



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

Regulatory Branch

SEP 13 2012

Captain Peter M. Dawson
U.S. Department of the Navy
Naval Base Kitsap
120 South Dewey Street Building 443
Bremerton, Washington 98314-5020

Reference: NWS-2009-572
US Navy (Bangor)
(Explosives Handling
Wharf 2)

Dear Captain Dawson:

We have received your request for a permit modification. We have reviewed and approve the revised *Hood Canal Coordinating Council In lieu Fee Program Use Plan, ILF Use Plan for Mitigation for Navy Explosives Handling Wharf #2, Naval Base Kitsap Bangor* dated September 5, 2012. Your request for a permit modification is approved.

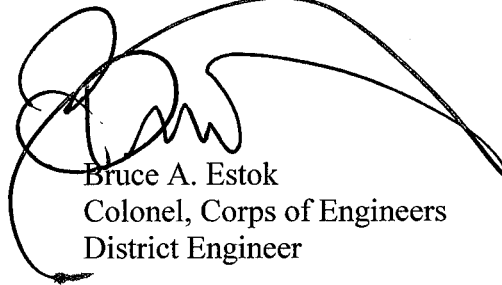
Special Condition "h" and Special Condition "i" of the permit require you to obtain ILF credits in accordance with the ILF Use Plan and to submit a Statement of Sale, respectively. You are authorized to perform work in accordance with the approved modified Special Conditions "h" and "i" as listed below:

h. You shall implement and abide by the *Hood Canal Coordinating Council In Lieu Fee Program Use Plan: ILF Use Plan for Mitigation for Navy Explosive Handling Wharf #2 Naval Base Kitsap Bangor* dated September 5, 2012 and obtain ILF credits in accordance with Table 6 and Table 8 of the ILF Use Plan.

i. You shall submit to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch a copy of the *Hood Canal Coordinating Council In Lieu Fee Program Statement of Sale* within 30 days of this permit modification. All submittals must prominently display the reference number NWS-2009-572.

All other terms and conditions contained in the original permit remain in full force and effect. A copy of this letter without enclosure will be furnished to Ms. Christine Stevenson, Naval Facilities Engineering Command Northwest, 1101 Tautog Circle, Silverdale, Washington 98315-1101. If you have any questions, please contact Ms. Catherine Blackwell at catherine.m.blackwell@usace.army.mil or by phone at (206) 764-3273.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:



Bruce A. Estok
Colonel, Corps of Engineers
District Engineer

MEMORANDUM FOR Commander

SUBJECT: Amendment to the Record of Decision - Modification to Issued Permit

1. Name: U.S. Navy (Bangor)

Application No.: NWS-2009-572

Date Issued: 21 August 2012

2. Nature of Permit Modification: Revise Special Conditions "h" and "i" of the permit due to submission and acceptance of revised HCCC ILF Use Plan dated 5 September 2012.

3. District Engineer sign Amendment to Record of Decision.

BROCK/OD-RG

BENNETT/OD-RG

WALKER/OD-RG

NELSON/OC

Reillo/OC

COFFEY/OD

~~GUMAER/XA~~

STOLL/DD

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OD-RG File

MB 9/12/12

mf 9/11/12

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mf 9/11/12

KJS 9/12/12

BAE 13 Sep 12

Encls

CENWS-DE 1st End

Commander

For Ch, Reg Br

Signed forms returned herewith.

AMENDMENT to the RECORD OF DECISION
dated 20 August 2012 for Work Described in Permit Application No. NWS-2009-572
for U.S. Navy (Bangor)(Explosives Handling Wharf 2)

1. Description of Modification. The scope of the proposed work has not been revised. Work has not begun on the project. Special Condition “h” of the permit requires the Navy to implement and abide by the *Hood Canal Coordinating Council In lieu Fee Program Use Plan, ILF Use Plan for Mitigation for Navy Explosives Handling Wharf #2, Naval Base Kitsap Bangor* dated 14 August 2012 and obtain ILF credits in accordance with Table 6 and Table 8 of the ILF Use Plan. Special Condition “i” of the permit requires the Navy to submit a copy of the HCCC ILF Program Statement of Sale within 30 days of permit issuance.

This permit modification addresses revisions in the use of a “typical” Degree of Impact factor for the Subtidal Non-Vegetated (Deep Shading) habitat category and revisions to the Intertidal Non-Wetland Non-Vegetated habitat category used in the 14 August 2012 ILF Use Plan. In an earlier submission of the ILF Use Plan, the Navy characterized the impacts from the bulk of the 6.2-acre overwater wharf as a “typical” development project when evaluating the Degree of Impact factor. After several internal Corps discussions, and discussions between the Corps, the HCCC, and/or the Navy, the Navy revised the ILF Use Plan. In the 14 August 2012 ILF Use Plan, the Navy changed the text on page 15, under the section titled “Intertidal Non-wetland Non-vegetated” to state “A maximum Degree of Impact (DOI) of 2.0 was assigned...”. This change reflected the understanding the wharf project was not “typical”. However, the Degree of Impact factor was not revised in Table 6 (it was still reflected as 1.67). For the other habitat of concern (Subtidal Non-vegetated, Deep Shading, scaled total overwater coverage) neither the text on page 12 nor Table 6 were revised. The Corps does not believe a 6.2-acre overwater structure represents a typical development project and the intensity variable for the Degree of Impact factor should be revised to accurately reflect this determination and to remedy the discrepancy between the document text and the chart.

This permit modification is to modify Special Condition “h” to require the Navy to implement and abide by the revised *Hood Canal Coordinating Council In lieu Fee Program Use Plan, ILF Use Plan for Mitigation for Navy Explosives Handling Wharf #2, Naval Base Kitsap Bangor* dated 5 September 2012 to ensure an accurate characterization of the debits (impacts) and required credits. This permit modification is also to modify Special Condition “i” to require the Navy to submit the Statement of Sale within 30 days of the date of this modification.

2. Evaluation. The Regulatory Branch received several versions of the ILF Use Plan from the Navy during the course of the permit application review. Part of the ILF Use Plan contains a spread sheet (Table 6 of the ILF Use Plan) listing and categorizing the debits (impacts) incurred from the proposed project and calculates the credits needed to be purchased from the HCCC ILF Sponsor to adequately offset the impacts. The revised 5 September 2012 ILF Use Plan modifies Table 6 in the columns labeled Subtidal Non-Vegetated (Deep Shading) category and Intertidal Non-Wetland Non-Vegetated category and the supporting text to clarify the debit/credit assessment. The Navy also provided additional supporting information in emails dated 6 and 7 September 2012.

a. *Subtidal Non-Vegetated (Deep Shading)*. The HCCC ILF program assesses mitigation debits and credits to marine habitats based on Area of Impact (in acres), a Degree of Impact factor range for each habitat category. The total Degree of Impact factor is divided into Duration, Intensity and Cumulative. The Degree of Impact factor range synthesizes the direct, indirect, and cumulative impacts of a development project on the affected habitat.

As described in the HCCC ILF program instrument the intensity is assessed based on the type of impact project. If the intensity is relatively higher than a typical development activity, the Degree of Impact factor should be selected from the top one-third of the range. If the intensity is relatively similar to a typical development activity, the Degree of Impact factor should be selected from the middle one-third of the range. If the intensity is relatively lower than a typical development activity, the Degree of Impact factor should be selected from the bottom one-third of the range. Intensity should account for 1/3 of the Degree of Impact factor.

The 14 August 2012 ILF Use Plan used an Intensity factor of 0.33 (based on a range of 0.00 to 0.67) for the Subtidal Non-Vegetated (Deep Shading) category. The acreage for this category was based on the partial impacts associated with the overwater coverage of the structure in deep water. The ILF Use Plan used an intensity factor of 0.33 (middle 1/3) for a “typical” development project. However, the proposed EHW-2 structure is a large-scale project in which the intensity is higher than a typical development project. In the revised 5 September 2012 ILF Use Plan the Navy revised the intensity factor to 0.67 (top 1/3). This revision changes the total Degree of Impact factor to 2.00 (maximum Degree of Impact range for the Subtidal Non-Vegetated (Deep Shading) category). The Corps concurs with the revised Subtidal Non-Vegetated (Deep Shading) category Degree of Impact factor.

b. *Intertidal Non-Wetland Non-Vegetated*. As part of revisions to the ILF Use Plan the Navy also re-assessed and revised the Acreage, Degree of Impact factor Range, and the Risk factor Range for the Intertidal Non-Wetland Non-Vegetated category.

Acreage: Intertidal Non-Wetland Non-Vegetated category at the project site consists of non-vegetated sand/gravel substrate to a depth of -30 feet. The trestle for the EHW-2 project would impact 0.355 acres of the Intertidal Non-Wetland Non-Vegetated habitat; however in Table 6 the Navy intentionally used an area of 0.54 acres in the 14 August 2012 ILF Use Plan “in an abundance of caution” and in an effort to ensure concerns about indirect, direct, and cumulative effects were addressed. In the revised 5 September 2012 ILF Use Plan the Navy reduced the acreage to 0.50 acres. Because the revision also increased the Degree of Impact factors for this category to the maximum extent which covers direct, indirect and cumulative impacts, the Corps agrees that lowering the impact acreage is acceptable because those impacts are covered elsewhere in the calculation.

Degree of Impact Factor Range: In the revised 5 September 2012 ILF Use Plan the Navy also revised the Degree of Impact intensity factor for the Intertidal Non-Wetland Non-Vegetated category from 0.34 to 0.67. As described above, the proposed EHW-2 structure is a large-scale project in which the intensity is higher than a typical development project. In the revised 5 September 2012 ILF Use Plan the Navy revised the intensity factor to 0.67 (top 1/3) for the

Intertidal Non-Wetland Non-Vegetated category. This revision changes the total Degree of Impact factor to 2.00 (maximum Degree of Impact range for the Intertidal Non-Wetland Non-Vegetated category). The Corps concurs with the revised Intertidal Non-Wetland Non-Vegetated category Degree of Impact factor.

Risk Factor Range: The Navy also reexamined the risk factors they applied to the Intertidal Non-Wetland Non-Vegetated category. Risk is the most subjective of all of the factors considered in the marine/nearshore credit/debit tool developed for the HCCC ILF Program, especially because the range is so large (1.2-5.0) depending upon the Habitat Class and open to subject review and evaluation. The ILF Program Instrument includes the following concerning the Risk factor: “Risk is the ability to replace the affected habitat and resources to fully compensate for the range of functions, processes, and structures damaged by the development project. The Risk factor is represented as a range of values that is multiplied by the area of impact.” The range of values (1.2 to 5.0) was developed by habitat class based on three primary considerations:

- 1) The time frame typically needed to replace the habitat type. Habitat types that take a long time to replace have a higher range of Risk factor values than habitats that can be replaced more quickly (e.g. PFO vs. PEM).
- 2) The level of knowledge, experience and success mitigation practitioners have had in placing the habitat type. Some habitat types are better understood than others and there is a better track record of being able to restore them. Habitat types that are expected to be successfully replicated (e.g., riparian forest) have a lower range of Risk factor values than more difficult to replace habitat types (e.g., eelgrass beds and tidally influenced forested wetlands).
- 3) The rarity of the impacted habitat and suitable mitigation projects to replace that habitat and its functions. Rare habitats by definition are highly risky to mitigate and are often difficult to mitigate given the lack of similar mitigation alternatives.

Each project needs to be assessed to determine the Risk factor and a value needs to be selected within the Risk factor range based on the following: type of habitat and how difficult it may be to replace, along with what functions the habitat provides; quality of habitat and the degree to which the existing habitat is performing functions. Quality of habitat is broken into three groups – high, medium and low corresponding to upper, middle and lower third of the risk factor range, respectively; habitat connectivity which represents the degree of project area connectivity to other habitats at both the site and landscape scales and; imperiled species which represents the degree to which the project area contributes to the protection and/or recovery of rare, threatened, or endangered species and their habitats.

Per the HCCC ILF instrument, the total risk factor range for this specific habitat category is from 1.20 to 2.00 with several variables to consider including: Type of Habitat Sub-class (1/2 of risk); Quality of Habitat (1/6 of risk); Habitat Connectivity (1/6 of risk) and; Imperiled Species (1/6 of risk). The Navy reduced the risk from 1.00 to 0.60 for the Type of Habitat Sub-class factor and from 0.34 to 0.25 for the Quality of Habitat factor.

Intertidal Non-wetland Non-vegetated habitats are relatively straightforward to replace and

functions typically will return within a short period of time depending on the sub-class (mud flat, oyster beds, tidal flats, etc.). The Navy's revised ILF Use Plan states (p. 15): "The Intertidal Non-wetland Non-vegetated area would continue to perform many of the functions presently performed by the site. However, the shading in this area may degrade primary productivity and affect juvenile salmonid behavior... The risk factor used in the calculations was based upon the relative habitat value of the area and an assessment that many functions would continue in the impacted area resulting in median habitat functions and quality post impact at the site." The Corps concurs with the assessment of the habitat quality at the site for this habitat category.

The Intertidal Non-wetland Non-vegetated habitat at the EHW-2 site is a sand/gravel dominated beach transitioning into a sandy substrate lacking vegetation and has no documented spawning sites. This habitat class is not particularly difficult to replace and has shown to be successfully mitigated in the past. In addition, mitigation of intertidal non-wetland non-vegetated (basically replacement of substrate at the correct elevations) has shown to quickly recover functions especially those associated with benthic community establishment. For these reasons the Navy reduced the risk factors for habitat type and quality in the revised 5 September 2012 ILF Use Plan and the Corps has determined the reduced factors adequately compensate for the proposed impacts in this habitat category.

In the revised 5 September 2012 ILF Use Plan the Total Number or Habitat Class Credits calculation for the Intertidal Non-Wetland Non-Vegetated category was revised from 1.81 to 1.51 in Table 6. Although this results in a reduction in the overall mitigation required for this habitat category, the Corps concurs with this revision as described above.

3. Modification to Permit Special Conditions. Special Condition "h" is revised to require compliance with the revised 5 September 2012 ILF Use Plan. The original Special Condition "i" required the Navy to obtain the mitigation credits and submit a Statement of Sale within 30 days of permit issues (21 September 2012). Special Condition "i" is revised to provide adequate time to complete the Statement of Sale based on the revised ILF Use Plan. This permit modification is to perform the work in accordance with the revised Special Conditions "h" and "i" as listed below:

h. You shall implement and abide by the *Hood Canal Coordinating Council In Lieu Fee Program Use Plan: ILF Use Plan for Mitigation for Navy Explosive Handling Wharf #2 Naval Base Kitsap Bangor* dated September 5, 2012 and obtain ILF credits in accordance with Table 6 and Table 8 of the ILF Use Plan.


i. You shall submit to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch a copy of the Hood Canal Coordinating Council In Lieu Fee Program Statement of Sale within 30 days of this permit modification. All submittals must prominently display the reference number NWS-2009-572.

4. Agency, Public, and Tribal Coordination. This request for modifications has been reviewed in light of the original comments received prior to issuance of this permit from the public and agency coordination. This review has not identified any potentially significant adverse effects as a result of the proposed modification. Because the modification is minor in nature, further coordination is not required.

5. Finding of No Significant Impact. I have determined that a modification of this Department of the Army permit would not have a significant impact on the quality of the human environment. Therefore, the preparation of an supplemental Environmental Impact Statement is not required.

6. Public Interest Determination. I have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning this permit modification, as well as the stated views of other interested Federal and non-Federal agencies and the concerned public, relative to the work in waters of the United States. The modification is consistent with national policy, statutes, and administrative directives and is not contrary to the public interest.

13 Sep 2012
Date



Bruce A. Estok
Colonel, Corps of Engineers
District Engineer