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To: [Guy, Danette L CIV USARMY CENWS \(USA\)](#)
Cc: [Nissa Rudh - NOAA Affiliate](#); [Elizabeth Babcock - NOAA Federal](#); [Donald Hubner - NOAA Federal](#); [SSNP_WA@fws.gov](#); [SSNP-WA wcr - NOAA Service Account](#); [NWS-ESA-Team](#); [Mahen, Kristin L CIV USARMY CENWS \(USA\)](#)
Subject: [URL Verdict: Neutral][Non-DoD Source] Verification SSNP – Fidalgo Bay Pilings, WCRO-2019-04086-5111, NWS-2020-98
Date: Monday, December 12, 2022 11:22:28 AM
Attachments: [Fidalgo Presale Agreement PSP.pdf](#)

Danette Guy,

We reviewed the notification email and project package you submitted for Fidalgo Bay Pilings, WCRO-2019-04086-5111, NWS-2020-98 requesting that NMFS review and confirm the action named above is consistent with the Salish Sea Nearshore Programmatic (SSNP) biological opinion and EFH consultation issued to the Corps on June 29, 2022 (WCRO-2019-0486).

Based on the materials and documentation submitted by the Corps, the proposed project's adverse effects are consistent with those evaluated in the SSNP biological opinion. They include:

- Harassment, capture, death, injury of juvenile fish at in-water work area construction sites
- Harm caused by pile driving
- Harm caused by shoreline modification
- Construction and dredging related disturbance (suspended sediment/turbidity)
- Harm due to the presence of in-water and over-water structures and vessel impacts

Based on information submitted by the Corps, the proposed action is consistent with the SSNP's design criteria and general construction measures. NMFS has reviewed and verified the following applicable elements:

- The project has a marine mammal monitoring plan
- Applicable General Construction Measures to this project will be implemented.
- The repair or replacement of an existing structure meets PDC #6

This verification is also based on a determination that no additional conservation offsets are owing because a presale agreement for the remaining offsets needed (3) has been obtained from the Puget Sound Partnership (PSP). Three offsets from the PSP offset the -3 output of the final Puget Sound Nearshore Conservation Calculator for this project.

Therefore, NMFS confirms this action meets the conditions of the SSNP programmatic biological opinion, WCRO-2019-04086 issued on June 29, 2022.

Please note that SSNP requires the Corps to follow the Program Administration # 10 (Monitoring and reporting) section of the Opinion. This reporting requires, if conservation offsets Options 3 or 4 were used, documentation to the Corps and NMFS that offsets were purchased **prior to** beginning construction. All project notifications and reports are to be submitted electronically to the NMFS SSNP mailbox at ssnp-wa.wcr@noaa.gov.

Additionally, NMFS would like to emphasize the following specific project elements associated with this proposed action are implemented for compliance with ESA/EFH under SSNP.

- Submission of creosote dump receipts to NMFS following construction and a photograph of the creosote on the dump scale. The receipt must show the weight of the timber (ideally in tons). If creosote timber weighs less than **5.5** tons, additional conservation offsets will be needed.
- A Marine Mammal Monitoring Plan is implemented.
- Offsets must be purchased, in full, before beginning construction for incidental take coverage under the ESA.

If project changes occur following verification, the applicant must alert the Corps and NMFS and confirm whether re-verification under SSNP is needed. Failure to do so may invalidate ESA take exemption.

If you have questions regarding the confirmation for this response, please contact Nissa Rudh, who can be reached at 360-701-9699 or by email at nissa.rudh@noaa.gov.

Thanks,

Lisa Abernathy

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