



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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



OCT 2 2008

Michelle Walker, Chief Regulatory Branch
Seattle District, Corps of Engineers
ATTN: Regulatory Branch (Ehorn)
P.O. Box 3755
Seattle, Washington 98124-3755

Dear Ms. Walker:

Subject: COE # NWS-2008-737-SO
Project: City of Bremerton, Shoreline Activities

Your August 22, 2008, emailed correspondence requested our review and comments on the City of Bremerton's proposed shoreline activities at Bremerton, in Kitsap County, Washington. The applicant proposes three main activities: 1) construction of a 3,400 ft by 20- to 28-ft precast concrete overwater boardwalk, 2) replacement of a sanitary sewer, and 3) conversion of a former Chevron bulk fuel distribution facility into a public shoreline recreational use area via an addition to an existing park.

We have reviewed the public notice and would like to make recommendations on the sanitary sewer replacement and the construction of the boardwalk. These recommendations are provided to assist you in meeting your obligation, under sections 7(a)(1) and 2(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), to use your authorities to promote the conservation of listed species and their habitats. We also make these recommendations based on our respective responsibilities under the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*) and under the Migratory Bird Treaty Act (16 USC 703), as a number of waterfowl and seabirds are likely to occur within the proposed project area. While most of these migratory species are not federally listed as threatened or endangered under the Endangered Species Act, they are protected under the Migratory Bird Treaty Act.

First, we recommend that the U.S. Army Corps of Engineers (Corps) not authorize the siting of the sewer pipeline and its connectors in the intertidal zone, but rather in the uplands. The replacement of the sewer pipeline is not a water dependent activity, and we assume that practicable alternatives exist. We recognize that the applicant may prefer the proposed intertidal configuration due to cost, ease of placement, or other factors. However, the long-term risks to fish, migratory birds and other wildlife, sensitive aquatic habitat, and water quality (for both aquatic biota and human use) should be avoided. In the event the pipeline, its connectors, or its access points are damaged, it is likely that the materials in the pipe would leak into the intertidal and subtidal areas of the project. Such damage may occur as a result of human activities, unexpected stochastic events (e.g., earthquakes), or through eventual wear, failure, and/or replacement of the proposed pipeline or its components. While the Corps' risk analysis may assume such events are unlikely to occur or would be infrequent, the potential consequences of such an occurrence could be serious and avoided altogether if the pipeline and its components are not placed in the intertidal zone. The replacement sewer pipeline and the numerous individual connectors from the residences should be sited sufficiently upland of the intertidal zone to avoid the potential for sewage leaks and periodic or emergency maintenance activities that would impact the intertidal zone. Relocating the pipeline outside of the intertidal zone would also eliminate the need for the motorized vehicle access/maintenance portion of the proposed boardwalk. This in turn would also avoid the risk of fuel spills or other impacts that would occur as a result of operating a motor vehicle over or adjacent to the intertidal zone.

Secondly, we also recommend that the existing sewer line, which is to be decommissioned and left in place, be removed from the intertidal zone. This is particularly important to avoid potential leakage of residual materials from the pipe into the intertidal zone if there is future damage to the pipe.

Thirdly, in regards to the proposed overwater structure, we recommend that the Corps appropriately balance the environmental impacts of the project with the other features of the project per the Fish and Wildlife Coordination Act. If the overwater boardwalk is authorized, we also recommend that the Corps revisit the proposed design of the structure to reduce impacts to aquatic biota and habitat. The dimensions of the overwater structure, and particularly the width, should be significantly decreased to reduce shading impacts to aquatic biota and their habitats. Grating or other light passage measures should be implemented into the design of the boardwalk to further reduce shading impacts.

Finally, the proposed action should avoid construction or operation-related impacts to fish, migratory birds, and other aquatic biota. We assume that if the proposed action goes forward (with or without a number of design changes), the Corps would likely request consultation under section 7(a)(2) of the Endangered Species Act for listed resources under our jurisdiction. If consultation is requested, the Corps should include species-specific conservation measures in the project design to reduce or preferably avoid any potential impacts to listed resources such as the marbled murrelet (*Brachyramphus marmoratus*). However, we also recommend that measures be included in the project design that would avoid the direct mortality of other aquatic biota including, but not limited to, migratory waterfowl, seabirds, and forage fish. For example, the exposure of diving birds (e.g., diving ducks, alcids, etc.) and spawning or holding forage fish to injurious underwater sound pressure impacts should be avoided. Such impacts could occur if the

proposed steel piles are installed and/or proofed with an impact pile driver. We also recommend that project impacts that would appreciably interfere with reproduction or feeding, especially during sensitive life history stages, be avoided. Furthermore, impacts that would occur over the long-term should also be avoided. For example, the use of treated wood for any part of the overwater structure that is submerged or exposed to wave action or heavy precipitation events would likely leach copper, arsenic or zinc from wood treatments into the nearshore for an extended period of time following the construction.

Thank you for the opportunity to comment on this proposed action. Further coordination and/or comments regarding these or other project activities may be provided if the Corps requests consultation under section 7(a)(2) of the Endangered Species Act.

If you have any questions about this letter or our joint responsibilities under the Acts mentioned above, please contact Karen Myers at (360) 753-9098 or Carolyn Scafidi at (360) 753-4068, of this office.

Sincerely,



for

Ken S. Berg, Manager
Western Washington Fish and Wildlife Office

cc:

WDFW, Region 6

WDOE, Lacey, WA (R. Padgett)