tool
 - ▣ Update AET sediment value calculation function

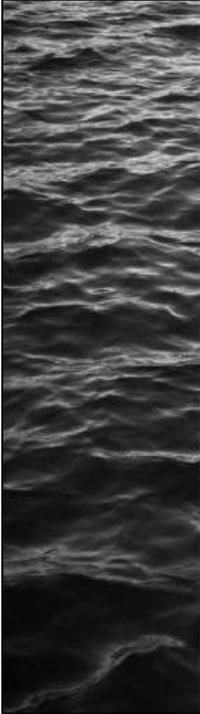
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Reliability Assessment of Columbia River DMEF Screening and Maximum Levels

- SLs not as sensitive as 1997 freshwater AETs/PAETs
- SLs are comparable to Ecology's Phase I CSL (cleanup trigger)
- SL levels for metals, phthalates, phenol and PCBs higher than freshwater AETs
- DMEF bioassays limited to two acute tests

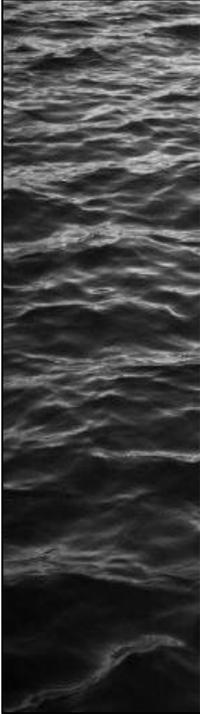
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DMEF Recommendations

- Consider using 1997 Freshwater AETs/PAETs or PELs as interim replacement for DMEF SLs
- Consider updating DMEF manual to ASTM 2000 protocols and Ecology Microtox protocol

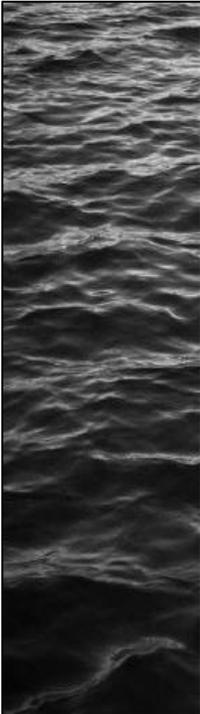
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DMEF Recommendations

- Consider adding bioassay tests and requirement for two acute/one chronic test per station
- Consider eliminating bioassay hit interpretation using 20% difference from control as DMEF guideline

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Sedqual BSA Tool Demo

- Sediment Quality Value Group function
 - Any bioassay(s) may be added to user's group
 - Numerical, statistical or both interpretations
 - Flexibility to revise statistical/numerical interps
- BSA Tool
 - Sort and save unique sample groups
 - Select/save test comparisons to reference or control
 - Quickly sort hits and non-hits
 - SMARM bioassay statistical procedures incorporated
 - Internal mapping or export hit stations to Arc View

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ATTACHMENT G

Appendix G - Draft Guiding Principles for RSET

1. Context: RSET is advisory to the RDT.
2. Goal: The goal of the RSET is to amend the DMEF. To the extent possible, the outcome is one regional manual that incorporates the dredged material assessment methodology and interpretive guidelines for all regulators and users in Washington, Oregon, and Idaho.
3. Legal Effect: The guiding principles outlined in this agreement will guide the RSET deliberations, subject to RDT amendment. This agreement is not intended to have, nor will it have, legal effect.
4. Amendments: With the approval of the RDT, amendments to this agreement will be made by consensus of the RSET.
5. Membership: RSET is an interagency group. A single contact person primarily represents each agency. The agencies, with contact person, are:
 - a. Jim Reese, USACE NWD
 - b. John Malek, EPA Region 10
 - c. Cathy Tortorici and Nancy Munn, NOAA Fisheries
 - d. Bruce Hope and Jennifer Sutter, DEQ
 - e. Russ Heaton, Corps Walla Walla District
 - f. Brett Betts, WA Ecology
 - g. Peter Leon and Leigh Espy, WA DNR
 - h. Tim Sherman and Mark Siipola, Corps Portland District
 - i. Stephanie Stirling and Dave Kendall, Corps Seattle District
 - j. Jeremy Buck, USFWS
 - k. Idaho
 - l. Others (DSL, ODFW, etc.)
6. Public Meetings: The meetings are open to the public.
7. Consultant Support: as resources allow, a technical consultant group will support RSET, including a neutral facilitator to focus efforts, identify issues, and continue momentum.
8. Organizing Team: The “organizing team” includes Jim Reese, John Malek, and, as resources allow, the consultant group and a neutral facilitator.
9. Agendas: Draft meeting agendas for the upcoming meeting will be outlined at the close of each meeting. The draft agenda will be refined by the

organizing team, sent out as a draft to RSET, and suggested changes will be incorporated into the final agenda.

10. Meeting Report: A meeting report will be put together by the organizing team and generally distributed within four weeks of the meeting.
11. Participation: Initially, all attendees, whether RSET members or not, will participate fully and will receive advance materials and opportunities for review. Should participation become unwieldy, non-RSET members may participate as observers only.
12. Meeting Frequency: Meetings will be at least quarterly and, generally, for one day. A yearly multi-day meeting will be held as one of the meetings.
13. Meeting Location: Every attempt will be made to site the meetings throughout the region in order to maximize attendance by as many members as possible.
14. Follow-Up: In order to maintain involvement of those who cannot attend a given meeting (e.g., if the meeting is held in Idaho, and State of Oregon members cannot attend, or vice-versa), there will be a regularly-scheduled follow-up (e.g., conference call) three weeks after each quarterly meeting. The organizing team and any non-attending members will review the minutes of the past meeting and the draft agenda for the next meeting, and will flag issues for upcoming meetings. The follow-up phone call is not a decision-making forum. Additional "flagged" issues will be included in the following meeting agenda or forwarded to the appropriate subcommittee.
15. Attendance:
 - a. Participants who attend agree to minimize "exits" to other meetings, including cell phone calls;
 - b. Members who cannot attend will either provide an alternate or make every effort to participate in the follow-up telephone conference; and
 - c. Assuming the quarterly meetings are fairly distributed geographically, a member who misses three consecutive quarterly meetings and the three follow-up conference calls will no longer be a member.
16. Decision-Making: The goal is to forward consensus decisions to the RDT. If consensus among RSET members cannot be reached, the unresolved issue will be elevated to the RDT.
17. Subcommittees: The goal is to do as much work as possible between the RSET meetings. This will require use of subcommittees, both ad hoc and standing. Either RSET itself, or the organizing team, can solicit participation in a subcommittee. Subcommittee membership is not limited to RSET members, but the Chair must be a RSET member. Subcommittee work is brought to the full RSET for review and approval.

18. Continuous Improvement: The RSET will identify opportunities for change and make recommendations on an ongoing basis. It is recommended that dredged material continue to be managed using existing guidance (e.g., PSSDA, LCRMA, etc.) until issues are resolved during the regional DMEF process. As issues are resolved, they can be incorporated into the DMEF with technical addendums. It is suggested that annual review meetings are conducted to provide a process through which these changes can be made.
19. Public Involvement: Public involvement will be conducted.
20. Tribal Involvement: Tribal Involvement will be conducted.

ATTACHMENT H

Proposed Subcommittee Objectives

Perform initial queries, identify data gaps and focus research needs.

Produce report and/or policy recommendations.

Goal is to provide information that is comprehensive, timely, and accurate for regional DMEF development.

Policy Development Subcommittee

Develop management duties for each agency.

Develop agency timelines for review and decision-making.

Develop DMEF update process.

Oversee other efforts to ensure its compatibility with RSET.

Subcommittee development, coordination, and meetings.

Determine the need for a formal NEPA (EIS) process, formal ESA consultation process, and produce a public and tribal involvement plan during the DMEF update process.

Determine the breadth of the updated DMEF and evaluation matrices.

Volunteers:

Jim Reese

John Malek

Cathy Tortorici

Jennifer Sutter

Stephanie Stirling

Mark Siipola

Leigh Espy

Sediment Quality Guidelines Subcommittee

Evaluate cost-effectiveness and reliability.

Regional data compilation and database setup.

Database structure and format.

WA Ecology reliability statistics and AET development.

Field verification of FW screening level.

Beneficial Use Specific SLs (e.g., open-water, habitat restoration, beach nourishment).

Reference site evaluation.

Disposal site specific screening levels.

Evaluate residual risk in ambient concentrations.

Volunteers:

Russ Heaton

Lyndal Johnson

John Childs

Tim Sherman

Donna Ebner

Brett Betts

Freshwater and Marine Sediment Tests Subcommittee

Freshwater toxicity and bioaccumulation tests.

Evaluate the sensitivity of 10-day vs. longer term tests for amphipods and midges.

Do current tests adequately address sublethal endpoints?

Are current tests appropriate to adequately address unique chemicals, chemical mixtures, and ESA species?

Evaluate and/or develop additional FW tests, as necessary.

Rapid Screening Assessment methods.

Develop appropriate tests and interpretative guidelines for ESA species (e.g., sub-lethal endpoints).

Volunteers:

Brett Betts

Russ Heaton

Jim Meador

Bioaccumulation Issues Subcommittee

Develop bioaccumulation endpoint (human health and ecological) screening levels.

Establish tissue levels protective of ESA species.

Develop second freshwater bioaccumulation species protocol.

Evaluate current protocols utilizing clams and worms as surrogates for fish.

Regional tissue monitoring.

Establish tissue levels protective of ESA species.

Volunteers:

Jim Meador

Russ Heaton

Bruce hope

Jeremy Buck

Tom Gries

Region 10 DMMP Workgroup

Contaminant and Analyte List Identification (Term Committee)

Identify unique contaminants important to sub-regions.

Process to add new analytes.

How to deal with special analytes (e.g., TBT, Dioxin, OP Pesticides).

Analytical constraints.

Add TPH?

Volunteers:

Russ Heaton

Brett Betts

Tracy Collier

Region 10 DMMP Workgroup

Beneficial Uses (Term Committee)

Identify alternate/beneficial uses appropriate for different regions.

Evaluate sites for potential beneficial uses.

Develop evaluation criteria for alternate/beneficial uses.

Permitting issues.

Volunteers:

Russ Heaton

Bruce Hope

John Malek

Nancy Munn

Sebastian Degens

WA DNR

DMEF Organizing Committee (Term Committee)

Manual Outline (Coverage?).

Rules, Charter.

Programmatic biological opinion.

Volunteers:

John Malek

Jim Reese

Cathy Tortorici

ATTACHMENT I

Section 7 Programmatic Consultation

Nancy Munn, Ph.D.
NOAA Fisheries, Oregon Habitat Branch
nancy.munn@noaa.gov



Programmatic Consultation

- Programmatic consultations can be conducted with Federal action agencies under section 7 of the Endangered Species Act
- NWR NOAA Fisheries has developed general guidance



Why do a programmatic?

- Receive ESA coverage for incidental take of listed salmonids for routine actions with predictable effects
- Saves time and resources
 - Expectations are known up front
 - No need to consult on individual actions (less paperwork)



A BA for a programmatic consultation is very similar to a BA for a consultation on an individual project. The primary difference is in the description of the proposed action.



HOWEVER

programmatic ? blanket ESA protection



Programmatic - Constraints

- Actions and activities must be clearly non-jeopardy
- Bigger commitment up front (what is included and what isn't)
- Individual consultation still required for actions that do not fit under the programmatic



Process

- Scoping
 - What is the geographic scale?
 - What limits or standards should apply?
- Definition of the proposed action
 - What can be included? Are we going to cover all activities that could be included in the guidance manual?



Process Again

Preparation of the Biological Assessment

- Content of BA prepared pursuant to the Act is largely at the discretion of the action agency
- Not required to analyze alternatives
- BA should address listed and proposed species, and critical habitat



Purpose of BA

- Determine whether the proposed action is likely to adversely affect listed species and critical habitat
- Services use the BA and any other available information to decide if concurrence is warranted, or if the proposed action jeopardizes the continued existence of the species or adversely modifies critical habitat



Contents of BA – Part 1

Introduction

- Describe action agency
- Describe applicant(s)
- Federal nexus



Contents of BA – Part 2

Proposed Action

- Location
- Descriptions of projects or types of projects that would be included
- Descriptions of types of activities that would not be included
- Standard conservation measures applied to avoid or minimize impact
- Monitoring and reporting



Contents of BA – Part 3

- Listed species in the program area (you can borrow from other documents for a significant portion of this)
- Environmental baseline of the program area (again borrow)



Contents of BA – Part 4

- Effects of the program
 - Potential for incidental take
 - Potential for change to the environmental baseline
- Determination of effect (choice of *no effect*, *not likely to adversely affect*, *likely to adversely affect*)



Response to BA Biological Opinion

- Provides an incidental take statement
- May include discretionary conservation measures
- Requirement for re-initiation based on timing and/or specific thresholds or events
- Includes non-discretionary terms and conditions to minimize take



Terms and Conditions

- Measures to minimize direct impacts (e.g. timing, equipment)
- Measures to minimize indirect impacts (e.g. effects to habitat)
- Monitoring and reporting



Keys to a Successful Consultation

- Early involvement
- Frequent communication



Example of a Recent Programmatic Consultation

SLOPES (Standard Local Operating Procedures for Endangered Species)

- Federal action agency is the U.S. Army Corps of Engineers
- Signed by NOAA Fisheries June 14, 2002
- For described activities requiring Corps permits
- Covers all of Oregon, and all tributaries to the Columbia River downstream of McNary Dam
- http://www.nwr.noaa.gov/1publcat/2002/ohb2001-0016-pec_06-14-2002.pdf



ATTACHMENT J

Portland DMEF Review

- A. Permit Application submitted to regulatory branch
- Application is reviewed by project manager (PM) to confirm if dredging involved
 - If complete, 33 CFR 325.1(d) and 325.3(a) (i.e., information required in regulations is provided, regulatory clock starts)
- B. For dredging permit applications PM applies DMEF process:
- a) PM determines if further testing is excluded using criteria in DMEF manual.
 - If so, a letter will be sent to members of RMT advising them of this preliminary determination and soliciting their concurrence/opposition.
 - This letter will have a 2-week response deadline if RMT member objects to determination.
 - b) If testing is not excluded, PM will notify applicant that a draft SAP is required and direct application to the SAP guidelines in DMET manual.
 - c) After receiving draft SAP, PM will submit copy to each RMT member for review/comment (copy to Corps representative will occur via in-house MFR w/funding information). PM will also coordinate with regulatory “gatekeeper” for QA/QC.
 - d) RMT members will be asked to review draft SAP and provide concurrence or comments within 2-week period.
 - e) After draft SAP is approved, PM will coordinate with applicant and have SAP finalized and testing initiated.
 - f) After receiving test results, PM will submit copy of test data to each RMT member for review/comment (copy to Corps representative will occur via in-house MFR w/funding information). PM will also coordinate with regulatory “gatekeeper” for QA/QC.
 - g) RMT members will be asked to review test results and provide concurrence or comments within 2-week period.
 - h) Once receiving comments back on test results, PM will incorporate this information into evaluation of permit application (i.e., sediment is clean and OK to dredge or project modifications required, etc.).
- C. The process identified above will allow the Portland regulatory staff to track the number of sediment review actions that take place each year with regard to cost, time, and resource effort. It will also ensure RMT members are actively involved in reviewing draft SAPs and subsequent test results. Finally, the process will be fully documented in the administrative record by use of the MFRs and coordination letters. Although this process differs from that adopted by the Seattle District, it still abides by the DMEF manual procedures.

Draft Portland DMEF Review Procedures

F:\DATA\Jobs\Portland District Corps\15362 Dec. Meeting\RSET Dec Reports and presentations\RSET December Presentations\1536200 01 (Review Procedures)

