



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

Refer to NMFS No:
WCRO-2019-03587

October 2, 2020

Sean E. Callahan
Environmental Protection Specialist
USDOT, Federal Aviation Administration
2200 S. 216th Street
Des Moines, Washington 98198

Re: Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Aurora State Airport Run-Up Apron Construction, Marion County, Oregon.

Dear Mr. Callahan,

This letter responds to your Dec 10, 2019 request for initiation of formal consultation with the National Marine Fisheries Service (NMFS) pursuant to Section 7 of the Endangered Species Act (ESA) on the effects of the Federal Aviation Administration (FAA) authorizing funding to the Oregon Department of Aviation (ODA) the above named action based on the FAA's authority to administer the FAA Reauthorization Act of 2018.

Your request qualified for our expedited review and analysis because it met our screening criteria and contained all required information on, and analysis of, your proposed action and its potential effects to listed species and designated critical habitat when supplemented with information from biological opinions for similar actions, including NMFS (2013); NMFS (2014; herein referred to as "SLOPES"); NMFS (2018); and NMFS (2020).

We reviewed the FAA's consultation request and related initiation package, including a Biological Assessment (BA) prepared by ESA (2019), which is available on file at the NMFS Oregon Washington Coastal Office in Portland, Oregon. Where relevant, we adopted the information and analyses provided in the BA, but only after our independent, science-based evaluation confirmed they meet our regulatory and scientific standards. We adopt by reference here the following chapters of the BA, and supplemental information from previous biological opinions as noted:

- Chapter 2 for the description of the proposed action,
- Chapter 3 for the status of species and critical habitat,
- Chapter 4 for environmental baseline, and
- Chapter 5 for the effects of the proposed action and cumulative effects.



This consultation was conducted between NMFS and FAA as follows:

- On Jul 19, 2019, NMFS received a request for informal consultation from FAA for the Run-up Apron Construction proposed action at the Aurora State Airport. After reviewing the BA 2019, NMFS established that there was insufficient evidence to reach a not likely to adversely affect (NLAA) determination and requested more information on how the applicant would manage post-construction stormwater that would be discharged from the proposed project area.
- On Oct 30, 2019, FAA withdrew their consultation package in order to further develop a more sufficient stormwater management plan.
- On Dec 19, 2019, NMFS received a second request for initiation (FAA 2010) with a BA and new stormwater management plan (Murphy, 2019), that included a “may affect, likely to adversely affect” determination.

As described in Chapter 2 of the BA, in FAA is proposing to use its authority under the FAA Reauthorization Act of 2018 to fund the construction of the Oregon Department of Aviation’s (ODA) Aurora State Airport Run-up Apron. Construction of a run-up apron will occur at the northeast end of the airport parallel to Taxiway A for safety purposes and to enhance capacity and traffic flow. The purpose of a run-up apron is to allow pilots to safely perform last-minute checks on aircraft prior to takeoff. FAA also proposed to manage post-construction stormwater runoff from the proposed run-up in a way that would meet or exceed SLOPES criteria.

“Action area” means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR 402.02). For this proposed action, the action area includes the immediate development footprint for the run-up apron, and an area of impact that includes drainage ditches that convey surface and groundwater from the development footprint offsite to Deer Creek, and the downstream reach of surface waters that Deer Creek is tributary to, including portions of the lower Willamette and lower Columbia Rivers. The action area ends at the seaward edge of the Columbia River plume, where freshwater and the combined pollutants from surrounding watersheds complete their transition into the coastal ocean.

This action area is larger than the one described in Chapter 2 of the BA, but is consistent with Chapter 5 of the BA, which notes that stormwater runoff from impervious surfaces contains a variety of pollutants and contaminants that can have lethal and sublethal effects on salmon, and can also attach to sediments and travel long distances in aquatic systems. This larger action area is also consistent with NMFS understanding of the downstream fate and transport of the persistent pollutants and contaminants that are discharged with post-construction stormwater runoff, even after treatment to reduce the concentration of those constituents (NMFS 2013; 2014; and 2018). Thus, NMFS concludes that the following species occur within the action area:

1. Lower Columbia River Chinook salmon
2. Upper Willamette River Chinook salmon
3. Upper Col. River spring-run Chinook salmon
4. Snake River spring/summer run Chinook salmon
5. Snake River fall-run Chinook salmon
6. Columbia River chum salmon

7. Lower Columbia River coho salmon
8. Snake River sockeye salmon
9. Lower Columbia River steelhead
10. Upper Willamette River steelhead
11. Middle Columbia River steelhead
12. Upper Columbia River steelhead
13. Snake River Basin steelhead
14. Southern DPS green sturgeon
15. Southern DPS eulachon

This list of species is longer than described in Chapter 3 of the BA, but is consistent with the list of species that NMFS can verify as occurring within the action area and that are likely to be adversely affected by the proposed action. Similarly, each of the affected species also has designated critical habitat in the action area that are also likely to be adversely affected by the proposed action.

We used information in Chapter 3 of the BA to examine the status of species and critical habitats within the lower Willamette River part of the action area, as described in 50 CFR 402.02, and supplemented that with additional information from NMFS (2020) for species and critical habitats in the lower Columbia River, including the function of the physical or biological features (PBFs) essential to the conservation of the species that create the conservation value of those critical habitats. We also considered information from conservation and recovery plans for those species (NMFS 2020) describing the presence, abundance, density or periodic occurrence of listed species and the condition and location of the species' habitat, including critical habitat, as described in 50 CFR 402.14(c)(1)(iii).

We used information in Chapter 4 of the BA to examine the “environmental baseline” for the Willamette River part of the action area, and supplemented that with additional information from NMFS (2020) regarding the environmental baseline for the lower Columbia River, including the past and present impacts of all Federal, State, or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal actions in the action area that have already undergone formal or early section 7 consultations, and the impact of State or private actions which are contemporaneous with the consultation in process (50 CFR 402.02). The consequences to listed species or designated critical habitat from ongoing agency activities or existing agency facilities that are not within the agency's discretion to modify are also part of the environmental baseline.

Under the ESA, “effects of the action” are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action (see 50 CFR 402.17). In our analysis, which describes the effects of the proposed action, we considered 50 CFR 402.17(a) and (b).

We used information in Chapter 5 of the BA provide a discussion and assessment of the effects of the proposed action, and adopt those here pursuant to 50 CFR 402.14(h)(3)(i). NMFS supplemented that information with additional data and analyses from NMFS (2013), SLOPES, and NMFS (2018), to complete our independent, science-based evaluation to determine that the available information meets our regulatory and scientific standards.

“Cumulative effects” are those effects of future state or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the Federal action subject to consultation (50 CFR 402.02 and 402.17(a)). Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the ESA. We used information in Chapter 5 of the BA and discusses cumulative effects and identifies no non-federal actions occurring or likely to occur within the Willamette River part of the action area, and we supplemented that with additional information from NMFS (2020) regarding cumulative effects for the lower Columbia River part of the action area.

Integration and synthesis of information for the status of species, environmental baseline, effects of the action, and cumulative effects is the final step in our assessment of the risk posed to species and critical habitat as a result of implementing the proposed action. Here, we add the effects of the action to the environmental baseline and the cumulative effects, taking into account the status of the species and critical habitat, to formulate our biological opinion as to whether the proposed action is likely to: (1) Reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing its numbers, reproduction, or distribution; or (2) appreciably diminish the value of designated or proposed critical habitat as a whole for the conservation of the species.

As described in Chapter 3 of the BA and additional information from NMFS (2020), including the conservation and recovery plans for those species cited therein, populations of the fifteen species of ESA-listed fish that occur within the action area use that area to complete all or part of their life history requirements.

The status of these salmon and steelhead species and their many individual populations vary considerably, from endangered to threatened, and from very high risk of extinction to low risk of extinction. Their abundance has declined due to numerous factors, but one factor they all share is degradation of freshwater and estuarine habitats within the action area due to the effects of land and water development across their range. Some salmon and steelhead species migrate and rear in the action area, while others only migrate through, once as out-migrating juveniles and then again as adult fish on upstream spawning migration. Similarly, juvenile and adult southern green sturgeon use the lower estuary in the action area to rear or complete seasonal migrations, and eulachon use a somewhat wider range of estuary and freshwater conditions for spawning, rearing, and migration, although declines of these two species are not as closely associated with degradation of habitat conditions within the action area as they are salmon and steelhead. Current trends in climate and marine conditions are likely to place additional stress on populations by exacerbating ongoing habitat concerns such as increasing summer temperatures and reduced

summer flows in the freshwater environment, sea level rise in the estuary, and ocean acidification.

Chapter 3 of the BA and additional information from NMFS (2020) also describe the status of critical habitat that is designated for the fifteen species of ESA-listed fish that occur within the action area. Baseline conditions for the individual PBFs that comprise those critical habitats vary widely at scale, from poor (e.g., floodplain connectivity, riparian conditions) to fair (e.g., fish passage, water quantity) but were determined to have a high conservation value within the action area itself based largely on their migratory and restoration potential. Similar to their impacts on species, current trends in climate and marine conditions are likely to place additional stress on the conservation value of critical habitats.

Information in Chapter 4 of the BA and supplemental information from NMFS (2020) describe the environmental baseline in the action area as poor. NMFS assumes that the environmental baseline is not meeting all biological requirements of individual fish of listed species, and that critical habitat is not fulfilling its full conservation potential. This is due to one or more impaired aquatic habitat functions related PBFs for water quality, substrate, off-channel habitat, channel conditions and dynamics, stream hydrology, and other habitat factors that are limiting the recovery of the species in that area.

As described in Chapter 5 of the BA and supplemental information from NMFS (2013), SLOPES, and NMFS (2018), the proposed action will discharge post-construction stormwater that, despite being treated, will still contain a wide variety of pollutants and contaminants, including sediment, nutrients, metals, petroleum-related compounds, pesticides, particles of tire tread, and other chemical compounds. Some of those contaminants are persistent and can travel long distances in aquatic systems. Some are also likely to accumulate in species as they pass from one species to the next through the food web. Those constituents have been observed to harm fish that come into contact with them far downstream when they enter fish tissues at levels high enough to modify behavior, disrupt endocrine functions, or cause immunotoxic disease effects, either by themselves or through additive, interactive, and synergistic interactions with other contaminants in the river.

These harmful effects are likely to fall unequally on salmon and steelhead populations with subyearling, or mixed subyearling and yearling, life histories (i.e., UWR spring-run Chinook salmon, CR chum salmon, LCR Chinook salmon, and SR fall-run Chinook salmon), because juveniles of those species are more closely associated with low velocity habitats where contaminants are likely to be more concentrated in fine, suspended sediments, and in their prey organisms. They will also harm southern green sturgeon, a long-lived, benthic dwelling species that spends an appreciable amount of their life cycle in bays, estuaries, and lower elevation mainstem of rivers where they are vulnerable to the effects of stormwater pollutants and contaminants, particularly in suspended sediments and bioaccumulation of contaminants in their prey, although exposure to pollutants has not been identified as limiting factor for this species. Similarly, egg and larval stages of eulachon will be vulnerable to stormwater pollutants and contaminants because of their benthic distribution, although adult eulachon are less vulnerable because of their relatively brief residence time in the river before dispersal into the ocean.

Pollutants and contaminants discharged with treated stormwater from the development footprint are also likely to have an adverse impact on the PBFs that salmon and steelhead need for forage and water quality at sites used for freshwater rearing, in freshwater migration corridors, and in estuarine areas. Those adverse impacts would be greater on critical habitat designated for species and populations that have a sub-yearling life history than for those with a yearling life history, although all impacts would lessen in the estuary as freshwater influences subside and marine influences increase. Similarly, the effects of the proposed action are likely to have an adverse impact on PBFs that southern green sturgeon need for food resources, sediment quality, and water quality at freshwater riverine sites, estuarine sites, and coastal marine areas. Those effects lessen in the estuary, as freshwater influences subside and marine influences increase, and end in coastal marine areas beyond influences of the Columbia River freshwater plume. PBFs required by eulachon for water quality and substrate in freshwater spawning areas, and for water quality and food in freshwater migration areas, are also likely to be adversely impacted by the proposed action.

The volume of stormwater that would be discharged from this individual project is very small in comparison to the volume of streamflow downstream, and the impact of pollutants and contaminants in that discharge are also very small when compared to the adverse effects caused by the contaminants in all historical or existing stormwater discharges. Nonetheless, this discharge will still have an incremental effect on the pollutant levels at the watershed scale due to the sustained, long-term, and chronic nature of stormwater discharges, and due to the compounding effects of environmental processes that affect the fate and transport of those pollutants.

However, commensurate with the relatively small amount of treated runoff that will be produced by the proposed apron, the intensity and severity of this additional increment of adverse effect on species and critical habitats in the action area will be very low. Moreover, any runoff from adjacent impervious surfaces that had previously been discharged into the footprint of the proposed run-up apron, and that was either untreated or under-treated relative to the methods prescribed in SLOPES, will now achieve the same level of stormwater treatment as the new apron itself, further minimizing the overall adverse effects of this action. Thus, the impacts of the proposed action on species and critical habitat is not expected to reduce the abundance, productivity, or genetic or spatial diversity of any affected population of Pacific salmon, southern green sturgeon, or eulachon, or reduce the conservation value of any of critical habitat PBFs considered here, at either the site, watershed or designation scale.

Chapter 5 of the BA discussed cumulative effects but only identified the current level of air traffic as a future state or private action that is reasonably certain to occur within the action area. We used additional information from NMFS (2020) to complete this part of our analysis and conclude that overall, urban areas are likely to experience continued population growth while redevelopment and private restoration actions will begin to improve negative baseline conditions and, in rural areas, agricultural and forestry practices are also likely to continue at a scale similar to that in the past.

After reviewing and analyzing the current status of the 15 ESA-listed species and their designated critical habitats considered in this opinion, the environmental baseline within the

action area, the effects of the proposed action, the effects of other activities caused by the proposed action, and cumulative effects, it is NMFS' biological opinion that the proposed action is not likely to jeopardize the continued existence of the fifteen species considered in this opinion, or destroy or adversely modify their designated critical habitats.

INCIDENTAL TAKE STATEMENT

Section 9 of the ESA and Federal regulations pursuant to section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively, without a special exemption. "Take" is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. "Harm" is further defined by regulation to include significant habitat modification or degradation that actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding, or sheltering (50 CFR 222.102). "Incidental take" is defined by regulation as takings that result from, but are not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or applicant (50 CFR 402.02). Section 7(b)(4) and section 7(o)(2) provide that taking that is incidental to an otherwise lawful agency action is not considered to be prohibited taking under the ESA if that action is performed in compliance with the terms and conditions of this ITS.

Amount or Extent of Take

In the biological opinion, NMFS determined that incidental take is reasonably certain to occur as harm to juveniles and adults of the fifteen ESA-listed fish considered in this opinion due to exposure to pollutants and contaminants discharged with post-construction runoff from new impervious area that would be constructed as part of the proposed action.

The distribution and abundance of fish that occur within an action area are affected by habitat quality, competition, predation, and the interaction of processes that influence genetic, population, and environmental characteristics. These biotic and environmental processes interact in ways that may be random or directional, and may operate across far broader temporal and spatial scales than are affected by the proposed action. Thus, the distribution and abundance of fish within the action area cannot be attributed entirely to habitat conditions, nor can NMFS precisely predict the number of fish that are reasonably certain to be injured or killed if their habitat is modified or degraded by the proposed action.

In such circumstances, NMFS uses the causal link established between the activity and the likely changes in habitat conditions affecting the listed species to describe the extent of take as a numerical level of habitat disturbance or, as in this case, compliance with a combination of best management practices that NMFS determined to be an effective and practicable means to minimize the concentration of pollutants and contaminants in a stormwater discharge.

Here, the best available indicators for the extent of take are a combination of stormwater facility inspection, maintenance, and operations standards because they will determine whether the stormwater treatment system continues to minimize the concentration of pollutants in stormwater runoff as designed, and thus reflect the amount of incidental take analyzed in the opinion:

1. Each part of the stormwater system, including the catch basin and flow-through swale, must be inspected and maintained at least quarterly for the first three years, at least twice a year thereafter, and within 48-hours of a major storm event, i.e., a storm event with greater than or equal to 1.0 inch of rain during a 24-hour period.
2. All stormwater must drain out of the catch basin within 24-hours after rainfall ends, and out of the flow-through planter within 48-hours after rainfall ends.
3. All structural components, including inlets and outlets, must effectively convey stormwater.
4. Desirable vegetation in the flow-through planter must cover at least 90% of the facility – excluding dead or stressed vegetation, dry grass or other plants, and weeds.

These take indicators act as effective reinitiation triggers because the FAA may require entities that receive Federal assistance to accept certain contractual obligations and conditions via grant assurances and special conditions that extend beyond the life of the grant including, but not limited to, maintenance of federally funded improvements and maintenance of airport property. Moreover, these features best integrate the likely take pathways associated with this action, and are proportional to the anticipated amount of take. In particular, the effectiveness of stormwater management features is directly related to their ability to reduce the concentration of pollutants and contaminants that are likely to harm fish, and thus the number of individuals harmed due to stormwater discharge. Moreover, these are the most practical and feasible indicators to measure, and they provide clear trigger for reinitiation.

Exceeding any of the indicators for extent of take will trigger the reinitiation provisions of this opinion.

Effect of the Take

In the biological opinion, NMFS determined that the amount or extent of anticipated take, coupled with other effects of the proposed action, is not likely to result in jeopardy to the species or destruction or adverse modification of critical habitat.

Reasonable and Prudent Measures

“Reasonable and prudent measures” are nondiscretionary measures that are necessary or appropriate to minimize the impact of the amount or extent of incidental take (50 CFR 402.02).

The FAA shall:

1. Ensure that stormwater runoff produced by the areas of the Aurora State Airport that are modified through the proposed action is treated with stormwater facilities that are designed, constructed, operated, and maintained using the best available information on LID and BMPs for stormwater treatment and discharge.
2. Ensure completion of a monitoring and reporting program to confirm that the take exemption for the proposed action is not exceeded, and that the terms and conditions in this incidental take statement are effective in minimizing incidental take.

Terms and Conditions

The terms and conditions described below are non-discretionary, and the FAA or any applicant must comply with them in order to implement the reasonable and prudent measures (50 CFR 402.14). The FAA or any applicant has a continuing duty to monitor the impacts of incidental take and must report the progress of the action and its impact on the species as specified in this incidental take statement (50 CFR 402.14). If the following terms and conditions are not complied with, the protective coverage of section 7(o) (2) will likely lapse.

1. To implement reasonable and prudent measure #1 (design, construction, operation and maintenance of stormwater BMPs), the FAA shall ensure that the Aurora State Airport improvements will be constructed, operated, and maintained with stormwater facilities as described below:
 - a. The project developer will be responsible for insuring installation, function and maintenance of the proposed stormwater treatment facilities during construction.
 - b. Following construction, any successor in interest to the project developer will assume responsibility for maintenance of all of the system components per the manufacturer's recommendations and as described in Murphy (2019), or the most recent version of that plan.
 - c. Ensure that the storm drainage outfall will discharge into a flow path that will effectively disperse runoff without causing erosion before the discharge reaches Deer Creek.
 - d. Carry out the stormwater operation and maintenance plan as described in Murphy (2019), including all provision pertaining to:
 - i. Identification of responsible parties
 - ii. Inspection and maintenance schedule
 - iii. Inspection and maintenance procedures
 - iv. Keeping and preserving log of all maintenance activities
2. To implement reasonable and prudent measure #2 (monitoring and reporting), the FAA shall submit the following reports to NMFS:
 - a. A project completion report within 60-days of completing construction, including:
 - i. Project name
 - ii. FAA contact person
 - iii. Construction completion date
 - iv. An explanation of the stormwater system as built or installed by the construction contractor, including any on-site changes from the original Century West (2019) plan
 - v. A photograph of the stormwater outfall with a map showing its location
 - b. Three annual reports on stormwater operation and maintenance – for the years 2021, 2022, and 2023 – including a copy of the stormwater facility monitoring log with:
 - i. The name of the contractor (if applicable) for all inspections
 - ii. The date of each regular inspection, and any additional inspection made within 48-hours of storm events with greater than or equal to 1.0 inch of rain during a 24-hour period

- iii. A description of any structural repairs, maintenance, or facility cleanout activities, *e.g.*, sediment and oil removal and disposal, vegetation management, erosion control, structural repairs or seals, ponding water, pests, and trash or debris removal
- iv. An estimate of the percent cover of healthy vegetation in the vegetated filter strips and the vegetated conveyance swales
- c. Each annual report must be submitted to NMFS at the following address, or by email to annie.birnie@noaa.gov, no later than September 30:

Annie Birnie
National Marine Fisheries Service
Attn: WCRO-2019-03587
1201 NE Lloyd Blvd, #1100
Portland, OR 97232

Conservation Recommendations

Section 7(a)(1) of the ESA directs Federal agencies to use their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of the threatened and endangered species. Specifically, conservation recommendations are suggestions regarding discretionary measures to minimize or avoid adverse effects of a proposed action on listed species or critical habitat or regarding the development of information (50 CFR 402.02).

NMFS recommends that the FAA initiate and complete consultation on a programmatic biological opinion that addresses FAA's proposed airport improvement actions where they coincide with ESA-listed species and critical habitats. The primary benefits of programmatic consultation are more consistent use of conservation measures, the ability to address the effects of multiple activities at larger scales, efficient workload management, improved internal communication, better public relations, and a sharper vision of interagency consultation overall. Individual actions that might otherwise be part of a program, but for which information necessary to complete an effects analysis is lacking, can be handled in separate, individual consultations.

Reinitiation of Consultation

Reinitiation of consultation is required and shall be requested by FAA or by NMFS, where discretionary Federal involvement or control over the action has been retained or is authorized by law and (1) The amount or extent of incidental taking specified in the ITS is exceeded, (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this biological opinion; or if (4) a new species is listed or critical habitat designated that may be affected by the identified action.

NMFS also reviewed the proposed action for potential effects on essential fish habitat (EFH) designated under the Magnuson-Stevens Fishery Conservation and Management Act (MSA),

including conservation measures and any determination you made regarding the potential effects of the action. This review was conducted pursuant to section 305(b) of the MSA, implementing regulations at 50 CFR 600.920, and agency guidance for use of the ESA consultation process to complete EFH consultation. The proposed action and action area for this consultation are described in the Introduction to this document. The action area includes areas designated as EFH for various life-history stages of Chinook and coho salmon as identified in the Fishery Management Plan for Pacific coast salmon (PFMC 2014). Based on information provided by the action agency and the analysis of effects presented in the ESA portion of this document, NMFS concludes that proposed action will have adverse effects on EFH designated for Chinook and coho salmon by discharging post-construction stormwater into areas used by Pacific salmon for rearing and migration in freshwater and estuarine areas.

To avoid or minimize those impacts, NMFS recommends that the FAA follow reasonable and prudent measures #1 and #2.

By fully implementing this recommendation, the FAA would help to protect EFH designated for Pacific Coast salmon by reducing the concentration of pollutants and contaminants in post-construction stormwater discharged by the proposed action.

As required by section 305(b)(4)(B) of the MSA, the FAA must provide a detailed response in writing to NMFS within 30 days after receiving an EFH Conservation Recommendation. Such a response must be provided at least 10 days prior to final approval of the action if the response is inconsistent with any of NMFS' EFH Conservation Recommendations unless NMFS and the Federal agency have agreed to use alternative time frames for the Federal agency response. The response must include a description of measures proposed by the agency for avoiding, minimizing, mitigating, or otherwise offsetting the impact of the activity on EFH.

In the case of a response that is inconsistent with the Conservation Recommendations, the Federal agency must explain its reasons for not following the recommendations, including the scientific justification for any disagreements with NMFS over the anticipated effects of the action and the measures needed to avoid, minimize, mitigate, or offset such effects (50 CFR 600.920(k)(1)).

In response to increased oversight of overall EFH program effectiveness by the Office of Management and Budget, NMFS established a quarterly reporting requirement to determine how many conservation recommendations are provided as part of each EFH consultation and how many are adopted by the action agency. Therefore, we ask that in your statutory reply to the EFH portion of this consultation, you clearly identify the number of conservation recommendations accepted.

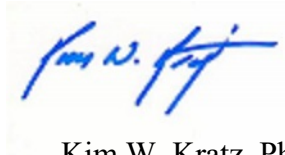
The FAA must reinitiate EFH consultation with NMFS if the proposed action is substantially revised in a way that may adversely affect EFH, or if new information becomes available that affects the basis for NMFS' EFH Conservation Recommendations (50 CFR 600.920(l)).

This letter underwent pre-dissemination review using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (section

515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554). The biological opinion will be available through NOAA Institutional Repository <https://repository.library.noaa.gov/>. A complete record of this consultation is on file at the Oregon Washington Coastal Office, Portland, Oregon.

Please direct questions regarding this letter to Annie Birnie, annie.birnie@noaa.gov, (503) 230-5407.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kim W. Kratz".

Kim W. Kratz, Ph.D.
Assistant Regional Administrator
National Marine Fisheries West Coast Region
Oregon and Washington Coastal Area Office

cc: Heather Peck, Oregon Department of Aviation
Peter Murphy, Century West Engineering

REFERENCES

- ESA. 2019. Aurora State Airport Run-Up Apron, Biological Assessment. Prepared for Century West Engineering and Oregon Department of Aviation. ESA, 819 SE Morrison St #310, Portland, OR 97214. June 2019.
- Murphy, P. 2019. Memo from Peter Murphy, Century West Engineering, to Sean Callahan, Federal Aviation Administration, with attachments (Stormwater Design: Executive Summary for the Aurora State Airport North Run-up Apron) (November 25, 2019).
- NMFS. 2013. Endangered Species Act Conference and Biological Opinion and Magnuson-Stevens Act Essential Fish Habitat Response for the Department of Housing and Urban Development's Lone Pine Village Apartments, City of The Dalles, Wasco County, Oregon (HUC: 170701050406) (Refer to: NWR-2012-9493) (July 30, 2013)
- NMFS. 2014. Reinitiation of the Endangered Species Act Section 7 Programmatic Conference and Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Revisions to Standard Local Operating Procedures for Endangered Species to Administer Maintenance or Improvement of Stormwater, Transportation or Utility Actions Authorized or Carried Out by the U.S. Army Corps of Engineers in Oregon (SLOPES for Stormwater, Transportation or Utilities) (Refer to NWR-2013-10411) (March 14, 2014).
- NMFS. 2018. Endangered Species Act Section 7(a)(2) Biological Opinion, and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Corvallis Airport Runway Rehabilitation Project, Benton County, Oregon, HUCs 170900030211 / 17090003605 (Refer to NMFS No.: WCR-2017-8403) (June 20, 2018).
- NMFS. 2020. Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Continued Operation and Maintenance of the Columbia River System (Refer to NMFS No: WCRO 2020-00113) (July 24, 2020).
- PFMC (Pacific Fishery Management Council). 2014. Appendix A to the Pacific Coast Salmon Fishery Management Plan, as modified by Amendment 18 to the Pacific Coast Salmon Plan: Identification and description of essential fish habitat, adverse impacts, and recommended conservation measures for salmon. Pacific Fishery Management Council, Portland, OR. September 2014. 196 p. + appendices.