



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
1201 NE Lloyd Boulevard, Suite 1100
Portland, Oregon 97232-1274

DOI: <https://doi.org/10.25923/xw1j-xe94>

Refer to NMFS No: WCRO-2022-02780

July 3, 2023

William D. Abadie
Chief, Regulatory Branch
U.S. Army Corps of Engineers, Portland District
P.O. Box 2946
Portland, OR 97208-2946

Re: Endangered Species Act Section 7(a)(2) Biological Opinion for the City of Walla Walla Operation and Maintenance of City's Water Supply Intake and Fish Ladder Project Walla Walla County, Washington.

Dear Mr. Abadie:

This letter responds to your October 26, 2022, request for initiation of consultation with the National Marine Fisheries Service (NMFS) pursuant to section 7 of the Endangered Species Act for the subject action. Your request, after supplemental information was provided, qualified for our expedited review and analysis because it met our screening criteria and contained all required information on, and analysis of, your proposed action and its potential effects to ESA-listed species and designated critical habitat.

Thank you, also, for your request for consultation pursuant to the essential fish habitat (EFH) provisions in Section 305(b) of the Magnuson–Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(b)) for this action. However, after reviewing the proposed action, we have determined that EFH is not in the action area. Therefore, EFH consultation is not necessary.

On July 5, 2022, the U.S. District Court for the Northern District of California issued an order vacating the 2019 regulations that were revised or added to 50 CFR part 402 in 2019 ("2019 Regulations," see 84 FR 44976, August 27, 2019) without making a finding on the merits. On September 21, 2022, the U.S. Court of Appeals for the Ninth Circuit granted a temporary stay of the district court's July 5 order. On November 14, 2022, the Northern District of California issued an order granting the government's request for voluntary remand without vacating the 2019 regulations. The District Court issued a slightly amended order two days later on November 16, 2022. As a result, the 2019 regulations remain in effect, and we are applying the 2019 regulations here. For purposes of this consultation and in an abundance of caution, we considered whether the substantive analysis and conclusions articulated in the biological opinion and incidental take statement (ITS) would be any different under the pre-2019 regulations. We have determined that our analysis and conclusions would not be any different.



We reviewed the U.S. Army Corps of Engineers (Corps) consultation request and related initiation package. After our review, we requested additional information by email on November 22, 2022. NMFS continued to coordinate with the Corps and the BA author regarding the proposed action. On March 20, 2023, we received additional information in the form of an appendix to the BA and we initiated consultation on that date.

Where relevant, we have adopted the information and analyses you have provided and/or referenced but only after our independent, science-based evaluation confirmed they meet our regulatory and scientific standards. We adopt by reference the following sections of the Biological Assessment (BA) prepared by HDR, Inc. for the City of Walla Walla (City of Walla Walla 2022) and amended by Appendix A (City of Walla Walla 2023):

- Section 2 for the description of the action area and environmental baseline;
- Section 3 for the description of the proposed action;
- Section 4 for the effects of the proposed action and cumulative effects;
- Section 5 for measures to minimize effects of the proposed action;
- Section 7 for occurrence and status of Middle Columbia River (MCR) steelhead and the Walla Walla steelhead population in the action area;
- Section 8 for the effects analysis on species and critical habitat;
- Section 9 for species effects determination;
- Section 10 for EFH determination; and,
- Appendix A for response to questions for additional information.

The City of Walla Walla (City) operates a nine-foot-tall intake diversion dam for its municipal water supply in the Mill Creek Watershed. As described in Section 3.1 of the BA, the City proposes to perform a one-time mechanical removal of 887 cubic yards of accumulated bedload (sands, fine silts, gravel) and woody debris in the summer of 2023; mechanical debris removal every 5 years, or after floods, as needed; replacement of north shore rip rap downstream of the dam that protects the drinking water line, if needed after a major flood; and on-going gate sluicing of sediments from the forebay, up to three times per year and 10 cubic yards per event, during annual high flow events (March–May).

We examined the status of each species that would be adversely affected by the proposed action to inform the description of the species’ “reproduction, numbers, or distribution” as described in 50 CFR 402.02. We also examined the condition of critical habitat throughout the designated area and discuss the function of the physical or biological features (PBFs) essential to the conservation of the species that create the conservation value of that habitat. Critical habitat for MCR steelhead has been designated in Mill Creek within the action area. A description of the status of the species, in this case MCR steelhead, and its critical habitat is included in Sections 2.4 (Environmental Baseline) and 7.2 (Middle Columbia River Steelhead), and is adopted here.

“Action area” means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR 402.02). The action area is described in Section 2.2 of the BA (City of Walla Walla 2022), and is adopted here with one modification for the upstream extent. The Corps identifies the action area as extending 500 feet upstream.

However, the gravel bar only extends upstream 120 feet above the City of Walla Walla Intake Dam (CWWID) and the block net will be installed across Mill Creek approximately 20 to 30 feet above the gravel bar. All in-water work will occur below the block net after flow drops to 40 cubic feet per second, sluice gates are opened and the forebay lowered, flows are concentrated along the north bank, and a silt fence is installed around the gravel bar. Therefore, the action area includes that reach of Mill Creek extending approximately 150 feet upstream and 1,000 feet downstream of the CWWID. It also includes staging areas along the existing access road (Mill Creek Road), and riparian habitat along the forebay access area.

The “environmental baseline” refers to the condition of the listed species or its designated critical habitat in the action area, without the consequences to the listed species or designated critical habitat caused by the proposed action. The environmental baseline includes the past and present impacts of all Federal, State, or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early section 7 consultations, and the impact of State or private actions which are contemporaneous with the consultation in process. The consequences to listed species or designated critical habitat from ongoing agency activities or existing agency facilities that are not within the agency’s discretion to modify are part of the environmental baseline (50 CFR 402.02). The Environmental Baseline is described in BA Section 2.4 and is adopted here.

The action area supports rearing, migration, and spawning of MCR steelhead from the Walla Walla River population. The Walla Walla population is one of three steelhead populations in the Umatilla/Walla Walla Rivers Major Population Group (MPG), one of four MPGs of MCR steelhead. Overall, the MCR steelhead distinct population segment (DPS) is at “moderate risk” of extinction, with no change in the viability ratings for the component populations, including the Walla Walla River, since the 2016 review (Ford 2022; NMFS 2022). The Walla Walla population is at moderate risk and the Umatilla/Walla Walla Rivers MPG is not viable.

Mill Creek in the action area is designated critical habitat for MCR steelhead. Important PBFs in the action area include water quantity and quality, substrate, floodplain connectivity, forage, natural cover, and freedom from artificial obstruction. The ability of critical habitat in the action area to support MCR steelhead is limited by effects from the dam and floodplain development. The CWWID spans the entire width of Mill Creek, pools an upstream reservoir approximately 120 feet long by 50 feet wide, and prevents the natural downstream migration of sediments. Silts, sand, gravels, and woody debris build up and block the water system intake and the fish ladder exit. The City conducts sluicing operations, up to three times per year and up to 10 cubic yards per event, during high flows (March–May) using the existing sluice gates to keep the water system intake operating.

Under the ESA, “effects of the action” are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action (see 50 CFR 402.17). In our analysis, which describes the effects of the proposed action, we considered 50 CFR 402.17(a) and (b).

The BA includes an assessment of the effects of the proposed action in Section 7.2, which is adopted here (50 CFR 402.14(h)(3)). Walla Walla River summer steelhead use the action area for spawning, rearing, and migration. Juvenile rearing occurs year-round. Adult migration occurs September through June, peaking January through April. Spawning occasionally occurs below the CCWID in March through May. Based on spawn timing and water temperatures, emergence from redds is complete by July. Smolt outmigration occurs in spring and fall, with peak migration in April and May. Therefore, the Corps and City determined, and NMFS concurs, that during mechanical removal of sediments during the in-water work window of July 1 to August 15, only juvenile steelhead will be present in the action area. Juveniles, adults, and incubating eggs could be present downstream of the dam when annual sluicing occurs in March–May.

Potential adverse effects to MCR steelhead identified by the Corps and City include:

1. Harassment and mortality of juvenile steelhead in 0.11 acres from work area isolation, fish salvage, and mechanical excavation of sediment. Effects would occur for 3 to 5 days with debris removal in 2023, and approximately every 5 years, two more times for the 10-year duration of this consultation.
2. Displacement of juvenile steelhead and disruption of their feeding and sheltering behavior from increases in suspended sediments during initial sluicing, for 30–60 minutes within 40,000 square feet (1,000 feet downstream of the CWWID and 40 feet across the channel); and for 2 to 5 days within 4,000 square feet (100 feet downstream of the CWWID and 40 feet across the channel), during mechanical debris removal. Effects would occur with debris removal in 2023, and approximately every 5 years, two more times for the 10-year duration of this consultation.
3. Displacement and disruption of juvenile steelhead feeding and sheltering behavior for 2 hours 3 times per year in 50,000 square feet (1,000 feet downstream of the CWWID and 50 feet across the channel) during sluicing events March–May.
4. Disruption of adult steelhead holding and spawning behavior for 2 hours 3 times per year in 50,000 square feet (1,000 feet downstream of the CWWID and 50 feet across the channel) during sluicing events March–May.
5. Smothering of redds and resultant egg mortality in 50,000 square feet (1,000 feet downstream of the CWWID and 50 feet across the channel) from pulses of sediment released during sluicing events March–May.

Potential adverse effects to PBFs of MCR steelhead critical habitat at the scale of the action area identified by the Corps and City include:

1. Loss of 0.11 acres of habitat for 2 to 5 days due to work area isolation and mechanical excavation of sediment and woody material in 2023, and approximately every 5 years, or two more times for the 10-year duration of this consultation.
2. Temporary loss of benthic organisms (prey) from work area isolation and excavation activities in 0.11 acres in 2023, and approximately every 5 years, or two more times for the 10-year duration of this consultation; from annual sluicing of accumulated materials upstream of the dam (3 times per year, up to 3 cubic yards per event); and from

deposition of suspended sediment in 50,000 square feet (1,000 feet downstream of the CWWID and 50 feet across the channel) during opening of sluice gates, work area isolation, and mechanical removal of debris.

3. Short term, not lasting more than 5 days, impact to water quality from increased turbidity in 40,000 square feet (1,000 feet downstream of the CWWID and 40 feet across the channel) during work area isolation (1 day) and mechanical removal of debris (2 to 4 days) in 2023, and approximately every 5 years, or two more times for the 10-year duration of this consultation.
4. Short-term impact to water quality for 2 hours 3 times per year from increased turbidity in 50,000 square feet (1,000 feet downstream of the CWWID and 50 feet across the channel) during opening of sluice gates March–May.
5. Blocked upstream and downstream migration of juvenile steelhead in 150 linear feet of stream for 2 to 5 days, from work area isolation in 2023, and approximately every 5 years, or two more times for the 10-year duration of this consultation.
6. Blocked juvenile and adult upstream passage for up to 2 hours 3 times per year on the north bank during annual sluicing March–May.
7. Improved fish passage at the fish ladder from decreased sediment accumulation at the fish ladder exit due to mechanical removal in 2023 and approximately 2028 and 2033, and annual sluicing of accumulated sediments.

NMFS has evaluated the effects sections of the BA and, after our independent, science-based evaluation, determined the additional information included in the following paragraph is needed to complete our analysis.

Few steelhead currently pass Bennington Dam, located at River Mile 11.5. In the 2019–2020 run year, 14 adult steelhead were enumerated at Bennington Lake Diversion Dam (River Mile 11.5), below the recent 5- and 10-year averages of 15 and 21, respectively; and below the 20-year average of 30. Based on current habitat conditions in lower Mill Creek and Yellowhawk Creek—migration corridors to Bennington Dam and upper Mill Creek—NMFS does not expect a large increase in steelhead passage into upper Mill Creek in the next 10 years. Therefore, NMFS expects a very small number of juvenile and adult steelhead will be present in the action area and exposed to project effects.

The Washington Department of Fish and Wildlife conducts steelhead redd surveys of reference sites on Mill Creek beginning at the State line with Oregon, approximately 1.9 miles downstream from the action area. From 2001–2017, within the 2.67-mile reach immediately downstream from the State line, the average number of redds per mile was 3.2 (Corps BA 2020). Applying this redd density to the 1,000 feet of spawning habitat below the CWWID results in an estimated 0.6 redds present in the action area in any year. Spawning does not occur in the action area above the CWWID. Therefore, NMFS conservatively estimates that one redd will be present annually in the action area.

“Cumulative effects” are those effects of future State or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the Federal action subject to consultation (50 CFR 402.02 and 402.17(a)). Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation

pursuant to section 7 of the ESA. Cumulative effects are described in Section 4.4 of the BA and adopted by reference here. The dam is located 14 miles upstream of the City of Walla Walla, in a remote area near the town of Kooskooskie, Washington. Therefore, for our analysis, NMFS assumes that future State and private actions and land uses will continue within the action area at roughly their current rate.

The Integration and Synthesis section is the final step in our assessment of the risk posed to species and critical habitat as a result of implementing the proposed action. In this section, we add the effects of the action to the environmental baseline and the cumulative effects, taking into account the status of the species and critical habitat, to formulate the agency's biological opinion as to whether the proposed action is likely to: (1) reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing its numbers, reproduction, or distribution; or (2) appreciably diminish the value of designated or proposed critical habitat as a whole for the conservation of the species.

Middle Columbia River steelhead from the Walla Walla River population use the action area to support critical life functions of spawning, rearing, and migration. NMFS recently reaffirmed that MCR steelhead have not achieved viable status and are at moderate risk of extinction. Major threats to MCR steelhead include, but are not limited to, climate change, predation in the Columbia River, various impairments in tributaries due to low flows, poor passage conditions, and degradation of floodplain and riparian habitat. The Walla Walla population of MCR steelhead will be affected by the proposed action. The Walla Walla population is at moderate risk for abundance and productivity and spatial structure and diversity, and its viability rating is considered maintained (Ford 2022).

Within the action area, the key threats to MCR steelhead viability include floodplain development that limits rearing productivity, and changes in sediment transport and impaired fish passage from presence of the CWWID. Cumulative effects are not expected to meaningfully change population viability or the ability of critical habitat to support recovery of MCR steelhead.

As described earlier, the proposed action will have effects on eggs, juveniles, and adult MCR steelhead from the Walla Walla River population. The proposed action is expected to result in harassment and mortality of a very small number of juvenile steelhead in 0.11 acres from work area isolation, fish salvage, and mechanical excavation of sediment. Effects would occur for up to 15 days over the duration of the 10-year consultation, including 2 to 5 days in 2023, and another 2 to 5 days in approximately 2028 and 2033. Additional juvenile steelhead will be affected by impacts to water quality. Temporary increases in turbidity during work area isolation, fish salvage, and mechanical removal of sediments, which extend up to 1,000 feet downstream of the CWWID, are likely to displace juvenile steelhead and disrupt their feeding and sheltering behavior for up to 15 days in 40,000 square feet, including 2 to 5 days in 2023, and 2 to 5 days in approximately 2028 and 2033. Temporary increases in turbidity during sluicing which extend 1,000 feet downstream are also likely to displace juvenile steelhead and disrupt their feeding and sheltering behavior in 50,000 square feet for up to 2 hours 3 times per year during annual sluicing events occurring March–May. Increases in turbidity during sluicing are also expected to disrupt adult spawning behavior for 2 hours 3 times per year in 50,000 square feet, March–May.

In addition, one redd per year may be covered by sediment releases downstream of the CWWID, smothering and killing eggs.

These effects are not expected to appreciably alter the abundance, productivity, spatial structure, or diversity of the Walla Walla River population. It is NMFS' opinion that when the effects of the action and cumulative effects are added to the environmental baseline, and in light of the status of the species, the effects of the action will not cause reductions in reproduction, numbers, or distribution that would reasonably be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of MCR steelhead.

The action area is designated as critical habitat for MCR steelhead, providing, spawning, rearing and migration habitat. Critical habitat in the action area is degraded due to floodplain development and presence of the CWWID. Climate change and human development have and continue to adversely impact critical habitat creating limiting factors and threats to the recovery of MCR steelhead. Cumulative effects are not likely to have an adverse impact on critical habitat. NMFS expects small, temporary negative effects to the function and conservation value of natural cover, forage, water quality, and free of artificial obstruction PBFs from work area isolation, mechanical removal of sediment, and sluicing.

Based on our analysis, adverse effects from the proposed action will cause a small, temporary, and localized decline in the function and conservation value of PBFs in the action area. However, because of the scale and extent of the effects to PBFs, we do not expect a reduction in the conservation value of critical habitat in the action area. Therefore, as we scale up from the action area to the designation scale, the proposed action is not expected to appreciably reduce the function and conservation value of critical habitat for MCR steelhead at the designation scale.

Conclusion

After reviewing and analyzing the current status of the listed species and critical habitat, the environmental baseline within the action area, the effects of the proposed action, the effects of other activities caused by the proposed action, and cumulative effects, it is NMFS' biological opinion that the proposed action is not likely to jeopardize the continued existence of MCR steelhead or destroy or adversely modify its designated critical habitat.

INCIDENTAL TAKE STATEMENT

Section 9 of the ESA and Federal regulations pursuant to section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively, without a special exemption. "Take" is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. "Harm" is further defined by regulation to include significant habitat modification or degradation that actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding, or sheltering (50 CFR 222.102). "Harass" is further defined by interim guidance as to "create the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering." "Incidental take" is defined by regulation as takings that result from, but are not the

purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or applicant (50 CFR 402.02). Section 7(b)(4) and section 7(o)(2) provide that taking that is incidental to an otherwise lawful agency action is not considered to be prohibited taking under the ESA if that action is performed in compliance with the terms and conditions of this ITS.

Amount or Extent of Take

In this biological opinion, NMFS determined that incidental take is reasonably certain to occur as follows: (1) harassment and mortality of juvenile steelhead in 0.11 acres; (2) displacement of juvenile steelhead and disruption of their feeding and sheltering behavior for up to 15 days in 40,000 square feet; (3) displacement of juvenile steelhead and disruption of their feeding and sheltering behavior in 50,000 square feet for up to 2 hours 3 times per year, March–May; (4) disruption of adult steelhead spawning behavior in 50,000 square feet for up to 2 hours 3 times per year, March–May; and (5) smothering and killing of steelhead eggs in one redd.

Incidental Take from Work Area Isolation and Fish Salvage

NMFS expects work area isolation, fish salvage, and mechanical excavation of sediment will result in harassment and death of juvenile steelhead. Work area isolation of 0.11 acres will be accomplished by opening sluice gates and drawdown of the forebay, directing flow to the north side of the CWWID, and installing a block net upstream of the gravel bar. Fish salvage will include seining (herding), electrofishing, and netting. Mechanical removal of sediment will include 12 stream crossings by an excavator and placing excavated debris on a conveyor crossing from the north bank to the gravel bar. A definitive number of ESA-listed fish that will be harmed cannot be estimated or measured because of the highly variable presence of species over time, and the inability to observe injured or dead specimens. However, the extent of habitat altered by disturbance is readily discernible and presents a reliable measure of the extent of take that can be monitored and tracked. Therefore, the estimated extent of habitat encompassed by in-water work represents the extent of take associated with harassment and death by work area isolation and fish salvage. The proposed surrogate is causally linked to anticipated take because it describes conditions that will cause take due to in-water work. Specifically, NMFS will consider the extent of take exceeded if the proposed action results in work area isolation or fish salvage within more than 0.11 acres of stream.

Incidental Take from Increased Turbidity

Take caused by the temporary increases in turbidity will be manifested in altered behaviors including displacement of juvenile steelhead and disruption of their feeding and sheltering behavior and disruption of adult spawning behavior. NMFS is unable to estimate the number of fish harmed by increased turbidity. In circumstances where NMFS cannot numerically predict the amount of take, we estimate the extent of take by describing the extent of habitat modified by the proposed action (June 3, 1986, 51 FR 19926 at 19954). This surrogate represents an observable metric of the extent of take, which if exceeded, would trigger consultation. The extent of modified habitat is 40,000 square feet during mechanical removal of sediment and 50,000 square feet during annual sluicing. This is equivalent to the maximum extent of temporary turbidity plumes (up to 1,000 feet downstream of the CWWID and across an average of 40–50

feet of stream). This description of the extent of modified habitat is the extent of take exempted from the prohibition against take in this statement.

Incidental Take from Suspended Sediment Deposition

Take in the form of harm caused by the temporary increases in turbidity and settling of suspended sediment will be manifested in smothering of redds and egg mortality. NMFS estimates that eggs in one redd will be smothered and killed annually during sluicing. The extent of take will be exceeded if more than one redd is smothered annually by settling of suspended sediment in the action area.

Effect of the Take

In the biological opinion, NMFS determined that the amount or extent of anticipated take, coupled with other effects of the proposed action, is not likely to result in jeopardy to the species or destruction or adverse modification of critical habitat.

Reasonable and Prudent Measures

“Reasonable and prudent measures” (RPMs) are measures that are necessary or appropriate to minimize the impact of the amount or extent of incidental take (50 CFR 402.02). The Corps shall minimize incidental take by:

1. Tracking, monitoring, and reporting on the proposed action to ensure the project is implemented as proposed, and the amount and extent of take is not exceeded.

Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the ESA, the Federal action agency must comply (or must ensure that any applicant complies) with the following terms and conditions. The Corps or any applicant has a continuing duty to monitor the impacts of incidental take and must report the progress of the action and its impact on the species as specified in this ITS (50 CFR 402.14). If the entity to whom a term and condition is directed does not comply with the following terms and conditions, protective coverage for the proposed action would likely lapse.

1. The following terms and conditions implement RPM 1:
 - a. Track and monitor construction activities to ensure that the conservation measures are meeting the objective of minimizing take. Monitoring shall be conducted by the Corps or contractor, and include a daily visual survey for fish in the areas adjacent to construction, and inside the in-water work area; a daily visual survey for redds within 1,000 feet downstream of the CWWID.
 - b. Submit a completion of project report to NMFS two months after project completion. The completion report shall include, at a minimum, the following:

- i. Starting and ending dates for work completed, with in-water work period specified.
 - ii. Methods used to isolate the work areas.
 - iii. Total area of in-water work, including areas isolated and dewatered.
 - iv. Total area of modified habitat.
 - v. Dates and number of days of blocked upstream fish passage.
 - vi. Duration isolation materials were in place.
 - vii. Any daily observed sediment plume from the in-channel work area to 1,000 feet downstream during the in-water work period.
 - viii. Turbidity monitoring conducted 100 feet downstream from the CWWID.
 - ix. A summary of pollution and erosion control inspection results, including results of implementing required BMPs, and including a description of any erosion control failure, contaminant release, and efforts to correct such incidences.
 - x. Number and species of fish observed injured or killed in Mill Creek.
 - xi. Description of all capture and release methods employed including:
 - 1. Supervisory fish biologist name and address.
 - 2. Methods used.
 - 3. Number of fish captured by species.
 - 4. Location and condition of all fish released.
 - 5. Observations of injury and mortality.
 - xii. Reference to NMFS consultation number WCRO-2022-02780.
- c. All reports will be sent to: crbo.consultationrequest.wcr@noaa.gov
 - d. If the amount or extent of take is exceeded, stop project activities and notify NMFS immediately.

Conservation Recommendations

Section 7(a)(1) of the ESA directs Federal agencies to use their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of the threatened and endangered species. Specifically, conservation recommendations are suggestions regarding discretionary measures to minimize or avoid adverse effects of a proposed action on listed species or critical habitat or regarding the development of information (50 CFR 402.02). NMFS recommends that the Corps and City work with Walla Walla Basin stakeholders on implementation of the Walla Walla 2050 plan, particularly strategies and actions that increase flow, improve fish passage, increase floodplain connectivity, increase extent and function of

riparian vegetation, and increase habitat complexity. Implementation of these strategies will improve the function and conservation value of PBFs, and the abundance and distribution of MCR steelhead.

Reinitiation of Consultation

Under 50 CFR 402.16(a): “Reinitiation of consultation is required and shall be requested by the Federal agency or by the Service where discretionary Federal agency involvement or control over the action has been retained or is authorized by law and: (1) if the amount or extent of taking specified in the incidental take statement is exceeded; (2) if new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion or written concurrence; or (4) if a new species is listed or critical habitat designated that may be affected by the identified action.”

This letter underwent pre-dissemination review using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554). The biological opinion will be available through NOAA’s Institutional Repository at <https://repository.library.noaa.gov>. A complete record of this consultation is on file at NMFS’ La Grande, Oregon office.

Please contact Dr. Jim Mital, Moscow, Idaho, 208-310-0663, jim.mital@noaa.gov, if you have any questions concerning this consultation, or if you require additional information.

Sincerely,



Nancy L. Munn, Ph.D.
Acting Assistant Regional Administrator
Interior Columbia Basin Office

cc: Marisa Meyer, USFWS
Frank Nicholson, City of Walla Walla

REFERENCES

- City of Walla Walla. 2022. Biological Assessment for Operation and Maintenance of City's Water Supply Intake and Fish Ladder in Mill Creek. Published by HDR, Inc. 67pp.
- City of Walla Walla. 2023. Biological Assessment for Operation and Maintenance of City's Water Supply Intake and Fish Ladder in Mill Creek, Appendix A: Steelhead Data and NMFS Questions. 13pp.
- Corps (U.S. Army Corps of Engineers). 2020. Biological Assessment for Mill Creek Flood Risk Management General Investigation Feasibility Study Environmental Assessment Report. 61pp.
- Ford, M. J., editor. 2022. Biological Viability Assessment Update for Pacific Salmon and Steelhead Listed Under the Endangered Species Act: Pacific Northwest. U.S. Department of Commerce, NOAA Technical Memorandum NMFS-NWFSC-171.
- National Marine Fisheries Service. 2022. 5-Year Review: Summary & Evaluation of Middle Columbia River Steelhead. National Marine Fisheries Service, West Coast Region.