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**IDAHO TRANSPORTATION DEPARTMENT**  
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March 31, 2023

Lieutenant Colonel ShaiLin KingSlack  
Walla Walla District, US Army Corps of Engineers  
201 North 3<sup>rd</sup> Avenue  
Walla Walla, Washington 99362

**RE:                NWW-2004-0600046, US 95 Thorn Creek to Moscow, ITD Key No. 09294  
                     Official ITD Request for Preliminary Jurisdictional Determination  
                     Official ITD Request for Section 404 Permit  
                     Sites 1, 5, 6, 10, 11, 12, 13**

Dear Colonel KingSlack:

The US-95 Thorn Creek Road to Moscow Project (KN 09294) was originally authorized under Nationwide Permit (NWP) number 14, Linear Transportation Projects (NWW-2004-0600046) on March 9, 2021. Idaho Transportation Department (ITD) Contractors began excavation for the Project on June 1, 2022; however, due to litigation brought by third parties, the USACE suspended the NWP permit for Site 1 on August 9, 2022, then further suspended permits for sites 2-13 on August 29, 2022. ITD stopped work and rescheduled work elsewhere on the project, disrupting the initial phasing sequence of the project. At the request of and under the direction of USACE staff, during the construction contract ITD performed additional field investigations and a subsequent re-delineation of aquatic resources.

It is an exceptional situation that a multi-year, six-mile long highway safety project with approved permits under a fully executed construction contract be halted in the midst of construction in order to conduct additional field studies and re-delineate the aquatic resources. It is even more challenging to design and evaluate multiple new alternatives and design options and to develop a new construction package for a revised alignment width in a short period of time.

On December 1, 2022, USACE requested ITD evaluate alternatives and design solutions to further avoid and minimize impacts to aquatic resources in Site 1 and to evaluate their practicability. ITD is submitting (via the DoD SAFE application dropbox) the following information in response to that requests:

1. Aquatic Resources Delineation Report – Site 1 (revised per comments from S. Skaar dated 2/14/23)
2. Aquatic Resources Delineation Report – Sites 5, 6, 10, 11, 12, 13
3. New Joint Application Package – all Sites
  - a. Site 1 Practicability Analysis for Avoidance and Minimization Alternatives (permit for Site 1 submitted previously along with Aquatic Resources Delineation Report – Site 1)

In an effort to provide additional data on the project, ITD and the USACE re-delineated the remaining wetland resources within Sites 5, 10, 11, and 12.

March 31, 2023

ITD would like to thank you for recognizing the considerable measures to minimize aquatic resource impacts at Site 1 and respectfully requests that the project as presented in the attached Joint Application be authorized within 30 days to allow spring construction activities to restart without delays and undue costs.

ITD welcomes the opportunity to meet in the next week to discuss the information provided and to answer any questions that you or your staff may have. ITD requests the highest priority for the processing of this application.

If you have any questions or need additional information, please contact me at (208) 871-8534 or direct your staff to contact District Engineer Doral Hoff at (208) 799-5090 (doral.hoff@itd.idaho.gov), or Shawn Smith at (208) 799-4268 (shawn.smith@itd.idaho.gov).

Sincerely,

A handwritten signature in black ink that reads "Dan McElhinney". The signature is fluid and cursive, with the first name "Dan" being more prominent.

Dan McElhinney, P.E.  
Chief Deputy Director/COO

CC: Kelly Urbanek, Division Chief USACE Walla Walla District;  
Shane Skaar, USACE Walla Walla District;  
ITD Director Scott Stokes;  
ITD Chief Engineer Blake Rindlisbacher;  
ITD District 2 Engineer Doral Hoff;  
ITD District 2 Environmental Planner Sr. Shawn Smith;  
ITD Environmental Services Manager Wendy Terlizzi;  
ITD Headquarters Environmental Planner Sr. Aimee Hill