



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-2021-01017

December 17, 2024

Lindsey Handel
Area Engineer
Federal Highway Administration Washington Division
711 Capitol Way South, Suite 501
Olympia, Washington 98501

Re: Revised ITS for WCRO-2021-01017 - Endangered Species Act Section 7(a)(2)
Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act
Essential Fish Habitat Response for the Newport Way Improvements Project, Issaquah,
King County, Washington

Dear Ms. Handel:

On September 3, 2024, NOAA's National Marine Fisheries Service (NMFS) issued its Biological Opinion (Opinion), Incidental Take Statement (ITS), and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Newport Way Improvements Project in Issaquah, King County. At the time of issuance, NMFS included two Terms and Conditions (T&Cs) to implement two Reasonable Prudent Measures (RPMs) to minimize incidental take of Puget Sound (PS) Chinook salmon and PS steelhead associated with fish salvage and operational effects from stormwater. The Federal Highway Administration (FHWA) and the City of Issaquah (City) have identified several reasons why one portion of the T&C, as drafted, is infeasible in a letter dated October 31, 2024. Specifically, the City identified that the frequency of inspecting and maintaining the entirety of the stormwater facility system as described in T&C #2.d.i. is infeasible due to the amount of labor and funding that would be required to conduct twice yearly inspection and maintenance indefinitely. At this time, we believe that corrections to the Terms and Condition are warranted. The revision serves to more precisely describe which portions of the stormwater facility system need to be inspected and maintained, specifies the time period for twice yearly inspections and maintenance to ensure the new facilities are functioning appropriately and as designed, and provides suggestions for when inspections and maintenance should occur to best maximize the effectiveness of the facilities to prevent or reduce stormwater contaminants from entering surface waters.

T&C 2.d.i. currently reads as:

- i. Inspect and maintain each part of the stormwater system, including the media filter units, modular wetlands, and detention ponds, at least twice a year. Consider adaptive management of stormwater treatment to address lack of treatment effectiveness if observed.

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T&C 2.d.i. shall be revised as:

- i. Inspect and maintain the media filter units, modular wetlands, and detention ponds, at least twice a year for a period of three years, and annually thereafter. The recommended timing of the twice annual inspections should take place prior to a first flush event and once immediately after a heavy rain event or at the end of the rainy season. Annual inspections should take place prior to the first flush event. Consider adaptive management of stormwater treatment to address lack of treatment effectiveness if observed.

The remainder of the Incidental Take Statement, Reasonable and Prudent Measures, and Conservation Recommendations remain unchanged from those published in the Opinion. Similarly, the Reinitiation of Consultation section remains in effect as described in the Opinion and these corrections to the Term and Conditions do not trigger reinitiation of this consultation. With respect to the Magnuson-Stevens Fisheries Conservation Act (MSA), the analysis and conclusions reached for Essential Fish Habitat (EFH) are similarly unaffected by the proposed edits and the EFH Conservation Measures remain in effect, as documented in the Opinion.

Please attach this erratum sheet to the Opinion in your records. Please contact Jennifer Lang at jennifer.lang@noaa.gov if you have any questions concerning this consultation, or if you require additional information.

Sincerely,



Kathleen Wells
Assistant Regional Administrator
Oregon Washington Coastal Office

cc: Cindy Callahan (FHWA)
Melanie Vance (WSDOT)