



## Memorandum

*To: Seattle Department of Transportation*

*From: Jennifer Jones, Ecologist, CDM Smith*

*Date: October 11, 2022*

*Subject: Route 40 - Transit-Plus Multimodal Corridor (TPMC) Project: Endangered Species Act Compliance Review*

### **Executive Summary**

This memo documents the findings of a focused review of the Seattle Department of Transportation (SDOT) Route 40 - Transit-Plus Multimodal Corridor (TPMC) Project (Project) for compliance with the Endangered Species Act (ESA). The ESA review focused on potential impacts on federally listed aquatic species, designated critical habitat, and Essential Fish Habitat (EFH) in the Lake Washington Ship Canal and Lake Union. With the implementation of best management practices (BMPs), conservation measures (CMs), and applicable requirements of the City of Seattle 2021 Stormwater Manual, the Project as described would have no effect on federally listed species, critical habitat, or EFH in the Project area.

### **Introduction**

The Project would make improvements to a transit corridor in Seattle, King County, Washington. The Project consists of transit improvements including dedicated bus lanes and queue jumps, signal upgrades, channelization changes, turn restrictions, pavement spot improvements, and bus zone modifications. SDOT intends to apply for federal funds administered by the Federal Transit Authority for the Project, making it an undertaking subject to the provisions of Section 7 of the ESA.

This memo documents the findings of a focused review for compliance with the ESA for the Project.

### **Methods**

Ms. Jones, a CDM Smith ecologist, conducted a desktop review of the following project materials and consulted the following databases:

- SDOT Project ESA Screening Checklist, including Appendix A: Best Management Practices (BMPs) / Conservation Measures (CM) Checklist
- Project 30 percent design drawings

- Project Area of Potential Effect (APE) maps
- Google Earth Pro aerial and street-level photography
- National Marine Fisheries Service (NMFS) West Coast Region Protected Resources App to identify the potential for NMFS federally listed species to occur in the Project area
- NMFS National ESA Critical Habitat Mapper to identify the presence of NMFS designated critical habitat in the Project area
- U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) tool to identify the potential for USFWS federally listed species to occur in the Project area
- USFWS Critical Habitat Mapper to identify the presence of USFWS designated critical habitat in the Project area

## Findings

Based on the desktop review, the Project is located in an urbanized area that does not support habitat for federally listed terrestrial species. The Project runs along the north side of the Lake Washington Ship Canal, crosses the Lake Washington Ship Canal on the Fremont Bridge, and runs along the west side of Lake Union. Therefore, the ESA review focused on potential impacts on aquatic species and habitat associated with the Lake Washington Ship Canal and Lake Union.

The following federally listed species have the potential to occur in the Lake Washington Ship Canal and Lake Union:

- Puget Sound Chinook salmon (*Oncorhynchus tshawytscha*), federally threatened
- Puget Sound steelhead (*Oncorhynchus mykiss*), federally threatened
- Bull trout (*Salvelinus confluentus*), federally threatened

Designated critical habitat for Puget Sound Chinook salmon and bull trout is also present. In addition, EFH for Pacific groundfish, coho salmon, and Chinook salmon is designated in Lake Union.

During construction, a Stormwater Pollution Prevention Plan would be implemented to minimize soil erosion and avoid sediment entering the separated stormwater and combined sewer systems. In addition, staging and equipment refueling areas would be greater than 300 feet away from surface waters. Any limited landscaping disturbed within the right-of-way would be restored to pre-construction conditions.

The Project ESA Checklist Appendix A includes the following BMPS/CMs:

- Minimize the areal extent of exposed soil at any given time. Stabilize all unstable slopes with the potential to impact listed fish-bearing streams.

- Conduct extensive soil-disturbing work, including excavation, in the “dry” season (generally from June to October).
- Prepare a Temporary Erosion and Sediment Control (TESC) Plan prior to construction to identify standard erosion and sediment control procedures.
- Develop and implement a Stormwater Site Plan for activities requiring more than 1 acre of clearing, grading, or grubbing.
- No untreated stormwater or dewatering will leave the limits of the construction site.
- Maintain a 300-foot setback for construction staging areas and equipment refueling near wetlands, streams, rivers, or drainages.
- Prepare a Spill Prevention, Containment, and Control Plan (SPCCP) prior to construction to address potentially toxic materials used on-site during construction.
- Keep spill clean-up equipment available onsite during construction and include a spill control separator in the overall drainage system, if necessary.
- Paving, chip sealing, and/or painting should occur in dry weather. Use 2-gallon pails and drip pans/protective devices when available.
- For projects involving concrete, establish concrete truck chute cleanout areas to properly contain wet concrete. Protect all inlets and catchments from fresh concrete, tackifier, paving, or paint stripping if inclement weather unexpectedly occurs.
- Oil-water separators, bioswales, or other appropriate water quality treatment will be provided for 100 percent of all new and disturbed impervious surfaces.
- Stormwater infiltration facilities will be designed with appropriate infiltration conditions and will be upgraded to handle increased flows or treatment.

The City of Seattle Stormwater Manual (2021) identifies the following additional requirements that may apply to the Project:

- Soil Amendment (Section 4.3.1)
  - Required for all projects
- On-Site Stormwater Management (Section 4.3.2)
  - Required for projects with 2,000 square feet or more of new plus replaced hard surface or 7,000 square feet or more of land disturbing activities.

- Flow Control (Section 4.3.3)
  - Project evaluation needed for projects that require On-Site Stormwater Management.
- Water Quality Treatment (Section 4.3.4)
  - Required when existing land cover is >35% hard surface and the Project will create > 5,000 square feet of new pollutant-generating hard surface.

### **Conclusion**

The BMPs and CMs outlined in the Project ESA checklist would be implemented to prevent soils and hazardous materials associated with construction from entering adjacent surface waters of the Lake Washington Ship Canal or Lake Union. Additional requirements of the City of Seattle 2021 Stormwater Manual may include soil amendment, on-site stormwater management, flow control, and water quality treatment. A Project-specific evaluation is needed to determine which City of Seattle requirements will apply. With implementation of BMPs, CMs, and applicable requirements of the 2021 Stormwater Manual, the Project as described would have no effect on federally listed species, critical habitat, or EFH in the Project area.

### **References**

City of Seattle. 2021. Stormwater Manual. Available:  
<https://www.seattle.gov/documents/Departments/SDCI/Codes/ChangesToCodes/UpdatingStormwaterRegulations/2021SWFullManualFinalClean.pdf>.

## ESA SCREENING CHECKLIST

**Note: The purpose of this checklist is to assist sponsoring agencies and FTA in gathering and organizing materials for environmental analysis required under the Endangered Species Act (ESA). Submission of the checklist by itself does not meet ESA requirements. This checklist is intended solely for Region X use. Please contact the FTA Region 10 office at (206) 220-7954 if you have any questions regarding this worksheet.**

Sponsoring Agency Seattle Department of Transportation (SDOT)		Date Submitted July 8, 2022
Project Title Route 40 - Transit-Plus Multimodal Corridor (TPMC) Project		FTA Project Number (if known) 1749-2022-1
Project Location (Include Street Address, City, County) Running north to south in Seattle, Route 40 is approximately 13.5 miles long and passes through the neighborhoods of Northgate, Crown Hill, Loyal Heights, Ballard, Fremont, Westlake, South Lake Union, Downtown Seattle, and Pioneer Square. From the Northgate Transit Center in Seattle, Route 40 travels south on 1st Ave NE and east on N 92nd St over Interstate 5. It then heads north on College Way N/Meridian Ave N passing North Seattle College before heading west on N Northgate Way/N 105th St/Holman Rd N to 15th Ave NW in Crown Hill. Route 40 then travels west on NW 85th St and south on 24th Ave NW through Loyal Heights and Ballard down to NW Market St. The route then travels east on NW Leary Way through Fremont and passes the Fremont Bridge to Westlake Ave N. From Westlake the route travels through South Lake Union to Downtown Seattle on the Lenora St/Virginia St couplet to 3rd Ave with a terminus in Pioneer Square.		
Project Contact: Joel Hancock	Phone Number 206-947-1209	E-mail Address (if available) joel.hancock@seattle.gov

Please answer the following questions as completely as possible. If the question is not applicable, check "NA" in the space to the right

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1. Describe the project and its purpose. Identify the jurisdiction(s) and watersheds (Watershed Resource Inventory Area/WRIA or Hydrologic Unit Code/HUC) in which the project is located.

The Purpose and Need of the project is to improve transit travel times, with a goal of 5 to 10 percent travel time savings over existing service, and improve transit service reliability through reduced headway variability during peak periods and reduced variability between peak versus off-peak travel times. In addition, the project would make it safer and easier for people to access transit along the project corridor. The project is located in the Cedar - Sammamish watershed - WRIA 8.

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2. Have all other NEPA requirements been completed for this project?

Yes  No

If so, under which NEPA Class does this project fall? (Refer to DCE letter, FONSI, or ROD)

Class I     Class II     Class III

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3. Does the project qualify as a CE or a DCE?

Yes  No

Has a Region X Documented Categorical Exclusion Worksheet been completed?

Yes  No

Will the project include Best Management Practices / Conservation Measures?

Yes  No

Has the BMP / CM Checklist (Appendix A) been completed?

Yes  No

*(Note: If the project: 1) includes in-water work or work below the ordinary high water mark (OHWM) of a waterbody with listed salmonids, 2) adds > 5,000 square feet of impervious surface, OR 3) includes any new impervious surface within 150 feet of a stream waterbody with listed salmonids, it may need to go through formal consultation with the NMFS and USFWS)*

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4. Has the applicant obtained Endangered/Threatened Species lists and critical habitat lists from both National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) for the project area?

Yes  No

List NMFS species/habitat here (and attach documentation):

Endangered:

Threatened: Chinook salmon and critical habitat and steelhead trout are located in the Lake Washington Ship Canal.

Proposed:

List USFWS species/habitat here (and attach documentation):

Endangered:

Threatened: Bull trout and critical habitat is located in the Lake Washington Ship Canal.

Proposed:

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5. Has the applicant obtained Essential Fish Habitat (EFH) lists from the NMFS website (as required by the Magnuson-Stevens Fishery Conservation and Management Act (MSA)) for the project area?

Yes  No

List Essential Fish Habitat here (and attach documentation):

Pacific groundfish, coho salmon, and Chinook salmon have essential fish habitat in Lake Union.

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6. List the names of your partners for the project. Identify the project lead agency.

N/A

SDOT is the lead agency and King County Metro is a partner agency.

		N/A	Pending	Approved
7. Check the federal permits needed for your project. List the numbers of the nationwide permits if needed.	ACOE Nationwide _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	ACOE Individual _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	NPDES (Gen. or Ind.) _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Other _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		N/A	Pending	Approved
8. Check State and local permits needed for your project. Circle jurisdiction.	HPA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Surface Mining	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Forest Practices	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Shoreline	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Shoreline Exemption	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Clearing and Grading	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Building or Subdivision	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Sensitive Areas Ordinance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Other _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9. Which federal, State, or tribal agencies have you contacted regarding your project and its impacts?  N/A

Pending. Tribes will be contacted as part of the Section 106 process and the Department of Ecology will be contacted regarding the NPDES construction stormwater general permit and Coastal Zone Management certification.

Describe any modifications to the project as a result of these contacts:

None anticipated but will be determined after coordination.

10. What is the specific location of your project? Provide the zoning designation and the ¼ section, section, township, WRIA(s), and range.

Running north to south, Route 40 passes through the neighborhoods of Northgate, Crown Hill, Loyal Heights, Ballard, Fremont, Westlake, South Lake Union, Downtown Seattle, and Pioneer Square. At the northern end of the project, single-family zoning, low-rise multifamily zoning, and neighborhood commercial zoning predominate from Northgate down to Ballard. Industrial zones are heavily concentrated between Fremont and Ballard. At the southern end of the project, mixed commercial and residential zoning with some maritime uses in the Westlake and South Lake Union neighborhoods transition to dense mixed uses to downtown. The project is located in the following township (T), range (R), and sections: T26N R4E Sections 30, 31 and 32; T26N, R3E, Sections 35 and 36; T25N, R3E, Sections 2, 11, 12 and 13; T25N, R4E, Sections 18, 19, 30, 31 and 32; and T24N, R4E, Section 5. The project is located in Seattle in the Cedar - Sammamish watershed - WRIA 8.

Does the project occur within an existing transportation corridor?

Yes  No

11. Is the project within 150 feet of a lake, river, stream or bay, etc.?  Yes  No

If so, name the waterbodies.

The project crosses the Lake Washington Ship Canal on the Fremont Bridge and there would be construction including spot paving and stormwater improvements (e.g., catch basin/inlet upgrades) within about 150 feet of the waterbody.

Do these waterbodies contain listed salmonids or bull trout?  Yes  No

If so, name the listed species and agency with jurisdiction (USFWS or NMFS).

Chinook salmon and critical habitat and steelhead trout under NMFS jurisdiction are located in the Lake Washington Ship Canal. Bull trout and critical habitat under USFWS jurisdiction is also located in the Lake Washington Ship Canal.

12. a. Will blasting or pile-driving occur within 1 mile of suitable owl or murrelet habitat (specifically, old growth tree(s) or forest)?  Yes  No (if no, go to 12b)

b. Is the project within 0.25 miles of suitable owl or murrelet habitat?  Yes  No

13. a. Will blasting or pile-driving occur within 1 mile of a known bald eagle nest? (Contact the State Department of Fish & Wildlife for nest locations.)  Yes  No (must answer both 13a and 13b)

b. Is the project within 0.5 miles (line-of-sight) or 0.25 miles (non-line-of-sight) of a bald eagle nest, wintering concentration, roost, or foraging area?

Yes  No

14. What is the size of the project (list area or length of disturbance), the amount of new impervious surface, and the total impervious surface?  N/A

The total new and replaced hard surface area for the project is approximately 82,000 square feet and the new and replaced pollution generating pervious surface area for the project is approximately 4,000 square feet.

*In answering the following questions, please describe the impacts assuming no mitigation:*

## IMPACT ASSESSMENT

15. Describe the potential beneficial and adverse impacts upon aquatic resources that will be caused by construction of the project:  N/A

No impacts to aquatic resources are anticipated from construction of the project. Runoff will be minimized during construction through the implementation of the Stormwater Pollution Prevention Plan.

16. Describe the potential beneficial and adverse impacts upon aquatic resources resulting from the maintenance, use, or operation of the project (post-construction impacts):  N/A

No impacts to aquatic resources are anticipated from operation of the project. Project improvements would upgrade the existing Route 40 service.



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17. Describe the potential beneficial and adverse impacts upon terrestrial resources that will be caused by construction of the project:   
N/A

No impacts to terrestrial resources are anticipated from construction of the project. Any limited landscaping disturbed within the right-of-way will be restored to pre-construction conditions.

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18. Describe the potential beneficial and adverse impacts upon terrestrial resources resulting from the maintenance, use, or operation of the project (post-construction impacts):   
N/A

No impacts to terrestrial resources are anticipated from operation of the project. Project improvements would upgrade the existing Route 40 service.

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## MITIGATION

19. Is the project likely to alter the water quality of any water bodies such as bays, estuaries, lakes, streams, rivers or wetlands (through sedimentation, urban runoff, toxics, turbidity, etc.)?

Yes  No (If yes, answer a and b.)

- a. What mitigation is proposed for construction impacts?

N/A

- b. What mitigation is proposed for long-term impacts?

N/A

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20. Will the project discharge water or generate runoff to any water bodies such as bays, estuaries, lakes, streams, rivers or wetlands?

Yes  No (If yes, answer a and b.)

- a. What mitigation is proposed for construction impacts?

A Stormwater Pollution Prevention Plan will be prepared and identify best management practices consistent with the 2017 Stormwater Manual to minimize soil erosion and sediment entering the separated stormwater and combined sewer systems during construction.

- b. What mitigation is proposed for long-term impacts?

There would be stormwater improvements including inlet/catch basin upgrades for construction work near the Lake Washington Ship Canal.

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21. Are clearing and grading activities part of the project? What is the area of direct disturbance? Include soil-disturbing activities, tree/shrub removal, and alteration of upland habitat.

Yes  No (If yes, answer a and b.)

a. What mitigation is proposed for construction impacts?

There would be spot paving and stormwater improvements approximately 200 feet north and south of the Lake Washington Ship Canal. This would include about 5,000 square feet north of N 35th St and about 2,000 square feet to the south on Westlake Ave N. No impacts to landscaping is anticipated in the vicinity. A Stormwater Pollution Prevention Plan will be prepared and identify best management practices consistent with the 2017 Stormwater Manual to minimize soil erosion and sediment entering the separated stormwater and combined sewer systems during construction.

b. What mitigation is proposed for long-term impacts?

There would be stormwater improvements including inlet/catch basin upgrades for construction work near the Lake Washington Ship Canal.

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22. Will the project remove or modify riparian vegetation within 150 feet of a water body?

Yes  No (If yes, answer a and b.)

a. What mitigation is proposed for construction impacts?

N/A

b. What mitigation is proposed for long-term impacts?

N/A

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23. Will the project place a structure within—or cause any change to—the bed or banks of a body of water?

Yes  No (If yes, answer a and b.)

a. What mitigation is proposed for construction impacts?

N/A

b. What mitigation is proposed for long-term impacts?

N/A

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24. Will the project place fill or structures within any 100-year floodplain?

Yes  No (If yes, answer a and b.)

a. What mitigation is proposed for construction impacts?

N/A

b. What mitigation is proposed for long-term impacts?

N/A

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25. Will the project divert water to or from the bay, estuary, lake, stream, river or wetland?

Yes  No (If yes, answer a and b.)

a. What mitigation is proposed for construction impacts?

N/A

b. What mitigation is proposed for long-term impacts?

N/A

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26. Will construction and/or operation of the project produce noise above ambient levels?

Yes  No

If so, explain:

Noise levels in the vicinity of construction would temporarily increase during construction activities. However, short-term noise from construction equipment will be limited to the allowable maximum levels specified in the City of Seattle's Noise Control Ordinance (Seattle Municipal Code 25.08). There would be no impacts during construction to ESA-listed species in the Lake Washington Ship Canal.

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27. Has all necessary environmental documentation been provided to FTA (request letters, agency response documentation, permit approvals)?

Yes  No

## Appendix A

### Best Management Practices (BMPs) / Conservation Measures (CM) Checklist

Please confirm use of the following measures in your project. If the question is not applicable, check "NA" in the space to the right and provide an explanation of why. Consult your FTA Region 10 contact for more information on this checklist.

#### Conservation Measures During Construction

##### Exposed Soils/Riparian Vegetation:

- Yes  No  N/A Minimize the areal extent of exposed soil at any given time. Stabilize all unstable slopes with the potential to impact listed fish-bearing waters.
- Yes  No  N/A Replant disturbed riparian areas outside of the 150 foot setback with native species at a 2:1 ratio, including the removal of mature trees (greater than 6 inches diameter breast height, or dbh).
- Yes  No  N/A Do not place temporary material storage piles (>12 hours storage) in the 100-year floodplain during the rainy season unless storage occurs when flooding is not imminent, and storage piles with erosive material are covered with plastic tarps (or similar) and surrounded with erosion control devices.
- Yes  No  N/A Conduct extensive soil-disturbing work, including excavation, in the "dry" season (generally from June to October).
- Yes  No  N/A Prepare a Temporary Erosion and Sediment Control (TESC) Plan prior to construction to identify standard erosion and sediment control procedures.

##### Stormwater Maintenance:

- Yes  No  N/A Develop and implement a Stormwater Site Plan for > 1 acres of clearing, grading, or grubbing.
- Yes  No  N/A No untreated, undetained stormwater or dewatering will leave the limits of the construction site.
- Yes  No  N/A Discharged water will not exceed existing (baseline) conditions based on a 2-year storm event.

##### Spill Controls

- Yes  No  N/A Restrict vehicle use in wetland and/or riparian areas.
- Yes  No  N/A Maintain a 300 ft setback for construction staging areas and equipment refueling near wetlands, streams, rivers, or drainages.
- Yes  No  N/A Prepare a Spill Prevention, Containment, and Control Plan (SPCCP) prior to construction to address potentially toxic materials used on-site during construction.
- Yes  No  N/A Keep spill clean-up equipment available onsite during construction, and include a spill control separator in the overall drainage system, if necessary.
- Yes  No  N/A Paving, chip sealing, and/or painting should occur in dry weather. Use 2-gallon pails and drip pans/protective devices when available.
- Yes  No  N/A For projects involving concrete, establish concrete truck chute cleanout areas to properly contain wet concrete. Protect all inlets and catchments from fresh concrete, tackifier, paving, or paint stripping if inclement weather unexpectedly occurs.
- Yes  No  N/A Collect and dispose debris accumulations prior to fresh water flushing. Use clean water only.
- Yes  No  N/A Clean paint materials and maintenance equipment outside of surface waters. Do not discharge cleaning runoff into surface waters.

**Long-Term Conservation Measures**

- Yes  No  N/A All construction & operation will occur greater than 150 feet from a listed salmonid-bearing waterbody.
- Yes  No  N/A Oil-water separators, bioswales, or other appropriate water quality treatment will be provided for 100% of all new and disturbed impervious surfaces..
- Yes  No  N/A Stormwater infiltration facilities will be designed with appropriate infiltration conditions and will be upgraded to handle increased flows or treatment.
- Yes  No  N/A Stream modifications or in-stream structures will not occur.