**Appendix B2. NLAA and LAA Template**

* **Analysis/Determinations for ESA Species and Critical Habitat**
	+ **Not Likely to Adversely Affect (NLAA)**
	+ **Likely to Adversely Affect (LAA)**
* **Determination for Essential Fish Habitat**
	+ **Not Likely to Adversely affect (LAA)**
	+ **Likely to Adversely Affect (LAA)**

Use this form when analysis of a project shows that there are NLAA or LAA effects to:

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

ESA-listed species are protected under the Endangered Species Act (ESA). Some of the species have federally-designated critical habitats, which are also protected under ESA.

 Essential fish habitat (EFH) is regulated under the Magnuson-Stevens Fishery Conservation Management Act and not ESA.

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 & 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 an analysis of why the project impacts will either be a Not Likely to Adversely Affect (NLAA) or a Likely to Adversely Affect (LAA). A NLAA determination is made when the effects on listed species or designated critical habitat are expected to be discountable or insignificant. Discountable effects are those that are extremely unlikely to occur. Insignificant effects relate to the size of the impact and should never reach the scale where a species is harmed or harassed. Harm is defined as significant habitat modification or degradation that results in death or injury by significantly impairing behavior patterns such as breeding, feeding, or sheltering. Harass is defined as actions that create the likelihood of injury to such an extent as to significantly disrupt normal behavioral patterns like breeding, feeding, or sheltering. If projects impacts result in significant habitat or behavioral change, then a Likely to Adversely Affect determination is made.*

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

*Species is present at some time at project site, but may not be present at time of construction. Explain why species is not present*

*Fish barrier XX distance downstream (describe the barrier), but project impacts may extend downstream of barrier where listed fish species are present.*

*Work is being conducted in the dry to avoid long-term turbidity impacts resulting from the project*

*Describe how any potential effects are being avoided, reduced, or minimized (i.e., conservation measures, silt curtains, etc.)*

*Describe any habitat impacts, not just impacts to the species.*

*Long-term habitat alterations are being mitigated by other project elements (i.e., riprap being installed, but habitat mix, large woody debris, and shallow water substrate is being install to increase habitat complexity and will benefit listed species.)*

*For critical habitat, a similar analysis is needed on how the project will 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 or will 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:*

*Explain how the project will impact the physical, chemical and biological properties of the water.*

*Explain how the 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)