**Appendix B1. NE and NAA Template**

* **No Effect (NE) Analysis/Determinations for ESA Species and Critical Habitat**
* **Will Not Adversely Affect (NAA) Determination for Essential Fish Habitat**

Use this form when analysis of a project shows that there are no effects (NE) to:

* ESA-listed species,
* Critical habitat of ESA-listed species and
* Essential fish habitat.

Specifically, under the Endangered Species Act (ESA), a no effects determination means that there is no effect of the project or maintenance activity on any ESA-listed species and their designated critical habitat. Note that only some of these species have federally-designated critical habitats.

Essential fish habitat (EFH) is regulated under the Magnuson-Stevens Fishery Conservation Management Act and not ESA. This No Effects form may be used if a determination is made that the project will not adversely affect EFH.

How to Use This Form: Fill out the form by replacing the red Italics wording with project-specific information. This form is to be submitted along with the Joint Aquatic Resources Permit Application (JARPA) and the Specific Project Information Forms (SPIFs), including the SPIF Cover Page. Jim Muck[[1]](#footnote-1) is available for consultation or to fill out this form.

**PROJECT NAME**

*Type in the actual and proper project name.*

**Location**

*If this information is presented in the JARPA or other submitted documentation, it need not be repeated. Instead, please state where the project location information can be found.*

**Project description**

*If this information is presented in the JARPA or other submitted documentation, it need not be repeated. Instead, please state where the project description information can be found.*

**Allowable work window**

*Identify the work timing window for the water body in which work is being conducted. If the project is not complying with the work timing window, please give complete justification as to why it is not being followed.*

**Action area**

*Identify the action area for the project. The action area is defined by all areas to be affected directly or indirectly by the project and not merely the immediate area involved in the action. For example, if a project will work in a stream, the action area may be defined as the extent downstream of the project at which turbidity levels reach background levels.*

**Conservation measures (CMs)**

*Using this SBE, either list individual CMs or state which construction methods and their associated CMs will be used.*

**ESA SPecies and critical habitat: Analysis and determination of effect**

*For each species and designated critical habitat in the project action area identified in Section II of the SPIF Cover Page, please provide a rationale, justification, or analysis of why the project will have No Effect on the listed species or critical habitat within the action area, not just the project area. Remember that a “No Effect” determination means “no effect. It does not mean a small effect or an effect that is unlikely to occur.*

*For species analysis, the following could be included in this analysis:*

*Species is not located within the watershed*

*Fish barrier is some distance downstream (describe the barrier and the state the distance)*

*Project has no overland connection to a stream or other waterbody*

*Work is being conducted below the ordinary high water (OHW) or mean higher high water (MHHW) lines, but work is being conducted in the dry, such as at a low enough tide or when Lake Washington is drawn down.*

*Describe how any potential effects will be avoided (silt curtains, etc.)*

*For critical habitat, a similar analysis is needed on how the project will not affect the primary constituent elements (PCEs) of the designated critical habitat. The bulleted items listed above may also be used for this analysis.*

**Essential Fish Habitat (EFH)**

*Please provide an analysis of the project as to why the project will not adversely affect EFH. EFH means those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. Adverse effect under EFH means any impact that reduces quality and/or quantity of EFH, and may include direct, indirect, site-specific or habitat-wide impacts, including individual, cumulative or synergistic consequences of actions. The bulleted items listed above may be used for this analysis. In addition, the following bullets could be addressed:*

*Project will not impact the physical, chemical and biological properties of the water.*

*Project will not impact the sediment or substrate underlying the waters, and associated biological communities.*

Date Name of Analysis Preparer

1. Under an Agreement between the City of Seattle, the US Fish and Wildlife Service and the National Oceanic and Atmospheric Administration (NOAA) Fisheries, Jim Muck (206-526-4740, Jim.Muck@NOAA.gov) provides ESA services to City of Seattle staff. [↑](#footnote-ref-1)