

Potential Signatories: Portage Bay Roanoke Park Community Council, Portage Bayshore, Montlake Community Club, Shoreline Households of Portage Bay, Seattle Parks

May 21, 2018

United States Department of the Interior
Fish and Wildlife Service
Washington Fish and Wildlife Office
510 Desmond Drive. SE, Suite 102
Lacey WA

Eric V. Rickerson, Manager
Washington fish and Wildlife Office

Dear Mr. Rickerson

The Neighborhood Councils surrounding south Portage Bay and shoreline property owners on South Portage respectfully request that USFWS reinitiate consultation¹ for the Portage Bay segment of the SR520 project, that our communities support -- and do not want to delay -- but hope to mitigate its impact on a fragile urban environment.

South Portage Bay has seen dramatic ecological changes since 2011 when the Record of decision was issued. These changes were not fully considered in previous re-consultations which focused on other areas of the project where construction was imminent.

Neighborhood groups have been actively involved in enhancing and protecting and protecting the wildlife habitat of the shoreline of South Portage Bay since 2004. Some of this work has occurred within SR 520 right of way, the rest is on Seattle Parks Department property which abuts SR 520 right of way.

This work is not reflected in the EIS, Record of Decision or in previous consultation or re-consultation with the USFWS. This work has been carried out in accordance with a 2006 masterplan for habitat enhancement that was funded by the City of Seattle and lead by Seattle Parks Department. This work has been successful in attracting numerous species of birds and waterfowl to the site as indicated in the attached list of species observed at the site over the past two years and a post (attached) about a community meeting that attracted more than 75 neighbors to hear an overview of the south Portage Bay Bird Habitat that is home to 85 bird species.

Failing to include ongoing wildlife enhancement efforts in previous project consultations has led to a poor future for the environment of south Portage Bay rather than improvement. While almost 50% of the shading impact from the project within Seattle occurs in south Portage Bay no mitigation was proposed in south Portage Bay. The dramatically successful, continuous and ongoing efforts by volunteers to restore the habitat in south Portage Bay were not acknowledged or included in the Record of Decision or previous consultations.

Mitigation dollars for impacts in South Portage Bay have inexplicably been directed to areas with no impacts from the SR 520 project while ignoring what might be done in the south Portage Bay area that is directly and negatively affected by the project.

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WSDOT has identified contaminated sediment (summary attached) in Portage subsequent to issuance of the Record of Decision which may not have been fully considered in previous re-consultations.

WSDOT proposed a dramatic increase in sediment disturbance in the Bay in late 2016 (see attached request for Amended Corps Permit) which may not have been considered in previous consultations as it may have been submitted after the date of the September 9 2016 consultation with USFWS.

The proposal for work bridges across the bay to be in place for 28 months with over 1600 piles were not fully considered in previous consultations.

There has been an explosion of growth of the Fragrant Lily pad in south Portage Bay since the Record of Decision. It now almost completely covers the water surface where several years ago most of the Bay was open water. This plant is listed as a noxious weed by the King County weed Board. Control is encouraged. Every property owner in South Portage Bay including Seattle Parks is participating in a Lily Pad control effort this year because of the adverse effect that this plant has on boating and the ecology of the bay.

WSDOT has indicated they will not participate in Lily Pad control efforts as it might initiate a re-consultation with USFWS. In addition to negatively affecting the ecology of the Bay, Lily Pads in the WSDOT right of way negatively affect boating access between Montlake Park boat launch, and the Portage Bayshore Marina and the Lake Washington Ship Canal

The neighborhoods also support the USFWS concern expressed in page 13 of Enclosure 6 (Biological Opinion) to your September 6, 2016 consultation letter that

“The FHWA should further evaluate the potential storm water quality benefits of a program of high-efficiency sweeping performed between the west approach high-rise and Montlake Interchange. Long stretches of the Portage and Union Bay bridges and approaches have been designed to convey surface runoff to land-based stormwater treatment facilities for treatment and discharge. However, under conditions exceeding the storm design event, stormwater runoff originating from the Portage and Union Bay bridges and approaches will release through scuppers and direct discharge to the adjacent waters without treatment. High efficiency sweeping performed at strategic times of year (i.e., after prolonged periods without precipitation, and before the next significant storm event) may provide measurable stormwater quality benefits.”

The project stormwater system design as constructed in WABN appears to be a brilliant and cost effective approach to meeting stormwater quality requirements but it relies on regular sweeping and catch basin cleaning by WSDOT to meet water quality objectives. The system is likely to become plugged with silt with the result that water quality objectives are not met. This is of particular concern in Portage Bay which has limited flushing. WSDOT has in the past expressed a stated policy of NOT regularly maintaining stormwater facilities. To place the success of a facility on the hope that WSDOT will provide operational support does not seem appropriate given the uncertainty of WSDOT maintenance funding and priorities.

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In light of the above project changes and changes in the environment, we are therefore request that consultation be conducted to address the following concerns:

1. Potential effect of changed construction practices on the ecology of the bay.
2. Potential project effects on the migratory and endangered species that may have dramatically increased since the Record of Decision as a result of continuous habitat improvement efforts by volunteers.
3. Maintenance practices to control noxious aquatic weeds in the right of way that might improve the bay ecology in the interim until the project is constructed
4. Mitigation measures that might be provided by the project to support the enhancement and preservation of the fish and wildlife habitat in South Portage Bay.
5. Re-evaluation of the current design of the Portage Bay Bridge to better suit the current environment of Portage Bay.

As your schedules permit, we invite you and/or your representatives for a tour of the area so you can see how SR520 construction mitigation would enhance rather than adversely impact the South Portage Bay segment of the SR520 project.

Respectfully

PBRPCC,
MCC
SHPB
PBCA

cc. Daniel M. Mathis
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Federal Highway Administration
Evergreen Plaza Building
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ⁱ Reinitiation Notice Excerpt from September 2016 letter

.....As provided in 50 CFR section 402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this Opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this Opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.