



United States Department of the Interior



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Thomas D. Goldstein
Interstate Bridge Replacement Program Oversight Manager
Federal Highway Administration
Oregon Division Office
530 Center Street NE, Suite 420
Salem, Oregon 97301

Subject: Informal Consultation for the Interstate Bridge Replacement Program

Dear Mr. Goldstein,

The Fish and Wildlife Service (Service) has reviewed your September 21, 2023, letter and biological assessment, both received in this office on September 26, 2023, requesting informal consultation for the Interstate Bridge Replacement Program (IBR; Project) that will replace the existing I-5 bridges over the Columbia River and North Portland Harbor bridge. The Project site is located along a 5-mile stretch of the Interstate 5 corridor in Portland, Oregon and Vancouver, Washington. The Federal Highway Administration and the Federal Transit Administration have determined that the Project is not likely to adversely affect, bull trout (*Salvelinus confluentus*), the streaked horned lark (*Eremophila alpestris strigata*), and designated critical habitat for bull trout. Our review and comments regarding these determinations are provided pursuant to section 7 of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*).

Project Description and Background

The IBR Program was originally developed and evaluated as the Columbia River Crossing (CRC) project. The environmental review processes (including a National Environmental Policy Act Record of Decision and Endangered Species Act consultations for the CRC project) were completed between 2005 and 2013, and the project was suspended in 2014. In 2019, a bi-state legislative committee requested that the Oregon Department of Transportation and the

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Washington State Department of Transportation reinstate the CRC project, and it was re-named the IBR Program.

The Project will replace the Interstate Bridge over the Columbia River and North Portland Harbor bridge with modern, seismically resilient, multimodal structures. Additional components of the Project include improved interchanges and roadways; light-rail transit extensions from north Portland to downtown Vancouver with associated improvements such as construction of new light-rail transit stations and park-and-ride facilities, existing maintenance facility expansion, and a new overnight facility for light-rail vehicles; and new shared-use paths to improve in bicycle and pedestrian access. The Project also includes substantial improvements to stormwater runoff capture and treatment. Construction is expected to take between 9 and 15 years and will require work within up to nine in-water work seasons. This schedule assumes that up to six in-water work seasons will be necessary to construct the replacement bridges, and up to three in-water work seasons will be necessary to complete the demolition of the existing bridges.

Bull Trout: Historically, bull trout were widely distributed throughout the Columbia River Basin. While historical cannery records suggest bull trout used to be present in the lower Columbia River, very few bull trout have been documented there in the past two decades. The closest extant population is in the Lewis River, which enters the Columbia River near Woodland, Washington, several miles downstream of the Project. The portion of the action area within the Columbia River is potentially suitable migratory habitat and designated as critical habitat. However, the likelihood of bull trout occurrence within the affected area is extremely low. Bull trout, if any, would be large, migratory fish (adult, sub-adult, or large juvenile fish).

Streaked Horned Larks: Streaked horned larks are present in the Columbia River throughout the year. Breeding and wintering streaked horned larks prefer habitats with substantial areas of bare ground and sparse, low-stature vegetation that are periodically disturbed, such as native prairies, coastal dunes, and shorelines. Streaked horned larks have not been documented within the action area but are known to occur within the vicinity. There is limited suitable habitat for streaked horned lark within the terrestrial portions of the action area, including the sandy shorelines on Hayden Island, in North Portland Harbor, and the Columbia River shoreline in Washington. These locations provide foraging habitat, but do not provide suitable nesting habitat. Habitat usage within the action area is expected to be limited to occasional opportunistic foraging, which could occur at any time during the year. There is no designated critical habitat for the streaked horned lark in the project area.

Concurrence

Potential effects from construction activities include temporary displacement from the Project area due to general construction activities, noise disturbance from pile driving, and temporary increases in turbidity during and immediately following in-water activities. Effects to listed species include localized disturbance to individuals that is short-term, localized, and temporary in nature. The Project incorporates conservation measures and extensive best management practices (BMPs) to minimize these potential effects to listed species. Examples of Project conservation actions include on-site riparian enhancements (plantings/invasive species management and terrestrial habitat creation/enhancements to mitigate for terrestrial habitat

impacts and a preliminary stormwater treatment design has been developed for the proposed action that identifies the likely size and location of water quality treatment BMPs. Given that few, if any, bull trout or streaked horned lark are likely to be present in the action area during Project implementation in any given year, the effects to individuals of these species are most likely insignificant. Additional discussion is provided below:

Bull Trout: Any bull trout in the vicinity of the project area could be exposed to elevated sound levels from in-water work and temporary increases in turbidity resulting in temporary displacement of individuals from the project area. The loudest source of underwater noise from the proposed action will come from the impact driving of steel pipe piles. Impact pile driving the largest diameter pile (48-inch) will create the highest noise levels: 214 dBPEAK, 201 dBRMS, and 184 dBSEL (sound exposure level) (measured at a distance of 33 feet or 10 meters from the pile). If individual bull trout are present, they would be of the adult and sub-adult life stage and capable of leaving the immediate work area to avoid injury from pile driving. The use of vibratory hammers and restricting the use of impact hammers to in-water work windows reduce potential effects to bull trout. In the unlikely event bull trout are present, individuals could be temporarily displaced from the general construction area, resulting in increased energetic costs and reduced foraging time. However, because habitat conditions and water quality in the project area have been degraded for many years, it is highly unlikely that individuals will be present during construction. As a result, the potential effects are unlikely to occur and are therefore discountable.

Further, the Project proposes BMPs that minimize and avoid potential adverse effects to water quality and listed salmonids under the jurisdiction of the National Marine Fisheries Service; these BMPs are expected to significantly limit the potential for adverse effects and protect large migratory bull trout. These BMPs, combined with the extremely low likelihood of bull trout presence in the Project-affected area, support your “not likely to adversely affect” determinations.

Based upon the information in your request for concurrence, other available information, our known records of bull trout, and our analysis of the Project, the Service concurs with your determination that the Project is not likely to adversely affect bull trout for the following reasons: 1) survey efforts over decades do not indicate persistent presence of bull trout in the lower Columbia River; 2) few, if any, bull trout would be present in the Project area, and those would be larger life stages (sub-adult and adult); and, 3) if present they would move out of the project area during construction or operation. As such, the effects of the Project on the bull trout are discountable.

Bull Trout Critical Habitat: The Project will have minor effects on food resources and water quality resources, which are two of the physical and biological features necessary for bull trout critical habitat. In addition, the Project will temporarily increase suspended sediments in and downstream of the project area and degrade overall water quality during construction. However, because these effects are temporary and minor relative to the scope of other available resources to bull trout in the area, the effects to designated bull trout critical habitat are likely to be insignificant.

Based upon the information in your request for concurrence, other available information, and our analysis of the Project, the Service concurs with your determination that the Project is not likely to adversely modify bull trout critical habitat for the following reasons: 1) the Primary Biological Factors of bull trout critical habitat have been previously degraded and are not functioning to support bull trout; 2) the Project will not further degrade or permanently impact or destroy the physical and biological features necessary for bull trout critical habitat; and 3) direct effects would likely be limited to temporary and localized disturbance of food resources and decreases to water quality. As a result, designated critical habitat for bull trout will not be destroyed or adversely modified.

Streaked Horned Larks: There could also be temporary impacts to streaked horned larks and suitable lark habitat in the action area. The Project will result in temporarily elevated terrestrial noise during construction and temporary and permanent ground disturbance. It is expected that impact driving of steel piles will create the loudest terrestrial noise source during construction at the action area. Peak terrestrial noise levels are estimated to be approximately 110 A-weighted decibels, measured at 50 feet. Ground disturbance includes disturbance from temporary construction activities, location of permanent infrastructure elements, and conservation activities. However, these effects are not anticipated to impact breeding pairs since there are no known breeding populations in the project vicinity. Foraging and non-breeding individuals dispersing to or wintering in the vicinity of the project area could be affected by the noise and presence of people, which could disturb individuals and cause them to flush, resulting in increased energetic costs and reduced foraging time. These effects would be difficult to detect or evaluate and are therefore insignificant, given that individuals arriving in the project area would be capable for sustained flight and could flee the area for the duration of the disturbance.

Based on the Project described in the biological assessment, other available information, and our known records of streaked horned larks in the action area, we concur with your determination that the Project is not likely to adversely affect the streaked horned lark for the following reasons: 1) the Project will not directly destroy suitable nesting habitat for streaked horned larks; 2) if individuals are present in the vicinity of construction activities, they may experience temporary auditory or visual disturbance, or may temporarily avoid the vicinity, but the potential for adverse effect would likely be limited to foraging streaked horned larks. Given the lack of documented sightings, few, if any, streaked horned larks are anticipated to be in the project area. The effects to streaked horned lark are therefore discountable.

Conservation Recommendations for Lamprey and Mussel Species

Section 7(a)(1) of the Act directs Federal agencies to use their authorities to further the purposes of the Act by implementing conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities designed to minimize or avoid adverse effects of a proposed action on listed species or designated critical habitat, to assist in the implementation of recovery plans or to obtain information. We have provided the following assessment and recommendations for your consideration as part of the Project. At this time, we are commenting on freshwater aquatic species that use the river benthos for all or a substantial portion to complete their life cycle, which may be adversely affected by

in-water work within waterways in the western United States. The Service will focus on native lampreys and freshwater mussels for this review. These groups are ecologically significant to riverine systems and food webs, and both are Tribal Trust species culturally crucial to Native American Tribes in the Pacific Northwest.

In-water construction activities, such as those proposed for the Project, are invasive and highly disruptive to benthic organisms and the overall aquatic ecosystem. Western lampreys and western freshwater mussels may occur in the Project-affected area. Because of the potential for substantial impacts to benthic communities, the Project should conduct surveys to determine if lamprey and mussel species are present, employ best management guidelines to minimize impacts, and mitigate for unavoided impacts. For both lampreys and mussels, recommended steps are generally outlined below:

Determine Species Distribution: Use available online distribution maps to determine what lamprey and mussel species may be at the Project site. The online maps below are based on submitted observations; a lack of documented presence does not mean these species are not in the project area and site-specific surveys should be conducted.

For Lampreys: see www.databasin.org to view available information on the current distribution of lampreys.

For Freshwater Mussels: request the most up-to-date database from the Xerces Society at mussels@xerces.org.

Conduct Site-Specific Surveys: Conduct site-specific surveys for lampreys and mussels prior to in-water work activities. Both species groups are cryptic and require specific survey techniques. Site-specific surveys should occur at areas where sediments will be disturbed/removed and in areas to be dewatered.

For Lampreys: Within the area of impact, survey areas of fine sediment and sand deposits to document larval lamprey presence. For wadable streams, use backpack electrofishers (see Appendix B of [Best Management Guidelines for Native Lampreys during In-water Work](#); Lamprey Technical Workgroup 2020). In deeper waters, use deep-water electrofishers if available. If unavailable, estimate the area of fine sediment and sand deposits. For more information on preferred habitats of lampreys, surveys, identification, and best management guidelines, see [Best Management Guidelines for Native Lampreys during In-water Work](#); Lamprey Technical Workgroup 2021.

For Mussels: Survey areas of relatively stable sediments of all types where salinity is less than 2 ppt. Surveys are done by snorkeling, diving, or underwater video, depending on the depth. Surveys should occur during warmer times of the year or when conditions are suitable and well before the permitted action to allow for adequate planning. The number of mussels within the area of impact should be estimated. For more information on mussels, identification, salvage, and restoration see Xerces' 2019 publication on in-water work and freshwater mussels ([Mussel-Friendly Restoration](#)).

If site-specific surveys are not conducted, the Permittee should estimate the amount of suitable habitats (square meters) for each species, which can be used to determine appropriate mitigation. Without presence/absence surveys, the entire project area should be assumed to be suitable habitat.

Timing of In-water Work: We recognize there is little flexibility in the in-water work, given the complexity of the Project. There is no in-water work window protective of larval lamprey or mussel species in the river bottom year-round and salvage is recommended if these species are present.

Salvage of Lampreys and Mussels: If lamprey or mussels are found within the Project area that will be impacted, lamprey and mussels should be relocated if possible. Salvage of lamprey is difficult in deep waters and likely only possible in wadeable waters using backpack electrofisher to remove as many lamprey as possible and relocate in suitable habitats out of harm's way (see [Best Management Guidelines for Native Lampreys during In-water Work](#); Lamprey Technical Workgroup 2020). Salvage and relocation of mussels can be done in shallow or deeper waters, and divers could be required; however, careful planning and selection of suitable mussel habitat for relocation is necessary (see [Mussel-Friendly Restoration](#); Xerces 2019).

Mitigation in Lieu of Minimizing Impacts: We note there may not be an economical manner to survey, minimize, or avoid impacts on the benthic community from the Project. However, multiple in-water work actions occur throughout the lower Columbia River every year. While each action may not represent a large footprint relative to a specific basin, collectively and over time, these actions can represent substantial impacts to lamprey and other benthic invertebrates and their future recruitment. For lampreys, these impacts are most significant in areas used by spawning lampreys, or areas occupied with high densities of larval lamprey across multiple age classes. For mussels and other invertebrates, the impacts are most significant when individual species are highly abundant or of reproductive age. We recommend IBR include consideration for these species in their mitigation proposals to offset impacts to lampreys and mussels commensurate to Project impacts on these species.

Reporting: The Service is interested in obtaining data collected by the Project on lampreys and mussels as this will contribute to the available information and aid in our understanding of these species. Information on presence, distribution, relative abundance, habitat, salvage efforts, and success, or alternative offsets or mitigation should be documented and reported to the Service. Please include location, dates, biological information collected on lamprey and mussels, and any mitigation actions. Please send this documentation to the appropriate Service office for our records:

Email: fwlfo@fws.gov
USFWS
2600 SE 98th Ave, #100
Portland, OR 97266

Northwestern Pond Turtle

The Service recently proposed listing of the northwestern pond turtle ([NWPT FED REG NOTICE](#)) on October 3, 2023. While we have no data that confirm NWPT use habitats affected by the Project, there are documented occurrences of NWPT near the Columbia River in the Project vicinity. Most turtle sightings along the Lower Columbia River are of the more brightly colored (thus more easily seen) and more abundant western painted turtle. There are known observations of individuals and nests of western painted turtles along the mainstem Columbia and Hayden Island; as these turtles share some habitat requirements with NWPT, their presence lends support that NWPT may also be in the Project affected area.

We are not aware of any survey effort for turtles along the Columbia River mainstem, but that area contains suitable NWPT aquatic habitat for dispersal, foraging (most likely along the shallower/more productive shorelines where there is food and cover); basking (e.g., along shoreline where there is woody structure); nesting along shorelines; and possibly overwintering in complex substrate along shoreline. We recommend IBR conduct surveys in Project-affected areas prior to the beginning of construction. Interstate Bridge Replacement may also want to consider the benefits of conferencing under the Act on this species, which could ensure timely Act coverage should the NWPT be formally listed prior or during construction. For more information on northwestern pond turtle habitat, identification, and best management guidelines, please refer to the [Oregon Department of Fish & Wildlife 2015 BMPs](#). For additional information about northwestern pond turtles, please refer to the [Frequently Asked Questions](#) portion of the October 3, 2023 Proposed Rule News Release, and the [Western pond turtle Range-wide Management Strategy](#).

Conclusion

This concludes informal consultation pursuant to section 7(a) (2) of the Endangered Species Act. As provided in 50 C.F.R. 402.16, reinitiation of consultation is required and shall be requested by the Federal Highway Administration, Federal Transit Administration, or by the Fish and Wildlife Service, where discretionary Federal involvement or control over the action has been retained or is authorized by law and: (1) if information reveals that effects of the action may affect listed species or critical habitat in a manner or to an extent not considered in this consultation; (2) if the action is subsequently modified in a manner that causes an effect to listed species or critical habitat that was not considered in this letter of concurrence; or (3) if a new species is listed or critical habitat is designated that may be affected by this action.

Thank you for your coordination on this project and for your concern for the conservation of these species. If you have any further questions regarding this consultation, please contact Liliana Calderon of my staff at (970) 518-8518.

Sincerely,

Acting for Kessina Lee
State Supervisor