FINAL REVISED FINDING OF NO SIGNIFICANT IMPACT (FONSI)

LEVEE VEGETATION MAINTENANCE
MILL CREEK FLOOD RISK REDUCTION PROJECT
WALLA WALLA, WASHINGTON
SEPTEMBER 2015

This FONSI was revised to add comments and responses to Attachment B which were inadvertently omitted. Additionally, Section VI of the FONSI, Public Comment/Involvement, comments received was revised from 47 to 50, and additional commenters were identified. Changes are in green text.

I. Introduction/Proposed Action

The U.S. Army Corps of Engineers, Walla Walla District (District) proposes to remove woody vegetation from the landward side of the levees along the federally owned portion of the Mill Creek Flood Control Channel in Walla Walla, Washington. This maintenance is being proposed in order to meet flood risk reduction maintenance requirements, in accordance with U.S. Army Corps of Engineers Headquarters (HQUSACE) regulations and policies. HQUSACE policy on levee vegetation mandates that a corridor (vegetation-free zone) remain free of all woody vegetation. The vegetation-free zone includes the levee structure plus 15 feet from the landward and riverward levee toes (or the federal property boundary, whichever is less). The levee toe or toe line, is the line of intersection formed where the sloped surface of the levee and the surrounding grades meet, forming what resembles a crease in the ground surface.

This vegetation-free zone is to provide access to and along the levee for surveillance, inspection, maintenance, monitoring and flood-fighting. Root systems within the levee structure compromise the integrity of the levee creating safety concerns during high water events. Vegetation clearing of this type would continue as routine operation and maintenance of the levees in the future. The proposed action does not include any vegetation removal on the riverward side of the levees as currently only grasses and small shrubs exist there. The Environmental Assessment (EA) considers the potential environmental effects of the proposed action and any reasonable alternatives.

II. Background Information

Mill Creek is located in southeastern Washington State and flows through the City of Walla Walla. Mill Creek is 37 miles long. It flows for 15 miles in a relatively deep and narrow canyon, through mountainous terrain and enters an alluvial fan a few miles east of Walla Walla.

Elevations range from 5,500 feet in the headwaters to about 590 feet at its confluence with the Walla Walla River. Mill Creek drains a basin of 165 square miles.
The Mill Creek Flood Control Project (MCFCP) was authorized in 1938, under Public Law 75-761. The federally-owned portion of the MCFCP is located between river mile (RM) 10.4 and 11.5 on Mill Creek. The lower six miles of the MCFCP (RM 4.5 to approximately RM 10.4) are owned and managed by the Mill Creek Flood Control Zone District (MCFCZD), and levee vegetation maintenance on that portion is not part of the proposed action evaluated in the EA. The federal project (Mill Creek Project) is composed of two major units: 1) Mill Creek Channel; and 2) the off-channel reservoir, Virgil B. Bennington Lake (Bennington Lake).

The Mill Creek levees are constructed of well-compacted earthen materials. The levees have 1V:2H slopes, and crests that vary from 12 to 20 feet in width. The riverward slope is protected with riprap overlaying wire and rock revetment, and the slope protection toe extends three feet below the channel invert. Following initial construction, both the riverward and landward side slopes were seeded with native grasses, but were left clear of woody vegetation. The south bank levee crest consists of angular gravel surfacing (top course) for vehicle access. There is a paved bike path along the north bank levee crest and a pedestrian bridge near Rooks Park.

The riverward slope has a well established stand of dryland grasses and small shrubs. No mature trees exist on the riverward slope or within 15 feet of the riverward toe at this time, however guidelines require this area be kept clear of all woody vegetation as well so clearing may be performed in the future.

Woody and non-woody vegetation is growing on the landward shoulder and slope, and within 15 feet of the levee landward toe. This vegetation is mature and consists of grasses, shrubs, and trees (cottonwood is dominant, but locust is common in this area too) of varying height and girth. Some of the cottonwood trees are close to 100 feet tall; however, based on the District's analyses, many are considered hazardous because they are estimated at approximately 60 to 70 years of age and nearing the end of their lifespan.

III. Purpose and Need

The District proposes to remove all woody vegetation from the landward side of the levees in an approximate one mile stretch from the Bennington Lake Diversion Dam to the western most federal boundary on the federally-owned portion of the Mill Creek Flood Control Project, in accordance with HQUSACE regulations and guidelines for managing levee vegetation. The vegetation removal zone includes the levee structure itself and 15 feet beyond the levee toe. This type of vegetation removal would continue as routine maintenance in the future. The purpose of the proposed action is to maintain flood risk reduction for the City of Walla Walla and surrounding area communities by managing vegetation on the levees. The action is needed because vegetation on the levees is overgrown to the point of obstructing access for maintenance and flood-fighting and visual inspections, which compromises public safety during high water events.

IV. Alternatives Considered

The National Environmental Policy Act (NEPA) and 33 CFR Part 230 *Procedures for Implementing NEPA* require a reasonable range of alternatives be considered during the planning process. Alternatives considered under NEPA must include, at least, the proposed action and the "No Action" Alternative, which provides a baseline from which to compare other alternatives. The alternatives identified below were evaluated to determine if they satisfy the purpose and need of the proposed action (Section 1.3 of the EA):

(1) The No Action Alternative
(2) The Proposed Action (Levee Vegetation Removal Phases I and II)
(3) Levee Vegetation Removal on the Levee Structure Only (Variance)
(4) Setback Levees.

However, in order for any alternative to be acceptable for further evaluation it must meet certain objectives, or screening criteria. Screening criteria help eliminate those alternatives that could not reasonably or practically meet the project purpose and need. In this case, alternatives must: (1) maintain required flood risk reduction for Walla Walla and surrounding communities, (2) comply with HQUSACE levee vegetation regulations and guidance, (3) be technically feasible, and (4) be environmentally acceptable.

Alternative 1 – No Action

Under Alternative 1, the No Action Alternative, no vegetation would be removed from the levees except what is already removed under routine maintenance activities. This includes occasional mowing and the annual use of goats to keep grasses down on the riverward side of the north and south levees.

The No Action Alternative does not meet the project purpose and need, however it is carried forward to the analysis section of the EA for comparative purposes as required by NEPA.

Alternative 2 – Levee Vegetation Removal Phases I and II (Proposed Action)

Under Alternative 2, the proposed action, the District would remove all existing woody vegetation from the landward slope of the levee structure and 15 feet beyond the toe along a one-mile stretch of the federally-owned portion of the Mill Creek Flood Control Channel from the Bennington Lake Diversion Dam to the western most federal boundary. The vegetation removal zone on the landward side of the levees includes the levee structure itself and 15 feet beyond the levee toe. It is important to note that significant portions of the landward side levee slopes are currently sloped more gradually than the original design specified. The toe line adjacent to overly gradual slopes intersects the surrounding grades farther away from the levee crown than the originally designed cross section requires. Therefore, the location of the toe line for the originally designed levee slope (1V:2H) was calculated and surveyed in March 2015 to correctly determine the limits of the vegetation-free zone and minimize the area from which

vegetation would be removed. Elevation variations in the surrounding grades cause the horizontal distance from the levee crown to the toe line to vary, as such, the outer bound of the vegetation-free zone varies with it.

Implementation of this alternative would be conducted in two phases. Phase I, scheduled for the Fall of 2015 involves cutting the trees and vegetation to ground level. During Phase I, approximately 308 trees would be cut down (211 from the north levee, and 97 from the south levee) in addition to the understory (grasses, shrubs and plants under the trees). The debris would be removed and transported to an approved off-site location. Phase II, scheduled for the Fall of 2016, involves excavating the remaining stumps and root balls from the ground (clearing and grubbing).

In response to public comments received on the EA, which favor more vegetation for aesthetics, recreational enjoyment and wildlife benefits, the District has modified the proposed action to include a requirement to look for and identify (if possible), opportunities for additional plantings in overbuilt areas on the levee or outside the 15 foot vegetation-free zone (where existing real estate interests will allow). This requirement will be conducted during Phase II and must comply with HQUSACE guidance (e.g., ETL 1110-2-583). If identified, such additional plantings will be added to the Mill Creek Project's planting plan.

Phase I in 2015 and Phase II in 2016 would be complete no later than January 30th of the following year.

Alternative 3 – Levee Vegetation Removal on the Levee Structure Only (Variance)

Under Alternative 3, the District would need to apply for and receive approval for a variance from HQUSACE regulations and guidance for levee vegetation maintenance. If approved, all woody vegetation from the landward side of the levees along the one mile stretch of the federally-owned portion of the Mill Creek Channel from the Bennington Lake Diversion Dam to the western most federal boundary would be removed. This alternative would not include the 15 foot area adjacent to the levee toe. Rather, vegetation removal would occur only on the levee structure itself. This would be a "variance" from the standard vegetation guidelines set forth in ETL 1110-2-583. Vegetation variances for either federal or non-federal flood damage reduction systems may be permitted, however there are two criteria requirements that must be met, pursuant to HQUSACE guidance: The variance must be shown to be necessary, and **the only feasible means** to (1) preserve, protect, and enhance natural resources, and/or (2) protect the rights of Native Americans, pursuant to treaty and statute.

This alternative was removed from further evaluation due to the fact that the vegetation variance criteria as set forth above is not satisfied, as there are other feasible means (i.e., other vegetation plantings) that could offset removal of levee vegetation. For example, see reference to the Mill Creek Project's habitat improvement planting strategy as described in the EA in Section 1.5.

Alternative 4 – Setback Levees

The Setback Levee concept would move the levee landward to allow the Mill Creek channel more conveyance through the project reach and not require vegetation maintenance on existing levees. This alternative would require the acquisition of privately-owned land, as current federal land is extremely limited, and would also require hydraulic and geotechnical modeling studies to show the technical feasibility of the setback levees and eventual channel modification.

This alternative was removed from further evaluation as not technically feasible. District managed federal land near the Mill Creek channel is extremely limited. Setback levees would require acquisition of additional land from adjacent private landowners, which would require authorization from Congress, and construction of new levees (as compared to maintaining existing levees) would be cost prohibitive.

ALTERNATIVES ELIMINATED from DETAILED CONSIDERATION

- Alternative 3 – Levee Vegetation Removal on the Levee Structure Only (Variance)
- Alternative 4 – Setback Levees

V. Environmental Effects

The following environmental resources were identified as being relevant to the project: Aesthetics, Aquatic Resources, Terrestrial Resources/Wildlife, Threatened and Endangered Species, Vegetation, Cultural Resources, Recreation, Noise, Climate Change, Socioeconomics, Environmental Justice, and Cumulative Effects. Environmental analysis and effects of the proposed action and the No Action Alternative are detailed in Section 3 of the EA. The analysis concluded there would be no significant impacts to the environment resulting from implementation of the proposed action.

VI. Public Comment/Involvement

The draft FONSI and EA were made available to potentially interested members of the public and local, state, and federal agencies for a 30-day review and comment period from July 24 to August 24, 2015. The District received 50 individual comment documents (e.g., letter, email) from interested members of the public, the Blue Mountain Audubon Society, the Confederated Tribes of the Umatilla Indian Reservation, as well as the Center for Biological Diversity, Friends of the River, and Defenders of Wildlife (collectively). The District carefully reviewed and considered each substantive comment submitted, divided them into four primary categories, summarized the comments and provided responses in a Comment Summary Document which is attached and labeled Attachment B.

A public meeting was held on Wednesday, August 12, 2015 at the Airport Terminal Building Conference Room at 45 Terminal Loop Road in Walla Walla, Washington. Approximately 70

people attended. At this meeting, the District gave a presentation on the need for levee vegetation maintenance, answered questions from attendees, and subsequently conducted tours of the proposed action area.

VII. Compliance with Other Laws and Regulations

The District completed Endangered Species Act (ESA) informal consultation with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service. Both Services concurred that the project would not likely adversely affect bull trout or steelhead. Concurrence letters dated July 16, 2015 and July 23, 2015 were received and are attached and labeled as Attachment A.

The District also completed compliance with Section 106 of the National Historic Preservation Act. In a letter dated June 18, 2015 (Attachment A), the Washington State Historic Preservation Office (SHPO) concurred with the District's determination of effect finding that the proposed action would result in no adverse effect to historic properties.

See Section 4 of the EA for a discussion of compliance with other laws, regulations and Executive Orders. The proposed action complies with other federal laws, applicable regulations and Executive Orders.

VIII. Findings and Decision

Having reviewed the Mill Creek Levee Vegetation Maintenance EA, I find that the document provides sufficient discussions on the purpose of and need for the proposed action, alternatives, the environmental effects of the proposed action and the alternatives, and a listing of agencies and persons consulted. I have taken into consideration the technical aspects of the project, best scientific information available and public comments received. These documents provide sufficient evidence and analysis to meet the District's requirements pursuant to the National Environmental Policy Act. Based on this information, I find that implementation of the proposed action would not result in significant impacts on the quality of the human environment and that an environmental impact statement is not required. The District will implement Alternative 2 – Levee Vegetation Removal Phases I and II (Proposed Action) at the earliest opportunity, subject to availability of funding and competing Project maintenance priorities.

10 SEP 15

FOR Timothy R. Vail
Lieutenant Colonel, Corps of Engineers
District Commander

Date

ATTACHMENT A

LETTERS OF CONCURRENCE

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, Washington 98115

July 16, 2015

Refer to NMFS No:
WCR-2015-2714

Mr. Carl Christianson
Walla Walla District, Corps of Engineers
201 North Third Avenue
Walla Walla, Washington 99362-1876

Re: Endangered Species Act Section 7(a)(2) Concurrence Letter for the removal of woody vegetation on the landward side of the levees between RM 10.5 and 11.5 of the Mill Creek Flood Control Project (Lower Mill Creek Watershed 171701020204; Russell Creek 170701020701) Walla Walla County, Washington.

Dear Mr. Christianson:

On July 6, 2015, NOAA's National Marine Fisheries Service (NMFS) received your request for informal consultation on the U.S. Army Corps of Engineers (Corps) proposal to remove woody vegetation at certain locations on the federally owned portion of the Mill Creek Flood Control Project (MCFCP). The proposed action is located between river mile (RM) 10.5 and 11.5, and the Corps has determined that the action is not likely to adversely affect (NLAA) Middle Columbia River (MCR) steelhead listed as threatened and critical habitats designated under the Endangered Species Act (ESA). This response to your request was prepared by NMFS pursuant to section 7(a)(2) of the ESA, implementing regulations at 50 CFR 402, and agency guidance for preparation of letters of concurrence.

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 concurrence letter will be available through NMFS' Public Consultation Tracking System. A complete record of this consultation is on file at the NMFS' Columbia Basin Branch in Ellensburg, Washington.

Proposed Action and Action Area

The Corps proposes to remove all vegetation not in compliance with Engineering Technical Manual (ETM) 1110-2-1913 (Corps 2000) from the landward slopes and 15-feet from the landward toe on the federally owned portion of the MCFCP levees between RM 10.5 and RM 11.5 of the Mill Creek Flood Control Project. Vegetation removal will involve the following:

- Remove the trunk (or stem), stump, rootball, and all roots with diameters greater than 0.5 inches. All roots in, or within 15 feet landward of the toe of the flood damage reduction structure will be completely removed.
- Assure the resulting void is free of organic debris.
- Fill and compact the void according to the original soil and compaction specifications or, if no specifications exist, match adjacent soil and compaction.
- Plant 20-to-30 eight-feet tall cottonwoods in two locations of the Bennington Dam forebay to provide shade along the normal late-season low flow channels. Forebay drawdown and fish salvage (if needed), will be conducted under the Mill Creek Fish Passage Plan (NWR-2003-309).

Levee vegetation maintenance on the landward side of the levees will continue routinely into the future and may include annual mowing to prevent woody vegetation from reestablishing.

The action area is within the Federal footprint of the MCFCP between a location approximately one hundred feet downstream of the first division works at RM 10.5 upstream and into the forebay of Bennington Dam at RM 11.5, where cottonwood trees will be planted. Ground disturbance activities to remove vegetation will only take place on the landward side of the levees.

Action Agency's Effects Determination
The Corps determined that the proposed action is not likely to adversely affect MCR steelhead or their critical habitat.

The MCR steelhead Distinct Population Segment (DPS) was listed as threatened on March 25, 1999 (64 FR 14517) and their listing status was reaffirmed on August 15, 2011 (76 FR 50448).

NMFS designated critical habitat for MCR steelhead on September 2, 2005 (70 FR 52630). For MCR steelhead critical habitat includes the stream channels within the designated stream reaches, and includes a lateral extent as defined by the ordinary high water mark (OHWM) (33 CFR 319.11).

Consultation History
On September 26, 2011, NMFS issued a Biological Opinion on the Operation and Maintenance of the Mill Creek Flood Control Project (NWR-2003-309), including the action area, that determined the Corps actions were jeopardizing the survival and recovery of MCR steelhead and maintaining an adverse modification of critical habitat within the federal footprint. On June 25, 2015, the Corps submitted a request to reinitiate consultation on the O&M of the MCFCP, including vegetation management on the entire federally owned property (WCR-2015-2936). The currently proposed action of removing all vegetation on the landward side of the levees does not comply with the vegetation variance NMFS previously consulted on NWR-2003-309.

On May 12, 2015, NMFS received a request from the Corps to remove woody vegetation on the levees of the federally owned portion of the MCFCP. The proposed action is located between RM 10.5 and 11.5, and the Corps determined that the action is likely to adversely affect (LAA) species listed as threatened or endangered or critical habitats designated under the ESA.

On May 15, 2015, NMFS contacted the Corps requesting clarification of the proposed action in consideration of previous discussions and relative to a separate consultation with the Corps on the O&M of the MCFCP (WCR-2015-2936).

On July 6, 2015, the Corps revised and clarified that the current request is for written concurrence for vegetation removal only on the landward side of the MCFCP levees between RM 10.5 and 11.5 and planting of vegetation in the Bennington Dam forebay is not likely to adversely affect (NLAA) species listed as threatened or endangered or critical habitats designated under the ESA. With the additional information provided on July 6, 2015, informal consultation was initiated.

ENDANGERED SPECIES ACT

Effects of the Action

Under the ESA, "effects of the action" means the direct and indirect effects of an action on the listed species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action (50 CFR 402.02). The applicable standard to find that a proposed action is not likely to adversely affect listed species or critical habitat is that all of the effects of the action are expected to be discountable, insignificant, or completely beneficial. Beneficial effects are contemporaneous positive effects without any adverse effects to the species or critical habitat. Insignificant effects relate to the size of the impact and should never reach the scale where take occurs. Discountable effects are those extremely unlikely to occur.

Near-water ground disturbing activities have the potential to affect fish through temporarily degrading water quality by introducing sediment to the stream channel and long-term changes in micro-climate conditions and allochthonous inputs to the stream. The proposed action avoids ground disturbance related water quality effects by only removing vegetation on the landward side of the levees and by planting in the dry of the forebay during the normal forebay lowering for maintenance work window (Corps 2007; NMFS 2011).

All heavy equipment operation, sediment excavation and placement activities for vegetation removal will be conducted in the dry from the levee prism or from the landward toe. Standard erosion control measures will be implemented to reduce potential for sediment runoff into surface waters or ephemeral channels. Planting in the forebay will also be done in the dry following the guidelines of the Fish Passage Plan for Mill Creek (Corps 2007). NMFS expects that any temporary alteration in water quality from increased turbidity when the forebay is refilled or minor leaks and spills will be sufficiently limited in magnitude and duration that effects in the forebay will be insignificant. Effects downstream in the Mill Creek channel will be even further diluted, and therefore insignificant to MCR steelhead and their critical habitat.

Riparian vegetation such as that found on flood control levees can perform several important habitat development and maintenance functions that are absent or poorly represented because of traditional floodway management in the action area. Because of the unique configuration of the Mill Creek channel in the action area, artificially widened and confined by levees, oriented directly east-to-west, the ability of riparian vegetation to influence aquatic habitat is severely

limited. The ability of existing vegetation on the landward side of the levees to influence the micro-climate or allochthonous inputs to Mill Creek is insignificant. Information provided by the Corps indicate that even existing mature 100-foot tall trees on the south side of the channel shade less than 5 percent of Mill Creek in the action area and allochthonous inputs, blocked by the levees, are insignificant. Planting of cottonwoods in the forebay is designed to increase shading of Mill Creek and provide allochthonous food inputs.

Based on this analysis, NMFS concurs with the Corps that the proposed action is not likely to adversely affect MCR steelhead and designated critical habitats.

Reinitiation of Consultation

Reinitiation of consultation is required and shall be requested by the Corps or by NMFS, where discretionary Federal involvement or control over the action has been retained or is authorized by law and (1) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (2) 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 this concurrence letter; or if (3) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16). This concludes the ESA portion of this consultation.

Please direct questions regarding this letter to Diane Driscoll, 509.962.8911 x227 or diane.driscoll@noaa.gov in the Ellensburg Branch Office.

Sincerely,

William W. Stelle, Jr.
Regional Administrator

cc: Ben Tice (USACE)
Alex Colter (USACE)

National Marine Fisheries Service. 2011. Endangered Species Act Section 7 formal consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for the Operation and Maintenance of the Mill Creek Flood Control Project, Walla Walla County, Washington.

U.S. Army Corp of Engineers - Walla Walla District. 2007. Fish Passage Plan for Mill Creek Project.

U.S. Army Corp of Engineers. 2000. Design and Construction of levees (EM 1110-2-1913).

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington Fish and Wildlife Office
Eastern Washington Field Office
11103 East Montgomery Drive
Spokane Valley, Washington 99206

In Reply Refer To:
01EWFW00-2015-I-0575

JUL 23 2015

Michael Francis
Chief, Environmental Compliance Section
US Army Corps of Engineers,
Walla Walla District
201 North Third Avenue
Walla Walla, Washington 99362-1876
Attn: Ben Tice

Dear Mr. Francis:

Subject: Mill Creek Levee Vegetation Management

This letter is in response to your request for formal consultation on the proposed Mill Creek Levee Vegetation Management Project in Walla Walla County, Washington. On May 4, 2015, our office received your request for consultation and the Biological Assessment. The US Corps of Engineers, Walla Walla District Office (Corps) has requested concurrence on a "may affect, likely to adversely affect" determination for bull trout *(Salvelinus confluentus)* and designated critical habitat for the bull trout. After further discussions between the Corps, the National Marine Fisheries Service and our office, the project was modified to reduce potential impacts on listed bull trout. The implementation of these modifications reduced the effect determination to a "not likely to adversely affect" for bull trout and designated critical habitat for the bull trout. The Corps also requested concurrence on a "may affect, not likely to adversely affect" determination for western yellow-billed cuckoo (*Coccyzus americanua*). This informal consultation has been conducted in accordance with section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

In addition, your BA includes a "no effect" determination for Ute ladies' tresses, Canada lynx, and Washington ground squirrel. There is no requirement for U.S. Fish and Wildlife Service (Service) concurrence on "no effect" determinations. Therefore, your determinations rest with the action agency.

The Corps proposes to conduct vegetation removal activities on the Mill Creek Flood Control Levees in Walla Walla County. Activities for the project will include removal of

all woody debris stems, stumps, and rootballs with diameters greater than ½ inch on the landward side of the levees and out to 15 feet landward of the levee toe (approximately 308 trees). Vegetation proposed for removal includes mature trees and shrubs covering approximately 5.8 acres. Trees and vegetation will be removed using chainsaws, a chipper, trucks, and possibly an excavator or crane. Voids created from removal of rootballs and stumps will be cleared of organic debris, filled, and compacted to meet levee standards. Vegetation removal on the waterward side is not proposed at this time.

Equipment will be staged away from the creek in designated, previously disturbed areas such as Rooks Park parking lot or a nearby horse trailer parking lot. Any refueling will occur at these staging areas or offsite. The Corps also proposes to plant 20-30 cottonwood trees in two locations along Mill Creek within the forebay of Bennington Dam. The trees planted will be greater than 8 feet tall for improved survival over competing grasses. All plantings will be completed using hand tools and will occur in the dry.

Proposed activities for vegetation removal will occur in September through November 2015. Additional activities for excavating rootballs and compacting soils will occur during 2016. Maintenance of the landward side of the levee including mowing will occur routinely into the future.

The Service concurs that the proposed project is "not likely to adversely affect" the bull trout or its designated critical habitat. Our concurrence is based on the Biological Evaluation, information in your letter and supplemental documentation, plan drawings, and the rationale described in the following paragraphs.

Bull Trout

Proposed project activities occur on the landward side of existing levees and within the forebay of Bennington Dam on Mill Creek, a tributary to the Walla Walla River. Bull trout are present throughout the lower Walla Walla River and Mill Creek basins in low numbers. Current distribution information indicates that the project area acts primarily as a low use migration corridor to and from spawning areas in the Mill Creek headwaters. Low flows and high stream temperatures in the project area during summer and early fall months further limit the use and presence of bull trout during construction.

The Walla Walla Core Area encompasses the entire Walla Walla River watershed upstream of the Touchet River confluence and supports two local populations: one in upper Mill Creek and one in the upper Walla Walla River. Spawning occurs in the South and North Forks of the Walla Walla River and in upper Mill Creek. The two bull trout populations in the Walla Walla Core Area are not of a sufficient size individually to resist genetic effects associated with small population size. Operation of irrigation diversions resulting in low stream flows and degraded habitat potentially limits the interchange between bull trout populations from late spring and early summer through fall, although

there is the potential for them to share overwintering habitat in the mainstem Walla Walla River and/or Columbia River during the winter.

The proposed project occurs primarily above the ordinary high water mark, on the landward side of existing levees, except for tree planting within the Bennington Dam Forebay. Near-water ground disturbing activities have the potential to affect bull trout through temporary water quality impacts, increased sedimentation, and loss of allochthonous (organic debris dropping from trees and riparian plants) inputs. The proposed project avoids potential impacts by working on the landward side of the levee and planting in the dry during normal forebay drawdowns. While riparian vegetation can provide important habitat functions, the existing structure of the flood control levees in the project area limit the function of vegetation on the landward side of the levees. The Mill Creek channel is artificially widened and confined by the levees, therefore, limiting the ability for existing vegetation to provide allochthonous input, shade, or cover. Information provided by the Corps indicates that the existing mature 100 foot tall trees provide shade to less than 5 percent of the channel within the action area. Therefore, removal of the proposed vegetation will have an insignificant effect on habitat elements for bull trout. Planting of cottonwoods within the Bennington Dam forebay is anticipated to increase potential shade over time within the Mill Creek Channel, as well as allochthonous input and cover.

Proposed project activities do not occur within spawning or rearing areas of bull trout and will not impact migration corridors, sources of coldwater refugia, or other necessary habitat elements for bull trout. Due to low presence of bull trout in the project area, increased noise and activities near the stream is unlikely to disturb bull trout. Due to the likelihood of bull trout presence, no in-water work, and low likelihood of significant impacts to habitat elements, impacts from the proposed project are expected to be insignificant.

Bull trout Critical Habitat

Critical habitat for bull trout is designated throughout Mill Creek. Habitat quality and availability is limited for bull trout in the project area. Primary constituent elements (PCE) for migratory habitats (#2), abundant food base (#3), water temperatures (#5), sufficient water quality and quantity (#8), and low populations of non-native species (#9) are all present in the project area. Other PCE's including springs, seeps and groundwater influence (#1), complex habitat (#4), spawning gravels (#6) and a natural hydrograph (#7) are not present within the action area. No effects are expected to migratory habitats (#2), sufficient water quality and quantity (#8), and low populations of non-native species (#9).

Construction activities will not occur within the water of designated critical habitat. As described above, riparian vegetation proposed for removal provides minimal benefits to the stream due to the existing configuration of the levee managed channel. However, removal of riparian plantings may modify or negatively impact organic deposits and the

development of forage (#3) within the action area. As well, tree removal has the potential to impact temperatures. Planting of cottonwoods within the Bennington Dam forebay will improve shade, cover and allochthonous inputs within the channel over time and likely improve conditions for forage species. Due to the habitat quality in the project area, small area of forage habitat affected in comparison to the forage habitat available in the entirety of Mill Creek and the planting of new trees, impacts to the forage base will be immeasurable.

Best Management Practices will be implemented to reduce any potential impact of water quality impacts from ground disturbing landward of the levee and plantings will occur in the dry. No long-term impacts to PCEs are expected. Effects from construction activities will be short-term and will not permanently modify existing functional primary constituent elements associated with water quality, food base, or migration. The project area does not support bull trout spawning and rearing. Impacts from substrate loss will not be measureable and not affect suitable substrates for bull trout spawning or rearing. Therefore, we believe the proposed project will have no measureable effect on designated critical habitat and will be insignificant.

Yellow-billed cuckoo

Historically, the yellow-billed cuckoo was locally common in Washington, occurring on both sides of the Cascade Mountains. The last confirmed breeding records are from the 1930's. Recently, incidental sightings have occurred throughout the state and the possibility of a vestigial breeding population exists. There have been a few exploratory surveys done (in Okanogan, Yakima, Cowlitz, and Wahkiakum counties) but, no comprehensive protocol surveys have been conducted in the state. Available data suggest that if yellow-billed cuckoos still breed in Washington, their numbers are extremely low, with pairs numbering in the single digits. While breeding has not been confirmed, recent observations indicate that western yellow-billed cuckoos occasionally occur in Washington and the possibility of breeding in the state cannot be ruled out.

Since 1990 there have been 13 sightings in Washington. The most recent was in 2012, on the Little Pend Oreille National Wildlife Refuge. Of these 13 sightings, 11 were east of the cascades and two were in the Puget lowlands. These sightings were primarily incidental, and made by recreational bird watchers. Some occurred in riparian areas, and some occurred in uplands or developed areas. Cuckoo occurrence or breeding in Washington is expected between mid-June and mid-September.

Yellow-billed cuckoos are found in a variety of vegetation types during migration, including coastal scrub, secondary growth woodland, hedgerows, humid lowland forests, and forest edges from sea level to 8,125 ft. Suitable breeding habitat for the cuckoo is defined as patches of mature willow and cottonwood riparian vegetation that are >50 acres in size. They may also use for foraging, smaller riparian patches than those in which they typically nest.

The proposed project will remove several acres of riparian vegetation, including mature cottonwoods that could be used for nesting and foraging habitat. Project activities will occur between September and November, outside of the known nesting and potential use periods for the cuckoo. Vegetation proposed for removal may provide low quality riparian foraging habitat for cuckoo. However, given the small, narrow corridor of vegetation removed, the habitat is unlikely to be utilized by cuckoo. Therefore, given the low potential for cuckoo presence in the project area, timing of construction elements, and low suitability of habitat impact, impacts to yellow-billed cuckoo from the proposed project are likely to be insignificant.

The project should be reanalyzed if 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 and/or a new species is listed or critical habitat is designated that may be affected by the actions.

If you have any questions about this letter or your responsibilities under the Act, please contact Erin Kuttel at (509) 893-8029 or erin_brittonkuttel@fws.gov.

Sincerely,

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

Allyson Brooks Ph.D., Director
State Historic Preservation Officer

June 15, 2015

Ms. Alice Roberts
Walla Walla District /Corps of Engineers
201 North Third Avenue
Walla Walla, Washington 99362-1876

Re: Maintenance of the Mill Creek Levees Project
PM-EC-2012-0099 / 2015-NWW-028
Log No: 041415-05--COE-WW

Dear Ms. Roberts;

Thank you for contacting our department. We have reviewed the professional cultural resources survey report you provided for the proposed Maintenance of the Mill Creek Flood Control Levees Project, Walla Walla County, Washington.

We concur that WW 375 is not eligible and we concur with your Determination of No Adverse Effect.

We would appreciate receiving any correspondence or comments from concerned tribes or other parties that you receive as you consult under the requirements of 36CFR800.4(a)(4).

In the event that archaeological or historic materials are discovered during project activities, work in the immediate vicinity must stop, the area secured, and this office notified.

These comments are based on the information available at the time of this review and on the behalf of the State Historic Preservation Officer in conformance with Section 106 of the National Historic Preservation Act and its implementing regulations 36CFR800. Should additional information become available, our assessment may be revised. Thank you for the opportunity to comment and a copy of these comments should be included in subsequent environmental documents.

Sincerely,

Robert G. Whitlam, Ph.D.
State Archaeologist
(360) 890-2615
email: *rob.whitlam@dahp.wa.gov*

ATTACHMENT B

COMMENT RESPONSE DOCUMENT

Attachment B

Mill Creek Levee Vegetation Maintenance Project
Comment Response Document
10 September 2015

The U.S. Army Corps of Engineers, Walla Walla District (District) made the draft Finding of No Significant Impact (FONSI) and Environmental Assessment (EA) for the *Levee Vegetation Maintenance, Mill Creek Flood Control Project, Walla Walla, Washington* available for public review and comment on 24 July 2015 and provided a period for the public to review the document and provide comments to the District by 24 August 2015.

The District received 50 individual comment documents (e.g., letter, email) from interested members of the public, the Blue Mountain Audubon Society, the Confederated Tribes of the Umatilla Indian Reservation, and the Center for Biological Diversity, Friends of the River, and Defenders of Wildlife (collectively). The District carefully reviewed and considered each substantive comment submitted. In preparing this document, the District divided the substantive comments into four primary categories, summarized the comments and provided responses. The four categories are:

- **Public Safety/Engineering**: Comments grouped into this category focus on the types of floods common in this area and the capability of the Mill Creek Channel itself, levee inspections, the question of vegetation on levees and how structural integrity is affected.

- **Environmental Effects**: Comments grouped into this category relate to the potential environmental effects associated with the proposed action. There are comments and concerns regarding riparian habitat, wildlife and bird displacement, shade over Mill Creek and ESA-listed fish, the proposed planting plan, collaborative efforts to restore anadromous fish in Mill Creek, cumulative effects, planting of grasses, and mitigation to name a few.

- **Recreation/Aesthetics**: These comments pertain to recreation activities that take place along the levees and at the Mill Creek Project overall. Mentioned were Cub Scout activities, walking, biking, and horseback riding, and loss of shade.

- **Policy**: The comments in this category raise concerns about the HQUSACE policy and guidance that the Walla Walla District is following in regards to vegetation on levees. Many times, the Water Resources Reform and Development Act (WRRDA) of 2014 is cited, as is the Sacramento levees case.

A. Public Safety/Engineering

1. Comment: One comment suggests the types of floods in Mill Creek are brief and very different from the floods on the Mississippi which can saturate and undermine levees. The Corps should not take a one-size fits all approach.

Response: True, flood durations in the Mill Creek drainage are relatively short compared to floods on the Mississippi River. However, the Mill Creek levees are comprised of silty sand with gravel and gobbles resulting in saturation rates much faster than the Mississippi levees that are comprised of silt and clay. The Corps' guidelines for levee maintenance apply nationwide. The District has a responsibility to follow the guidelines when engaging in levee maintenance. See Section 1 of the EA.

2. Comment: A few comments referred to the storage capacity at Bennington Lake and its ability to compensate if the levees didn't function properly citing their acceptable performance during the 1996 flood.

Response: The diversion of flood water into and storage at Bennington Lake reduce the likelihood of overtopping the levees, but the levees can still overtop if the capacity of Bennington Lake is full, or when inflows to the project exceed channel capacity. During the 1996 flood, Bennington Lake nearly reached capacity. The minor elevation difference between the diversion point and the lake would not allow for additional flow to be diverted to the lake. Performance of the levees was satisfactory during the 1996 flood. Our intent is to ensure that they perform well during future events by conducting appropriate surveillance, maintenance, and rehabilitation as needed.

3. Comment: One group commented on the environmental issues associated with the existence of the Mill Creek levee system itself such as loss of floodplain connection, unfavorable hydraulic conditions, establishment of new riparian vegetation, and fish passage.

Response: It is important to note that this action will not correct past floodplain connection problems. Water temperatures at Five Mile Road, where there are no levees, also reach harmful temperature levels for salmonids. The lack of surface and groundwater interactions is not likely to have a noticeable increase on creek temperature on a creek as wide and shallow as Mill Creek. We do agree that levees do preclude establishment of riparian vegetation, however, the trees on the landward side of the levees do not provide as much value as they would in natural conditions. Levees themselves do not directly impede fish passage, however, along with other physical characteristics of the Mill Creek channel there are fish passage issues. These issues are being addressed in other avenues. The District is proposing to remove vegetation that threatens levee structural integrity.

4. Comment: The District received several comments pertaining to the question of whether vegetation (especially tree roots) on levees is beneficial or not.

Response: One of the problems with tree roots is that they do seek out water and can reach through and damage the levees. Large woody vegetation can weaken the levee, as it can compromise levee stability (root-ball holes created by trees falling over), reduce seepage paths, displace embankment materials, and reduce visibility. Correct removal of this vegetation will result in a safer levee. The Corps' minimum standards are established to assure levees are designed, constructed and maintained for safe and reliable operation. Woody vegetation outside of the 15 foot vegetation-free zone will not be removed.

5. Comment: A number of comments agreed and supported removing the vegetation from the levee due to safety concerns but suggested future planting activities on or near the levee, such as trees in control pots similar to what's in place at the Lewiston levees, or shade shelters with benches and picnic tables.

Response: In response to public comments received on the EA, which favor more vegetation for aesthetics, recreational enjoyment and wildlife benefits, the District has modified the proposed action to include a requirement to look for and identify (if possible) opportunities for additional plantings in overbuilt areas or outside the 15 foot vegetation-free zone (where existing real estate interests will allow). This requirement will be conducted during Phase II and must comply with Corps guidance (e.g., ETL 1110-2-583). If identified, such additional plantings will be added to the Project's planting plan.

6. Comment: The District received several comments that suggested that they would not be able to remove all the roots which typically extend horizontally into the levee and these roots would eventually die and provide passages for water to damage the levee.

Response: The District agrees that tree roots in the levee cross section can increase the likelihood of piping/seepage issues. The associated piping may lead to levee failure during a flood. The tree root removal process being proposed during Phase II of the maintenance project will include efforts to identify and remove as many root systems as possible and then reconstruct/compact the levees to reduce the risk of any piping. Allowing root systems to continue their progress through the levees is not an alternative solution.

7. Comment: One comment referenced a county road maintenance project (sponsor unknown) conducted in the 1990's near Kooskooskie where tree removal near Mill Creek caused damage to the adjacent road during the 1996 flood.

Response: The District was not involved with this project, but there are no levee systems near Kooskooskie similar to the Mill Creek Project levee system. It may be true that in a natural setting, trees could provide some stability to creek banks, but the Mill Creek Project levees are hardened structures that are designed to withstand erosion and are not thought to benefit from vegetation in a similar way.

8. Comment: A few comments suggested the District engage in selective vegetation removal (e.g., an observation/inspection path, underbrush removal, or just the problematic trees).

Response: Partial removal of the vegetation does not comply with Corps guidelines, maintain levee structural integrity, or allow for unhindered access to the levee for inspection or flood-fighting. Complete removal of the vegetation will result in a stronger levee.

9. Comment: The District received at least one comment that suggested the potential for exceptions (variance) to the 15 foot vegetation-free zone (in certain areas) and that those exceptions were conveyed during the public tour.

Response: The purpose of conducting the survey at the beginning of this project was to identify only those trees within the 15 foot vegetation-free zone. One of the objectives of the public tour of the levee was to convey the message that the extent of vegetation to be removed could be over-estimated just by looking at the current condition of the levee. The 15 foot zone begins at the design toe of the levee and the physical toe that you see now. Furthermore, if a tree is situated on the 15 foot "line" it will remain. Exceptions within the 15 foot vegetation free zone would constitute a variance from the Corps' levee maintenance guidelines. A variance was considered as an alternative in the EA, but removed from further consideration, as such a variance would not meet the Corps' variance criteria (see Section 1.4 and 2.2.2.3 of the EA). A levee vegetation variance is not viable under Corps policy as it can only be granted if is the only means to preserve, protect and enhance natural resources and/or protect the rights of Native Americans pursuant to treaty and statue, provided that safety, structural integrity, functionality, accessibility for maintenance, inspection monitoring, and flood-fighting is still retained.

10. Comment: Many people commented on the research and modeling supporting the Corp decision making process, suggesting that in some cases vegetation on the levees can be a "good thing". They recommended the District cancel or at least delay the levee maintenance until revisions to the guidelines (as required by WRRDA 2014) is completed and confirms the existing trees present an unacceptable safety risk.

Response: The Corps agrees that the research and modeling associated with levee vegetation is inconclusive. Minimum standards are established to assure levees are designed, constructed and maintained consistently throughout the Corps of Engineers for safe and reliable operation. The Mill Creek Project levees were designed as hardened structures to withstand most erosion problems. Large woody vegetation is generally believed to be detrimental to levee integrity, as it can compromise levee stability (e.g., root-ball holes created by trees falling over), increase seepage paths, displace embankment materials, reduce visibility, and block access during inspections and flood fight operations. Delaying the project (possibly for years), in the hopes of receiving revised guidelines that change the current standards, presents an unacceptable flood/safety risk.

11. Comment: One comment asked the District to consider a study conducted by Shields and Gray (1993) which provided "an informal aerial view show[ing] a dramatic increase in levee failure as woody corridor width decreased."

Response: The District was not able to identify a specific "study" that showed these results. Reference to "Shields and Gray (1993)" is actually a reference to the authors' 1992 document titled, "Effects of Woody Vegetation on Sandy Levee Integrity." That document is for a study done on roots in levees in California and does not contain the quoted sentence. However, this quote was made in a presentation by Wallace and others (1994) available at: http://www.na.fs.fed.us/spfo/pubs/n_resource/flood/levee.htm. The report associated with this presentation incorrectly used Shields and Gray 1993 instead of 1992. The Wallace et al., report is about a segment of the Missouri main-stem levees. The levees on the main-stem Missouri River are made of different materials and have very different hydraulic loading characteristics (lower velocity, long duration) than the Mill Creek Project levees (high velocity, short duration). There is another improperly referenced quote that was made in an editorial to the Walla Walla Union Bulletin: "Woody corridor development and woody levee cover appear to be critical elements in increasing levee integrity." This quote was also attributed to Shields and Gray 1993. The quote, however, is from the Wallace, et al., 1994 presentation, which cites Shields and Gray.

12. Comment: One comment suggested the Mill Creek levees were overbuilt, which makes them wider and stronger, and should allow for increased vegetation/plantings.

Response: See response to Comment A5. Some portions of the Mill Creek Project levees are slightly overbuilt. Unfortunately the overbuilt sections are not sufficient enough to allow for large woody vegetation without additional modification and engineering.

13. Comment: We received at least two comments expressing support for the proposed levee maintenance action, as roots can create piping leading to levee failure and the existing trees do not provide shade to the water.

Response: Comment noted.

B. <u>Environmental Effects</u>

1. Comment: The District received several comments regarding effects to wildlife as a consequence of this action.

Response: The District did not identify any potential significant effects to wildlife in the EA. Wildlife directly within the vegetation removal area will be displaced, but the population of any species in the Mill Creek Project area is not expected to be affected in any significant way. The District acknowledged in the EA that there will be a small amount of wildlife habitat lost. However, the habitat quality of the vegetation to be removed is relatively low due to the high presence of people and dogs/horses in the area.

2. Comment: The District received numerous comments regarding the effects to riparian habitat as a consequence of this action and/or the District's characterization of the levee vegetation as not providing high value riparian habitat.

Response: The riparian habitat on and behind (to the landward side) the levees is not fully functioning riparian habitat as there is no longer a functional floodplain. The habitat that has developed since the construction of the Mill Creek Project has value for many species, however the species are not limited to only this habitat. Section 3.4.2.2 of the EA states, "Only six acres of terrestrial wildlife habitat would be affected by the proposed action. This is less than one percent of the Mill Creek Project lands and a much smaller fraction of the amount of riparian habitat available upstream." The District also complies with the Migratory Bird Treaty Act and the proposed action would avoid all nesting seasons and could actually increase edge effect that is generally known to promote biodiversity. We agree that under natural stream conditions the riparian zone is very important to the stream. However, Mill Creek is far from a natural stream. The channel was designed to manage flooding. The riparian zone is now separated from the creek and no longer provides most of the benefits available under natural conditions. Finally, we have received Letters of Concurrence for this proposed action from the US Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS).

3. Comment: A few comments referred to the effects on ESA-listed fish with respect to lack of shade, global warming and higher water temperatures.

Response: Mill Creek in the project area is very wide and shallow which alone can have an effect on stream temperature. Current shade cover on the stream in this area is about 2.5% during optimal conditions and has not been shown to reduce stream temperatures within the 5000 foot section between the Mill Creek Diversion Dam and the westernmost boundary. The amount of shade that would actually be reduced as a result of this action will not have a measureable effect on stream temperature or other habitat qualities.

4. Comment: One person commented that the loss of vegetation on the levees will result in a potential reduction in carbon sequestration.

Response: See Response to Comment A5. While vegetation proposed for removal does sequester carbon, the amount is not significant and should be more than offset by the District planting efforts under their natural resource management program.

5. Comment: One comment received suggested the District's Planting Plan is in-adequate.

Response: See response to Comment A5 . The Mill Creek Project Planting Strategy is a living document that identifies potential annual planting actions. Volunteers and staff plant several acres of selected vegetation within the project boundaries on an annual basis. This strategy continues to be adjusted and updated to meet current standards and guidance. As part of the Mill Creek Project's current proposed planting plan/strategy, they would plant

approximately 20 to 30 cottonwood trees over 8 feet tall above the Bennington Lake Diversion Dam forebay.

6. Comment: One comment received inquired if the District could judge the danger of a flood without stripping away mature trees and bushes.

Response: As we cannot predict the severity and impact of each potential flood event, the proposed project will reduce the unknown, but recognized, risks associated with the dense vegetation by allowing for adequate access for inspection/monitoring, repair and flood fighting.

7. Comment: The District received a number of comments with detailed planting information including densities, locations and types of vegetation (grasses and trees).

Response: The District has an active vegetation management program that promotes tree planting throughout the District (including this Project) for habitat and aesthetics. The Mill Creek Project planting strategy identifies potential annual planting actions that enlist the help of volunteers and staff. Several acres of selected vegetation within the project boundaries are planted on an annual basis. Planting is not intended to be entirely natural. Densities of less than 15' between trees are reasonable, particularly when combined with grass planting. Some future locations have already been identified in the Planting Strategy. Regarding the current action, the type of grasses to be planted on the levee has not been determined. Thank you for the detailed information. Your suggestions will be considered.

8. Comment: The District received one comment stating that disposal of the waste vegetation on federal lands would not improve wildlife habitat.

Response: Although the EA stated that some vegetation may be collected/disposed of on Project lands, there will be no materials disposed of on Mill Creek Project property as a result of this action.

9. Comment: There were two comments regarding the implementation of Best Management Practices pertaining to possible oil spills during the maintenance activity.

Response: The District follows established Best Management Practices to reduce the potential for any harmful effects to the environment.

10. Comment: One comment inquired about where the vegetation removal will begin on the south side adjacent to the diversion structure.

Response: The District proposes to meet its policy guidance for vegetation management on levees. Woody vegetation on the hillside outside of the 15 foot vegetation-free zone will not be cut. Only the area adjacent to the diversion dam where the levee structure begins will be affected. The District will refer to the original "As-Built" drawings to determine where the levee structure begins.

11. Comment: One comment suggested the need for mitigation for this proposed action.

Response: See response to Comment A5. There is no mitigation requirement for the proposed action. The District, however, will require that all reasonable Best Management Practices be implemented during the maintenance action, including that all work be conducted outside all migratory bird nesting seasons, and additional vegetation (tree) plantings will be conducted under the Mill Creek Project's planting strategy/plan for habitat and aesthetics.

12. Comment: The District received several comments suggesting that the District engage in developing an EIS rather than the FONSI/EA for the proposed maintenance action.

Response: The District's EA properly tests for potential significant environmental impacts of the proposed action and other reasonable alternatives based on context and intensity as required by NEPA. The District rigorously explored options and included reasonable alternatives for consideration to the proposed action. The NEPA process for the proposed maintenance action, to include the public review and comment period, did not identify any environmental impacts that rise to the level of significance, which would necessitate the preparation of an EIS.

13. Comment: At least one comment was concerned about the regional effort to restore ESA listed anadromous fish populations to the Mill Creek watershed and the likelihood that a twenty year effort will fail and we will never again have native salmon and steelhead in our creek.

Response: See response to Comment B2. There are no ESA listed salmon species in Mill Creek – only Mid-Columbia Steelhead and Bull Trout. As confirmed through ESA consultation with NMFS and USFWS, the proposed levee maintenance action is not likely to have an adverse effect on ESA listed fish or their critical habitat (see concurrence letters attached to FONSI). In a natural stream, riparian vegetation does provide tremendous benefits to fish and wildlife. However, Mill Creek is far from a natural stream. The trees proposed for removal, however, provide very little shade or other benefits to anadromous or resident fish.

14. Comment: One comment reminded us the project area is a classroom and that plant biology classes, herb classes, bird classes, ecology classes and even Boy Scout outings have all been given/occurred on the premises.

Response: The District is aware, and proud, of the recreational and natural resources importance of the Mill Creek Project to the local (even regional) community. We've actually been in discussion with Walla Walla Community College in making an outdoor education location at the Mill Creek Project. Classes and other outings for educational purposes are always welcome and encouraged at the Project. The proposed levee maintenance action, however, is not expected to interfere with those important aspects of the Mill Creek Project.

15. Comment: One group commented that there were substantial questions whether a project may have a significant effect on the environment based on determinations stated in the EA that the proposed project is likely to adversely affect mid-Columbia River steelhead, Columbia Basin bull trout, and may affect their designated critical habitat.

Response: The EA did not reflect later developments in the District's ESA consultation with the USFWS and NMFS. As stated in Paragraph VII of the FONSI, "Both Services concurred that the project would not likely adversely affect bull trout or steelhead." Concurrence letters from the Services will be attached to the FONSI.

16. Comment: One group commented that the cumulative effects section of the EA evaluated a smaller area of analysis than was appropriate, based on an out-dated "no vegetation" policy.

Response: See Response to Comment D2. The District believes that it included a robust and thorough evaluation of cumulative effects in the EA (Section 3.13), with the appropriate geographic and temporal scope.

17. Comment: One group commented that the EA includes an unreasonably narrow purpose and need statement, as it requires compliance with HQUSACE regulations and guidance that are under review as required by WRRDA 2014.

Response: See Response to Comment D2. The EA's purpose and need statement (P&N) has not been narrowly tailored in order to prevent consideration of alternatives. Agencies are granted considerable discretion to define a project's purpose and need. The P&N requires that the project comply with HQUSACE guidance (e.g., ETL 1110-2-583). The Corps' policy objectives are clear – maintain flood risk reduction for Walla Walla and surrounding communities, while complying with HQUSACE guidance and policies.

18. Comment: One group commented that the unreasonably narrow purpose and need statement in the EA (i.e., ignoring WRRDA 2014) resulted in a failure by the Corps to consider an appropriate range of alternatives.

Response: See Response to Comment B17. The P&N is appropriately focused on the agency's goal of maintaining the levees in accordance with applicable HQUSACE guidance. Based on the stated P&N, the District has considered an appropriate range of alternatives. An agency is under no obligation to consider every possible alternative to a proposed action, nor must it consider alternatives that are unlikely to be implemented or those inconsistent with its basic policy objectives.

C. <u>Recreation/Aesthetics</u>

1. Comment: We received a number of comments stating that recreational use of the levees would be degraded in some way and that the District has not addressed the recreational impacts associated with this action.

Response: The District agrees the trails on the levee are popular recreation sites. However, besides a temporary closure during the actual vegetation removal process, the existing trails will still be available to the public for recreation and there will be no permanent impacts to recreation. The EA properly tests for potential significant environmental impacts based on context and intensity, to include recreational impacts. Recreation is not being significantly curtailed or eliminated.

2. Comment: A few people commented that there would be a significant loss of shade to Mill Creek and the recreation trails on the levee, especially during the hot summers, making walking, running, biking, and horseback riding less pleasant.

Response: See response to Comment A5. The EA acknowledges the proposed levee maintenance action will have an effect on shade for the trails on the South side of the levees. The District concluded, however, that the partial loss of shade will not have a significant effect on recreation, as the levees will still be available for public use. (see Section 3.8.2.2 of the EA). Many visitors still utilize the north levee during the day, where little or no shade is provided. The absence of shade on the south levee could be viewed as beneficial for those recreating in the area during the wintertime.

3. Comment: We received a few comments pertaining to the reduction of aesthetic quality as a result of the proposed maintenance action.

Response: See response to Comment A5. The District believes that vegetation maintenance on the levee structure plus the additional 15 foot vegetation-free zone will reduce the risks of unknown levee problems, as well as provide the access needed for inspection and flood fighting. All vegetation will not be removed from the area and aesthetic appeal will not be completely eliminated. The District is also investigating (in Phase II) future potential planting strategies in the immediate vicinity. Plantings on or near the levee structures (if appropriate) will be determined after the levee vegetation maintenance has been completed and our objective to improve public safety has been fulfilled.

D. Policy

1. Comment: A few people commented that this action is similar to an action that took place in California resulting in a lawsuit concerning removal of vegetation from locally operated and maintained levees.

Response: Non-federal levee owners/sponsors (nationwide) propose or engage in levee vegetation maintenance to improve levee integrity and (in part) to qualify for the Corps' Rehabilitation and Inspection Program (Public Law 84-99). In order to qualify for rehabilitation assistance, levee owners/sponsors must comply with U.S. Army Corps of Engineers Headquarters (HQUSACE) regulations and policies. Although recent litigation and legislation has resulted in removing levee vegetation maintenance as a criteria for rehabilitation assistance, the District is still required to follow HQUSACE regulations and policies (e.g., ETL

1110-2-583,
http://www.publications.usace.army.mil/Portals/76/Publications/EngineerTechnicalLetters/ETL_%201110-2-583.pdf). The ETL is the governing standard applying to vegetation on all flood risk reduction projects for which the District has operation and maintenance responsibility.

2. Comment: Two people referenced Section 3013 of WRRDA 2014 as a basis for not removing vegetation on the Mill Creek levees.

Response: See response to Comment D1. In Section 3013 of WRRDA 2014, Congress restricted the Corps from using levee vegetation as an eligibility requirement for assistance under the Rehabilitation and Inspection Program (Public Law 84-99) for levees that are maintained by a local levee owner/sponsor. WRRDA did not change the Corps' maintenance responsibilities for operation and maintenance (O&M) of federally owned and operated levees.

3. Comment: One comment received stated a belief that the District had been working in isolation and not in a collaborative manner with other organizations and interested citizens, and without consideration of other efforts to identify long-term solutions for Mill Creek (e.g., CTUIR Mill Creek Assessment Study, or the District's General Investigation Study with the Walla Walla Downtown Association).

Response: The District disagrees that we worked in isolation on this proposed maintenance action. Planning for this proposed maintenance action has taken many years, as it was subject to availability of funding. The District has been and continues to keep the interested public informed about the proposed levee vegetation maintenance. On March 19, 2015 several District staff members briefed the Blue Mountain Audubon Society (BMAS) at a meeting at Whitman College. On April 3, 2015 the District created a Mill Creek Levee Maintenance video and published it on the District's internet webpage. On April 16, 2015 District staff members briefed the project to the Mill Creek Workgroup. On May 19, 2015 the District Commander and other staff again met with members of the BMAS to discuss the project. Articles have also appeared in the Walla Walla Union Bulletin (e.g., Sunday, April 5th, 2015). A public meeting was held at the Airport Terminal Building on August 12, 2015, which was attended by 70+ people. Finally, the EA was made available to the public and local, state, and federal agencies for a 30-day review and comment period from July 24 to August 24 2015. The District has also shown a clear interest in collaborating with local, state and tribal entities on other projects/studies in the past and we are committed to doing so in the future, within the scope of the District's authorities.

4. Comment: One comment received stated the flood risk has not changed in the past five years, questioned the apparent urgency associated with the vegetation removal, and recommended a delay of two to four years to explore opportunities to minimize vegetation removal.

Response: Flood risk management continues to be the primary authorized purpose of the Mill Creek Project and the sole reason for the proposed levee maintenance action. If there

appears to be an urgency associated with this maintenance action, it's because the District believes that unobstructed access to the levees for monitoring, inspection and flood fighting is essential for the Project's flood risk management mission. The proposed maintenance action has been in the planning process for many years and funding for work has recently been made available by Congress. A delay of two to four years does not guarantee any change to the maintenance guidelines, but would continue the flood risk associated with uncompleted, levee maintenance.

5. Comment: We received one comment encouraging the District to challenge the guidelines from HQUSACE and that having funds available ("$300,000") to complete the work should not drive the decision, as such funds could be better used on other work or be made available at a later date through coordination with congressional representatives.

Response: See response to Comment D1. The District is required to follow HQUSACE guidelines. Additionally, the District is not aware of the source of the referenced $300K amount. The District has not announced any price associated with the proposed levee maintenance action and will not know the cost until a contract is awarded.