United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington Fish and Wildlife Office
510 Desmond Dr. SE, Suite 102
Lacey, Washington 98503

JUL 28 2015

In Reply Refer To:
01EWFW00-2015-I-0724

Evan Lewis, Chief
Environmental and Cultural Resources Branch
Seattle District, U.S. Army Corps of Engineers
ATTN: ERS Branch (Laufle)
P.O. Box 3755
Seattle, Washington 98124-3755

Dear Mr. Lewis:

Subject: Continued Use of Multiuser Dredged Material Disposal Sites in Puget Sound and Grays Harbor

This letter is in response to your June 2015 request for our concurrence with your determination that the proposed action in Puget Sound and Grays Harbor, Washington, "may affect, but is not likely to adversely affect" federally listed species. We received your letter, and Biological Evaluation, providing information in support of "may affect, not likely to adversely affect" determinations, on June 22, 2015.

Project Description

The Army Corps of Engineers (Corps) and the Dredged Material Management Program (DMMP) agencies propose to manage the operation and monitoring of ten open-water dredged material disposal sites, eight in Puget Sound and two in Grays Harbor. The disposal sites will be used by federal and non-federal entities for disposal of material that is suitable for open-water disposal. Three of the Puget Sound sites and both of the Grays Harbor sites will be used for dispersive disposal – currents will carry released dredged material so that sediments are dispersed. The remaining five Puget Sound sites will be used as non-dispersive sites – released dredged material will remain localized beneath the release site.

Specifically, you requested informal consultation pursuant to section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) for the federally listed species and critical habitat identified below.

- Bull trout (*Salvelinus confluentus*)
- Bull trout critical habitat
- Marbled murrelet (*Brachyramphus marmoratus*)

We believe that sufficient information has been provided to determine the effects of the proposed action and to conclude whether it would adversely affect federally listed species and/or designated critical habitat. Our concurrence is based on information provided by the action agency, best available science, and complete and successful implementation of agreed-upon conservation measures.

EFFECTS TO BULL TROUT

Effects and Disturbance

Temporary and/or long-term effects from the action are not expected to measurably disrupt normal bull trout behaviors (i.e., the ability to successfully feed, move, and/or shelter), and are therefore considered insignificant and/or discountable:

- The action will result in temporary impacts to water quality, including potential temporary increases in elevated levels of turbidity and contaminants, although the threat of increased contaminants will be decreased by testing dredged material prior to disposal to ensure it does not have the potential to adversely affect biological resources. These effects will be intermittent and limited in physical extent and duration.
- Long-term use and operations of the dredged material disposal sites will not disrupt normal bull trout behaviors (i.e., the ability to successfully feed, loaf, move, and/or shelter).

Effects to Bull Trout Habitat and Prey Sources

With successful implementation of the agreed-upon conservation measures, we expect that temporary impacts from the action will not measurably degrade or diminish habitat functions or prey resources in the action area, and effects are therefore considered insignificant and/or discountable:

- Construction methods and proposed permanent features may impact habitat that supports bull trout and/or their prey sources. These impacts will be limited in physical extent and/or duration, and will not measurably degrade habitat functions, including prey resources, that are important to bull trout within the action area:
    - Use of the dredged material disposal sites may result in periodic and/or temporary impacts to water quality through elevated levels of turbidity and contaminants, although the threat of increased contaminants will be decreased by testing dredged material prior to disposal to ensure it does not have the potential to adversely affect biological resources; and these effects will be intermittent and of short duration.
    - Any in-water disposal of dredged material will comply with a current, valid Site Use Authorization approved under the Dredged Material Management Program. The action will not degrade habitat functions that are important to bull trout or their prey resources, including diminishing forage fish or salmonid production.

EFFECTS TO BULL TROUT CRITICAL HABITAT

The final revised rule designating bull trout critical habitat (75 FR 63898 [October 18, 2010]) identifies nine Primary Constituent Elements (PCEs) essential for the conservation of the species. The proposed action may affect the PCEs listed below; however, effects to these PCEs are not expected measurably affect them and are therefore considered insignificant or discountable:

PCE 2: *Migration habitats with minimal physical, biological, or water quality impediments between spawning, rearing, overwintering, and freshwater and marine foraging habitats, including but not limited to permanent, partial, intermittent, or seasonal barriers.*

- The DMMP disposal sites are all greater than 50 feet in depth. Concentration of suspended sediment in nearshore areas is not expected to reach levels that would impede migration.

PCE 3: *An abundant food base, including terrestrial organisms of riparian origin, aquatic macroinvertebrates, and forage fish.*

- The DMMP disposal sites are located offshore in deep water either where prey are not located or where the dredged material will rapidly disperse, not significanly altering the disposal area.

PCE 4: *Complex river, stream, lake, reservoir, and marine shoreline aquatic environments, and processes that establish and maintain these aquatic environments, with features such as large wood, side channels, pools, undercut banks and unembedded substrates, to provide a variety of depths, gradients, velocities, and structure.*

- The action will have no effect on this PCE.

PCE 5: *Water temperatures ranging from 2 to 15 °C (36 to 59 °F), with adequate thermal refugia available for temperatures that exceed the upper end of this range. Specific temperatures within this range will depend on bull trout life-history stage and form; geography; elevation; diurnal and seasonal variation; shading, such as that provided by riparian habitat; streamflow; and local groundwater influence.*

- The action will have no effect on this PCE.

PCE 8: *Sufficient water quality and quantity such that normal reproduction, growth, and survival are not inhibited.*

- The action may impact water quantity and/or quality. However, the effects will be temporary; components of the project design include actions to avoid, reduce, or compensate for the effects from the impacts; and/or we would be unable to meaningfully measure, detect, or evaluate the effects.

EFFECTS TO MARBLED MURRELET

Effects - Marine Environment

Temporary exposures and effects from the action are not expected to measurably disrupt normal marbled murrelet behaviors (i.e., the ability to successfully feed, move, and/or shelter) and are therefore considered insignificant and/or discountable:

- The action will result in temporary impacts to water quality, including potential temporary increases in elevated levels of turbidity and contaminants, although the threat of increased contaminants will be decreased by testing dredged material prior to disposal to ensure it does not have the potential to adversely affect biological resources. These effects would be intermittent and limited in physical extent and duration.

- Long-term use and operations of the dredged material disposal sites may result in increased sound levels or other temporary stressors that could disturb marbled murrelets. However, due to the present level of development and activity in the vicinity, the action is not expected to disrupt normal marbled murrelet behaviors (i.e., the ability to successfully feed, loaf, move, and/or shelter).

Effects to Marbled Murrelet Foraging Habitat and Prey Sources

With successful implementation of the included conservation measures, we expect that temporary impacts from the action will not measurably degrade or diminish habitat functions or prey resources in the action area, and effects are therefore considered insignificant and/or discountable:

- Construction methods and proposed permanent features may impact habitat that supports marbled murrelets and/or their prey sources. These impacts will be limited in physical extent and/or duration and will not measurably degrade habitat functions, including prey resources that are important to marbled murrelets within the action area:
    - Use of the dredged material disposal sites may result in periodic impacts to water quality through elevated levels of turbidity and contaminants, although the threat of increased contaminants will be decreased by testing dredged material prior to disposal to ensure it does not have the potential to adversely affect biological resources; and these effects will be intermittent and short duration.
    - Any in-water disposal of dredged material will comply with a current, valid Site Use Authorization approved under the Dredged Material Management Program. The action will not degrade habitat functions that are important to marbled murrelets or their prey resources, including diminishing forage fish.

Conclusion

This concludes consultation pursuant to the regulations implementing the Endangered Species Act (50 CFR 402.13). Our review and concurrence with your effect determination is based on the implementation of the project as described. It is the responsibility of the Federal action agency to ensure that projects that they authorize or carry out are in compliance with the regulatory permit and/or the Endangered Species Act, respectively. If a permittee or the Federal action agency deviates from the measures outlined in a permit or project description, the Federal action agency has the obligation to reinitiate consultation and comply with section 7(d).

This project should be re-analyzed and re-initiation may be necessary if 1) new information reveals effects of the action that may affect listed species or critical habitat in a manner, or to an extent, not considered in this consultation, 2) if the action is subsequently modified in a manner

that causes an effect to a listed species or critical habitat that was not considered in this consultation, and/or 3) a new species is listed or critical habitat is designated that may be affected by this project.

This letter and its enclosures constitute a complete response by the U.S. Fish and Wildlife Service to your request for informal consultation. A complete record of this consultation is on file at the Washington Fish and Wildlife Office, in Lacey, Washington. If you have any questions about this letter or our joint responsibilities under the Endangered Species Act, please contact the consulting biologist identified below.

U.S. Fish and Wildlife Service Consultation Biologist(s):
Lee Corum (360-753-5835)

Sincerely,

Martha L. Jensen

for Eric V. Rickerson, State Supervisor
Washington Fish and Wildlife Office