



United States Department of the Interior



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Reply To: 01EOFW00-2021-I-0336
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5/20/2021

Phillip Ditzler; Oregon Division Administrator
Federal Highway Administration
530 Center Street NE, Suite 100
Salem, OR 97301

Subject: Endangered Species Act Informal Consultation on the Oregon Highway 569:
River Road – Delta Highway Project, Lane County, Eugene, Oregon.
(FWS Consultation number: 01EOFW00-2021-I-0336).

Dear Mr. Ditzler:

This document transmits the Fish and Wildlife Service's (Service) response to an electronic (e-mail) request for informal consultation by the Federal Highway Administration (FHWA) for the Oregon Highway (OR) 569: River Road – Delta Highway Project (proposed action)(project), dated April 8, 2021, and an accompanying biological assessment (BA). For the purposes of this consultation, FHWA is the lead action agency because of its funding of the proposed action and is therefore subject to the requirements of section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (ESA). Oregon Department of Transportation (ODOT), as the non-Federal representative (with Jacobs Consulting) led the effort to complete the BA on behalf of the FHWA. ODOT is the State agency implementing the project and conducting monitoring and reporting on the progress and compliance of the activities included in the proposed action.

Species for which the Service has jurisdiction addressed informally by this consultation include:

- Bull Trout (*Salvelinus confluentus*) (Threatened) (T)

The proposed action occurs within designated critical habitat for the bull trout.

INTERIOR REGION 9
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The proposed action is to construct a series of improvements to the Randy Papé Beltline Highway for the Oregon Highway (OR) 569: River Road – Delta Highway Project (Project). Improvements include extending, redesigning, and constructing new lanes; reconstructing on-ramps and off-ramps; constructing safer multi-use paths; replacing three bridges; and constructing one new bridge. The improvements are necessary to reduce traffic congestion and improve seismic stability. The Project is located along approximately 1.8 miles of the Beltline Hwy in Eugene, between Mileposts (MP) 8.4 and 10.2. The Project includes the Willamette River crossing and the Beltline Hwy interchanges with River Road and Delta Hwy. The Project is located at Township 17 South, Range 03 West, Section 18, and Township 17 South, Range 04 West, Sections 11, 12, 13, and 14, Willamette Meridian. The Latitude and Longitude at the Beltline Bridge is 44°5'43.236"N, 123°6'24.311"W.

As detailed in the BA, potential effects to bull trout and designated critical habitat associated with the Proposed Action include: 1) temporary impacts to water quality during in-water and overwater construction; 2) temporary hydroacoustic impacts associated with impact pile driving; 3) temporary aquatic habitat impacts during construction; 4) permanent aquatic habitat impacts associated with the replacement and additional bridge structures and removal of the existing bridge; 5) impacts associated with work area isolation and fish salvage; 6) impacts associated with overwater lighting and avian predation; and 7) impacts associated with stormwater from new and rebuilt impervious surfaces.

An extensive collection of standard impact minimization and avoidance measures and best management practices (BMPs) are proposed in section 3.2.13 of the BA as part of this proposed action to reduce the extent and magnitude of potential effects. These are also discussed generally in section 3 and 7 of the BA. The proposed action is at less than 100 percent design and unlikely to be funded for up to a decade. Project specific BMPs will be incorporated into the final project plans and specifications will follow the most current ODOT Standard Specifications for Construction. BMPs will include the following, or be replaced by more protective measures to help avoid and minimize effects to bull trout and their critical habitat: 1) ODOT will conduct water quality monitoring to satisfy the monitoring and reporting requirements of the Clean Water Act section 401, Water Quality Certifications; 2) an ODOT inspector will be on site during construction, whose role will be to monitor compliance with contract and permit requirements; 3) excess or waste materials will not be disposed of or abandoned waterward of the ordinary high water mark or allowed to enter waters of the state. Waste materials will be disposed of in an appropriate manner consistent with applicable local, state, and federal regulations; 4) all pumps must employ appropriate fish screens; 5) the contractor will prepare a Spill Prevention, Control, and Countermeasures (SPCC) Plan and Pollution Control Plan (PCP) prior to beginning construction. The SPCC plan and PCP will identify the appropriate spill containment materials;

as well as the means and methods of implementation; 6) the contractor will prepare an Erosion and Sediment Control Plan (ESCP) to be implemented during project construction to minimize impacts associated with clearing, vegetation removal, grading, filling, compaction, or excavation. The BMPs in the ESCP will be used to control sediments from all vegetation removal or ground disturbing activities; 7) if temporary lighting is required, the contractor will use directional lighting with shielded luminaries to control glare and direct light onto work areas; not surface waters; 8) to avoid and minimize impacts associated with pile installation, a vibratory hammer will be used to drive steel piles to the maximum extent possible, to minimize noise levels; and, 9) a bubble curtain or other similarly effective noise attenuation device will be employed during all impact pile proofing or installation except when conducted in-the-dry, within a cofferdam or containment sleeve, or when water depth is two or fewer feet deep.

The FHWA developed an effects determination of “may affect, not likely to adversely affect” bull trout. The Service concurs with the FHWA determination for bull trout for the following reasons: 1) based on many extensive sampling efforts over many years, bull trout are not expected to be present in the proposed action area; and, 2) in the unlikely circumstance bull trout are present in the action area, they would be expected to leave the area once construction begins. Therefore, effects of the proposed action to bull trout are expected to be insignificant and discountable.

The FHWA developed an effects determination of “may affect, not likely to adversely affect” for bull trout designated critical habitat. The Service concurs with FHWA effects determination for bull trout critical habitat for the following reasons: 1) the Physical and Biological Factors for bull trout critical habitat are not present, have not developed or are disturbed to the point of not functioning by past human activities. The action area is located in an artificial and altered environment (predominantly dense, urban, commercial-residential areas) and is not contributing to the conservation and recovery of the species; 2) bridge construction, during and after construction, will not block flow or impede the channel allowing the potential for bull trout movement through this area; and, 3) the amount of critical habitat potentially affected by the proposed action is estimated at less than one percent relative to the critical habitat unit as a whole (McKenzie and Middle Fork Willamette rivers). Therefore, effects to bull trout critical habitat by the proposed action are anticipated to be insignificant and discountable.

This concludes informal consultation on the OR 569: River Road – Delta Highway Project. Thank you for your coordination on this project. Please direct any questions regarding this letter to Chris Allen or Kevin Maurice of the Service’s Oregon Fish and Wildlife Office at 503-231-6179.

Sincerely,

Chris Allen for,

Paul Henson, Ph.D

State Supervisor

Oregon Fish and Wildlife Office

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