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McNary Shoreline Management Plan

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Acronym List

CECW	US Army Corps of Engineers, Directorate of Civil Works
CFR	Code of Federal Regulations
Corps	US Army Corps of Engineers
EM	Engineer Manual
ER	Engineer Regulation
ESA	Endangered Species Act
FWPCA	Federal Water Pollution Control Act
NMFS	National Marine Fisheries Service
PE	Professional Engineer
PGL	Policy Guidance Letter
PL	Planning Letter
SMP	Shoreline Management Plan
TREC	Tri-Cities Rivershore Enhancement Committee
USC	United States Code
WDFW	Washington Department of Fish and Wildlife

1. Purpose

The purpose of this Shoreline Management Plan (SMP) is to provide guidance for managing McNary Lock and Dam, including the federally-owned shoreline and project waters (Lake Wallula). This SMP addresses rules and regulations, shoreline allocations, and requirements for permitting and licensing private facilities on public lands and waters managed by the US Army Corps of Engineers (Corps).

2. Objective

The objective of this plan is to achieve a balance between permitted private uses and resource protection for general public use. Management of the shoreline will provide recreation opportunities, while protecting fish and wildlife habitat, cultural resources, and the natural environment as a whole.

3. Authority

This SMP was prepared in accordance with the requirements of Title 36, Code of Federal Regulations (CFR), Part 327.30, *Shoreline Management on Civil Works Projects*; and Engineer Regulation (ER) 1130-2-406, *Shoreline Management at Civil Works Projects*, dated 31 October 1990.

4. Jurisdiction

The Corps has proprietary or managerial jurisdiction on Corps-managed federal lands and waters. Federal, state, and local laws are generally applicable to all Corps lands and waters. Section 234 of the Flood Control Act of 1970 gives Corps personnel the authority to enforce Title 36, CFR, Part 327. The Corps will also support other agencies, with respect to their enforcement responsibilities, as they relate to federally-owned lands or waters.

5. References

- Section 4, 1944 Flood Control Act, as amended [16 United States Code (USC) 460d]
- Section 10, Rivers and Harbor Act of 3 March 1899 (33 USC 403)
- National Historic Preservation Act of 1966 (16 USC 470 et seq.)
- National Environmental Policy Act of 1969 (42 USC 4321 et seq.)
- Endangered Species Act (16 USC 1531 et seq.)

- Clean Water Act of 1977, Section 404 (33 USC 1344, et seq.)
- Title 36, Chapter III, Part 327, Code of Federal Regulations, "Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers"
- Executive Order N. 12088, Federal Compliance with Pollution Control Standards (13 October 1978)
- 33 CFR 320-330, "Regulatory Programs of the Corps of Engineers"
- ER 405-1-12, "Real Estate Handbook" (20 November 1985)
- ER 1130-2-400, "Management of Natural Resources and Outdoor Recreation at Civil Works Water Resource Projects." (1 June 1986)
- ER 1130-2-540, Environment Stewardship Operations and Maintenance Policies (15 November 1996)
- ER 1130-2-550, "Recreation Operations and Maintenance Policies" (15 November 1996)
- ER 1130-2-406, "Shoreline Management at Civil Works Projects" (31 October, 1990)
- Water Resources Development Act of 1986, Public Law (PL) 99-662, section 1134 (d)
- Engineer Manual (EM) 385-1-1, Safety and Health Requirements Manual, 15 November 2008
- Meeting notes from McNary Shoreline Plan scoping meeting, 18 September 2006, and informational meetings in January 2009 and June 2011
- Archaeological Resources Protection Act of 1979, (16 USC 470)
- McNary Reservoir Master Plan - 1982

6. Project Description

McNary Lock and Dam was Congressionally-authorized by Section 2 of the River and Harbor Act of 1945 for the purposes of navigation, hydropower, irrigation, and recreation. Construction began in 1947, and was completed in 1953. The dam created an important link in the navigation channel that begins at the mouth of the Columbia River and extends to Lewiston, Idaho.

McNary Dam impounds the Columbia River at river mile 292, creating Lake Wallula. The lake extends 64 miles upstream, and includes small portions of the Snake and Yakima Rivers. Lake Wallula has a water surface area of 38,800 acres, with more than 200 miles of shoreline. Portions of Umatilla, Walla Walla, Benton, and Franklin Counties are included in the McNary Dam area of effect.

The Lake Wallula shoreline includes varied landforms, ranging from towering vertical basalt cliffs at the downstream end, to long, gently sloping shelves at the upper reaches.

7. Preliminary Planning

The Corps began development and management of recreation facilities on Lake Wallula shortly after reservoir impoundment in the 1950s. Existing developed private recreation facilities located on Lake Wallula were permitted in the past under the Shoreline Management Program developed under ER 1130-2-406, “Lakeshore Management at Civil Works Projects,” dated 13 December 1974. Several commercial marinas and yacht clubs are permitted through real estate leases, and are addressed only briefly within the scope of this document. Public parks, boat launches, and recreation areas are leased to local municipalities and managed under the guidance of Corps’ Real Estate Regulations, referenced in Paragraph 5. This SMP applies only to private use of the public shoreline and Lake Wallula.

The SMP is administered by the Ice Harbor Dam Natural Resource staff. Management efforts seek to balance a satisfactory recreation experience with the protection of natural resources on federal Corps-managed lands. The Corps’ Environmental Operating Principles, which seek to balance economic and environmental concerns, are used to help guide management decisions. These Environmental Operating Principles were adopted as National Policy in the 1990s, and state that the Corps will:

- Strive to achieve environmental sustainability. An environment maintained in a healthy, diverse and sustainable condition is necessary to support life
- Recognize the interdependence of life and the physical environment. Proactively consider environmental consequences of Corps programs and act accordingly in all appropriate circumstances.

- Seek balance and synergy among human development activities and natural systems by designing economic and environmental solutions that support and reinforce one another
- Continue to accept corporate responsibility and accountability under the law for activities and decisions under our control that impact human health and welfare and the continued viability of natural systems
- Seek ways and means to assess and mitigate cumulative impacts to the environment; bring systems approaches to the full life cycle of our process and work
- Build and share an integrated scientific, economic, and social knowledge base that supports a greater understanding of the environment and impacts of our work
- Respect the views of individuals and groups interested in Corps activities, listen to them actively, and learn from their perspective in the search to find innovative win-win solutions to the nation's problems that also protect and enhance the environment.

a. Cultural and Historic Resources

Several laws govern the way federal agencies treat cultural and historic resources. These laws, The National Historic Preservation Act of 1966, the Archaeological and Historic Preservation Act of 1974, and the Archaeological Resources Protection Act of 1979, mandate that federal agencies protect cultural, historical, and archaeological sites and provide for proper recovery of site data if warranted. If it is determined that a previously issued permit infringes on or impacts a known cultural or historical resource site, the permit may be revoked. Permits will not be issued in areas determined to have cultural, historical, or archaeological significance. Proposed development sites will be evaluated on a case-by-case basis to determine if the proposed action may impact a known or suspected cultural resources site.

It is the responsibility of the applicant to provide a cultural/historical resources report from a Corps-approved cultural resources professional, clearing the upland site for new development. The report submittal must be reviewed and accepted by the Corps, Walla Walla District, staff prior to issuance of a shoreline permit. Renewal permits for existing structures do not require cultural/historical documentation at present.

During preparation of this SMP, the Walla Walla District offered Government-to-Government consultation with the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes and Bands of the Yakama Nation, the Nez Perce Tribe, the Confederated Tribes of the Colville Reservation, and the Wanapum Band. Tribal technical staffs were offered the opportunity to provide comments on the draft plan, and several commented on proposed actions and general development on the McNary Shoreline.

b. The Endangered Species Act (ESA)

Since 1991, eight stocks of fish found in Lake Wallula (upper Columbia River spring Chinook salmon, upper Columbia River steelhead, mid-Columbia River steelhead, Snake River sockeye salmon, Snake River spring/summer Chinook salmon, Snake River fall Chinook salmon, Snake River steelhead, and bull trout) were listed as either threatened or endangered under ESA. As a result, the entire reservoir was designated *critical habitat* for these fish, making fish and habitat protection a federal priority on the Snake and Columbia Rivers. Shallow-water habitat along shorelines is important to juvenile salmonid survival for resting and foraging during their migration to the ocean. Riparian vegetation along the shoreline also provides benefits to fish and a wide range of wildlife.

The ESA prohibits the federal government from authorizing, funding, or implementing any action that will jeopardize the continued existence of a listed species or result in the adverse modification of critical habitat. Permits and licenses issued under this SMP constitute an authorization (federal action) under the ESA. Accordingly, this SMP must ensure that the Corps does not violate the ESA through the issuance of an SMP permit or real estate license. In recognition of the impact docks have on habitat for ESA-listed fish, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries), the Washington Department of Fish and Wildlife (WDFW), and the Corps developed criteria for dock designs on McNary Reservoir that will minimize impacts to these fish. These criteria were further refined by the Corps and NOAA Fisheries in 2010. The criteria were evaluated for scientific credibility through a scientific literature review conducted by the US Geological Survey. The literature review was then peer-reviewed, and received an excellent rating. Criteria were further compared to criteria used for construction of private facilities in the upper and lower Columbia Basins, and found to be consistent with those criteria. Docks built pursuant to these criteria (Appendix B) will be presumed to not jeopardize listed species or adversely modify critical habitat.

c. Public Involvement

The Corps team held a public scoping meeting in Pasco, Washington, on September 18, 2006. Approximately 100 people, including adjacent property owners, representatives of the cities of Pasco, Kennewick, and Richland, county and port officials, Congressional representatives, resource agency representatives, and other interested parties attended the meeting. A 30-day public comment period resulted in the submission of additional comments.

In January 2009, the Corps held a public meeting to familiarize the public with the draft SMP. The meeting was followed by a public comment period, extended from 30 days to 180 days at the request of the public. This comment period resulted in

88 comments, and led the Corps team to reformulate the plan for management of the shoreline. In addition to the public meeting, Corps staff met with multiple private citizens and fielded many phone calls to answer questions or provide information.

A public meeting was held in Pasco, WA in June 2011 to provide information about the June 2011 draft SMP. This meeting was attended by approximately 180 people and was followed by a 90 day comment period. Further refinement to the SMP resulted in small, focused meetings with current dock owners and an additional public meeting in the fall of 2011, which was attended by approximately 50 people.

In addition to the public meetings, briefings were held with the Tri-Cities Rivershore Enhancement Committee (TREC) in July 2006, June 2010, and May 2011. A briefing was presented to the Pasco City Council in July 2009, Walla Walla/Tri Cities Builders Association in March 2009, and with the Tri-Cities Realtors Association in December 2006. Additional meetings with interest groups such as the Audubon Society and the Rod and Gun Club were offered, but not accepted. Information regarding the process and progress was posted to the Walla Walla District website (*www.nww.usace.army.mil/ McNaryShoreline/*). Corps staff has provided press releases and interviews to the media regarding the shoreline management plan. Finally, Corps technical staff has coordinated with various entities and agencies, including Benton and Franklin Counties, the US Coast Guard, NOAA Fisheries, Washington State Department of Ecology, Washington State Department of Natural Resources, and WDFW.

8. Shoreline Allocations

Shoreline allocation is the designation of government property into various classifications, wherein only explicit activities or actions are permitted for each classification. To meet the objectives of Title 36 CFR, Part 327.30(e)(5), the entire Lake Wallula shoreline has been classified into four allocation categories: 1) Limited Development; 2) Public Recreation Areas; 3) Protected Shoreline Areas; and 4) Prohibited Access Areas. These allocations have been made to facilitate management and protection of project resources for the benefit of the environment and the public, while allowing some level of private development to adjacent property owners. Corps planners analyzed current land use, bathymetric information, habitat requirements, and known environmentally and culturally sensitive areas to classify the shoreline under the four allocation categories.

The four allocation categories are described in more detail below, and are consistent with the McNary Master Plan (Corps, 1982) and Operational Management Plan (Corps, 1985) for the McNary reservoir. These allocations complement and refine land-use classifications identified in the McNary Master Plan (Corps, 1982).

A detailed set of maps, showing the shoreline allocations for Lake Wallula, is included in Appendix A.

a. Limited Development Areas

Limited Development areas are designated where private shoreline use facilities or vegetation management activities may be allowed, when consistent with the SMP and cleared for environmental and cultural resources issues by Corps personnel prior to any development. Vegetation modification and the construction of private boat docks require issuance of a SMP permit. A real estate license is required for upland support structures. Permits and licenses must be obtained prior to the onset of construction or modification. Permit and license applications are considered individually, on their own merits, utilizing SMP guidelines. Shoreline and water conditions, as well as underwater topography, cultural resources, and other pertinent factors will be carefully evaluated before private facilities are permitted. Only shoreline areas within the "Limited Development Area" classification in the SMP shall be considered available for this shoreline allocation. Shoreline allocated under this category is identified in maps found in Appendix A.

The issuance of a permit or license does not preclude or restrict public use of the limited development shoreline area. Permit holders who attempt to deny pedestrian traffic and/or general public use of the Corps-managed federal lands and waters adjacent to the facility are in violation of permit conditions and subject to enforcement action, including permit revocation and the required removal of all previously authorized facilities.

Permittees may restrict public access to authorized private facilities, which are considered the permittee's personal property. Permittees may take precautions to secure their personal property from theft, vandalism, or trespass. The Corps will not address unauthorized intrusion or trespass on private floating facilities. Trespass on private facilities should be referred to local law enforcement.

b. Public Recreation Areas

Public Recreation Areas are set aside to be managed by federal, county, or state governments for public use, or are designated for commercial concessionaire facilities. Except for vegetation modification permits in existence prior to January 1, 2008, no private shoreline use facilities (including floating facilities) or activities will be permitted within or near designated or developed public recreation areas. Renewal of existing vegetation modification permits in Public Recreation Areas will be at the discretion of the Ice Harbor Dam Natural Resource staff. No modification of landforms or vegetative characteristics is permitted. Public recreation areas do not constitute legal access when applying for shoreline use permits, as required in Paragraph 9 Shoreline areas allocated under this category are identified in maps found in Appendix A.

c. Protected Shoreline Areas

Protected shoreline areas are those areas set aside to maintain or restore fish and wildlife habitat, cultural, aesthetic, or other environmental values. Shorelines may also be designated as protected to prevent development in areas subject to heavy erosion, excessive siltation, or exposure to high wind, wave, or current action, or in areas where development would interfere with navigation. No private recreation facilities will be permitted in protected areas, except as stated below.

There is one small stretch of shoreline in Pasco, WA, which is designated as “protected”, but which contains private docks. The location of each dock has been designated as a “site specific” limited development area. These docks will be allowed to remain in their locations to allow the Corps to honor past commitments. A change in ownership will not affect the status of the site-specific limited development area. The docks in these site specific areas will be allowed to remain as long as the dock and permit are maintained in good standing. However, upon removal of the dock for anything but maintenance or replacement, the limited development status will be revoked and the dock site will be designated as “Protected.” Any action which would require removal of the dock from the water should be coordinated with the Ice Harbor Natural Resources staff. Owners of these docks will be notified of their special status, via official correspondence, by the Ice Harbor Dam Natural Resource staff.

d. Prohibited Access Areas

Prohibited areas are areas where public access is not allowed for safety reasons or for the protection of unique resources. Prohibited areas typically include hazardous areas near dams or spillways. Mooring of private floating facilities or modification of landforms and vegetation are not allowed in areas designated as prohibited.

9. The SMP Permit Applications (Docks and Vegetation Modifications)

This Paragraph primarily outlines requirements for private docks, but is generally applicable to vegetation modification permits also. Paragraph 10 below provides additional requirements for docks. Paragraph 12 below addresses additional requirements for vegetation modification permits.

a. Eligibility

Applicants for a SMP permit for a private shoreline facility or activity (docks and vegetation modifications) must provide legal proof of ownership indicating a shared boundary with Corps-managed public lands, within an area designated for Limited Development under Shoreline Use Allocations, except as authorized in paragraph 8b-c above. Acceptable documentation includes copies of recorded deeds

and a map (or plat) identifying land ownership and boundaries shall be furnished with the SMP permit application. Failure to provide proof of a shared boundary shall result in denial of the permit request. Dock permits are for the sole purpose of mooring boats. Dock permits are not issued for speculative purposes, enhancement of private property values, or to persons renting private property. A maximum of two boats or vessels are permitted per private dock, unless it is a community dock that serves more than two households.

b. Site Requirements

Specific design and site requirements for new docks are outlined in Appendix B. Proposed permit actions on the public shoreline and project waters must conform to the shoreline allocation map, and must be located in areas designated as "Limited Development," except as authorized in paragraph 8a and 8c above. Permit applicants must meet the eligibility requirements outlined in paragraph 9a, above. Permits will not be issued in areas determined to be environmentally sensitive, or historically or archaeologically significant, as determined by the Ice Harbor Dam Natural Resource Staff, in consultation with Corps technical staff. For safety purposes, docks should generally be located at least 75 feet from an adjacent dock. Deviations from this standard may occur at the discretion of the shoreline managers, and will be considered on a case by case basis. However, the location of facilities must not cause a safety hazard to the user or the general public, nor shall the facility block public access to the public shoreline.

c. Permit Application Submittal Packages

Permit applications shall be obtained from and submitted to the Ice Harbor Dam Natural Resource Office. Current contact information for the Ice Harbor Dam Natural Resource staff can be found at *www.nww.usace.army.mil*. Besides proof of eligibility, applicants must submit detailed, scaled plans with written certification by a licensed professional engineer (PE) for any new dock facility construction. It is the responsibility of the PE and the applicant to determine that the proposed structure meets the design and construction criteria outlined in Appendix B to ensure compliance with current dock design requirements. Dock application packages must also include proof of application for Joint Aquatic Resource Permits Application (JARPA). A JARPA is an umbrella permit that addresses permitting under multiple authorities, including state agencies and the Corps' Regulatory office in Seattle. Information about a JARPA permit is available at: *http://epermitting.org/site/alias__ResourceCenter/9983/jarpa_process.aspx*. Once the permit has been issued, a copy of the JARPA permit must be included in the permit file.

Construction may not commence until the applicant has obtained a valid shoreline management permit from the Corps. The document must be in the applicant's possession at the time of construction, which will occur only within the approved in-

water work window (November 1 – February 28) to avoid impacts to ESA salmonids. Construction methods and dock design shall not deviate from the plans/design submitted for Corps approval without written consent from the Corps The permit holder is required to notify the Ice Harbor Dam Natural Resource staff of construction dates prior to the start of construction. If, for some reason, construction will not be completed within the specified in-water work window, the property owner or designee must notify the Ice Harbor Dam Natural Resource staff as soon as this schedule issue is known.

d. Permit Renewals

SMP permits are issued and renewed for 5-year periods. Issuance or renewal of a permit does not guarantee long-term permission for permitted activities, as changing reservoir and land management conditions may require changing management strategies in the future. There is no guarantee that SMP permits will be issued to future landowners. Changes in policy would be addressed in a shoreline plan update.

1) Permit Renewals for Existing Dock Owners

After the effective date of this SMP, existing dock owners will be issued renewals to their expired permits. Existing docks may be allowed to remain per the conditions of the 2011 dock inspection if the dock is in a safe condition and has not been extensively modified without authorization. Existing dock owners will be allowed to renew their docks under these terms and conditions for as long as they own their adjacent property. When replacing a major dock component (such as decking or floats) current dock owners will be required to use materials compliant with the design criteria in Appendix B. Sale or transfer of the adjacent property will require that the new owner upgrade the dock to the current design criteria. Permittees shall disclose these requirements to all potential buyers of the permittee's land/residence. Disclosure of these conditions to future owners is a condition of the permit. The Corps regulation, ER 1130-2-406, requires the owner of property that includes a dock to notify the shoreline managers (Ice Harbor Dam Natural Resource staff) of a change in ownership. Prior to the property closing date, sellers should notify the Ice Harbor Dam Natural Resource staff of an impending sale. Ice Harbor Natural Resources staff will assist with the requirements of dock permit issuance for new homeowners.

2) Permit Renewals for New Property Owners

New owners of adjacent property shall notify the Ice Harbor Dam Natural Resource staff within 14 days of purchase. Ice Harbor Natural Resource Staff will work with the new owner to provide information regarding additional steps that must be taken to issue a permit for the structure to the new owner, in accordance with Paragraph 9 above. In order to be considered for a dock permit, all dock facilities must

be brought into compliance with the criteria described in Appendix B, *Dock Design Criteria*, or the dock and associated anchoring appurtenances must be removed from the shoreline at the owner's expense. New owners will have four in-water work windows to bring the dock facilities into compliance with Appendix B.

e. Dock Permit Fee

The Ice Harbor Dam Natural Resource staff will collect a fee for each new and renewed permit. At the time of this writing (2011), the fee for a SMP permit is $35 ($10, plus $5 per year for inspection fees over the 5-year permit period). The permit fee for vegetation modification permits is $10. Permit fees may change in the future. Any change to the permit fee schedule will be posted on the Walla Walla District internet site (*www.nww.usace.army.mil)*, and individual permittees will be notified by mail. Information regarding the fee schedule for a dock permit is also available from the Ice Harbor Dam Natural Resource staff.

f. Inspections

Permitted facilities and activities are subject to periodic inspection by authorized Corps representatives. Docks are to be inspected at least annually to determine compliance with permit conditions. Per the terms of the shoreline dock permits Corps personnel are permitted to access private docks and upland areas for the purpose of inspection without prior notification to the homeowner. As part of the inspection process, Corps personnel may photograph the dock and any associated required mitigation planting, in order to fulfill an annual reporting requirement to NMFS. The Ice Harbor Dam Natural Resource staff will notify the permittee of any deficiencies and establish a reasonable schedule for their correction. No deviation or changes from approved plans will be allowed without prior written approval from the Ice Harbor Dam Natural Resource staff.

10. Special Requirements for Docks

Specific design and site requirements for new docks are outlined in Appendix B. A residential dock typically consists of an anchor, ramp, and float. No more than 100 docks shall be authorized under this SMP, which on the effective date of this SMP allowed the construction of 27 new docks. The design criteria now necessary on Lake Wallula also utilize a limited number of pilings or helical screws. Private facilities permitted under this program shall minimize the degradation of aquatic, near-shore, and shoreline habitats. Permitted private facilities along the Lake Wallula shoreline shall comply with design and construction requirements specified in this SMP and outlined in Appendix B.

a. Community Docks

Community docks, those shared by two or more households (up to four households per dock), will be subject to the same shoreline allocation requirements and fees stipulated for individual facilities. In order to provide the maximum amount of moorage in the smallest number and size of facilities, the Corps promotes consolidation of existing and proposed structures. Community docks will be considered when there is a need for moorage in a particular area, access to the area is available, and an appropriate site exists to support community mooring. Community docks will be considered in areas that do not conflict with commercial marina services, public launching facilities, or other access points. Community docks must be maintained in a useable and safe condition, create no threat to life or property, and be operated and maintained in compliance with the dock permit. The Ice Harbor Dam Natural Resource staff has the authority to request that a community dock association completes and submits a set of by-laws related to the operation and maintenance of the dock.

In order to apply for a permit for a community dock, at least two, and up to four, property owners who meet the eligibility requirements outlined above (in paragraph 9a), and must form a dock association. The applicants must supply written documentation of all dock association members, including names, addresses, and signatures of all named participants. All participants must own property adjacent to the Federal property, (and provide proof of ownership, as outlined in paragraph 9a). The document must designate an association member to act as a point of contact (POC) and sign the permit. The POC will receive and distribute information to all dock members related to matters regarding permit requirements, renewals, and safety and structural inspection reports requiring corrective action. The POC will keep the Corps updated on changes in ownership of property associated with the boat dock association or changes to the status of the designated POC. The POS shall notify the Corps within 6 months of changes to the dock association membership. If the association drops to one member, the dock reverts to private status and must follow private dock requirements.

Community docks must meet all standards detailed in the shoreline plan, including access, eligibility, and design, and construction requirements of individual docks. Community docks may accommodate up to four vessels (two floats totaling not more than 320 square feet. Failure of the permittee to operate the facility under the requirements outlined here may render the permit null and void. In such an event, the structure must be removed from project lands or undergo appropriate structural modification to be brought into compliance prior to renewal of the community dock permit. Community docks do not require complete upgrade to meet the criteria in Appendix B when an association member sells their adjacent property, but community

dock owners must upgrade to criteria-compliant components (Appendix B) when replacing major dock components (decking, floats, walkway). Minor maintenance does not require compliance with Appendix B. Ice Harbor Natural Resource Staff will determine if maintenance is major v. minor, but dock owners should attempt to incorporate criteria compliant materials whenever possible.

b. Facilities for People with Disabilities

Design deviations for docks may be allowed to accommodate persons with disabilities who reside at the address where the dock permit is issued. The Corps will consider the minimum improvements necessary to allow safe use by disabled permit applicants and permit holders. Efforts will be made to allow requested modifications, but not all requests may be approved due to specific or unusual site conditions. In order for the Corps to consider design deviation for this purpose, the applicant must request the deviation at the time of application. Design deviations that are not approved prior to construction may require removal if constructed. Applicants requesting special consideration to accommodate a disability must provide proof of the disability requiring deviation.

c. Special Status Docks

A “special status dock” refers to a dock that was already in place and permitted in good standing by the Corps as of November 17, 1986. These docks have previously been referred to as “grandfathered” docks. The special status is associated with a property for as long as the property/dock owner meets the conditions outlined in Public Law (PL) 99-662. PL 99-662 prohibits forced removal of previously authorized docks and appurtenant structures which were at their originally authorized locations on November 17, 1986, and still in place as of December 31, 1989, providing (1) they are maintained in usable and safe condition; (2) they do not occasion a threat to life or property; and (3) the holder of the permit substantially complies with the terms of the existing permit. The public law does not exempt the permittee from complying with the conditions of the permit or any permitting requirements. Additionally, the special status can be overridden when deemed necessary for public purposes or higher public use. Modifications to special status docks required under this SMP are for the higher public purpose of protecting ESA listed species. If the holder of the permit fails to comply with the terms of the permit, it may be revoked. The holder could then be required to remove the structure. A property where a special status dock permit is revoked for violation of terms loses the special status.

As of January 1, 2011, there were 21 special status docks on Lake Wallula. These docks are included in the annual inspection program to ensure that they are maintained in accordance with conditions outlined in this SMP. Special status docks must comply with the conditions of the shoreline permit and be renewed every 5 years, as with other docks. Current owners may renew their permit by contacting the

Ice Harbor Natural Resource Staff and in accordance with Paragraph 9.c above. As with other permits, new owners of a property with a special status dock must apply for a permit in their name within 14 days of the transfer of property. Upon sale or transfer of a property associated with a special status dock, the new owner will be required to upgrade the structure to meet the dock design criteria identified in Appendix B. As with other docks, the new owner will have four in-water work windows (identified by NMFS to be from November 1 through February 28) to install an upgraded dock, as outlined in paragraph 9d.2) above.

d. Facility Maintenance

The Corps requires that permitted facilities be operated and maintained by the permittee in a safe, usable condition at all times. If the facility is determined to be unsafe by inspectors, the Ice Harbor Dam Natural Resource staff will work with the permit holder to establish a schedule for repair, replacement, or removal to resolve the issue. Failure to correct identified issues may result in revocation of the permit. The determination of whether a dock or upland support facility is unsafe is made at the discretion of the Corps.

11. Vegetation Modification Activities

Vegetation modification on Federal lands (planting, modification, or removal) must be reviewed, approved, and permitted by the Ice Harbor Dam Natural Resource staff, in accordance with the permitting requirements in Paragraph 9 above.

a. Mowing, Pruning, and Weed Control

Light mowing, pruning, and weed control may be allowed with a vegetation modification permit under this SMP. However, the Ice Harbor Dam Natural Resource staff will evaluate impacts prior to issuing a vegetation modification permit for these activities. The spraying of herbicides on Federal property by private individuals is not permitted.

b. Planting

The construction of new docks and issuance of vegetation modification permits will require mitigation planting of the riparian zone as a condition of the permit and the real estate license, if applicable, in accordance with Appendix D, *Mitigation*. Riparian vegetation will be planted, maintained, and/or enhanced along the entirety of the Corps waterfront land adjacent to the dock/overwater structure.

Mitigation planting shall include riparian shrubs and trees from the list provided in Appendix D. The use of riparian shrubs and trees not listed in the appendix must be approved by the Corps and WDFW.

All plantings shall occur between October 15 and May 1, and be completed by May 1 of the same year following the start of construction of the overwater structure.

Plantings must have 100% survival for the first 5 years after planting. After the first 5 years, survival must be maintained at 80% for shrubs and 100% for trees. Individual plants that die must be replaced in kind (i.e., replace a tree with a tree) with species from the native list provided or other species approved by the Corps and WDFW. All trees and shrubs shall be maintained (watered, beaver protection installed, and replaced) for as long as the overwater structure is present, regardless of ownership of the structure. The rate for mitigation planting for a new dock is 5:1. Vegetation modification mitigation must be planted at a rate of 2:1.

12. Violation of Permit Conditions

Rules and regulations governing the shoreline management program are enforced through Title 36, CFR, Part 327.

The safety of the public and facility users is a high priority for this shoreline management program. All structures and activities authorized under a shoreline use permit are subject to inspection by the Ice Harbor Dam Natural Resource staff or a duly authorized representative of the Corps, Walla Walla District, at least once each year, or at such frequency deemed appropriate to ensure the safe condition of structures and compliance with the permit terms. The facility type, age, and level of use will generally determine the frequency of inspections. However, permitted facilities may be randomly inspected at any time a member of the Ice Harbor Dam Natural Resource staff is performing duties along the shoreline. Per the terms of the SMP permits, Corps personnel are permitted to access upland areas for the purpose of inspection without prior notification to the homeowner. As part of the inspection process, Corps personnel may photograph permitted facilities and any associated required mitigation planting, in order to fulfill an annual reporting requirement to NMFS.

If a deficiency is found during an inspection, the inspector will provide written notification to the permittee by mail. Upon written notification of permit deficiencies, the permittee shall conduct repairs or initiate corrective action to the satisfaction of the inspector within 30 days. If serious safety deficiencies are identified, the Ice Harbor Dam Natural Resource staff may post and restrict use of the facility until the deficiencies are corrected. After 30 days, a permittee's failure to repair a structure or otherwise fail to substantially comply with the terms and conditions of their SMP permit, may result in revocation of the permit, removal of facilities, restoration of the site, payment of collateral forfeiture, mandatory appearance before a US Magistrate, or stronger

penalties. Any removal of facilities will be performed at the permittee's expense, and the entire waterway and lands affected by the structures must be restored to their pre-construction condition. If the permittee fails to remove and restore the area to the satisfaction of the Ice Harbor Dam Natural Resource staff, the Corps will initiate actions by contract or otherwise, and seek to recover costs from the permittee.

Severe cases of destruction of public land or non-compliance with permit conditions may also result in a moratorium on the affected area of public land that will prevent the issuance of any new permit to the violating landowner.

13. Other Shoreline Uses

The SMP governs activities allowed on the public shoreline. Besides docks and vegetation permits, other private uses (i.e., stairways, steps, footbridges, hard-surfaced walkways, erosion control, etc.) may be approved using a real estate license. All other features not mentioned herein will be addressed on a case-by-case basis. Mitigation planting, as outlined in paragraph 12b above, will be required for issuance of a real estate license. Mitigation will vary, based upon the level of impact, and will be determined during the licensing process.

In scenarios where upland support structures (stairs, hard-surface paths, etc) are proposed on Corps-owned land in support of a dock permit, a real estate license will be required for the structure (excluding dock anchor blocks). A real estate license is issued by the Walla Walla District Real Estate office. Applicants for a real estate license are charged administrative costs in accordance with the Walla Walla District Administrative Fee Policy. A real estate license is issued for 5 years. Additional administrative costs are assessed for each 5-year renewal, but will terminate automatically if the associated SMP dock permit is not renewed or is revoked for cause. Real estate licenses are not transferrable. A real estate license issued for land-based support structures associated with a dock will be terminated if the dock permit is revoked. Applications for real estate licenses shall be obtained from, and submitted to, the Walla Walla District Real Estate office. Contact information can be found at *www.nww.usace.army.mil*.

a. Launching Ramps, Rails, and Tracks

Rails, tracks, mats, ramps, or any other similar structures for launching boats from adjacent private land or government land will not be allowed under a shoreline management plan permit. These types of structures may be authorized using a real estate license if the terms of the SMP are met and the proposed project site is located in a limited development area. Modification and alteration of land contours to provide boat launching will not be allowed. In the event that structures for launching

boats are proposed in areas where the government holds an easement interest, review of the proposals may required issuance of a "Consent-to-Easement to be issued. Requirements for consent to easements is dependent upon the easement estate held by the government, and whether the proposal impacts the easement's intended purpose.

b. Stairways, Steps, and Footbridges

Stairways, steps, and footbridges are not permitted under a SMP permit but may be allowed, under special circumstances, with a real estate instrument, as described in Paragraph 11, above. They shall be designed to minimize impacts to the natural environment. These facilities will be designed to provide a common pathway in order to serve as many individual interests in the immediate vicinity as possible. Building materials shall be metal, wood, stone, or similar material that can be removed if required. Poured concrete, mortared stone, block, or brick structures will not be allowed. In the event such structures have been previously permitted with specific terms, they may be allowed to remain in place. All structures, if painted, will be painted with earth tones (e.g., light greens and tans), in order to blend into the natural background. All structures constructed of a floatable material shall be firmly anchored in place. Trees shall not be used as anchoring devices.

Approval for new stairways, steps, footbridges, or similar type structures will not be provided unless being sought in conjunction with a dock. For existing cases where these structures are not presently associated with a dock facility, those existing structures will be allowed to be licensed. In the event that the property changes ownership, the structure will not be allowed to be licensed by the new owner unless it is associated with approval for, and construction of, a dock facility.

c. Hard-Surface Walkways

Hard-surface walkways designed to provide access for persons with disabilities may only be permitted using a real-estate license.

d. Electrical Service

Electrical service is not allowed on private docks or Corps-managed federal lands.

e. Storage

Storage lockers or other facilities shall not be located on the dock or federal property. Temporary placement of chairs, ice chests, etc. for use while recreating is acceptable, but should not be located on the dock long-term. Storage of

fuel, oil, mechanical parts, or other private property is prohibited on docks, walkways, or federal property. Storage of boats, fuel, furniture, etc. must be located on private property.

f. Erosion Control Devices

Erosion control techniques will be allowed where bank erosion is occurring adjacent to the privately-owned land. Bioengineering methods (tree and grass plantings, coconut fiber logs, branch wattles, and similar methods) will be the first technique used. If these fail, other methods involving rock or riprap, wood, poured concrete, or masonry may be considered. A real estate instrument is required for these activities, as described in Paragraph 11, and an approved instrument must be in place prior to construction. Advice and assistance from the Ice Harbor Dam Natural Resource staff is available, but the majority of planning and planting work, or construction, if necessary, will be the responsibility of the private landowner.

g. Private Irrigation Systems

Placement of any part of an irrigation system on federal land will require a real estate instrument. New licenses for irrigation systems will only be issued in limited development areas. These systems may also require the following:

- A Section 10 permit from the Corps, Seattle District, Regulatory section
- An easement from the Corps, Walla Walla District, Real Estate Division
- Documentation of a legal water right from the Washington State Department of Ecology
- A Washington State Hydraulic Project Approval (HPA) issued by the Washington Department of Fish and Wildlife

These requirements apply to areas in the State of Washington. Shoreline areas in Oregon contain only one limited development area, which is already leased. Should it become necessary in the future, the Ice Harbor Dam Natural Resource staff, in consultation with Walla Walla District technical staff, will revisit requirements for Oregon.

h. Yacht Clubs

Yacht club sites are governed by Corps real estate instruments, typically a lease, and should be requested through the Walla Walla District Real Estate Office.

Yacht club facilities located in limited development areas will continue under the conditions of their existing lease. Existing yacht club facilities located in areas other than limited development areas will continue to be allowed within their present lease arrangements. However, requests for new yacht clubs in areas other than those designated as limited development will not be allowed under this plan.

i. Facility Maintenance

The Corps requires that licensed facilities be operated and maintained by the licensee in a safe, usable condition at all times. If the facility is determined to be unsafe by inspectors, the Ice Harbor Dam Natural Resource staff will work with the licensee to establish a schedule for repair, replacement, or removal to resolve the issue. Failure to correct identified issues may result in revocation of the license. The determination of whether an upland support facility is unsafe is made at the discretion of the Corps.

j. Inspections

Licensed facilities and activities are subject to periodic inspection by authorized Corps representatives. Per the terms of the real estate licenses, Corps personnel are permitted to access upland areas for the purpose of inspection without prior notification to the homeowner. As part of the inspection process, Corps personnel may photograph the licensed facilities and required mitigation planting, in order to fulfill an annual reporting requirement to NMFS. Corps personnel will notify the licensee of any deficiencies and establish a reasonable schedule for their correction. No deviation or changes from approved plans will be allowed without prior written approval from the Corps.

14. Consent to Easement

In areas where the Corps does not own the shoreline, but holds a flowage easement, dock owners and applicants must apply for “Consent-to-Easement” from the Walla Walla District Real Estate Office for construction of upland support structures. In such cases, a Consent-to-Easement is required in addition to the SMP permit for a dock. Presently, there is no cost for the Consent-to-Easement real estate instrument, but approval must be given by the Corps, Walla Walla District, for any development that may alter flowage capacity. The consent may require special terms, depending on site conditions. Revocation of a SMP permit will revoke any real estate instrument associated with the development of the dock on the shoreline.

15. Unauthorized Structures and Encroachment Resolution

A number of administrative procedures may be employed, independently or in concert, depending on individual case circumstances, to resolve encroachments, unauthorized uses/activities, and trespasses.

a. Unauthorized Structures and Activities

All private facilities and activities on federal lands owned and/or managed by the Corps must be covered by a permit, license, lease, easement, or other legal instrument. Facilities not covered by a legal instrument will be considered unauthorized, and are subject to removal in accordance with Title 36 CFR, Part 327.20 or as with any encroachment, as described in paragraph (b), below. In addition, the owner of the unauthorized structure may be cited and required to appear before a US Magistrate for violation of the same CFR.

b. Encroachments

The Corps maintains regulations and policies designed to resolve encroachments. The Walla Walla District has developed an encroachment policy which outlines appropriate procedures to resolve encroachments, using the authority contained in Title 36 of the CFR, real estate regulations, and other appropriate legal actions. The actions described in the following paragraphs should be used to assist in resolving encroachments.

1) Appending an Existing Shoreline Use Permit/License.

Once an encroachment has been identified, any associated shoreline use permit/license should be appended with a special condition to indicate the nature of the encroachment and that it must be resolved. This special condition to the permit will aid in the revocation or non-reissuance of the permit should these measures be required at a later date. It will also assist project staff in maintaining a readily accessible source of reliable information as to the current status and future availability of the permit/license.

2) Termination/Non-Reissuance of Shoreline Use Permit.

Termination/Non-Reissuance relies on administrative and civil remedies in lieu of criminal prosecution pursuant to Title 36, CFR. Non-reissuance should be a recourse when a major encroachment is one that the owner could reasonably be expected to cure with minimal to moderate efforts. Examples include all or portions of sheds, barns, out buildings, decks, and porches. In these instances, when a shoreline use permit comes up for renewal and an encroachment has been identified, the permit will not be reissued. The permittee will be formally notified through

a "cure letter" to remove all facilities associated with the permit/license. If voluntary removal cannot be effected following a reasonable time period, a coordinated decision should be made to either pursue summary removal or to achieve removal through civil remedies. Any cost of removal borne by the Government, will be recouped from the owner.

3) Issuing a Prorated Shoreline Use Permit/License.

An expiring permit/license identified with an encroachment may be reissued for a period of less than 5 years. This is appropriate when an investigation is still ongoing, or there is pending civil action and immediate termination would result in the facility remaining on the project unauthorized for a prolonged period of time. Prorating the permit/license gives the Corps time to verify the facts in the case and coordinate termination of the permit to coincide with activities being pursued under civil action. Fees will be prorated appropriately.

4) Change of Ownership.

When a shoreline use permit/license comes up for issuance to a new owner, and an encroachment has been identified on the property, a new permit will not be issued until the encroachment is cleared. The facility will be treated as an unauthorized structure and, as such, is subject to administrative procedures identified herein to achieve removal. In such instances, administrative and civil remedies will be pursued to ensure removal of the encroachment and the formerly permitted facilities, in lieu of criminal actions pursuant to Title 36, CFR Part 327.30.

5) Revocation of Shoreline Use Permit/License.

Authority, under Title 36, CFR, Part 327.30, *Lakeshore Management on Civil Works Projects*, may be used to revoke shoreline use permits of adjacent landowners who have unresolved encroachments. Under Condition 21 of the permit, the Walla Walla District Commander may revoke shoreline use permits/licenses by 30 days written notice if determined to be in the public interest.

When an encroaching party demonstrates an unwillingness to cooperate and voluntarily remove an encroachment within a reasonable period of time (typically 60 days or less), a decision may be made to revoke any shoreline use permits/licenses associated with the property. This decision should be reached only after coordination with District Operations, Real Estate, and Office of Counsel. Once a coordinated decision to revoke has been reached, the steps to implement the decision are outlined below.

- Letter of intent to recommend revocation. This letter should be signed by the Ice Harbor Dam Natural Resource Manager.
- Revocation of the permit. Letter signed by the District Commander revoking the permit at the end of a 30-day period.
- Hearing by the District Commander, if requested pursuant to condition 21. Following consideration of information presented at a hearing, a final decision will be rendered by the District Commander.

Any mutually agreed upon course of remedial action approved by the District Commander will then be implemented or followed or, if the offending structure or encroachment is not voluntarily removed within the prescribed timeframe, a decision to either pursue summary removal or achieve removal through civil remedies will be coordinated. Any removal costs borne by the Government should be recouped from the owner.

16. Administrative Review

The Ice Harbor Dam Natural Resource staff will conduct an administrative review to resolve situations relative to permit issues not specifically addressed in this SMP. Determinations will be made based on public laws, policies, and other regulatory guidance and standard practices utilized when assessing the impacts of proposed actions on federal lands.

17. Periodic Review

This SMP will be reviewed periodically, but no less often than every five (5) years to determine the need for update. When changes to the SMP are needed the SMP will generally be formally updated through the public participation process. The District Commander may make minor revisions to the SMP without formally updating the SMP. For example, changes made from time-to-time to Appendices B-F of this SMP will generally be considered a minor revision.

18. Summary

The management strategy employed in the McNary Shoreline Management Plan seeks to balance compliance with Federal laws and regulations, public recreation, the preservation of natural resources, and the authorized private use of the federally-managed shoreline and project waters. In the development of this plan, the Corps examined various management alternatives. The resulting plan complies with Federal laws and protects natural and cultural resources, and, with mitigation, allows private dock facilities on public land and/or project waters.

The Corps will monitor the needs of both the natural resources and the lake users, and will recommend revisions to this plan as needed. The McNary Shoreline Management Plan will be evaluated every 5 years to determine whether revision is necessary. Prior to any major revision to the plan, the public will be notified and public meetings will be held to assess user needs and desires. The ESA consultation will be re-initiated every five years, as required by applicable biological opinions of NMFS and USFWS.

The Ice Harbor Dam Natural Resource staff is always available to address any questions related to the McNary Shoreline Management Plan and the policies outlined therein. Current contact information for the Ice Harbor Dam Natural Resource staff can be found at *www.nww.usace.army.mil*.

Appendix A: Shoreline Use Allocation Maps

(These maps are current as of December 2011. A pending land transfer to US Fish and Wildlife Service will affect the total amount of shoreline in the vicinity of Wallula.)

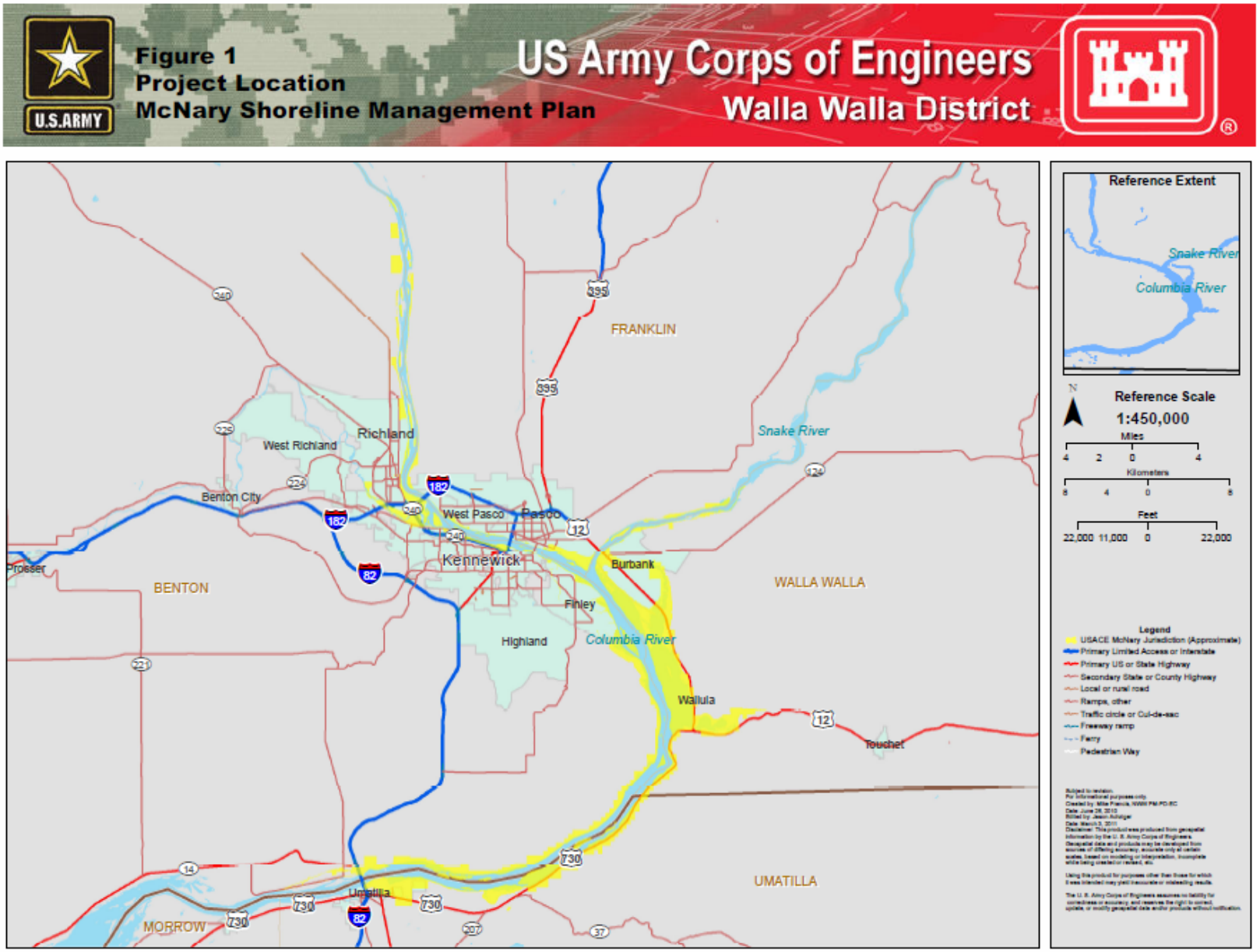


Figure 1
Project Location
McNary Shoreline Management Plan
US Army Corps of Engineers
Walla Walla District
U.S.ARMY
FRANKLIN
BENTON
WALLA WALLA
UMATILLA
MORROW
Richland
West Richland
Benton City
Prosser
West Pasco
Pasco
Kennewick
Burbank
Finley
Highland
Wallula
Touchet
Umatilla
Snake River
Columbia River
Reference Extent
Reference Scale
1:450,000
Miles
Kilometers
Feet
Legend
USACE McNary Jurisdiction (Approximate)
Primary Limited Access or Interstate
Primary US or State Highway
Secondary State or County Highway
Local or rural road
Ramps, other
Traffic circle or Cul-de-sac
Freeway ramp
Ferry
Pedestrian Way

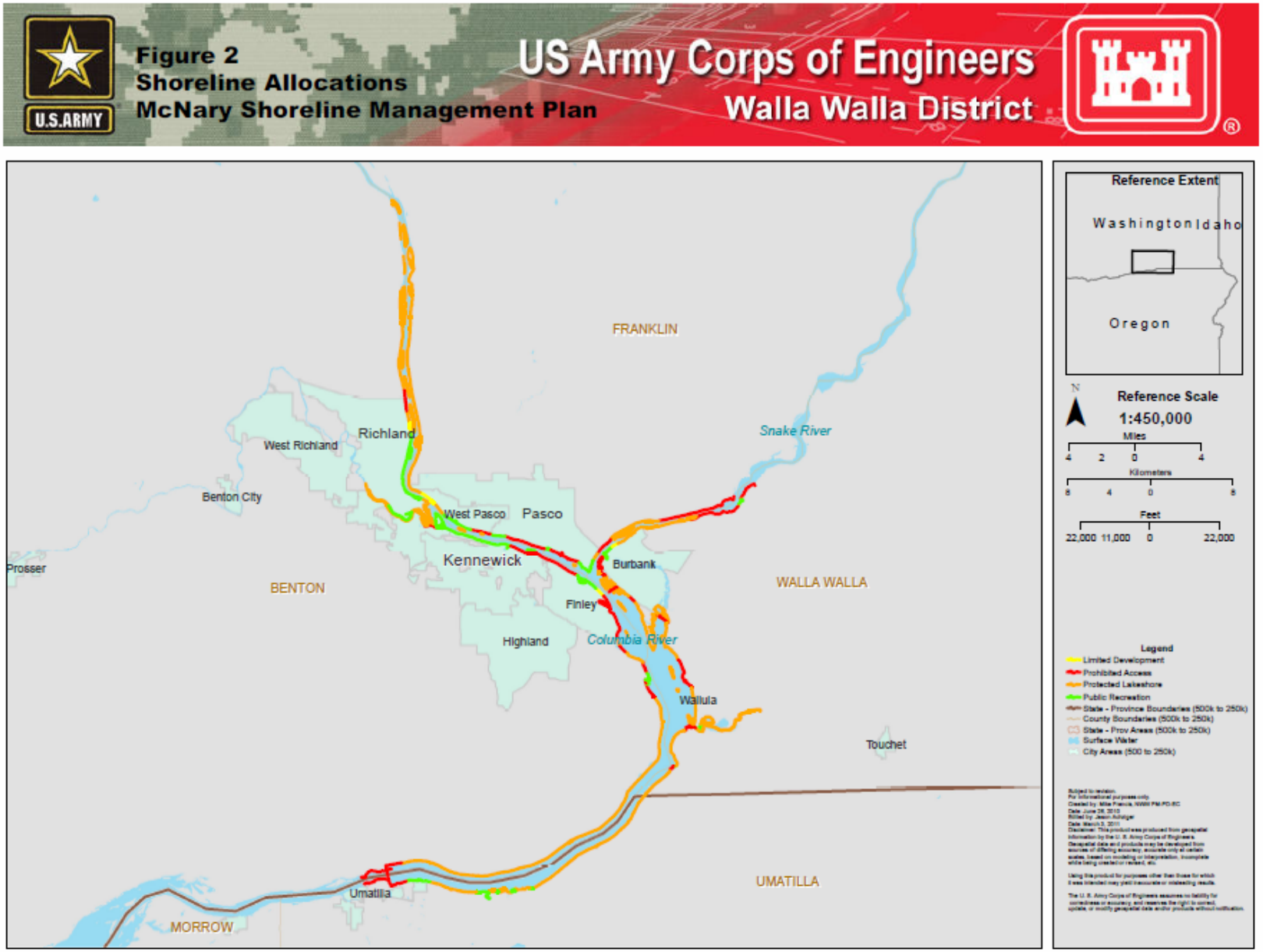
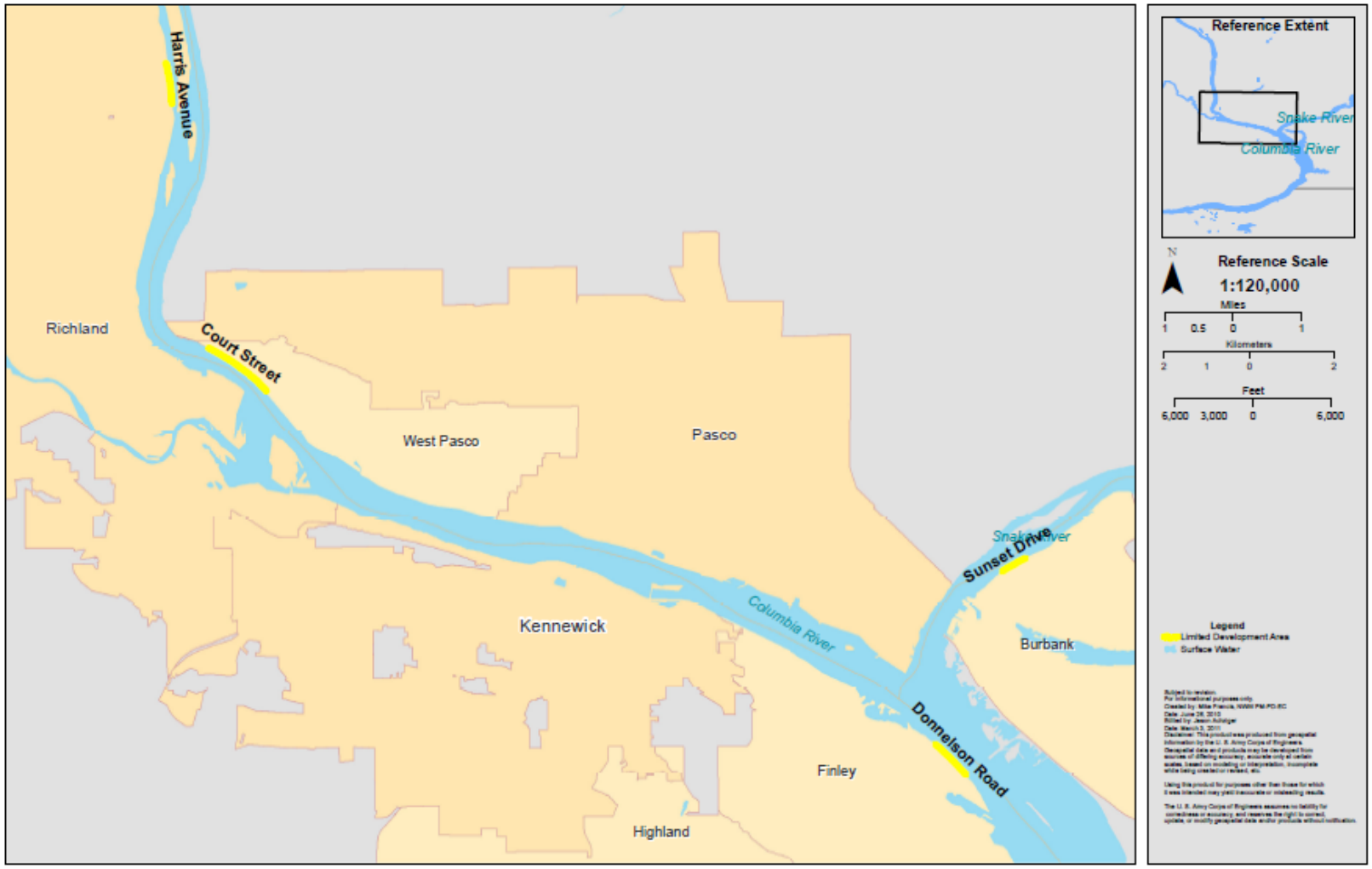


Figure 2
Shoreline Allocations
McNary Shoreline Management Plan
US Army Corps of Engineers
Walla Walla District
U.S.ARMY
FRANKLIN
Richland
West Richland
Benton City
West Pasco
Pasco
Kennewick
Burbank
Prosser
BENTON
Finley
Highland
Columbia River
Snake River
WALLA WALLA
Wallula
Touchet
Umatilla
MORROW
UMATILLA
Reference Extent
Washington
Idaho
Oregon
N
Reference Scale
1:450,000
Miles
4 2 0 4
Kilometers
8 4 0 8
Feet
22,000 11,000 0 22,000
Legend
Limited Development
Prohibited Access
Protected Lakeshore
Public Recreation
State - Province Boundaries (500k to 250k)
County Boundaries (500k to 250k)
State - Prov Areas (500k to 250k)
Surface Water
City Areas (500 to 250k)

Figure 3
Shoreline Allocations
McNary Shoreline Management Plan

US Army Corps of Engineers
Walla Walla District



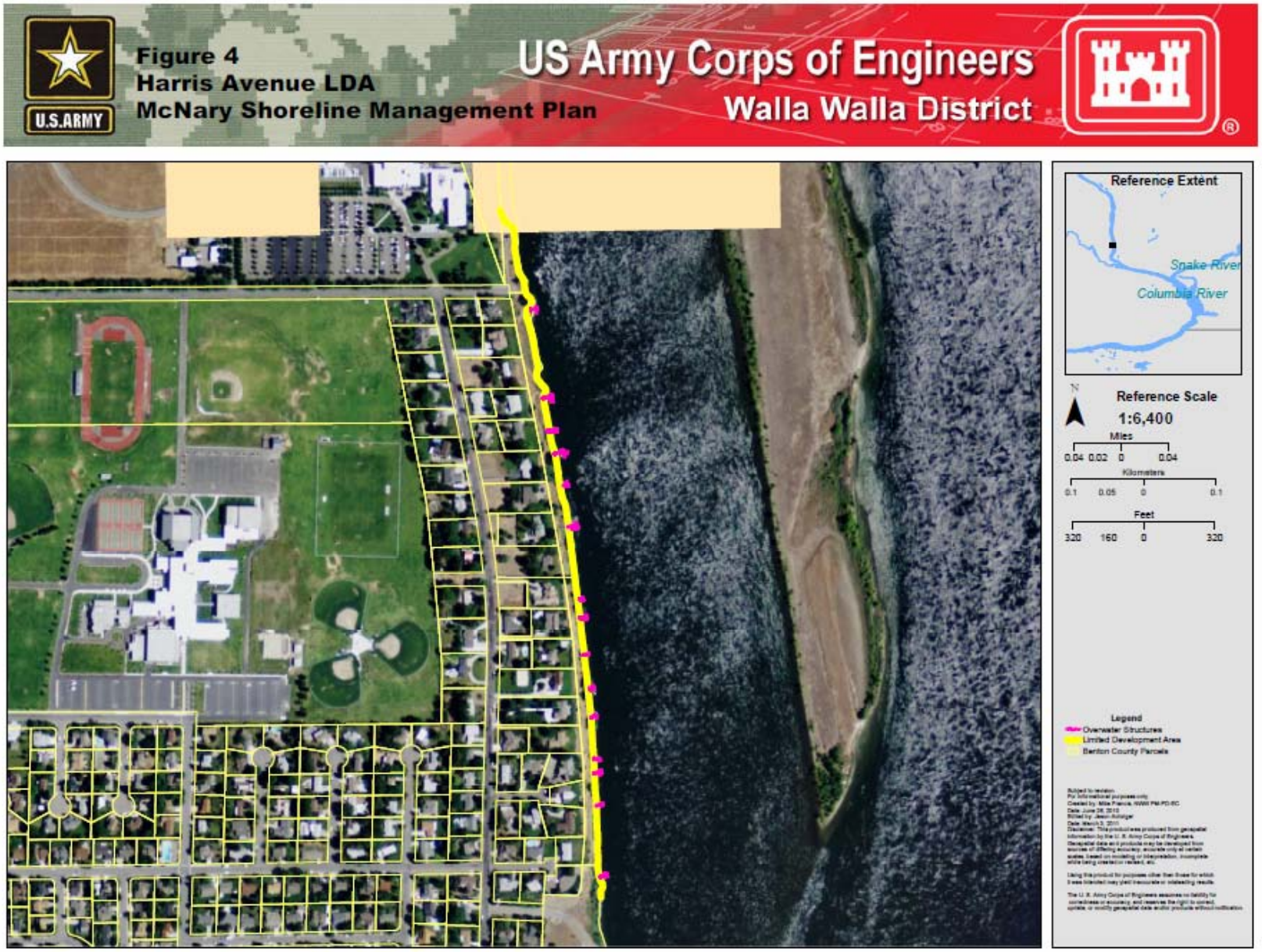

U.S.ARMY
Figure 4
Harris Avenue LDA
McNary Shoreline Management Plan
US Army Corps of Engineers
Walla Walla District
Reference Extent
Snake River
Columbia River
N
Reference Scale
1:6,400
Miles
0.04 0.02 0 0.04
Kilometers
0.1 0.05 0 0.1
Feet
320 160 0 320
Legend
Overwater Structures
Limited Development Area
Benton County Parcels

Figure 5
Court Street LDA
McNary Shoreline Management Plan

US Army Corps of Engineers
Walla Walla District

Figure 6
Donelson Road LDA
McNary Shoreline Management Plan

US Army Corps of Engineers
Walla Walla District

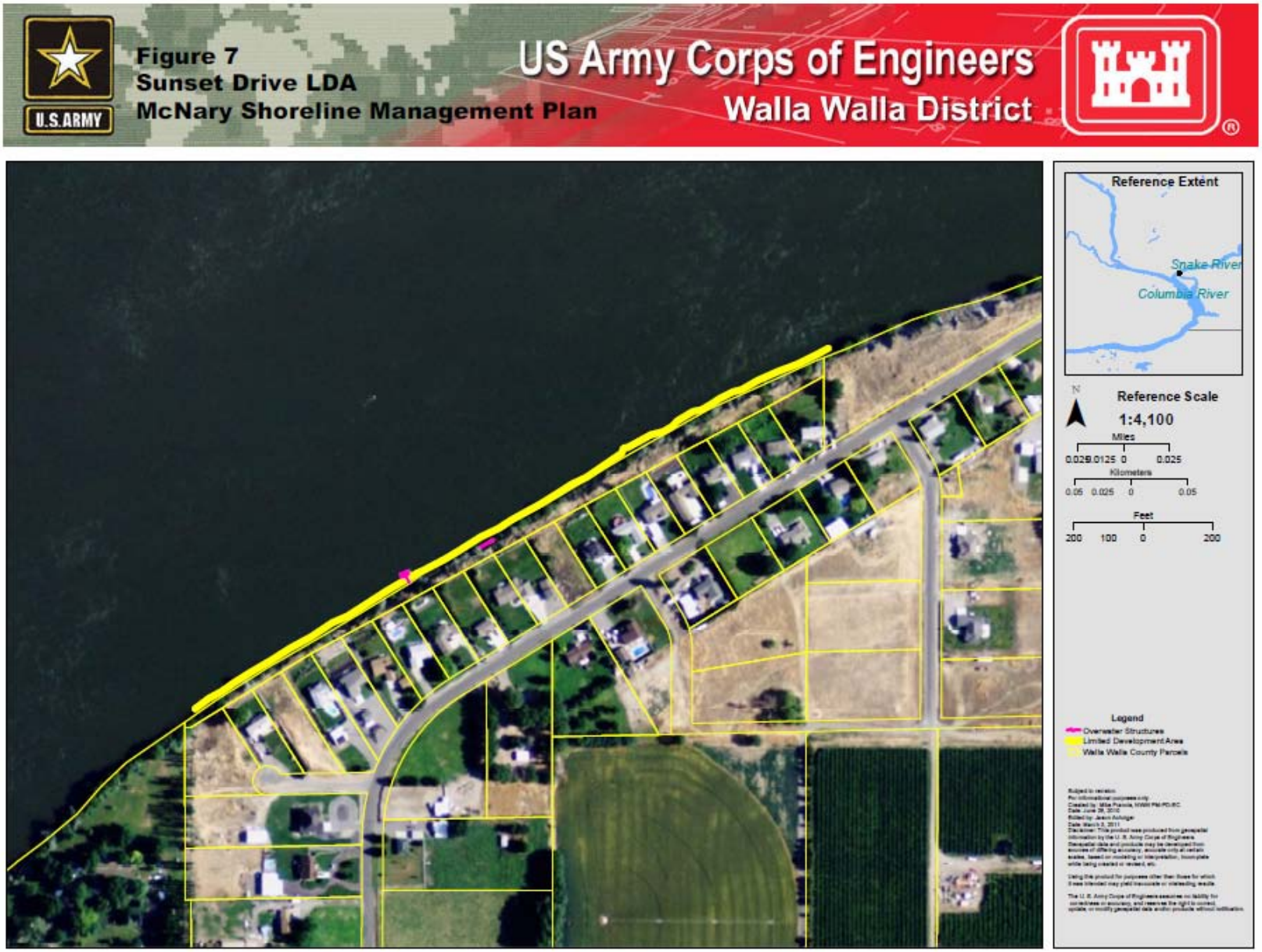
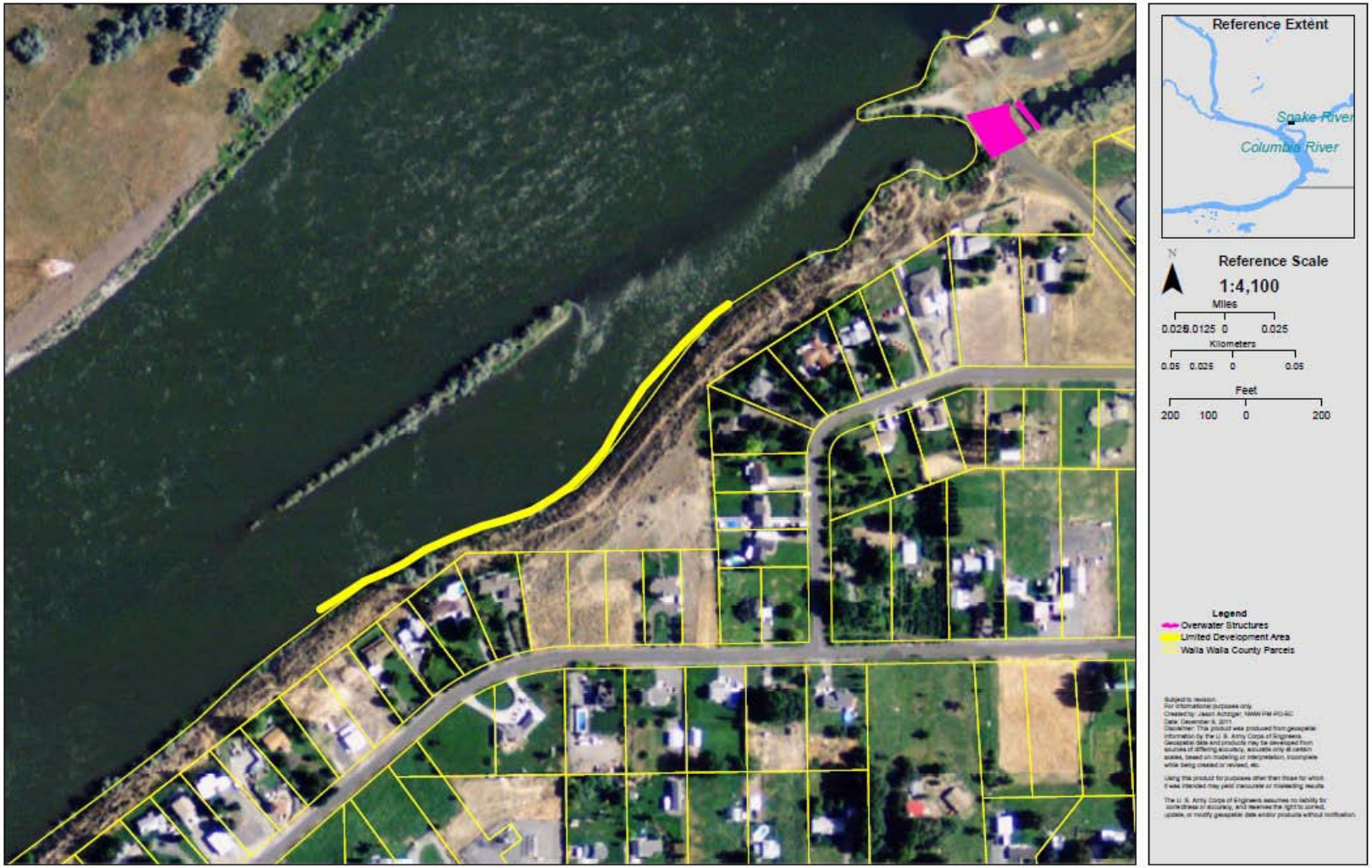


Figure 7
Sunset Drive LDA
McNary Shoreline Management Plan
US Army Corps of Engineers
Walla Walla District
U.S. ARMY
Reference Extent
Snake River
Columbia River
N
Reference Scale
1:4,100
Miles
0.025 0.0125 0 0.025
Kilometers
0.05 0.025 0 0.05
Feet
200 100 0 200
Legend
Overwater Structures
Limited Development Area
Walla Walla County Parcels

Figure 8
Burbank Heights LDA
McNary Shoreline Management Plan

US Army Corps of Engineers
Walla Walla District



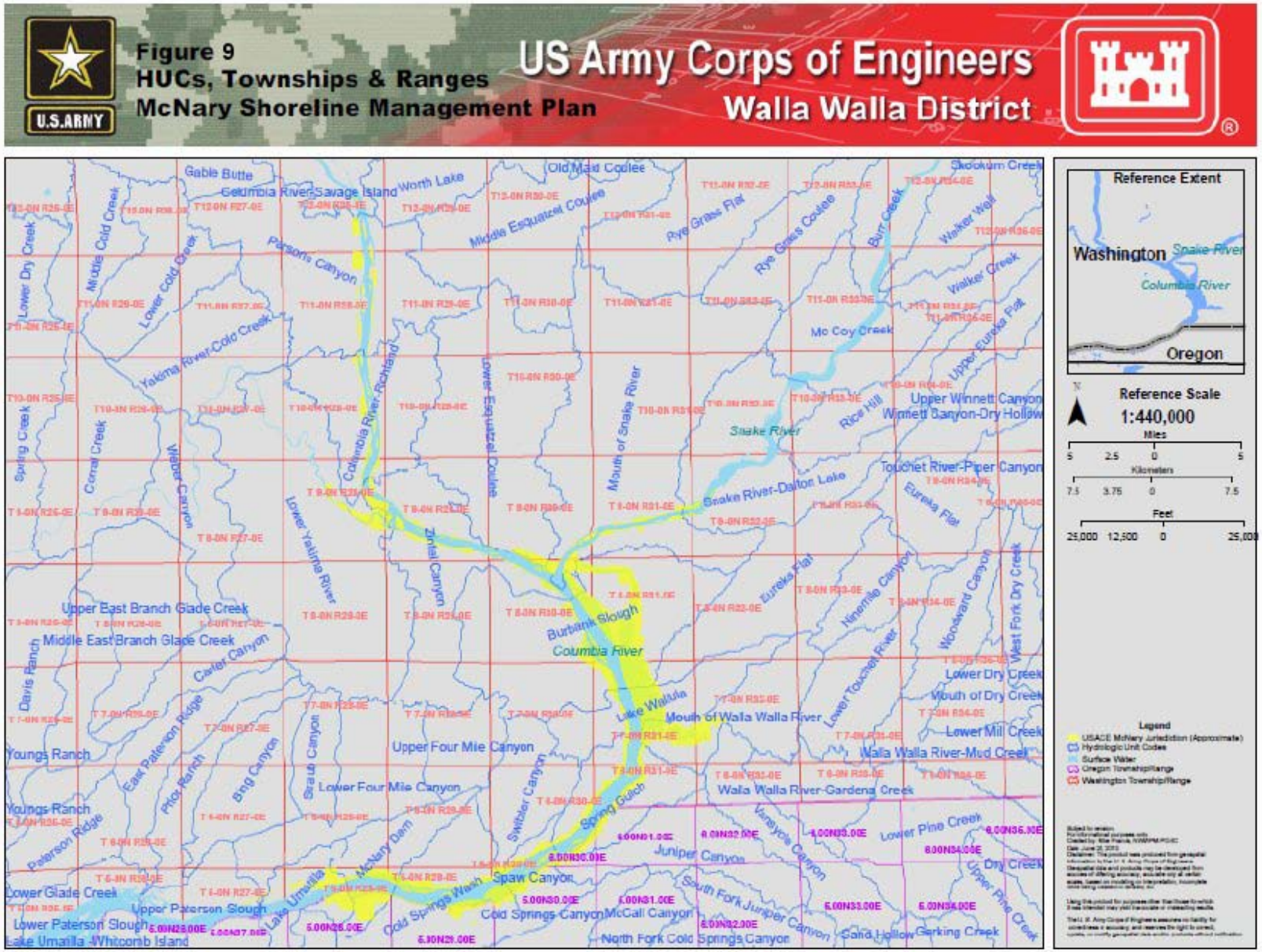


Figure 9
HUCs, Townships & Ranges
McNary Shoreline Management Plan
U.S.ARMY
US Army Corps of Engineers
Walla Walla District
Reference Extent
Washington
Snake River
Columbia River
Oregon
Reference Scale
1:440,000
Miles
Kilometers
Feet
Legend
USACE McNary Jurisdiction (Approximate)
Hydrologic Unit Codes
Surface Water
Oregon Township/Range
Washington Township/Range
Gable Butte
Columbia River-Savage Island
Worth Lake
Old Maid Coulee
Skookum Creek
Middle Esquatzel Coulee
Rye Grass Flat
Rye Grass Coulee
Burr Creek
Walker Well
Walker Creek
Parsons Canyon
Lower Dry Creek
Middle Cold Creek
Lower Cold Creek
Yakima River-Cold Creek
Mc Coy Creek
Upper Eureka Flat
Columbia River-Richland
Lower Esquatzel Coulee
Mouth of Snake River
Rice Hill
Upper Winnett Canyon
Winnett Canyon-Dry Hollow
Snake River
Spring Creek
Canal Creek
Walker Canyon
Snake River-Dalton Lake
Touchet River-Piper Canyon
Eureka Flat
Lower Yakima River
Zintal Canyon
Hinerville Canyon
Woodward Canyon
West Fork Dry Creek
Upper East Branch Glade Creek
Middle East Branch Glade Creek
Burbank Slough
Columbia River
Davis Ranch
Cater Canyon
Lower Touchet River
Lower Dry Creek
Mouth of Dry Creek
Lake Wallula
Mouth of Walla Walla River
Lower Mill Creek
Walla Walla River-Mud Creek
Youngs Ranch
East Paterson Ridge
Price Ranch
Bing Canyon
Strait Canyon
Upper Four Mile Canyon
Lower Four Mile Canyon
Switzler Canyon
Spring Gulch
Walla Walla River-Gardena Creek
Paterson Ridge
McNary Dam
Juniper Canyon
Lower Pine Creek
Dry Creek
Upper Pine Creek
Lower Glade Creek
Upper Paterson Slough
Lower Paterson Slough
Lake Umatilla-Whitcomb Island
Lake Umatilla
Cold Springs Wash
Spaw Canyon
Cold Springs Canyon
McCall Canyon
North Fork Cold Springs Canyon
South Fork Juniper Canyon
Sand Hollow
Gerking Creek

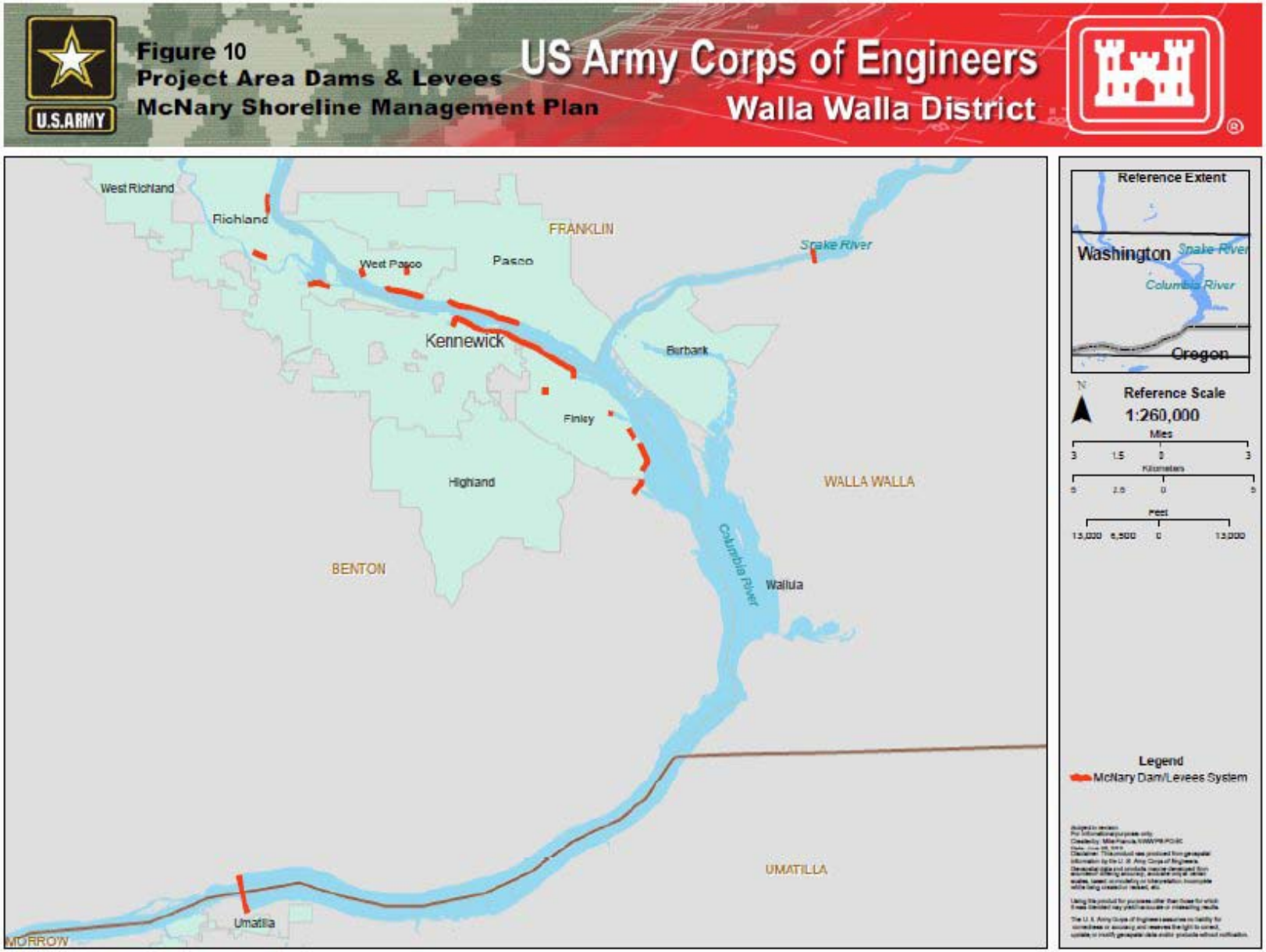


Figure 10
Project Area Dams & Levees
McNary Shoreline Management Plan
US Army Corps of Engineers
Walla Walla District
U.S.ARMY
West Richland
Richland
FRANKLIN
West Pasco
Pasco
Snake River
Kennewick
Burbank
Finley
Highland
WALLA WALLA
BENTON
Columbia River
Wallula
UMATILLA
Umatilla
MORROW
Reference Extent
Washington
Snake River
Columbia River
Oregon
N
Reference Scale
1:260,000
Miles
3 1.5 0 3
Kilometers
5 2.5 0 5
Feet
15,000 6,500 0 15,000
Legend
McNary Dam/Levees System

Appendix B: Dock Design Criteria

Lake Wallula/McNary Pool Residential Overwater Structure Design Criteria

Approved by:
National Marine Fisheries Service
Washington State Department of Fish and Wildlife
U. S. Army Corps of Engineers - Walla Walla District
June 2010

These dock design criteria were developed by the US Army Corps of Engineers (Corps), National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries), and Washington Department of Fish and Wildlife (WDFW) to minimize impacts to Endangered Species Act (ESA) species and critical habitat. The criteria are designed to minimize structure in the water, maximize light penetration under dock floats, and maximize depth under dock floats.

1. Objectives

- Overwater structure design, construction, and use shall minimize degradation of aquatic, near-shore, and shoreline habitats.
- Overwater structures shall not impede any juvenile or adult salmonid life stage, including migration, rearing, and spawning.
- Overwater structures shall not enhance habitats used by potential salmonid predators (especially fishes and birds).

2. Overwater structure definitions

- A residential overwater structure typically consists of a shoreline anchor, ramp, and float. The structure may also include pile(s) and/or float anchor(s).
- Functional grating is the area not covered or blocked by any objects (i.e., framing wood, flotation tubs, etc.). The percent of functional grating is in relation to the surface area of the float.

3. Piers and ramps

- To prevent damage to shallow-water habitat, piers and/or ramps shall extend at least 40 feet perpendicular from the ordinary high water mark (OHWM). The Corps recognizes that in some instances and sites, it may not be practical to extend a ramp 40' from OHWM (for instance, where this could conflict with navigation). The Corps will consider exceptions on a case-by-case basis.
- Piers and ramps shall be no more than 4 feet in width.

- The bottom of either the pier or landward edge of the ramp shall be elevated at least 2 feet above the plane of OHWM.

- Grating shall cover the entire surface area (100%) of the pier and/or ramp. The open area of grating shall be at least 50%, as rated by the manufacturer.

- Skirting shall not be placed on piers, ramps, or floats. Protective bumper material will be allowed along the outside edge of the float as long as the material does not extend below the bottom edge of the float frame or impede light penetration.

- Shoreline concrete anchors must be placed at least 10 feet landward from the OHWM, and shall be sized no larger than 4-feet wide by 4-feet long, unless otherwise approved by NOAA Fisheries, the Corps, and WDFW. The maximum anchor height shall be only what is necessary to elevate the bottom of either the pier or landward edge of the ramp at least 2 feet above the plane of OHWM. The intent of this criterion is to limit impacts to riparian vegetation along the shoreline. The Corps may evaluate placement of anchor blocks individually if requested, and allow variance from the 10 foot landward requirement if site conditions warrant. Exceptions will be considered on a case-by-case basis.

4. Preservatives

- The dock shall be built with materials that do not leach preservatives or other materials.

- No treated wood of any kind shall be used on any overwater structure (float, pier, or ramp).

- No paint, stain, or preservative shall be applied to the overwater structure.

5. Preconstruction and construction activities

- If native vegetation is moved, damaged, or destroyed, it shall be replaced with a functional native species equivalent during site restoration.

- Any large wood, native vegetation, topsoil, and/or native channel material displaced by construction shall be stockpiled for use during site restoration.

- No existing habitat features (i.e., woody debris, substrate materials) shall be removed from the shore or aquatic environment without approval or permits from the Corps.

- Construction impacts shall be confined to the minimum area needed to complete the project.

- The boundaries of clearing limits associated with site access and construction shall be flagged to prevent ground disturbance of riparian vegetation, wetlands, and other sensitive sites beyond the flagged boundary. This action shall be completed before any significant alteration of the project area.

- A supply of sediment control materials [i.e., silt fence, straw bales, coconut fiber (coir) bales] shall be available onsite. This action shall be completed prior to significant alteration of the project area.

- All temporary erosion controls shall be in place and appropriately installed downslope of project activities within the riparian area until site restoration is complete.

6. General

- No electricity shall be provided to, or on, the overwater structure.

- No boat lifts or watercraft lifts (e.g., jet ski lifts) of any type will be placed on, or in addition to, the overwater structure. The Corps will assess boat lifts and their impacts, if proposed, if the applicant can demonstrate that the proposed boat lift meets the intent of the criteria to minimize structure, maximize light penetration, and maximize depth. However, these structures must meet the size criteria of the plan (total 160 square feet).

- Shoreline armoring (i.e., bulkheads, rip-rap, and retaining walls) shall not occur in association with installation of the overwater structure.

- Construction of the overwater structure shall be completed during the in-water work window (November 1 to February 28).

7. Piling and float anchors

- Piling shall not exceed 8 inches in diameter. The Corps will work with current dock owners who have pilings. The intent of this criterion is not to require existing pilings to be removed, cut, or capped, but to place limits on the size of new pilings. The Corps recognizes that removal of existing pilings has potential to cause damage to critical habitat, and where it makes sense, will work with current owners who have pilings. In areas where safety considerations merit it, larger pilings may be considered on a case-by-case basis.

- Pilings shall be spaced at least 18 feet apart on the same side of any component of the overwater structure. The pier/ramp and float are separate components.

- Each overwater structure shall utilize no more than 4 piles total for the entire project. A combination of two piles and four helical anchors may be used in place of four piles.

- All pilings shall be fitted with devices to prevent perching by piscivorous (fish-eating) birds.

- Submerged float anchors will be constructed from concrete; and shall be horizontally compressed in form, by a factor of 5 or more, for a minimum profile above the stream bed (the horizontal length and width will be at least 5 times the vertical height).

- No in-water fill material will be allowed, with the exception of pilings and float anchors. (Note: uncured concrete or its by-products shall not be allowed.)

8. Floats

- Float components shall not exceed the dimensions of 8- by 20-feet, or an aggregate total of 160 square feet, for all float components.

- Flotation materials shall be permanently encapsulated to prevent breakup into small pieces and dispersal in water (e.g., rectangular float tubs).

- Grating shall cover 100% of the surface area of the float(s). The open area of the grating shall be no less than 50%, as rated by the manufacturer.

- Functional grating will cover no less than 50% of the float.

- Floats shall not be located in shallow-water habitat where they could ground or impede the passage or rearing of any salmonid life stage.

- Nothing shall be placed on the overwater structure that will reduce natural light penetration through the structure.

- Floats shall be positioned at least 40 feet horizontally from the OHWM and no more than 100 feet from the OHWM, as measured from the landward-most edge of the float. The Corps recognizes that in some locations this may present issues of safety or be excessive for site conditions, and will work with landowners on an individual basis to adjust this requirement where it makes sense on a case-by-case basis.

- Project construction shall cease under high flow conditions that could result in inundation of the project area except for efforts to avoid or minimize resource damage.

9. References

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Appendix C: Shoreline Use Permit Conditions and Application Checklist

1. New Dock Permit Applications

- Contact the US Army Corps Of Engineers (Corps), Ice Harbor Natural Resource Section, and request an appointment with the staff member responsible for the Shoreline Management Program (SMP)
- The Ice Harbor Dam Natural Resource staff member will discuss the SMP with you
  - Applicants for dock permit must meet the requirements outlined in the SMP, Paragraph 9
- If requirements are met, you will be given an application packet to complete and return to the Ice Harbor Natural Resource Office (within 90 days) for review and consideration. Your completed application package must include the following:
  - Two (2) completed and signed original applications
  - One (1) copy of property deed or settlement statement (Note: Must be signed and notarized)
  - Copy of property plat
  - One (1) site plan drawing
  - Two (2) detailed scaled plans with written certification by a licensed professional engineer that meets the design, construction, and depth requirements outlined in Appendix B of the SMP
  - A check, in the amount of $35.00, made out to USAED Millington Finance Center
  - Proof of Joint Aquatic Resource Permit Application (JARPA) submittal

2. Dock Permit Renewals and Inspections

- The renewal of permits is the responsibility of the permit holder
- All permitted private boat docks will be inspected at least once annually to determine compliance with permit conditions
  - Annual inspections will be conducted each year in the Fall or the Spring, depending on weather and lake elevation
    - If a deficiency is found during an inspection, the inspector will provide written notification to the permittee by mail
    - Upon written notification of permit deficiencies, the permittee shall conduct repairs or initiate corrective action to the satisfaction of the inspector within 30 days

3. New Vegetation Modification Permit Application

- Contact the Corps, Ice Harbor Dam Natural Resource staff, and request an appointment with the staff member responsible for the SMP
- The Ice Harbor Dam Natural Resource staff will discuss the SMP with you
  - Applicants for vegetation modification permit must meet the requirements as outlined in the SMP, Paragraph 14
- If requirements are met you will be given an application packet to complete and return to the Ice Harbor Dam Natural Resource Office (within 90 days) for review and consideration. Your completed application package must include the following
  - Two (2) completed and signed original applications
  - One (1) copy of property deed or settlement statement (Note: Must be signed and notarized)
  - Copy of property plat
  - One (1) site plan drawing
  - A check, in the amount of $10.00, made out to <u>USAED Millington Finance Center</u>
- Permitted Activities
  - Mowing to reduce fire-danger
  - Un-surfaced access trail to the shoreline.
    - Not to exceed 4 feet in width
- Prohibited Activities
  - Clearing of trees and understory vegetation
  - Planting of non-native and ornamental vegetation
  - Grading
  - Burning
  - Placement of unpermitted items
    - Such as swings, picnic tables, benches, storage shed, boat trailers, irrigation systems, etc.

4. Vegetation Modification Permit Renewal and Inspection

- The renewal of permits will be initiated by the Corps
- All vegetation modification permits will be inspected at least once annually to determine compliance with permit conditions
  - Annual inspections will be conducted in the spring/early summer of each year, depending upon weather
    - If a deficiency is found during an inspection, the inspector will provide written notification to the permittee by mail
    - Upon written notification of permit deficiencies, the permittee shall conduct repairs or initiate corrective action to the satisfaction of the inspector within 30 days

5. Shoreline Use Permit Conditions

a. The SMP is granted solely to the applicant, for the purpose described in the permit.

b. The permittee agrees to, and does hereby, release and agree to save and hold the Government harmless from any and all causes of action, suits at law or equity, or claims or demands or from any liability of any nature whatsoever for or on account of any damages to persons or property, including a permitted facility, growing out of the ownership, construction, operation, or maintenance by the permittee of the permitted facilities and/or activities.

c. Ownership, construction, operation, use and maintenance of a permitted facility are subject to the Government's navigation servitude.

d. No attempt shall be made by the permittee to forbid the full and free use by the public of all public waters and/or lands at or adjacent to the permitted facility, or to unreasonably interfere with any authorized project purposes, including navigation in connection with the ownership, construction, operation, or maintenance of a permitted facility and/or activity.

e. The permittee agrees that:

- if subsequent operations by the Government require an alteration in the location of a permitted facility and/or activity; or
- if, in the opinion of the District Commander, a permitted facility and/or activity shall cause unreasonable obstruction to navigation; or
- that public interest so requires

the permittee shall be required, upon written notice from the District Commander, to remove, alter, or relocate the permitted facility without expense to the Government.

f. The Government shall, in no case, be liable for any damage or injury to a permitted facility which may be caused by or result from subsequent operations undertaken by the Government for the improvement of navigation or for other lawful purposes, and no claims or right to compensation shall accrue from any such damage. This includes any damage that may occur to private property if a facility is removed for non-compliance with the conditions of the permit.

g. Ownership, construction, operation, use, and maintenance of a permitted facility and/or activity are subject to all applicable Federal, State, and Local laws and regulations. Failure to abide by these applicable laws and regulations may be cause for revocation of the permit.

h. This permit does not convey any property rights, either in real estate or material; and does not authorize any injury to private property or invasion of private rights or any infringement of Federal, State, or Local laws or regulations; nor does it obviate the necessity of obtaining state or local assent required by law for the construction, operation, use and maintenance of a permitted facility and/or activity.

i. The permittee agrees that he/she will complete the facility construction action within one year of the permit issuance date. The permit shall become null and void if construction is not completed within that period. Further, the permittee agrees to operate and maintain any permitted facility and/or activity in a manner so as to provide safety, minimize any adverse impact on fish and wildlife habitat, natural, environmental, or cultural resources values and in a manner so as to minimize the degradation of water quality.

j. The permittee shall remove a permitted facility within 30 days, at his /her expense, and restore the waterway and lands to a condition accepted by the resource manager upon termination or revocation of this permit or if the permittee ceases to use, operate or maintain a permitted facility and/or activity. If the permittee fails to comply to the satisfaction of the resource manager, the District Commander may remove the facility by contract or otherwise and the permittee agrees to pay all costs incurred thereof.

k. The use of a permitted boat dock facility shall be issued to the mooring of the permittee's vessel or watercraft.

l. Neither a permitted facility or any houseboat, cabin cruiser, or other vessel moored thereto shall be used as a place of habitation or as a full or part-time residence, or in any manner that gives the appearance of converting the public property, on which the facility located, to public use.

m. Facilities granted under this permit will not be leased, rented, sub-let or provided to others by any means of engaging in commercial activity(s) by the permittee or his/her agent for monetary gain.

n. Permitted facilities and activities are subject to periodic inspection by authorized Corps representatives. The Ice Harbor Dam Natural Resource staff will notify the permittee of any deficiencies and together establish a schedule for their correction. No deviation or changes from approved plans will be allowed without prior written approval of the resource manager.

o. Floating facilities shall be securely attached to the shore in accordance with the approved plans by means of moorings which do not obstruct general public use of the shoreline or adversely affect the natural terrain or vegetation. Anchoring to vegetation is prohibited.

p. The permit display tag shall be posted on the permitted facility and/or on the land areas covered by the permit, so that it can be easily checked visually, in accordance with instructions provided by the Ice Harbor Dam Natural Resource staff.

q. No vegetation other than that prescribed in the permit will be damaged, destroyed, or removed. No vegetation of any kind will be planted, other than that specifically prescribed in the permit.

r. No change in land form (i.e., grading, excavation, or filling) is authorized by this permit.

s. This permit is non-transferable. Upon sale or other transfer of the permitted facility or the death of the permittee and his/her legal spouse, this permit is null and void.

t. The District Commander may revoke this permit whenever the public interest necessitates such revocation or when the permittee fails to comply with any permit conditions or terms. Such revocation shall be performed by sending a 30-day notice of the impending action, mailed to the permittee by certified letter. The revocation notice shall specify the reasons for such action. If the permittee requests a hearing in writing to the District Commander through the resource manager within the 30 day period, the District Commander shall grant such hearing at the earliest opportunity. In no event shall the hearing date be more than 60 days from the date of the hearing request. Following the hearing, a written decision will be rendered and a copy mailed to the permittee by certified letter. The permittee may, within 5 days of receipt of the decision of the District Commander appeal such decision to the Division Engineer. The decision of the Division Engineer shall be rendered as expeditiously as possible and shall be sent to

the permittee by registered or certified letter. The permittee may, within 5 days of receipt of the decision of the Division Engineer appeal such decision in writing to the Chief of Engineers. The decision of the Chief of Engineers shall be final from which no further appeal may be taken.

u. Notwithstanding the condition cited in u., above, if in the opinion of the District Commander, emergency circumstances dictate otherwise, the District Commander may summarily revoke the permit.

v. The Ice Harbor Dam Natural Resource staff shall be allowed to cross the permittee's property, as necessary, to inspect facilities and/or activities under permit.

w. When vegetation modification is allowed, the permittee will delineate the government property line in a clear, but unobtrusive manner approved by the resource manager and in accordance with the project Shoreline Management Plan.

x. If the ownership of a permitted facility is sold or transferred, the permittee or new owner will notify the resource manager of the action prior to finalization. The new owner must apply for s Shoreline Use Permit within 14 days or remove the facility and restore the use area within 30 days from the date of ownership transfer.

y. If permitted facilities are removed for storage and/or extensive maintenance, the resource manager may require all portions of the facility be removed from public property.

z. The permittee shall visually inspect the permitted facility at least once daily.

Appendix D: Mitigation

1. Mitigation planting, care, and replacement shall be the responsibility of the permittee or grantee for the life of the permit. At the expiration or relinquishment of the instrument, all plantings shall remain in place and any remaining requirements shall be assumed by the new instrument holder, or if none, by the US Army Corps of Engineers (Corps). Pruning, trimming, or removal of planted vegetation shall only be allowed for the protection of public health or safety, and with suitable replacement. Failure to complete any planting, care, or replacement work shall be grounds for termination of the instrument and removal of all private property.

2. All mitigation work shall be performed by the holder of the instrument or their designated contractor. The Ice Harbor Dam Natural Resource staff will work with each individual permittee or grantee to establish mitigation requirements. It shall be the responsibility of the individual to submit a detailed, drawing to scale, and timeline for mitigation to the Corps for approval. This plan shall be made a condition of the permit.

3. Mitigation Locations

   - The exact area of mitigation for each dock permit will be determined by Corps personnel in the field.
   - In most cases, priority will be given to lands immediately adjacent to the dock, or in very close proximity to it. In unusual cases where conditions do not permit establishment of all aspects (i.e., severely eroded or steep shoreline), some parts of the planting requirements may be moved to other suitable areas. On occasion, all or part of mitigation plantings may be moved offsite to areas identified as highly desirable restoration areas.
   - The Corps has identified areas of shoreline not necessarily in the immediate vicinity of the dock where mitigation can occur. The Ice Harbor Dam Natural Resources staff will work with the permittee on mitigation locations.

4. Mitigation requirements, components, and ratios for docks and vegetation modifications:

   a. 5:1 for new docks
   b. 2:1 for vegetation modifications
   c. Mitigation will be considered in the following order:
      i. Onsite
      ii. In Lake Wallula Area, if onsite is not possible
      iii. In-lieu, if Lake Wallula Area is not possible

iv. In-lieu will be
    1. Through non-profit
    2. Applicant pays non-profit
    3. Corps designates mitigation location

d. Mitigation will be 5:1 per dock
    i. Individual dock
        1. Dock = 160 ft^2
        2. Ramp (4x40ft) = 160 ft^2
        3. Total = 320 ft^2
        4. 5:1 for each dock = 1,600 ft^2
        5. 0.0367 acre per dock
    ii. Group dock
        1. Dock = 320 ft^2
        2. Ramp (4x40ft) = 160 ft^2
        3. Total = 480 ft^2
        4. 5:1 for each dock = 2,400 ft^2
        5. 0.0551 acre per dock
        6. 27 new docks
            a) 64,800 ft^2
            b) 1.4876 acres

5. Approved Mitigative Planting List and Maintenance

a. A mitigation planting shall include native shrubs and trees from the following list. The use of native shrubs and trees not listed herein must be approved by the Corps and Washington Department of Fish and Wildlife (WDFW).
    i. Shrubs:
        1. Sitka Willow, *Salix sitchensis*
        2. Scouler's Willow, *Sailxscouleriana*
        3. Coyote Willow, *Salix exigua*
        4. MacKenzie's Willow, *Salix prolixa*
        5. Pacific Willow, *Salix lasiandra*
        6. Red-Osier Dogwood, *Cornus stolonifera*
        7. Common Juniper, *Juniperus communis*
    ii. Trees:
        1. Black Cottonwood, *Populus trichocarpa*
        2. Red Alder, *Alnus rubra*
        3. Ponderosa Pine, *Pinus ponderosa*

b. Shrubs and trees shall be planted at intervals of 3 and 10 feet, respectively. Trees and shrubs will be planted at a 1-to-10 ratio (1 tree for every 10 shrubs planted)

c. All plants shall be planted between February 15 and June 1. Plantings must be completed by June 1 of the same year following the start of construction of the overwater structure.

d. Plantings must have 100% survival for the first 5 years following planting. After the first 5 years, survival must be maintained at 80% for shrubs and

100% for trees. Individual plants that die must be replaced in kind (i.e., replace a tree with a tree), with species from the native list above or other species approved by the Corps and WDFW. All trees and shrubs shall be maintained (watered, beaver protection installed, and replaced) for as long as the overwater structure is present, regardless of ownership of the structure.

6. Mitigation Implementation. Planting locations will be identified in geographic information system (GIS) maps and tables.

    a. Locations will be tracked in GIS to ensure proper mitigation requirements are being met
    b. A map will be provided by the individual performing mitigation, with planting location(s) clearly identified
    c. Map will include:
        i. Dock or vegetation modification being mitigated
        ii. Individual performing mitigation
        iii. Types of species planted
        iv. Number of plants planted
        v. Date
        vi. Location(s) of plantings
    d. Mitigation follow-up will be scheduled upon implementation of mitigation to ensure adherence to 100% survival for the first 5 years following planting.
    e. Quantification and success of mitigation will be tracked in GIS, and reported to National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) as part of Reasonable and Prudent Measure (RPM) #4 in the Biological Opinion.