



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1201 NE Lloyd Boulevard, Suite 1100
PORTLAND, OREGON 97232-1274

August 6, 2008

Heather Gunderson
CRC Environmental Manager
Oregon Department of Transportation
700 Washington Street, Suite 300
Vancouver, Washington 98660

Re: National Marine Fisheries Service's Comments on the Draft Environmental Impact Statement for the I-5 Columbia River Crossing Project

Dear Ms. Gunderson:

The National Marine Fisheries Service (NMFS) is providing comments pursuant to the National Environmental Policy Act (42 U.S.C. 4322(2)(c)) on the Draft Environmental Impact Statement (DEIS) for the I-5 Columbia River Crossing Project (CRC) issued May 2, 2008, by the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). The NMFS is providing FHWA with a discussion of the additional information needed to strengthen the project's analysis, develop a preferred alternative for the project, and eventually develop the proposed action for the project's biological assessment. The comments are based on NMFS' special expertise and responsibility to manage, conserve, and protect marine and coastal living resources as provided under the Endangered Species Act (ESA), the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act, and the Fish and Wildlife Coordination Act.

The proposed project is a bridge, transit, and highway improvement project by the Oregon and Washington Departments of Transportation, the Southwest Washington Regional Transportation Commission, Metro, Clark County Public Transportation Benefit Area, and Tri-County Metropolitan Transportation District to improve safety and mobility in the I-5 corridor between Portland, Oregon, and Vancouver, Washington.

The DEIS focuses on a 5-mile segment of the I-5 corridor extending from State Route 500 in Vancouver, Washington, to approximately Columbia Boulevard in Portland, Oregon. Alternatives considered include a no-build alternative and four multi-modal build alternatives that: (1) Replace or rehabilitate the existing river crossing; (2) provide highway improvements; (3) extend light rail or provide bus rapid transit with several transit alignments and length options; and (4) improve bicycle and pedestrian facilities.



The NMFS believes that substantial detail on potential project impacts and mitigation still needs to be provided by FHWA and FTA in the Final Environmental Impact Statement (FEIS) to address impacts to NMFS' trust resources. The following comments will focus upon potential direct and indirect impacts to those trust resources (salmon, steelhead, green sturgeon, and marine mammals) associated with the build alternatives that need to be addressed within the FEIS. Components that are part of all build alternatives include placement of new structures within the Columbia River, expansion and replacement of portions of I-5 and its infrastructure (e.g., off-ramps, connectors), and an expansion of transit and associated infrastructure (e.g., park and ride).

The NMFS requests that the following issues be fully addressed in the FEIS:

1. Demonstration of a clear intent to work within approved in-water work windows for fish. The DEIS does not discuss inclusion or exclusion of in-water work timing restrictions. It states that in-water work will be avoided during times of peak critical fish migration periods. The FEIS needs to clarify its intent concerning adhering to the entire in-water work window period.
2. Potential direct and indirect physical and behavioral effects that could affect ESA-listed fish and marine mammals from underwater noise associated with pile driving, and water pollution originating from in-water and upland near-shore construction, as well as any procedures to minimize those anticipated impacts.
3. A clear and cohesive discussion that addresses the following aspects of stormwater treatment:
 - Design concepts of stormwater management that focus on avoidance and minimization and a fully developed mitigation plan for unavoidable impacts that addresses the short- and long-term effects on NMFS' trust resources.
 - Treatment of stormwater from the contributing impervious area created by the project. The DEIS states that stormwater will be treated for "new bridges, transit guideway and road improvements." The NMFS feels strongly that all contributing impervious surfaces within the project area will need to be treated such that discharges avoid and/or minimize impacts to ESA-listed species.
 - The DEIS does not discuss the potential stormwater implications associated with potential tolling areas. Such areas are larger-than-normal bridge approaches and may result in higher levels of automobile-sourced pollution due to braking and idling periods as vehicles slow/stop to pay tolls, increasing the opportunity for fluid leakage within the project area.
 - A clear description of the project's boundary (including all local road segments) in relation to stormwater needs to be provided to fully describe and analyze impacts to NMFS' trust resources. If local road segments within Vancouver and Portland drain to waterbodies used by ESA-listed species then these stormwater

discharges need to be treated to avoid and/or minimize impacts to ESA-listed species.

- The NMFS is also concerned that the DEIS states that the interstate portion including the bridge will be treated to both Oregon Department of Transportation and Washington Department of Transportation standards. For consistency, a single standard should be used for the whole bridge. That standard must include measures to avoid and/or minimize impacts to ESA-listed species.
 - The FEIS should provide an analysis that describes how stormwater treatment will meet the future capacity over the lifetime of the project.
 - All feasible stormwater facility location options that do not alter local groundwater distribution or hydrology should be considered for stormwater treatment. The NMFS is concerned with the DEIS' emphasis that all treatment facilities be located within current right-of-way. This may limit the potential of developing the most effective facilities possible. For example, the DEIS states that all stormwater that currently drains directly to the Columbia River will be re-routed under a build option to Columbia Slough. It is also acknowledged that this action would increase pollutant loading within Columbia Slough. Given the fact that the Columbia Slough is also used as a discharge point for other facilities, NMFS recommends that to the extent practicable, that stormwater be treated and discharged within the local area where it is generated to minimize releases into the slough.
 - The DEIS states that stormwater will bypass treatment swales during high water events. The FEIS should detail the frequency and magnitude of such high-water events and where overflow water will go if generated.
 - A single stormwater collector system is planned for use for a large portion of roadway. The FEIS needs to include an analysis of areas/facilities designed to mitigate for unplanned emergencies such as large fuel or container spills (*e.g.*, oil separators, oversized retention).
4. A discussion of the potential for secondary development within the DEIS and technical reports is scattered and often contradictory. Statements range from acknowledging that secondary development may result from an expansion of transit centers, and freeway efficiency that subsequently may result in increased densities surrounding transit centers and unplanned sprawl outside of urban areas, to stating that the project will not induce urban growth or expansion.

Transportation projects may induce secondary development when they directly or indirectly promote, hasten, shift, or intensify planned growth or encourage unplanned growth in a community or region. The DEIS lists one of its functions as “1) describes the project alternatives along with their potential impacts in the context of the existing conditions and foreseeable future conditions in the project area.” Since the CRC project

plans for capacity up to 2030, the FEIS needs to provide a fully detailed discussion of secondary development as appropriate to address foreseeable future effects that are likely to occur which affect the health and viability of salmonid habitat, health, and viability and the potential recovery of ESA-listed fish species (*e.g.* stormwater quality and quantity, deforestation, channelization, unanticipated water pollution).

Examples of areas in the FEIS that need to be strengthened from the standpoint of an analysis related to secondary development include:

- The DEIS emphasizes discussion of secondary development within planned urban growth boundaries (UGBs). However, insufficient detail is provided in the DEIS to analyze the potential for secondary development outside of UGBs. While urban growth densities are not typically permitted outside of UGBs, development of low-density housing is typical, resulting in land conversion. As noted in the DEIS, “Land use conversion as a result of current and planned future growth is considered the primary impact to fish and wildlife species (Clark County 2006).”
- The DEIS also indicates that sensitive habitat incorporated within urban areas will be adequately protected by local jurisdictional environmental laws and conservation programs such as: Clark County’s Habitat Conservation Ordinance; Battle Ground, Camas, and Ridgefield’s comprehensive plans; La Center’s Environmental Goal #10 and critical area ordinance; Vancouver’s comprehensive plan and critical area ordinance; and Washougal’s Goal 5 Critical Areas; Metro’s Nature in the Neighborhoods; and Oregon’s Statewide Planning Goals and Guidelines, Goal 5. While these are important conservation programs, they typically are not fully protective of NMFS’ trust resources and the habitats upon which they depend. In addition, they often include administrative procedures for variances that can minimize their effectiveness. The FEIS should document how these local jurisdictional environmental laws will minimize and/or avoid impacts to secondary development created by the project.
- The potential of the project to induce induced secondary development in the following watersheds in which ESA-listed salmon and steelhead occur: Salmon Creek, Whipple Creek, Cold Creek, Cougar Canyon Creek, and Tenny Creek in Clark County. In addition, the following are watersheds in the DEIS described as non-salmon-bearing, yet may direct stormwater to watersheds are salmon-bearing, including: Cold Creek, Cougar Canyon, or Whipple Creek. The FEIS needs to document how stormwater management and other project components will avoid and/or mitigate impacts to these watersheds based on the potential for secondary development.

In addition, the FEIS should provide an accurate and detailed description of current and historic salmonid use within the above mentioned watersheds, and if salmonids are absent, provide those reasons (*e.g.* natural barriers, artificial barriers, lack of habitat, extirpation). An example of conflicting statements

regarding fish presence include those made in the DEIS Ecosystems Technical Report regarding the presence or absence of ESA-listed species in Whipple Creek.

5. The Stacked Transit/Highway Bridge (STHB) memorandum indicates that this option may not be a viable design option because of Federal Aviation Administration regulations regarding Pearson Airfield's restricted airspace. However, the DEIS documents a number of benefits to this option that could affect NOAA's trust resources, including:
- A reduced number and volume of piers.
 - An expedited in-water construction timeline, which is suggested to be a reduction of 1-year.
 - A reduction of total cost.
 - A reduced impact area.

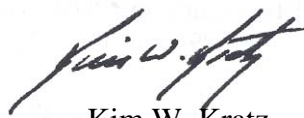
The FEIS should therefore present a balanced analysis that discusses varying degrees of airspace restrictions in relation to perceived benefits that are presented within the memo.

6. The DEIS discusses ESA-listed species, but did not present a clear analysis of the direct and related indirect effects of the project on designated critical habitat and essential fish habitat. The FEIS needs to provide a detailed discussion relating habitat conditions and impacts of the project on these NMFS jurisdictional responsibilities as well.

Thank you for the opportunity to comment. We look forward to continuing to provide the FHWA and FTA with assistance on this project. The NMFS requests that FHWA and FTA add these comments to the administrative record for the project.

Please direct questions regarding this letter to Cathryn E. Tortorici, Branch Chief of the Oregon Coast/Lower Columbia River Habitat Branch of the Oregon State Habitat Office, at 503.231.6268.

Sincerely,



Kim W. Kratz
Director, Oregon State Habitat Office
Habitat Conservation Division

cc: John McAvoy, FHWA
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