

Standard Operating Procedures for the City of Portland Streamlining Team

Pre-Application Guidance for City Project Teams

Updated June 29, 2012

Introduction

This document clarifies standard operating procedures for meetings between City project teams and members of the City's interagency Streamlining Team. The protocols identify the structure and content of the Streamlining Team meetings. These meetings are designed to provide a forum for multiple agency representatives to coordinate key decision criteria required by work in a unified manner to deliver timely, responsive and non-conflicting decisions.

Background

On February 14, 2003 the City and Federal agencies signed an Agreement establishing a cooperative process for streamlining Army Corps of Engineers permits and federal ESA consultations with the National Marine Fisheries Service and U.S. Fish and Wildlife Service. An invitation was extended in November 2006 to State agencies and the City's Bureau of Development Services to join the Streamlining Team. The Streamlining Agreement creates a unified pre-application review process involving multiple laws administered by agencies representing three levels of government. The purpose of these operating procedures is to facilitate the sharing of information needed by city project teams, federal, state and BDS agency representatives in order to encourage consistent decisions between the agencies and that multiple agency decisions will occur within the same time period whenever possible. Streamlining Team representatives include:

Streamlining Team Members

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* Please note that turnovers can occur with agency representatives. Please contact Mike Reed for the most current list

Applicants attempting to acquire permits for water-related activities potentially must maneuver through multiple federal, state and city laws in order to gain approval. Some of the regulatory evaluation criteria are similar such as the use of an alternatives analysis to determine the preferred option that has the least impact to the environment.¹ Many of the agencies have jurisdictional responsibilities that limit them to administering environmental reviews that focus exclusively on either aquatic, terrestrial, or biological communities, with little overlap. In other cases, the laws can appear to overlap such as the Corps and DSL jurisdictional authority over proposed actions below the ordinary high water mark in surface waterbodies².

In spite of the myriad focus of these environmental laws, there are means for facilitating successful approaches to these requirements. The Streamlining Team’s standard operating procedures facilitate the exchange of information between City project teams and the agencies in a predictable and consistent framework. The operating procedures can have the following benefits:

- Early review of the project designs give agencies a chance to provide input before a lot of time and money has been put into the designs

1 The Corps, DSL and BDS each require applicants to identify the project purpose and need. This information guides the alternatives analysis. The Corps prohibits the discharge of dredged or fill material into waters of the United States unless the proposed discharge is the least environmentally damaging practicable alternative capable of achieving the project purpose. The Department of State Lands Alternatives Analysis (OAR 141-085-0029 (4)) requires that the activity cannot reasonably interfere with paramount state policy to preserve use of waters for navigation, fishing, and recreational use. City guidance for conducting an alternative analysis and mitigation are contained in Title 33 of the Zoning Code (Chapters 33.430 and 33.440). When a Review is required, supplemental application requirement includes an Impact Evaluation describing the type of information that is needed to determine compliance with the approval criteria and to evaluate development alternatives. The Environmental Code directs that the impact evaluation will be based on the resources and functional values identified as significant in the reports listed in section 33.430.020. The Greenway Code currently only requires an alternatives analysis in the River Water Quality Overlay Zone (“q” zone).

2 The U.S. Army Corps of Engineers administers Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. The Oregon Department of State Lands administers the Oregon Removal Fill law. These

- Discussion of the preferred project option can allow for early agreement among the agencies or recommendation of a process for coming to agreement
- All agencies involved in the project are encouraged to work in a unified manner to deliver timely and consistent decisions

These and other standard operating procedures can result in shorter application review and approval timeframes and the project is more likely to stay within projected budgets.

Standard Meeting Procedures

City project teams are encouraged to meet with the Streamlining Team at crucial phases of the project’s planning and pre-design process so that agency input can be incorporated early. This is accomplished by scheduling the following information sharing opportunities:

- 1. First Meeting - Presenting the project’s Purpose and Need and the selection of the preferred option through an Alternative Analysis** - The first meeting should be scheduled early in the project planning/pre-design stages. A valuable use of this first meeting is to present the preferred project design option and the reasoning (purpose and need) used to arrive at the decision.
- 2. Follow-up meetings to address outstanding issues or need for additional information** – Follow-up meetings are encouraged for the following reasons:
 - a. When there are issues identified from the first meeting that need to be further explored with one or more of the agencies.
 - b. When additional issues or questions arise during the project team’s planning.

There can be several of these “follow-up” meetings in order to work out any concerns, confusions, disagreements that have arisen during the design of the project. “Off-line” meetings can be arranged with one or more of the agency representatives when the discussion is not important to all of the Streamlining Team members.

- 3. Final Pre-App meeting – There are opportunities to present the final project design**

that will appear in the **Joint Permit Application, Biological Assessment and Land Use Application** - For larger, more complex projects, a final meeting can be scheduled in order to present specific components of the project including the final design, construction BMPs, work isolation methods, etc. that will appear in the joint permit application package, biological assessment (if applicable) and/or land use application before they are submitted. The purpose of this meeting can ensure application completeness and that all necessary information has been provided. This can eliminate potential last minute surprises.

Tables 1- 4 below lists the type of information recommended for each meeting. **Table 5 describes common reporting requirements to be aware of with the issued permits.**

Table 1. Preparing for the Streamlining Team meeting

Information that should be collected prior to the first contact with the agencies

- Project Team selects a preferred project option using an alternatives analysis.
- Identify proximity to water body (river, stream, wetland) or other site features (trees, steep slopes, utilities, contamination, structures, ownerships of adjoining properties)
- Clearly identify project purpose, need, goals, and estimated timelines for the project
- Delineate the ordinary high water mark on all water bodies within the project vicinity
- Identify wetlands within the project boundary
- Identify potential archaeological and historic information connected with the project
- Identify potential contaminants that might be associated with the project site (A level 1 assessment will need to be conducted if the agencies agree that contaminants are a potential concern)
- Identify potential fish passage issues
- Identify project location including address, cross streets, state ID, or tax account number
- Identify zoning designation(s)
- Project Team should contact Mike Reed, Chair of the Streamlining Team, to schedule a meeting with the Streamlining Team. Mike can also help the project team determine the type of information that should be prepared prior to the meeting

Table 2. First Meeting with the Streamlining Team

First Meeting Checklist

Note: This list lays out some possibilities. Not all of the information can be identified at the first meeting:

Project Team:

- Present the project purpose, need and the preferred project option as well as other alternatives that were considered. Use plans, maps, or diagrams (as needed) to describe proposal.

- Present the project’s purpose, need, goals, and estimated timelines for the project

Streamlining Team:

- Streamlining Team members will identify which agencies have jurisdiction over the project proposal and potential permit pathways (e.g., Individual Permit, Nationwide permit, General Authorization, Section 7 consultation, SLOPES programmatic, Type I, II or III Reviews etc.)

- Determine if unavoidable impacts will be associated with the proposed project and if mitigation is necessary

- Determine if a level 1 environmental assessment is necessary to address contaminant concerns (If appropriate, the Corps will forward to the Project Review Group for review)

- Determine if the State Historic Preservation Office (SHPO) will need to be consulted with over potential archaeological/historic features associated with the project site

- Preliminary agreement on the Endangered Species Act determination of effect

- Determination if an ESA formal/informal consultation and biological assessment is necessary

Table 3. Follow-up Meetings with the Streamlining Team

Follow-up Meetings Checklist – Midway through the Project Design

Additional meetings can be scheduled as needed to ensure that designs and methods (e.g., staging areas, work isolation methods, etc.) are supported or to discuss unresolved issues or questions raised during the first meeting.

- Follow-up with requested information, questions or unresolved issues from the first meeting or as a follow-up to submitted information

- Preliminary conservation measures are presented and agreed to (e.g., sediment and pollution control plan, work isolation plan, etc.)

- Additional meetings will be suggested if other issues are identified or as of yet unresolved

Table 4. Last Meeting – Presentation of the Final Project Design

Last Meeting – Final Design Complete, Permit Applications ready for submittal

Final project design and information associated with the permit application and biological assessment (if required) can be presented prior to submittal to the agencies.

Project Team:

- Final project design and associated conservation measures are presented
- Final details of the mitigation proposal are presented
- Biological Assessment is presented (If required) and federal agencies can give informal feedback on effects determination

Streamlining Team:

- Permit review and approval timeframes are discussed

Once the permits have been acquired and the project has been closed out there are potential monitoring and reporting responsibilities. The table below outlines some of the more common special and general permit conditions.

Table 5. Common reporting requirements associated with the permit conditions

Common Special and General Permit Conditions

(Send copies of the permits to Mike Reed for assistance with identifying permit conditions that will require special attention):

Before Construction Begins:

- Notify the Corps of the “**start of work**” date:
- Obtain a **Zoning Permit, Site Development Permit, Building permit, Grading permit or an Erosion Control permit** after BDS has submitted a final Land Use decision and before construction begins.

After Work associated with the Permit has been completed:

- Submit a signed “**Compliance Certification**” to the Corps at the completion of the work
- If the project qualifies for a SLOPES IV Programmatic Biological Opinion (in one of three focus areas: **Restoration, Transportation and Over-water and In-Water Structures**) submit required forms at the completion of the permitted activity (e.g., **Action Completion Forms and Salvage Reporting Forms**).
- Submit a “**project completion**” report to the Corps within 60 days of finishing the permitted work.
- For OWB funded projects, DSL requires a “**Restoration Inventory Report**” to be submitted to OWEB and DSL
- “**As-Built Report**” to be submitted to the Corps within 60 days of the vegetation planting
- “**Annual Monitoring Reports**” can be required for a period of 2-5 years (to be submitted annually)