

**Final HCCC IRT Meeting Notes
Port Orchard, WA
September 4, 2012**

Attendees: Brad Murphy (Ecology), Gail Terzi (Corps), Keith Folkerts (Kitsap County), Cynthia Rossi (PNPTC-Jamestown), Cyrilla Cook (WDNR), Linda Storm (EPA), Donna Frosthalm (Jefferson County), Roma Call (PGST), Steve Todd (Suquamish Tribe), Richard Brocksmith (HCCC), Randy Lumper (Skokomish Tribe), Doris Small (WDFW), Stacy Vynne (PSP), Lajane Schopfer (Mason County), Patty Charnas (Kitsap County)

Notes: Scott Olmsted (ESA)

Review Agenda: will attempt to end the meeting around 3:15pm, so people can make the ferry, but a request was made to not rush/shortchange the marine discussion.

June meeting notes: most IRT members did not review the draft June notes since they came out late; we will finalize instead at the next IRT meeting.

Instrument: the HCCC ILF program instrument was signed in July 6th by the Corps, Ecology, EPA, and HCCC.

Since the 2008 federal rule came out, eight new ILF programs have been approved across the country; two in WA. The HCCC ILF Program took 10 months from prospectus to final instrument. Congrats!

Concerns: The Suquamish Tribe has some remaining concerns, generally focused on service area scale and financial assurances. Other smaller questions remain from other governments. HCCC will work to address those during implementation of the program.

The first credit sale process identified some potential revisions that may be needed to the Appendices: 1) use of the interim tool needs further guidelines and possibly examples (e.g., the range of values that can be used for risk factors); 2) temporal lag factor for the Wetland Tool needs to be identified in the text; 3) there needs to be a clearer process for when and how the sponsor is engaged in development of the ILF Use Plan; and 4) other smaller details.

Navy EHW2 ILF Use Plan: An ILF use plan was written by the Navy; the most current version is dated Aug. 14th 2012. The Navy initially used a HEA model and then tried to fit HEA model results to the marine/nearshore interim tool; this did not work well because assumptions that went into generating HEA model results were not explained. Corps received 11 versions for the plan; the ILF use plan will probably change again.

In general, regarding documents associated with the HCCC ILF program and credit sales, HCCC will place final versions of the documents online for ease of access and permanent repository.

HCCC had a webinar with the Navy and regulators to explain how the sponsor would characterize the EHW2 impacts. Post webinar, there was back and forth between regulators and the Navy concerning

the extent of impacts. Impact quantities and credits/debits were approved by the Corps and Ecology. Permits were issued by both agencies. The Corps permit references the Aug 14th version of the ILF use plan for credit/debit numbers, Ecology references this same version of the use plan, but also allows for newer, overriding versions of the plan. HCCC believes there are impact assessment errors presented in the Aug. 14th use plan numbers; it is not clear if regulators will consider the sponsors concerns. The current Corps permit requires the Navy to buy credits by Sept 21st; this means they need to submit a statement of sale to the Corps by this time to make permit valid. Some members of the IRT would like more cross-walking between the impact numbers presented in the EIS and ILF use plan (numbers did not match). The ILF use plan was not reviewed by the public, though it was by the IRT. In the end, the numbers were increased (not decreased) from those presented in the EIS when using the interim tool. Another problem when attempting to determine marine impacts for this project comes from a lack of science regarding shading in deep water and other functions; trying to quantify that is extremely difficult. Suquamish Tribe would like to see the Navy's research explaining potential impacts to the marine environment; this info should be contained in the ILF use plan.

The Navy's interim tool worksheet: Subtidal non-vegetated impacts-5.9 acres; the Navy reduced these to 5 percent (deep water shading)=0.3 acre of impact. The Navy further reduced it from 5 to 4 percent based on the impact intensity of a "typical development" (they did not apply the maximum intensity value as they thought overwater coverage was not as intense as a fill-type activity for example). A senior scientist at the Corps thought the degree of impact factors weighting (duration=1/2, intensity=1/3, cumulative=1/6) should be flexible or possibly re-thought (e.g. intensity should have a heavier weighting).

ACTION: Corps would like HCCC to provide examples of project types that fit into the range of impact intensities.

HCCC developed the tool, regulators and the Navy are not familiar with the tool, and the tool was not applied as HCCC had intended. Can HCCC be more involved in determining credits/debits? HCCC has been accused of being conflicted and biased toward protection in this process since they're a conservation group. Corps PMs will talk with Richard in the future to make sure impacts/debits are agreed upon. Corps, Ecology, IRT and the program sponsor will modify/clarify language and process of applying the interim marine/nearshore tool over time. The freshwater wetland tool is much more fleshed out than the interim tool, and thus doesn't have these limitations.

With the interim tool; use 2 significant digits for results, nothing more.

Generally, impact calculations include construction (short-term) and operation (long-term) impacts.

The Navy agreed to increase their indirect and cumulative impact numbers in limited cases when calculating credits/debits to be conservative in face of uncertainty.

Jefferson Co-in the future, will the Corps notify HCCC about potential credit/debit calculation issues? Corps believed the applicant would work with HCCC before Corps PM received the ILF use plan;

however, in this situation, the applicant and regulator do not agree with sponsor on credit/debit calculations. The IRT does not usually see debit projects submitted to the sponsor, but while the new interim tool is used, the IRT can informally comment on the Navy's credit/debit calculations; once the more robust marine/nearshore tool is adopted, the IRT will not be involved.

The ILF use plan does not go to public notice; however, the mitigation action plan does go before the IRT and out to public notice. The federal rule requires public notice for the prospectus and ILF receiving sites (not the ILF use plan).

Squamish Tribe has concerns with the 5 percent determination for deep water shading impacts; there is limited certainty in what impacts may be for this project; the Tribe would like to see why 5 percent was chosen and not 20 percent or some other number. The EIS and HEA model provide more background information on the rationale for the 5 percent determination...absence of vegetation=lower functionality and lower shading impacts. Land costs for the Navy project were based on Table 5; they picked residential shoreline in Kitsap County. Marine impacts total=9.54 habitat class debits.

Wetland impacts=8.4 acre-points and the Navy will be buying 0.2 acres of land credit. In the future, for all debit projects that impact wetlands, a temporal loss factor of 3 will be used. This factor can be adjusted up for mature forest impacts. **ACTION: A default temporal loss factor of 3 (one of factors in credit/debit tool) needs to be explained in the instrument.** There could be situations when the sponsor will have extra credits generated from some other projects, then the temporal loss factor in theory could go down; however, this might not be fair to applicants and thus is likely not an appropriate policy.

Statement of sale: \$6.9M in total. Approximately \$5.5M goes to the project; administrative and long term management accounts receive the remaining funds. If all mitigation is preservation (hypothetically) can more than the land fee account be used? Answer-the mitigation project account can also be used to buy land. The land fee is to indirectly compensate the public for potential use of public land, as well as to directly purchase private land to implement ILF receiving sites. The contingency fee account can roll into long-term management once credits are released back to the sponsor. The IRT will not typically see the statement of sale though it will be made publicly available at HCCC website.

The Corps believes the risk factor range used in the interim tool should be a set number since the risk to the sponsor is going to be the same no matter what the impacts are. (The sponsor and IRT disagree though). Risk has to do with the sponsor's ability to replace the impacted functions. Removing the range will reduce subjectivity. Will risk be different depending on the context of the mitigation site? The risk factor range allows for flexibility in assessing impacts to a particular site; mature evergreen forested vs alder forest. Can you replace a mature forest; not in our lifetime. **ACTION: IRT would like a document that lists different habitat types associated with specific risk factor numbers (a mature forest should not have a risk factor value less than X). HCCC will propose table of risk factors for each habitat type.** The IRT prefers this range (flexibility) rather than a set risk factor value (one value). The

outcome of this action will hopefully narrow subjectivity of the applicant, sponsor, and regulators when determining which risk factor value to use.

Site selection: 1) know the impacts; 2) determine ecological needs of the watershed/service area—HCC has not formally done this, but they have a good idea based on their own knowledge and county and tribal input; 3) present to the IRT documentation that explains whether functions lost at the impact site are critical to the ecological needs of the watershed/service area (Bangor is rated as cumulative impact zone per the ILF instrument); 4) if they are critical, in-kind and in-proximity should be implemented, if practical and feasible. Kitsap County: the Bangor shoreline is the longest drift cell in Hood Canal and it is not heavily impacted functionally according to Kitsap County shoreline assessment. From the Hood Canal perspective, it's not that great of condition, but for Kitsap County, it's not that heavily developed (e.g., residential and military). HCCC will put into writing a site selection rationale. The IRT agrees that the impact in the Bangor area affects functions of critical ecological importance, so choose Step 4a) (in-kind and in-proximity mitigation) and follow the mechanistic language.

Subtidal Habitat: In-kind mitigation can be problematic because there are not many sites located in the area that satisfy the criteria. Mitigation should be geared towards mitigating the habitat impacted, not necessarily the type of activity (e.g., mitigating for installation of a dock by taking a dock out somewhere else). The relevant mitigation types for subtidal habitats, not in order: 1) physical restoration, 2) enhancement (e.g., planting eelgrass), or 3) preservation of that habitat type (since creation of subtidal habitat isn't possible)

HCCC has created a draft spreadsheet of potential mitigation sites, by habitat type. They also have an EPA grant that will allow them to work with counties to determine appropriate mitigation projects at multiple roster sites. **ACTION: list marine restoration sites by AMU.** The spreadsheet shows there are few opportunities to mitigate for subtidal impacts in Hood Canal. All obvious subtidal restoration opportunities were reviewed by HCCC.

Possible site #1=The Navy has decommissioned a magnetic silencing dock, but they are unsure if they want to remove the structure. DNR-the Navy does not have a lease for land where the magnetic silencing facility (MSF) is located, if they did, they would have to remove it as a condition of the lease. The MSF may also be connected in some way to the EMMR project currently being permitted by the Navy (and potentially next ILF mitigation project). The Navy would not want to put a site protection mechanism in place for this site as they may want to repurpose the site, post-mitigation, which wouldn't be possible with a site protection mechanism in place.

EHW2 is a big project, mitigation could be broken up into smaller projects; which would be different from the ILF program concept of pooling resources associated with many small impacting projects to create a large mitigation project. Many small projects would be similar to permittee responsible and require lots of tracking by regulators, as well as reducing ecological certainty.

Possible site #2 = 4/10ths mile, marine rail pile complex in western Quilcene Bay. The project would remove wooden piles that impact about 1.5 acres of eelgrass. DNR may be able to remove these piles.

Possible site #3=Dosewallips-creosote barge, only partially located in the subtidal environment. 0.5 acre in size. In salmon recovery plan, on SRFB list, but below funding line. Project does not do a lot for salmon, as modeled under EDT. Brings up issues—need to replace salmon project taken off salmon recovery plan list. HCCC would find a land owner (e.g., land trust) to buy the property and adjacent property that the county is currently foreclosing on.

Site #4=Pile complex south of Hamma Hamma at Jorsted Creek. This is a possible DNR project as well.

Site #5=Hoodsport piling complex.

Site #6=Rendsland Creek pile complex. Possible DNR project.

Site #7=Point Julia-Port Gamble reservation. Long pier and grounded barges, bridges, boat ramps (project would remove these).

Site #8=Port gamble mill site-toxic contamination in aquatic areas. DNR and old mill site owner are working on an agreement to clean up the aquatic environment with consent decree expected in late 2012. Ecology is the regulator. They are close to signing agreement for cleanup. Includes piles and overwater structures. 3,000 creosote piles. Mill site is 26 acres (upland area). NRDA- negotiation to compensate the public for damages to the environment; they will likely agree to pull back southern shoreline fill, the point, and plant a buffer strip of vegetation. This would leave approximately 20 acres that may be developed. Olympic Property Group owns most of the tidelands (150 acres) currently though they may be moving to public ownership under these negotiations. There are liability issues with the site. Fill impacts subtidal and intertidal habitats. HCCC could buy land (create intertidal and subtidal habitat) and require a potential developer to put a hotel further towards the bluff (away from the shoreline).

Has HCCC looked at Lofall ferry terminal? They will.

EPA would like to have a prioritized list of mitigation projects (this is roster site selection list). Development of this list is a year to 1.5 year process.

EHW2 mitigation needs to be determined in the next 3 to 6 months; HCCC has about 18 months to have an agreed on plan, or will begin to look at other, simpler, alternatives.

Potentially, look at avoidance of development projects through preservation of properly functioning habitats that are at risk as a mitigation strategy.

Where is preservation a possibility? Ex=>pit to pier project; port gamble mill redevelopment; Thorndyke and/or Dabob Bay, etc.

Just because the project is in proximity, does not mean it needs to be selected, especially if there is a more valuable project (provides more functional lift, provides critical functions to the watershed) a little further away. Should be based on a considered review of opportunity for functional lift, location, and cost/size, always following mechanistic approach in Instrument.

Should also look at opportunities that may be short lived, for example Port Gamble Bay.

Threat (with regards to preservation)-immediacy of threat should be strongly considered. Does this mean HCCC should buy all the parcels in south Hood Canal? (this was posed as a rhetorical question)

The Port Gamble mill site property owner also owns Thorndyke Bay property that could be a potential mitigation site, but the owner wants the mill site to be addressed first.

Preservation-ideally, it would be good to be successful with one large property owner, then, potentially; other property owners would be more likely to agree to sell their property for preservation purposes. One must be careful about working with just one landowner; they can use this to their advantage during purchase negotiations.

ACTION: Tribes, counties, DNR et al- come up with a list of potential mitigation sites and bring it to HCCC, after HCCC has submitted a revised excel spreadsheet. Look for sites that immediately respond to impacts from EHW2. HCCC will update the excel spreadsheet; IRT will have a month to add sites. Call out EHW2-related sites or call out sites that may be limited time opportunity. A single mitigation site does not need to address all functions impacted at EHW2. Proximity should not eliminate potential sites either. IRT members can send HCCC their list of potential mitigation sites at any time.

Roster sites and the EHW2 mitigation site(s) in particular, will be selected based on proposals created by HCCC. HCCC will provide site selection rationale, site plans, etc. and the co-chairs will strive for consensus among the IRT in selecting the appropriate mitigation site.

HCCC should assess possible mitigation sites proposed by PSNERP.

HCCC will use Ecology's watershed characterization to locate freshwater mitigation sites, in addition to other resources. Wetland mitigation will not occur on the base. Should HCCC look for mitigation in the highest priority watersheds adjacent to Bangor? HCCC nor its partners have much connection within some of these smaller assessment units/subwatersheds (they have not conducted projects in the past). Potential options: wait for more wetland impacts to pool resources and start mitigation projects in these AUs (but be careful about the instrument required timeframe to commence activities), or build upon a system of mitigation (first, buy farm land; then, when more funds become available, restore the site). Consider mitigation of headwaters wetlands, using the watershed characterization; consider watersheds where mitigation is already occurring; use local knowledge.

Look for wetland mitigation close to the shoreline to replace similar functions lost by EHW2. At EHW2, a slope wetland is being impacted and this cannot be replaced; mitigation could propose preservation of slope wetlands, maybe enhancement of slope wetlands. Look for a mitigation site near the marine environment, containing sloped wetlands, in proximity to the impact site. Evaluate potential lift from various sites and different types of mitigation. If preservation is selected, a high ratio would be required.

Remember that HCCC cannot get wetland credit if the wetland is the first resource to improve water quality/ receive stormwater runoff (it would be acting as a stormwater pond and credit could not be issued because the wetland could be dredged at anytime to preserve these functions stormwater functions).

New Permittee: Another potential HCCC project: WSDOT to widen HWY 3 in Belfair and will have small wetland impacts. Same WRIA (15) and service area as EHW2, though some of the impacts may very well be in WRIA 14b since it is near the boundary line. WSDOT's project is a linear, small impacting project, well suited to the ILF program. Credit sale could happen in Spring 2013.

Navy nearshore functional assessment tool update-they are developing it in phases; will calibrate it next summer. It could be used for this program in Year 2. The IRT is not sure where they are in the development process. They have made habitat types more broad; similar to interim tool. There is a general need for a more scientific, robust marine/nearshore model. **ACTION: create an IRT subcommittee to talk with the Navy/associated consultant to support tool development in a way that works for the HCCC ILF Program.**

ACTION: HCCC to send out a doodle poll to determine when/where the next IRT meeting will occur.