



**US Army Corps
of Engineers** ®

Omaha and
Walla Walla Districts

SPECIAL PUBLIC NOTICE

**Standard Local Operating Procedures for Endangered Species (SLOPES)
for Department of the Army Permits
Affecting Bull Trout in Northern Idaho and Western Montana**

Issue Date: June 5, 2013

Expiration Date: May 28, 2018

Summary

The purpose of this public notice is to announce that the Omaha and Walla Walla Districts, U.S. Army Corps of Engineers (Corps), and the United States Fish and Wildlife Service (USFWS) have completed programmatic consultation for 8 categories of activities requiring Department of the Army permits. This consultation, which covers activities in waters of the United States within the states of Montana and Idaho, complies with the provisions of Section 7 of the Endangered Species Act (ESA). **The intent of the SLOPES is to cover non-federal land where the Corps is the lead consulting agency. Other Federal agencies may follow the conservation measures and in so doing may benefit from streamlined consultation, but they must initiate consultation and obtain their own authorization for incidental take as appropriate.**

This SLOPES agreement eliminates the need for individual ESA consultations on permit applications submitted to the Omaha and Walla Walla Districts for activities located in bull trout habitat, a species protected under the ESA. Each action must comply with the terms and conditions of the biological opinion issued by USFWS. This agreement will facilitate the evaluation process by reducing the time required for processing qualified applications while assuring compliance with the requirements of the ESA.

This consultation with USFWS covers bull trout, a species listed under ESA within the states of Montana and Idaho. Other fish, wildlife, and plant species which are the responsibility of the USFWS are not addressed by this consultation and will be subject to individual consultation requirements.

Geographic Scope

The geographic area covered by this SLOPES includes portions of western Montana and northern Idaho in the Columbia River and the St. Mary Bull Trout Interim Recovery Units (RU) (USFWS 2002).

Timeframe

The consultation is intended to cover the specified Corps activities during the five year period following the effective date in 2013 through 2018. The SLOPES may be revisited during that five year period if new information becomes available that warrants re-initiation of consultation.

What is ESA consultation?

Section 7 of the ESA requires that Federal agencies consult with USFWS to ensure that any action authorized by the agency is not likely to jeopardize the continued existence of species listed as threatened or endangered or result in the destruction or adverse modification of critical habitat for those species. Under the Corps' permit program, permit applications are reviewed to determine any potential adverse effects on listed threatened and endangered species and their critical habitat. The Corps consults with USFWS, using formal or informal procedures, to evaluate the potential effects of the

proposed work and any conservation measures which can be implemented to help protect the listed species and their habitat.

What is a programmatic consultation?

A programmatic consultation covers a range of actions proposed to be authorized by a Federal agency such as the types of activities subject to the Corps' regulatory jurisdiction. Once a programmatic consultation is completed, case-by-case ESA consultations are no longer required for the specified activities as long as the terms and conditions of the programmatic consultation are met by the permittee.

Why is a programmatic consultation needed?

In recent years, bull trout have been listed under the ESA as threatened. The requirement for consultation for permits has resulted in a substantial increase in workload for both the Corps and USFWS, and increased the length of time required for the processing of permit applications.

What activities are addressed in this programmatic consultation?

This programmatic consultation covers 8 categories of activities:

1. Maintenance
2. Utility Work
3. Minor Discharges
4. Minor Excavation
5. Temporary Access/Dewatering
6. Bank Stabilization
7. Linear Transportation Projects
8. Restoration

Definitions of these categories of activities are included in this public notice as Attachment 1.

What are the requirements for a proposed action to be covered by the programmatic consultation?

To be covered by the programmatic consultation, a proposed action must:

1. Meet the requirements for authorization under a Nationwide Permit as stated in existing regulations.
2. Meet the terms and conditions contained in the programmatic biological opinion, including reporting and monitoring requirements.

What are the terms and conditions in the programmatic biological opinion?

The programmatic biological opinion issued by USFWS includes terms and conditions specific to each of the 8 types of activities listed above, as well as general conditions applicable to all types of activities. The biological opinion, including mandatory terms and conditions, is available on-line at our website: <http://www.nww.usace.army.mil/BusinessWithUs/RegulatoryDivision/PermitProcesses/ESAProgrammaticConsultation.aspx> or <http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Montana.aspx>.

What does a permit applicant need to do to be covered by this consultation?

An applicant proposing to apply for a Department of the Army permit for one or more of these categories of activities should check the terms and conditions of the programmatic biological opinion to see if the proposed project falls within the limits of the programmatic consultation. A permit applicant can expedite the review of their permit application by reviewing its terms and conditions in advance of submitting a permit application to the Corps, and designing the proposed project to comply with those

requirements. When a permit application for that project is received by the Corps, it can be expeditiously processed without a need to further consult with USFWS. The terms and conditions of the programmatic consultation which are applicable to the proposed action will be included in the Corps permit as special conditions.

What if my project does not qualify for the programmatic consultation?

Permit applicants whose projects do not meet the terms and conditions of the biological opinion may apply to the Corps for permits, but individual consultation with USFWS will be required for ESA compliance. Individual consultations are usually time consuming and may delay the final Corps' authorization. While not every project can be modified to meet the terms and conditions of the programmatic consultation, it is in the best interest of the applicant to consider configuring a proposed project to fit within those limits.

Who can I call if I have questions about a proposed project?

Your best source of information is the Omaha or Walla Walla District Regulatory Office that processes permit applications in the county in which your proposed action is located. A list of Regulatory Offices, their geographical areas of responsibility, and phone numbers can be found on our websites at <http://www.nww.usace.army.mil/Portals/28/docs/regulatory/ContactUs/BoundaryMap.pdf> or <http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Montana.aspx>.

David B. Barrows
Chief, Regulatory Division
Walla Walla District

Attachment