

## Erickson, Vivian (Consultant)

---

**Subject:** RE: [EXTERNAL] FW: USFWS Ref. No. 1-3-05-F-0688 and No. 13410-2005-F-0008, SR 167 Stage 2 Consultation Update

---

**From:** Ritchotte, George L <[george\\_ritchotte@fws.gov](mailto:george_ritchotte@fws.gov)>

**Sent:** Friday, March 17, 2023 7:04 AM

**To:** [DreierJ@wsdot.wa.gov](mailto:DreierJ@wsdot.wa.gov)

**Cc:** Maki Dalzell <[mdalzell@HNTB.com](mailto:mdalzell@HNTB.com)>; Magrane, April <[MagranA@wsdot.wa.gov](mailto:MagranA@wsdot.wa.gov)>; [kucharm@wsdot.wa.gov](mailto:kucharm@wsdot.wa.gov); Callahan, Cindy (FHWA) <[cindy.callahan@dot.gov](mailto:cindy.callahan@dot.gov)>; Julie Hampden <[jhampden@HNTB.com](mailto:jhampden@HNTB.com)>; George Ritchotte <[gritchotte@herrerainc.com](mailto:gritchotte@herrerainc.com)>

**Subject:** Re: [EXTERNAL] FW: USFWS Ref. No. 1-3-05-F-0688 and No. 13410-2005-F-0008, SR 167 Stage 2 Consultation Update

Good morning Jeff -

Thank you for the update. The USFWS concurs that the design changes do not affect USFWS-listed species beyond what was previously considered. We will add this summary to the administrative record for the project.

George Ritchotte  
WSDOT Liaison - ESA Biologist  
cell: 206-356-0511

---

**From:** Dreier, Jeff <[DreierJ@wsdot.wa.gov](mailto:DreierJ@wsdot.wa.gov)>

**Sent:** Thursday, March 16, 2023 11:51 AM

**To:** George Ritchotte <[gritchotte@herrerainc.com](mailto:gritchotte@herrerainc.com)>

**Cc:** Julie Hampden <[jhampden@hntb.com](mailto:jhampden@hntb.com)>; Maki Dalzell <[mdalzell@HNTB.com](mailto:mdalzell@HNTB.com)>; Magrane, April <[MagranA@wsdot.wa.gov](mailto:MagranA@wsdot.wa.gov)>; Kucharski, Margaret <[KucharM@wsdot.wa.gov](mailto:KucharM@wsdot.wa.gov)>; [cindy.callahan@dot.gov](mailto:cindy.callahan@dot.gov)

**Subject:** USFWS Ref. No. 1-3-05-F-0688 and No. 13410-2005-F-0008, SR 167 Stage 2 Consultation Update

Hi George,

The Washington State Department of Transportation, on behalf of the Federal Highway Administration, has prepared a summary of project design changes resulting from design advancement for the SR 167 Completion Project, Stage 2: SR 167/I-5 to SR 161 –New Expressway Project. The design changes include refinements of pollution generating impervious surface, outfalls, and water crossings or culverts. The summary also includes the impact areas and additional mitigation sites that were not included in the original consultation or subsequent reinitiations and updates.

The Stage 2 design changes do not affect U.S. Fish and Wildlife Service (USFWS) listed species or habitat beyond what was documented previously. This document is being provided to USFWS as a project update, specifically addressing bull trout.

Please let me know if you have any questions.

Jeff Dreier  
Fish and Wildlife Program Manager  
Washington State Department of Transportation  
Environmental Services Office  
360-705-7254

*This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to whom they are addressed. If you are NOT the intended recipient and receive this communication, please delete this message and any attachments. Thank you.*



**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-2023-00342

September 6, 2023

Ralph Rizzo  
Division Administrator  
Federal Highway Administration  
Suite 501 Evergreen Plaza  
711 South Capitol Way  
Olympia, WA 98501-1284

Todd Tillinger  
U.S. Army Corps of Engineers  
Regulatory Branch  
4735 E. Marginal Way S. Bldg. 1202  
Seattle, WA 98134-2388

Bryan K. Mercier  
Bureau of Indian Affairs  
Northwest Regional Office  
Bureau of Indian Affairs  
911 Northeast 11th Avenue  
Portland, OR 97232-4169

Re: Reinitiation of the Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the SR 167 Extension Project, Puyallup to SR 509, Pierce County, Washington (HUC 171100140599, Lower Puyallup River).

Dear Mr. Rizzo, Mr. Tillinger and Mr. Mercier:

Thank you for your letter of March 17, 2023, requesting reinitiation of consultation with NOAA's National Marine Fisheries Service (NMFS) pursuant to section 7 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531 et seq.) for the SR 167 Extension Project, Puyallup to SR 509. The Federal Highway Administration is the federal lead for this project. The U.S. Army Corps of Engineers will issue a Clean Water Act Section 404 permit for the project, and the project will be constructed within the reservation of the Puyallup Tribe of Indians.

The Federal Highway Administration (FHWA) prepared a summary of project design changes resulting from advancing project design. The design changes include refinements of pollution generating impervious surface and outfalls; water crossings and culverts; vegetation and wetland impacts; mitigation sites; and changes to the in-water work window. In addition to design changes, there is recent documentation of Puget Sound (PS) Chinook salmon in the action area where the species was not previously known to exist.

WCRO-2023-00342



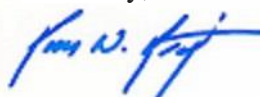
The design changes do not affect listed species or critical habitat in a manner not previously considered, and impacts have been reduced compared to those documented in the original biological opinion (Opinion). However, previously unknown presence of PS Chinook salmon in a portion of the action area results in an effect to the species and triggers reinitiation of the consultation with the NMFS. This reinitiation also addresses potential project impacts to Southern Resident killer whale (SRKW; *Orcinus orca*), which had not been considered in previous consultations.

This consultation was conducted in accordance with the 2019 revised regulations that implement section 7 of the ESA (50 CFR 402, 84 FR 45016). The enclosed document contains the Opinion prepared by the NMFS pursuant to section 7 of the ESA on the effects of the proposed action. In this Opinion, the NMFS concludes that the proposed action would adversely affect but is not likely to jeopardize the continued existence of Puget Sound (PS) Chinook salmon or PS steelhead. The NMFS also concludes that the proposed action is likely to adversely affect designated critical habitat for PS steelhead but is not likely to result in the destruction or adverse modification of that designated critical habitat.

This Opinion modifies the incidental take statement (ITS) from the original Opinion to include take associated with potential impacts to Chinook and steelhead in Wapato Creek. The reasonable and prudent measures and terms and conditions from the original Opinion and subsequent reinitiations remain unchanged. Incidental take from actions that meet these terms and conditions will be exempt from the ESA's prohibition against the take of listed species. NMFS also reviewed the likely effects of the proposed action on essential fish habitat (EFH), pursuant to section 305(b) of the Magnuson–Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(b)), and concluded that the action would adversely affect the EFH for Pacific Coast Salmon. The EFH conservation recommendations are a subset of the terms and conditions and also remain unchanged from the original opinion.

Please contact Bonnie Shorin at (360) 995-2750 if you have any questions concerning this consultation, or if you require additional information.

Sincerely,



Kim W. Kratz, Ph.D.  
Assistant Regional Administrator  
Oregon Washington Coastal Office

cc: Lindsey Handel, FHWA  
Cindy Callahan, DOT  
Jeff Dreier, WSDOT  
April Magrane, WSDOT  
Margaret Kucharski, WSDOT  
Julie Hampden, HNTB  
Maki Dalzell, HNTB

**Reinitiation of Endangered Species Act (ESA) Section 7(a)(2) Biological Opinion [and Magnuson–Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the**

SR 167 Extension Project, Puyallup to SR 509

**NMFS Consultation Number:** WCRO-2023-00342

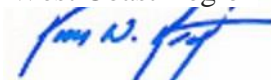
**Action Agency:** Federal Highway Administration

**Affected Species and NMFS’ Determinations:**

<b>ESA-Listed Species</b>	<b>Status</b>	<b>Is Action Likely to Adversely Affect Species?</b>	<b>Is Action Likely to Jeopardize the Species?</b>	<b>Is Action Likely to Adversely Affect Critical Habitat?</b>	<b>Is Action Likely to Destroy or Adversely Modify Critical Habitat?</b>
Puget Sound steelhead ( <i>Oncorhynchus mykiss</i> )	Threatened	Yes	No	No	No
Puget Sound Chinook salmon ( <i>O. tshawytscha</i> )	Threatened	Yes	No	Yes	No
Southern resident killer whale ( <i>Orcinus orca</i> )	Endangered	No	No	No	No

<b>Fishery Management Plan That Identifies EFH in the Project Area</b>	<b>Does Action Have an Adverse Effect on EFH?</b>	<b>Are EFH Conservation Recommendations Provided?</b>
Pacific Coast Salmon	Yes	Yes

**Consultation Conducted By:** National Marine Fisheries Service,  
West Coast Region



**Issued By:**

\_\_\_\_\_  
Kim W. Kratz, Ph.D.  
Assistant Regional Administrator  
Oregon Washington Coastal Office

**Date:** September 6, 2023