

Muckleshoot comments to US Army Corps

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Date: November 9, 2018 at 1:59:47 PM PST
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Cc: Rebekah Padgett <rp461@ecy.wa.gov>, Char Naylor <Char.Naylor@PuyallupTribe-nsn.gov>
Subject: RE: Request for Comments on Permit Application, Re: NWS-2017-1077-, Federal Way, King County

Kristin,

We finally had an opportunity to review the JARPA submittal materials for the Greenline Buildings A and B project referenced above. As you probably noted from Talasea's various emails, there appears to be multiple revised documents for this and the Federal Way LLC warehouses project (NWS-2017-155). Assuming that we reviewed the correct materials for this project, we offer the following comments in the interest of protecting and restoring the Tribe's treaty-protected fisheries resources:

1. The JARPA notes that the mitigation site for Building A will be built in conjunction with another project's mitigation site to maximize efficiency and reduce mobilization efforts. Please describe in detail the other project that will be built in conjunction with Building A's mitigation plan and how the mitigation has been clearly divided so that there is no "double-counting" of the mitigation.
2. The response to question 7g in the JARPA regarding the availability of a watershed plan is incorrect.

There have been several watershed planning efforts in the past:

- King County/ Federal Way did one as part of their 1990s watershed planning. See <ftp://ftp.cityoffederalway.com/Outbox/SWM/CIP%20Update%20&%20Rate%20Study/Basin&Comp%20Plan/1990%20Hylebos%20Creek%20and%20Lower%20Puget%20Sound%20Basins%20Current%20and%20Future%20Conditions%20Report.pdf>
- Pierce County did one for the Hylebos Watershed, too. See <https://www.co.pierce.wa.us/Archive/ViewFile/Item/2012>
- Earth Corps did one, too. https://www.earthcorps.org/ftp/ECScience/Hylebos/HylebosWatershedPlan_2016.pdf
- Finally, King County did one specifically for the East Hylebos area. <https://www.kingcounty.gov/services/environment/watersheds/white-river/east-hylebos-creek.aspx>

In light of these and potentially other watershed planning documents, the mitigation plan should revisit how it meets the recommendations and requirements from these watershed plans.

4. The compliance with the Corps' permit requirement re: tribal treaty rights is only appropriate for the Corps and the affected tribes to address, not the applicant, and will be predicted upon the successful resolution of tribal concerns.

5. The existing conditions report notes that there is an existing vacant residence on the mitigation site to the southwest. If this house is vacant, can it be removed? If the house cannot be removed and will be occupied, how will the mitigation project ensure that chemicals and fertilizers don't end up in the mitigation site?

6. Will the informal trails at the mitigation site be removed?

7. Road improvements

Further information is needed regarding building construction phasing and required road improvements. For example, it is our understanding that per the 1994 concomitant agreement, Federal Way will require road improvements if building areas exceed 300,000 square feet. From the available project information, Building A will be 225,950 square feet. Building B will be 217,300 square feet. Together they exceed 300,000 square feet, so more information is needed regarding the required road improvements to determine if there will be further direct or indirect impacts to wetlands, Stream EA or the East Fork of Hylebos Creek.

8. Stormwater discharges and the downstream culverts

With respect to the stormwater discharges and downstream impacts, the Technical Information Report noted that *"The Stream EA cross-section is relatively wide and appears to have capacity for larger flows than the 24 inch CMP culvert, so the culvert is estimated to control the amount of stormwater runoff that can be discharged from the site."* This culvert is shown on page 25 as Point 9 of the mapped discharge. Based on the photo and location, it appears to be the same culvert shown on WDFW's Fish Passage Map as 996277. (see attachments and/or <http://apps.wdfw.wa.gov/fishpassage/> and http://apps.wdfw.wa.gov/fishpassagephotos/Reports/996277_Report.pdf.)

If so, these culverts are fish-passage barrier and subject to replacement by 2030 per the Federal Court Injunction under U.S. v Washington. A larger culvert under SR 18 to convey Stream EA (or East Hylebos Creek Tributary) and the East Fork of Hylebos would affect the controlling feature stormwater routed to Stream EA.

The stormwater flow discharges evaluated in this report for Building A and the combined discharges evaluated for Buildings A and B which will use the same stormwater facilities should be reevaluated in light of new bridge or stream simulation culvert at SR 18 that conveys East Fork Hylebos and Stream EA.

9. Stormwater Treatment

We are pleased to see that this project is treating its stormwater with enhanced treatment methods and using oil control measures per KC stormwater manual requirements. We would recommend these measures since stormwater will ultimately be discharged to streams deemed to be fish-bearing waters used by salmon by WDFW per the culvert assessment report.

10. Stream classification and impacts

WDFW's fish passage data for culvert 996277 also begs the question regarding the non-fish bearing classification of Stream EA. WDFW's information suggests that this stream could be potential fish-bearing waters if not for the barrier culvert. The stream needs to be reassessed to determine if it meets the physical criteria for presumed fish habitat under WAC-222-16-031 by a qualified fisheries biologist. WDFW's Fish Passage Group should also be consulted for the data they have on this stream.

11. Potential for ESA species

WDFW's assessment for habitat upstream of the culvert 996277 indicates the potential for steelhead use of the East Fork of Hylebos Creek. This information was not considered in the materials we reviewed.

12. Cumulative impacts

Talasea's June 26, 2018 responses to Federal Way's Dec 13, 2017 comments specifically states: *"Some buffer modification to off-site critical areas (Wetland DT and Stream EA) are occurring as part of the Building A application to accommodate the required stormwater drainage easement. These same buffers will be modified a second time slightly to accommodate the edge of the Greenline Building B development."* Additional information is needed regarding total permanent and temporary buffer impacts from both projects and how and where these impacts will be mitigated.

We also agree with the Puyallup Tribe's comments regarding cumulative impacts, regarding the Corps' treatment of NWS-2017-155 as being "separate and not interdependent" of NWS-2017-1077. While the project construction may be phased, it does not mean that the environmental impacts to treaty-protected fisheries resources can be adequately assessed in such a phased or piece-meal approach for a project with almost 2 million square feet of warehouses and 5 buildings on 6 contiguous parcels under common ownership all within the East Fork of Hylebos Creek. The road networks and stormwater facilities would be shared at a minimum.

Also in light of potential impacts to wetlands, streams and their buffers and implications for the Hylebos Creek watershed, this project should be carefully evaluated with the impacts and proposed mitigation measures for the Warehouse Project contemplated nearby under NWS-2017-155

13. As-built and Monitoring Plans

For the project that is ultimately approved by the Corps and WDOE, we request to receive a copy of the "as-built" drawings for the proposed mitigation, as well as, the monitoring reports when they are sent to the Corps and other regulatory agencies. If the project changes or is modified from what we have reviewed to date, we request the opportunity to review these changes before they are approved.

We appreciate the opportunity to review this proposal and look forward to the Corps/applicants' responses. We may have further comments subsequently.

Thank you,
Karen Walter
Watersheds and Land Use Team Leader

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