



Federal Highway Administration

Notice of Final Federal Agency Actions on Transportation Project in Washington State

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for Judicial Review of actions by FHWA.

SUMMARY: This notice announces actions taken by FHWA that are final. The action relates to the approval of the categorical exclusion for the SR 509/Clear Creek Restoration Project in Pierce County, State of Washington. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, FHWA is advising the public of final Agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the listed highway project will be barred unless the claim is filed on or before [INSERT DATE 150 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA, contact William Witucki, Senior Urban Area Engineer, Washington Division, Federal Highway Administration, 711 Capitol Way S., Suite 501, Olympia, WA 98501– 1284, 360–753-9411, or william.witucki@dot.gov. Regular office hours are from 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays, or Margaret Kucharski, Megaprograms Environmental Manager, Environmental Services Office, Washington State Department of Transportation, 999 3rd Ave, Suite 2300, Seattle, WA 98104, 206-498-0508, or Margaret.Kucharski@wsdot.wa.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency actions within the meaning of 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following project in the State of Washington: The SR 509/Clear Creek Restoration Project (Project) will remove two fish passage barriers (WDFW IDs 600317 and

600318) and other infrastructure related to an existing commercial fish hatchery and restore natural stream processes at the Project site. The two existing fish passage barriers (dams) prevent anadromous fish from migrating upstream and divert stream flow, preventing sediment transport downstream.

Restoring Clear Creek to natural stream processes will provide immediate benefits to fish and aquatic wildlife by: removing two fish passage barriers (WDFW IDs 600317 and 600318); opening over 2 miles of spawning habitat that is currently inaccessible to anadromous fish including Federally protected Puget Sound Chinook Salmon; restoring stream processes including floodplain connectivity, sediment continuity, and flood conveyance; eliminating surface water withdrawals and improving water quality and quantity; improving spawning and rearing habitat and habitat complexity.

The actions by the agencies, and the laws under which such actions were taken, are described in the project's FHWA Categorical Exclusion issued on June 21, 2024, and in other documents in the project records. This Statute of Limitations notice applies only to decisions within the Categorical Exclusion dated June 21, 2024.

The Categorical Exclusion and other project records are available by contacting FHWA and WSDOT at the address provided above. The Categorical Exclusion can be viewed and downloaded from the project Web site found on the "Environment" tab of the Puget Sound Gateway Program website at: <https://wsdot.wa.gov/construction-planning/major-projects/puget-sound-gateway-program>, or obtained from any contact listed above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) (42 U.S.C. 4321– 4351); Federal-Aid Highway Act (23 U.S.C. 109 and 23 U.S.C. 128).
2. Air: Clean Air Act (42 U.S.C. 7401– 7671q).

3. Land: Section 6(f) of the Land and Water Conservation Fund Program (16 U.S.C. 460-4 to 460-11) Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 303; 23 U.S.C. 138);
4. Wildlife: Endangered Species Act (16 U.S.C. 1531–1544 and Section 1536); Fish and Wildlife Coordination Act (16 U.S.C.661–667d); Migratory Bird Treaty Act (16 U.S.C. 703–712).
5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f); Archeological Resources Protection Act of 1977 (16 U.S.C. 470aa–470mm); Archeological and Historic Preservation Act (16 U.S.C. 469–469c); Native American Grave Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001–3013).
6. Social and Economic: American Indian Religious Freedom Act (42 U.S.C. 1996).
7. Wetlands and Water Resources: Land and Water Conservation Fund (LWCF) (16 U.S.C. 4601– 4604); Safe Drinking Water Act (SDWA) (42 U.S.C. 300f–300j–26)); ; Emergency Wetlands Resources Act, (16 U.S.C. 3901, 3921); Wetlands Mitigation (23 U.S.C. 119(g) and 133(b)(14)); Flood Disaster Protection Act, 42 U.S.C. 4012a, 4106).
8. Noise: Federal-Aid Highway Act of 1970, Public Law 91-605 [84 Stat. 1713]; [23 U.S.C. 109(h) & (i)].
9. Navigation: Rivers and Harbors Act of 1899 (33 U.S.C. 403);
10. Hazardous Materials: Resource Conservation and Recovery Act of 1976 (42 U.S.C 6901 et seq.)
11. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514

Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Environmental documentation was completed on June 21, 2024 and followed Executive Order 12898, which has since been rescinded.)

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1), as amended by Moving Ahead for Progress in the 21st Century Act, (Pub. L. 112–141, 126 Stat. 405).

Ralph J. Rizzo,

FHWA Division Administrator,

Olympia, WA.

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