



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



ER 04/272

JUL 30 2004

Mr. Daniel M. Mathis
Division Administrator
Federal Highway Administration
711 S. Capitol Way, Suite 501
Olympia, Washington 98501-1284

Dear Mr. Mathis:

The Department of the Interior has reviewed the Draft Environmental Impact Statement (DEIS) for **SR-99: Alaskan Way Viaduct and Seawall Replacement Project, Seattle, King County, Washington**, and offer the following comments. These comments have been prepared under the authority of and in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401 as amended, 16 U.S.C. *et seq.*), the Endangered Species Act, 1969 (ESA), as amended, and other authorities. They are consistent with the National Environmental Policy Act, 1969.

This review includes a more detailed review of Appendix R, the Fisheries, Wildlife and Habitat Discipline Report and Appendix S, the Water Resources Discipline Report. The proposed project alternatives were evaluated for potential impacts to fish and wildlife resources and their habitat, with specific attention to federally proposed, listed and endangered species under the Fish and Wildlife Service's (FWS) jurisdiction.

The DEIS presents six alternatives (including the No Build alternative), and no preferred alternative was identified. Draft conceptual mitigation options were provided in Attachment D of the Fisheries, Wildlife and Habitat Discipline Report; however, specific areas and amounts of mitigation that would be applied by alternative were not included in each alternative.

GENERAL COMMENTS

F-003-001

We are concerned with the uncertainty of operational impacts and potential mitigation related to this project. Many of the alternatives purport to have minimal to no impact on aquatic habitat. While habitat within the project vicinity has been substantially modified over the last 100 years, and the proposed project will not affect the currently modified conditions, it will maintain the modified conditions, which now only provide low functioning habitat for aquatic life.

F-003-001

FHWA, WSDOT, and the City of Seattle appreciate receiving your comments. After the 2004 Draft EIS was published, your comments along with others led to additional planning, analysis, and the revised alternatives presented in the 2006 Supplemental Draft EIS. Following publication of the 2006 Supplemental Draft EIS, there was not a consensus on how to replace the viaduct along the central waterfront. In March 2007, Governor Gregoire, former King County Executive Sims, and former City of Seattle Mayor Nickels initiated a public process called the Partnership Process to develop a solution for replacing the viaduct along the central waterfront. Details about the project history are described in Chapter 2 of the Final EIS. Because the project has evolved since comments were submitted in 2004, please refer to this Final EIS for the current information.

In January 2009, Governor Gregoire, former King County Executive Sims, and former Seattle Mayor Nickels recommended replacing the central waterfront portion of the Alaskan Way Viaduct with a single, large-diameter bored tunnel. After the recommendation was made, the Bored Tunnel Alternative was analyzed and compared to the Viaduct Closed (No Build Alternative), Cut-and-Cover Tunnel, and Elevated Structure Alternatives in the 2010 Supplemental Draft EIS. The comments received on the 2004 Draft and 2006 Supplemental Draft EISs, subsequent Partnership Process, and the analysis presented in the 2010 Supplemental Draft EIS led to the lead agencies' decision to identify the Bored Tunnel Alternative as the preferred alternative for replacing the viaduct along the central waterfront.

The Bored Tunnel Alternative would not replace the seawall; the replacement of the seawall would be done as part of a separate project lead by the City of Seattle. That project will identify restoration and mitigation options for effects to the shoreline habitat from the replacement of the seawall. The Bored Tunnel Alternative also would not

F-003-001 We generally agree with the conceptual mitigation options proposed in Attachment D (in the Fisheries, Wildlife and Habitat Discipline Report) with the exception of the use of stormwater runoff as a potential source of water for small streams. In addition to the increase in complexity in intertidal elevations, we suggest a vegetation component be incorporated into any mitigation design for Alternative D for the final EIS.

All the alternatives have similar environmental impacts and potential benefits with the exception of the Bypass Tunnel Alternative, which would result in a net loss of surface area and volume of shoreline habitat in Elliott Bay. The Aerial Alternative would result in the greatest gain in nearshore habitat, but according to the Water Resource Discipline Report, the implementation of stormwater best management practices would result in the lowest reduction of stormwater pollutants. The Rebuild Alternative would result in the greatest reduction of stormwater pollutants. Until more is known about the types of mitigation and how much of each type will be incorporated under each alternative, we cannot fully endorse any alternative.

SPECIFIC COMMENTS

F-003-002 Page 8 of the Fisheries, Wildlife and Habitat Discipline Report, Recommended Conservation Measures: please change the wording for "ESA requirements" to "ESA obligations" or "ESA responsibilities."

Page 19 of the Fisheries, Wildlife and Habitat Discipline Report: the use of the project area by the bull trout (*Salvelinus confluentus*) is documented as "rare." We expect that bull trout use of the area to be occasional or even common as opposed to rare. On November 26, 2003, Emily Teachout, a Service Biologist, provided the Washington State Department of Transportation, the FHWA, and the consultant with new information on the potential for bull trout to occur in the project vicinity. Additionally, in April 2004, the FWS released a technical guidance document for Puget Sound bull trout. This document is located at: <http://www.sharedsalmonstrategy.org/resources.htm#documents>) and provides the most up-to-date information on bull trout in the Puget Sound. We suggest the Washington State Department of Transportation and the FHWA review these materials, and update the discipline report and apply that toward the final EIS.

F-003-003 Page 64 of the Fisheries, Wildlife and Habitat Discipline Report: "because the project will meet U.S. Environmental Protection Agency (EPA)/Ecology standards for water quality, the survival of fish should not be reduced." The FWS is in the process of consulting under ESA, on the Ecology standards for water quality with EPA. Consequently, at this time, we cannot confirm whether the standards are protective enough for fish.

require any in-water work. The proposed stormwater treatment and water quality BMPs have been improved for all the build alternatives since the publication of the 2004 Draft EIS. Please see the Final EIS for current project analysis.

F-003-002

This discipline report has been revised significantly since 2004 to support the 2006 and 2010 Supplemental EISs and the Final EIS. The phrase "ESA requirements" is no longer used in the document. Likewise, the table that listed the bull trout use of the project area as "rare" is no longer in the document.

F-003-003

We recognize the concern that USFWS has regarding EPA/Ecology standards for water quality and the effects on fish. However, the proposed project will result in a net improvement in water quality discharged into Elliott Bay and Lake Union compared to existing conditions. Therefore, it is unlikely that fish mortality rates would increase compared to current conditions.

Mr. Daniel M. Mathis

-3-

Thank you for the opportunity to comment on this project at this early stage. If you have any questions or need clarification on fish and wildlife resources, please contact the U.S. Fish and Wildlife Service, Jennifer Quan at (360) 753-6047 or Emily Teachout at (360) 753-9583.

Sincerely,


for Willie R. Taylor
Director, Office of Environmental Policy
and Compliance

cc:

✓ Washington State Department of Transportation
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