



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: March 22, 2017

Department: Community Services Agenda Planning Date: March 16, 2017 Time required: 10

Audio/Visual aids

Contact: Tamra Goettsch Phone: X3200

Department Head Signature:

TITLE Detroit Lake Marina Enhancement Project

Issue, Description & Background Utilization of Economic Development Program funds for the necessary studies and fees to continue the permitting phase of the Detroit Lake Marina Enhancement project.

Financial Impacts: \$35,000 of the lottery funds in the county's economic development program to support a cultural resources survey, bathymetric survey, determine dredge prism, and a geotech survey.

Impacts to Department & External Agencies This request was reviewed at the March 6, 2017 Management Update; funding is available within the FY16-17 adopted Economic Development and Lottery budget.

Options for Consideration:
1. Approve the use of \$35,000 for the Detroit Lake Marina Enhancement Project for needed surveys and services.
2. Do not approve the use of \$35,000 for the Detroit Lake Marina Enhancement Project for needed surveys and services.
3. Modify the amount to support the needed surveys and services for the Detroit Lake Marina Enhancement Project.

Recommendation: Approve the use of \$35,000 for the Detroit Lake Marina Enhancement Project for needed surveys and services

List of attachments: Pacific Habitate Services, Inc. Memorandum

Presenter: Tamra Goettsch, James LaBar, Commissioner Cameron

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to: Tamra Goettsch



Pacific Habitat Services, Inc.
9450 SW Commerce Circle, Suite 180
Wilsonville, Oregon 97070
Oregon General Contractor: CCB# 94379

Telephone number: (503) 570-0800 Fax number: (503) 570-0855

MEMORANDUM

Date: March 3, 2017

To: **John Saris**
Business Services Manager, Business, Innovation and Trade Division
Oregon Business Development Department
775 Summer Street, Suite 200
Salem, OR 97301-1280

From: **John van Staveren and Tina Farrelly**
Pacific Habitat Service, Inc.

RE: **Phase 2 – Assessment for Detroit Lake Marina and Kane Marina dredging and lake enhancement project.**

PHS Project #6074

This memorandum discusses the environmental permitting requirements associated with the proposed the Detroit Lake Marina and Kane's Marina (DLM-KM) dredging and enhancement project (Project) located along Detroit Lake in Marion County. The information presented in this memorandum is based on the results of the Kaizen pre-application meeting with state and federal agencies, a review of existing baseline information including aerial imagery and online databases, coordination with state and federal agencies to determine the lead agency and required additional services, and communication with contractors that provide the required additional services. This memorandum is the deliverable for the Phase 2 –Assessment detailed in the project's Statement of Work (Contract Number 6289-01-01).

PROJECT PURPOSE AND BACKGROUND

The purpose of the proposed project is to better ensure a lengthier recreational season into September at the DLM-KM marinas. This will be accomplished by strategically dredging around the existing docks and boat slips at the DLM-KM marinas to lower the lake depth at which the marinas can operate.

The current operational lake depth is at or above 1,542 feet elevation, and during normal years the recreational season for the marinas extends from early May through the end of August. The proposed project will allow operation of the marinas down to a lake elevation of 1,525 feet, and is expected to extend the operation of the marinas from the beginning of April through the end of

September and reduce the likelihood of early closures during low water years. DLM-KM has already received authorizations from the Oregon Department of State Lands (DSL) for expanding the existing gangplank systems; the United States Corps of Engineers (Corps) has determined that no federal permit is required for this action. The next step is to obtain DSL and Corps permits for the dredging component of the proposed project.

UPDATED ENVIRONMENTAL PERMITTING REQUIREMENTS

Detroit Lake is considered a jurisdictional waterway of the Corps and DSL. In addition, Detroit Lake is known to support Endangered Species Act (ESA)-listed fish species under the jurisdiction of the National Marine Fisheries Service (NMFS). Detroit Lake also constitutes Essential Fish Habitat (EFH) as defined by the Magnuson-Stevens Act (MSA), and Essential Salmonid Habitat (ESH) as defined by DSL. As such, given the jurisdictional status of Detroit Lake, and the presence of ESA-listed fish species and their habitats, the following environmental permits (Table 1) will likely be required for implementation of the proposed dredging project. This initial determination on necessary environmental permitting will be confirmed once preliminary designs have been completed.

Table 1. Environmental permitting requirements for the proposed Detroit Lake Marina and Kane’s Marina Dredging Project.

Permit or Approval	Reason for Permit or Approval	Agency Review Timeline
<p>Corps Section 404 Permit Would likely be permitted under an Individual Permit (IP). Obtained through the Joint Permit Application (JPA) process.</p>	Work within or over a navigable waterway.*	Typically 4 to 6 months after submittal of the JPA.
<p>DSL Removal/Fill Permit Would likely be permitted under an IP. Obtained through the JPA process.</p>	Removal/fill within Detroit Lake (designated ESH).*	Typically 4 months after submittal of the JPA.
<p>National Environmental Policy Act (NEPA) Review The Corps, as the Lead Agency will provide National Environmental Policy Act (NEPA) documentation.</p>	Environmental review under NEPA is required when a federal agency proposes to take a major federal action.	Assuming a Finding of No Significant Impact determination, the NEPA process would be completed during the 4 to 6 month timeline associated with the Corps review.
<p>Oregon Department of Environmental Quality Section 401 Certification Obtained through submittal of the JPA.</p>	Potential discharges to Detroit Lake.	Typically reviewed during the 4 to 6 month timeline associated with the JPA.

Permit or Approval	Reason for Permit or Approval	Agency Review Timeline
<p>NMFS Biological Opinion Obtained through submittal of a Biological Assessment.</p>	<p>Potential impacts to ESA -listed fish species resulting from in-water work activities.</p>	<p>215 days**</p>
<p>Sediment Suitability Determination Obtained through submittal of Sediment Evaluation Framework documentation*** with the JPA.</p>	<p>Dredging within waters of the United States.</p>	<p>Typically reviewed by the Portland Sediment Evaluation Team (PSET) during the 4 to 6 month timeline associated with the JPA.</p>
<p>National Historic Preservation Act (NHPA) Section 106 Clearance Obtained through submittal of a cultural resource assessment, which will be required by the Corps.</p>	<p>Potential effects on cultural resources.</p>	<p>NHPA Section 106 Clearance typically reviewed during the 4 to 6 month timeline associated with the JPA.</p>
<p>USFWS No-Effect Memorandum May be submitted with the JPA if required by the Corps.</p>	<p>Documentation that consultation for nearby ESA-listed species habitat is not required.</p>	<p>No review necessary, but <i>No- Effect</i> documentation may be required by the Corps.</p>
<p>DSL Wetland Delineation Concurrence / Corps Preliminary Jurisdictional Determination Obtained through submittal of a wetland delineation report if wetlands or waters are present</p>	<p>Potential effects on wetlands or waters.</p>	<p>Wetland delineation report can be reviewed separately (DSL review 1 to 3 months) or concurrently with the JPA (4 to 6 months).</p>

* The Corps and DSL permits will include any impacts to wetlands or waters identified within the disposal site.

** Mark Liverman (NMFS) stated that it will take 215 days for NMFS to issue the Biological Opinion for this project.

*** It is anticipated that the project will only require a Level 1 Evaluation. However, if this is determined to be insufficient by the PSET, a Level 2 Evaluation will be required.

Table 2. Deliverables and additional studies required to complete permitting requirements for the proposed Detroit Lake Marina and Kane’s Marina Dredging Project

Deliverables and Additional Studies Required for Permit or Approval	Explanation	Timeline for Completion
Joint Permit Application	Required for Corps and DSL permits.	3 to 6 weeks from receipt of bathymetric/topographic survey and completion of wetland delineation field work.
Biological Assessment	Required for NMFS Biological Opinion.	Completed during the 3 to 6 week JPA preparation timeline.
Wetland Delineation Report	Required for Corps and DSL permits. Must cover dredge sites, staging/stockpile areas, and disposal site.	Completed during the 3 to 6 week JPA preparation timeline.
Level 1 Evaluation -	Sediment Suitability Determination required by Corps.	Completed during the 3 to 6 week JPA preparation timeline.
Cultural Resource Survey	NHPA Section 106 Clearance required by Corps.	2 months from notice to proceed. Assumes that physical access to the sites for a pedestrian survey is possible.
Bathymetric/Topographic Survey	Corps and DSL permits require existing and proposed conditions be shown.	4 weeks from notice to proceed.
Mitigation Plan	Required for impacts to waters of the State and U.S.	Completed during the 3 to 6 week JPA preparation timeline.

The Oregon Department of Fish and Wildlife (ODFW)-preferred in-water work window (IWWW) for the North Santiam River above Detroit Dam is June 1 – August 31. Project design and implementation would need to be carried out in a manner that allows for in-water construction activities to be completed during the preferred IWWW. The critical path for obtaining necessary environmental project permits prior to the 2017 IWWW (i.e., June 1, 2017) would be preparation and submittal of the Joint Permit Application (JPA) and associated Biological Assessment (BA) by late March 2017.

The JPA must be prepared in accordance with Corps and DSL guidelines and should include all necessary supporting documentation listed in Table 1 and Table 2. The JPA must include site plans for the project area that show existing and proposed conditions. Coordination with representatives of the Corps and DSL to confirm permitting requirements and application procedures will likely be necessary, and may include pre-application meeting(s) at the project site to review the project plans and to assess initial agency comments on the project. It is anticipated that the proposed project will require mitigation. PHS will coordinate with DLM-KM and the appropriate Agencies to identify potential mitigation opportunities. PHS will then prepare a Compensatory Mitigation Plan (CMP) to be submitted with the JPA.

Pacific Habitat Services can prepare the JPA and required supporting documentation as well as coordinate with DLM-KM and the Agencies. However, a cultural resource survey and NHPA Section 106 documentation will need to be completed by a qualified firm. Timing for the cultural resource survey is critical as the site pedestrian surveys must be conducted when the sites are not under water and there is no snow on the ground. In addition, a project engineer will need to provide a topographical and bathymetric survey of the entire project area, including staging areas, disposal areas, construction access areas, and dredge areas. The engineer will also need to provide a construction management plan and erosion control and sediment prevention plan. PHS can work with DLM-KM and the engineer to determine the most suitable construction methods that balance practical considerations with the need to minimize environmental impacts.

If a Level 2 Evaluation is required, PHS can work with DLM-KM, the project engineer, and/or an individual or firm qualified to complete the necessary documentation and evaluations.

Steps to gain State and Federal permitting and approximate additional costs are below.

Sincerely,

A handwritten signature in black ink that reads "John van Staveren". The signature is written in a cursive, flowing style.

John van Staveren
Project Manager

Steps to Gain State and Federal Permitting Approval

Step 1 Conduct field work needed for application

- Cultural Resources (Additional funding needed)
- Bathymetric survey (Additional funding needed)
- Geotechnical survey (Additional funding needed)
- Wetland determination

Step 2 Gain Bids for Dredging

- Determine dredge prisms and volumes (Additional funding needed)
- Gain bids from qualified contractors

Step 3 Prepare Reports

- Cultural Resources for Section 106 Compliance (Additional funding needed)
- Geotechnical Report for piling stability (Additional funding needed)
- Wetland determination for Corps/DSL
- Biological Assessment for NMFS

Step 4 Gain DSL and Corps Permits

- Submit Joint Permit Application
- Submit Cultural Resources Report to SHPO and Corps (Additional funding needed)
- Respond to comments

Step 5 Obtain Permits and Approvals:

Permit	Agency	Approximate Fees*
Individual Permit	DSL	\$1,000
Individual Permit	Corps	\$100
401 Water Quality Certification	DEQ	\$1,000
Biological Opinion	NMFS	No fee
Section 106 Clearance	SHPO/Corps	No fee

* Fees not covered under existing funding

Tasks not covered under existing funding*	Description	Approx. Costs
Cultural Resources Survey*	Needed to address Section 106. Has to be conducted prior to water level rise	\$15,000
Bathymetric Survey	Needed to determine existing topography of areas to be dredged	\$11,000
Determine Dredge Prism	Needed to determine volume of material to be excavated, in order to gain accurate bids	\$5,000
Geotech Survey	Needed to determine pile depth for stability	\$4,000
	Approximate total	\$35,000

*Costs are based on estimates from consultants. Contracts may alter final costs. All work to be time and materials, which may lower final costs.