



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, WA 98115

Refer to NMFS No.:
NWR-2012-9480

December 27, 2012

Shawn Zinszer
Chief, Regulatory Branch
Portland District, Corps of Engineers
P.O. Box 2946
Portland, Oregon 97208-2946

Re: Request for Additional Information to Initiate Endangered Species Act Section 7 Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for the Coyote Island Terminals Construction of a New Coal Exportation Dock Facility in the Columbia River (6th field HUC 170701010904), Morrow County, Oregon (Corps No.: NWP-2012-56)

Dear Mr. Zinszer:

This letter acknowledges National Marine Fisheries Service's (NMFS) receipt of your November 23, 2012 letter, requesting formal consultation under section 7 of the Endangered Species Act (ESA) and section 305 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The request concerns the possible effects of the proposed issuance of Corps of Engineers (Corps) permits under section 10 of the Rivers and Harbors Act. The applicant, Coyote Island Terminal LLC, proposes to construct a new barge loading dock and upland coal receiving and storage facility. The project is located in the Port of Morrow at Columbia River mile 271, near the City of Boardman, Oregon. The facility would allow for the loading of coal that would be barged down the Columbia River and transhipped at an existing dock structure at the Port of St. Helens, Oregon. The intent of this letter is to obtain additional information to begin the consultation process.

The Corps has determined that 13 ecologically significant units (ESUs) of salmonids, 7 species of marine mammals, 4 species of sea turtles, the southern distinct population segment (DPS) of green sturgeon and the southern DPS of eulachon listed under the Endangered Species Act (ESA) may be affected by the proposed project as outlined in Table 1. The Corps also believes that the proposed action may adversely affect essential fish habitat (EFH) for salmonids, coastal pelagic species, and Pacific Coast groundfish.



Table 1. ESA listed species considered in the Corps request for consultation for the Coyote Island Terminal project at the Port of Morrow, Morrow County, Oregon

Species	ESU/DPS ¹
Steelhead (<i>Oncorhynchus mykiss</i>)	Upper Columbia River DPS
	Middle Columbia River DPS
	Lower Columbia River DPS
	Upper Willamette River DPS
	Snake River Basin DPS
Chinook salmon (<i>O. tshawytscha</i>)	Upper Columbia River spring run ESU
	Lower Columbia River ESU
	Snake River fall run ESU
	Snake River spring/summer ESU
	Upper Willamette River ESU
Chum salmon (<i>O. keta</i>)	Columbia River ESU
Coho salmon (<i>O. kisutch</i>)	Lower Columbia River ESU
Sockeye salmon (<i>O. nerka</i>)	Snake River ESU
Green sturgeon (<i>Acipenser medirostris</i>)	Southern DPS
Eulachon (<i>Thaleichthys pacificus</i>)	Southern DPS
Steller sea lion (<i>Eumetopias jubatus</i>)	Eastern DPS
Killer whale (<i>Orcinus orca</i>)	Southern resident DPS
Humpback whale (<i>Megaptera novaeangliae</i>)	
Fin whale (<i>Balaenoptera physalus</i>)	
Sei whale (<i>B. borealis</i>)	
Blue whale (<i>B. musculus</i>)	
Sperm whale (<i>Physeter catodon</i>)	
Leatherback turtle (<i>Dermachelys coriacea</i>)	
Green turtle (<i>Chelonia mydas</i>)	
Loggerhead turtle (<i>Caretta caretta</i>)	North Pacific Ocean DPS
Olive ridley turtle (<i>Lepidochelys olivacea</i>)	

Due to the public controversy surrounding this project and the potential for substantial impacts to NMFS' trust species, we recommend that the Corps prepare a draft environmental impact statement (EIS) for the project instead of the environmental assessment that we understand is currently proposed. An EIS would provide a platform to more thoroughly evaluate the effects of the proposed action as well as to consider less damaging alternatives. It would also provide an opportunity for the Corps to do a comparative analysis of the relative effects of several other coal transshipping projects being proposed at various sites in the Pacific Northwest. Such a comparative analysis should be structured to determine whether a project at one of the other sites would result in fewer impacts to NMFS trust species than the proposed action at the Port of Morrow.

If the Corps decides to prepare an EIS, it would be appropriate to postpone the ESA and MSA consultation process until after a preferred alternative is selected at the FEIS stage. In the event that the Corps decides to proceed with the current NEPA approach and not prepare an EIS, the NMFS has identified additional information necessary to initiate this consultation as outlined in

¹ ESU = Ecologically significant unit. DPS = distinct population segment

the regulations governing interagency consultations for ESA at 50 CFR section 402.14(c) (initiation of formal consultation) and for EFH at 50 CFR 600.920(g) (EFH assessments).

To complete the initiation package, please provide the following:

- The BA provides no information on a stormwater plan for the 23 acres of newly created impervious surface for the coal storage facility in the uplands at the Port of Morrow. Please provide a description of how and to what extent stormwater will be treated on site and where any discharges may be located.
- The reasons that existing facilities cannot be used for coal loading should be discussed. For example, there is a loading facility immediately east of the proposed project site. Describe what alternatives (if any) are available in the surrounding area that would suffice in lieu of construction of a new facility.
- Details are needed on the water depth(s) where permanent piles will be driven and what will be covered by over water structures.
- Specify the location and number of derelict pilings proposed for removal as mitigation for the new facility. Also discuss the methods that will be used to remove the piles.
- A planting plan for areas disturbed by construction at the Port of Morrow should be provided.
- A more in-depth analysis of the contaminants at the sites where vessels will be disturbing contaminated sediment (through prop wash) and the contaminant effects on species is needed.
- Please provide information on what measures will be implemented to mitigate impacts from shoreline erosion and juvenile fish wake strandings resulting from the increase in barge and vessel traffic due to the proposed action throughout the Columbia River action area.
- The BA acknowledges an increased risk of ship strikes from additional vessel and barge traffic could result in take of marine mammals and turtles, so the determination of not likely to adversely affect marine mammals and turtles is not valid. A Marine Mammal Protection Act permit may be needed. We are coordinating with NMFS marine mammal experts on this issue. Further information may be necessary.
- Effects to NMFS trust resources, such as potential marine mammal strikes from increased shipping traffic, should be analyzed at least out to the edge of the Exclusive Economic Zone (EEZ), not just to the mouth of the Columbia River.
- Effects on species and critical habitat from invasive species in ballast water and on the hulls of ocean going vessels coming from Asia should be analyzed, as well as effects from water withdrawals and return from these vessels.
- The BA acknowledges that transportation of the coal by rail to the Port of Morrow could be considered an interrelated and interdependent action, but provides no description or analysis of the effects. This should be provided. A discussion as to the extent of coal dust lost during transportation, the fate of that dust, what streams containing NMFS trust resources could be impacted and the extent of that impact needs to be provided.
- Methyl mercury has been identified as one of the threats to listed Lake Ozette sockeye salmon. Burning of coal in Asia has been linked to the increase in methyl mercury in the atmosphere. The project's contribution to the deposition of methyl mercury in Lake Ozette should be analyzed.

- There is no analysis in the BA of the effects of burning the coal in Asia (acid deposition, global climate change). Global climate change and resultant impacts to ESA listed salmonids has been shown and is a growing concern. An analysis of the extent to which the increase of coal being exported to Asia with subsequent burning affects climate change is necessary.
- The BA indicates that construction of the upland portion of the site will begin in May 2013. The applicant should be made aware of the potential problem of irretrievable and irreversible commitment of resources prior to issuance of a permit if construction is completed before a permit is issued.
- As part of our Tribal Trust responsibilities, NMFS will also be consulting with Tribal representatives regarding this project. Columbia River Tribes may have additional concerns not identified in this letter

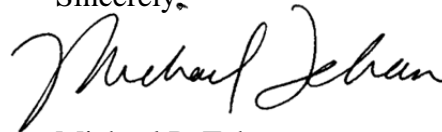
The NMFS requests the above information to evaluate fully the potential adverse effects from the proposed action. If desired, NMFS is available to discuss conservation measures that may minimize adverse effects to listed species and could be adopted as part of the proposed action.

Until these information needs are addressed, consultation will not proceed. Consultation on the proposed action will resume upon receipt of the requested information if it is determined that the information is sufficient to complete consultation. If the additional information necessary to evaluate the effects of the proposed action on ESA-listed species and EFH is unavailable, the Corps has two options: (1) With your agreement, the consultation may be discontinued until sufficient information is available for a complete analysis; or (2) the NMFS can complete its analysis with the available information, giving the benefit of the doubt to the species. The consequence of completing consultation while giving the benefit of the doubt to the species depends on the significance of the missing data. Moreover, if additional data become available that differs from what was considered during consultation, re-initiation of consultation might be necessary.

We will notify you when we receive this additional information. Our notification letter will also outline the dates within which consultation should be completed.

If you have questions regarding this letter, or how to continue with the consultation process, please contact Ben Meyer, Chief, Willamette/Lower Columbia Habitat Branch of the Oregon State Habitat Office, at 503-230-5425.

Sincerely,



Michael P. Tehan
Assistant Regional Administrator
Habitat Conservation Division