

Connecticut Department of Energy & Environmental Protection
Structures, Dredging & Fill, and Tidal Wetlands and 401 Water Quality Certificate

Attachment M2 – ESA Section 7 Informal Consultation Approval



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930-2276

JUL 17 2018

Kimberly Lesay
Transportation Assistant Planning Director
Connecticut Department of Transportation
Bureau of Policy and Planning
2800 Berlin Turnpike
Newington, CT 06111

Re: CT DOT Walk Bridge Replacement (No. 0301-0176) Norwalk, CT

Dear Ms. Lesay:

We have completed our consultation under section 7 of the Endangered Species Act (ESA) in response to your letter received June 15, 2018, with additional information provided July 9, 2018, regarding the above-referenced proposed project. We reviewed your consultation request document and related materials. Based on our knowledge, expertise, and your materials, we concur with your conclusion that the proposed action is not likely to adversely affect any National Marine Fisheries Service (NMFS) ESA-listed species or designated critical habitat. Therefore, no further consultation pursuant to section 7 of the ESA is required.

We would like to offer the following clarifications to compliment your incoming request for consultation. In your description of the action area, you indicate that the action area includes the project footprint and includes all in-water and terrestrial work. We would like to clarify that the legal definition of the action area under the ESA is "all areas that may be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action." In your effects analysis, within the discussion of habitat structure and disturbance (p. 42) and ESA-listed species' prey quality and quantity (p. 46), there is no quantification of the total area of temporary and permanent impacts. In an email sent July 9, 2018, Andrew Davis informed us that temporary impacts of approximately 215,000 square feet (sf) will result from dredging, temporary trestle piles, marine enclosure and bulkhead sheeting, tidal wetland mitigation construction, and submarine cable installation and removal. Permanent impacts will result in a net gain of benthic habitat of approximately 3,000 sf resulting from installation of drilled shafts for the lift piers, installation of piles for the protective fender systems, and removal of the existing pivot and rest piers. Furthermore, at MHW, the river width available for fish passage once the proposed bridge is constructed (approximately 337 ft) will result in a net gain of approximately 38 ft over the river width available for fish passage at the existing bridge (approximately 299 ft). In areas where benthic invertebrates experience adverse effects from temporary disturbances, we expect unaffected individuals from similar nearby habitats to recolonize impacted areas within a period of 1-11 months (Wilber and Clarke 2007). We only expect rare and transient sturgeon and sea turtles to forage in these areas, and large areas of potential foraging habitat within the action area, which extends through Norwalk Harbor into




Long Island Sound, will be unaffected by the action. Therefore, any effects to ESA-listed species from temporary losses in foraging opportunities will be too small to be meaningfully measured or detected, and are insignificant.

Also, in your analysis of the effects of dredging capture on ESA-listed species (p. 42), we agree that effects are extremely unlikely to occur. Therefore, they are discountable. Lastly, we agree that any increase in vessel strike risk on ESA-listed species from the temporary addition of project vessels, when added to baseline conditions (established on p. 31), are too small to be meaningfully measured or detected. Therefore, the effects are insignificant.

Reinitiation of consultation is required and shall be requested by the Federal agency or by us, where discretionary Federal involvement or control over the action has been retained or is authorized by law and: (a) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered in the consultation; (b) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this consultation; or (c) If a new species is listed or critical habitat designated that may be affected by the identified action. No take is anticipated or exempted. If there is any incidental take of a listed species, reinitiation would be required. Should you have any questions about this correspondence please contact Zach Jylkka at (978) 282-8467 or by email at Zachary.Jylkka@noaa.gov. For questions related to Essential Fish Habitat, please contact Alison Verkade with our Habitat Conservation Division at (978) 281-9266 or by email at Alison.Verkade@noaa.gov.

Sincerely,


for Christopher Boelke
Acting Assistant Regional Administrator
for Protected Resources

EC: Verkade, NMFS/HCD
Davis, CTDOT
Samorajczyk, CTDOT
Sirmin, FTA

PCTS: NER-2018-14954

File Code: H:\Section 7 Team\Section 7\Non-Fisheries\FHWA_State DOTs\Informals\CT DOT\Walk Bridge
Replacement Norwalk, CT

Samorajczyk, Christopher W

From: Samorajczyk, Christopher W
Sent: Wednesday, August 21, 2019 2:35 PM
To: Samorajczyk, Christopher W
Subject: FW: CTDOT 301-176 WALK Bridge Replacement_Norwalk CT

From: Zachary Jylkka - NOAA Federal <zachary.jylkka@noaa.gov>
Sent: Tuesday, August 20, 2019 3:59 PM
To: Samorajczyk, Christopher W <Christopher.Samorajczyk@ct.gov>
Cc: Davis, Andrew H <Andrew.H.Davis@ct.gov>; Alison Verkade - NOAA Affiliate <alison.verkade@noaa.gov>
Subject: Re: CTDOT 301-176 WALK Bridge Replacement_Norwalk CT

Hi Chris,

No, no concerns from the ESA perspective regarding the hoe ram work above HT in either case. Thanks for checking.

Zach

On Tue, Aug 20, 2019 at 12:15 PM Samorajczyk, Christopher W <Christopher.Samorajczyk@ct.gov> wrote:

Hi Zach-

Hope your summer is going well---We are in the final push of Permit preparation for CTDOT 301-176 WALK Bridge replacement and something new has come up that I want to run by you. As part of the new bridge Project we are removing the old center pier from the Norwalk River. This removal will be within a marine enclosure and a Type III Turbidity Curtain. The removal was originally anticipated to be done using an excavator and thumb—see note 5 of the attached Permit Plate. In discussion with the Contractor they indicated that they thought this note was only for the part of the structure that was in water not the 20 feet above the HT. Also, on top of this pier is a 60 foot diameter cement cap that they want to remove using a hoe ram. This cap removal would take approximately 2-3 days. The question I have is would you be concerned with the above HT work being done with a hoe ram or perhaps just the cap removal or would either one of these activities result in an adverse effect to the ESA listed species? Let me know if you have any questions--Talk soon

Thanks, Chris

Christopher W. Samorajczyk

Wildlife Biologist

Connecticut Department of Transportation

Office of Environmental Planning

Bureau of Policy & Planning

P: 860-594-2938 / F: 860-594-3028 / E: christopher.samorajczyk@ct.gov



From: Zachary Jylkka - NOAA Federal <zachary.jylkka@noaa.gov>
Sent: Thursday, August 01, 2019 3:59 PM
To: Samorajczyk, Christopher W <Christopher.Samorajczyk@ct.gov>
Cc: Davis, Andrew H <Andrew.H.Davis@ct.gov>; Alison Verkade - NOAA Affiliate <alison.verkade@noaa.gov>
Subject: Re: CTDOT 301-176 WALK Bridge Replacement_Norwalk CT

Hi Chris,

Based on the information you have provided, we concur with your determination that proposed modifications to the Norwalk Walk Bridge project will not introduce any new effects to ESA-listed species that were not already addressed in the July 17, 2018 consultation. Therefore, reinitiation is not required at this time.

Regards,
Zach

On Thu, Aug 1, 2019 at 1:40 PM Samorajczyk, Christopher W <Christopher.Samorajczyk@ct.gov> wrote:

Thanks Zach—

There will be a slight increase in the net area temporary or permanently affected from this Project. The additional increase will be associated with the Duct Bank Installation. This was previously a directional drilling activity, but due to a more in-depth look at the substrate in the area of the Bridge it was determined the drilling methodology would have a high probability of frack out—creating a very high risk of impact to the resources we are trying to protect. The area being further impacted by this activity will be done behind a marine enclosure with a turbidity curtain so will result in a discountable effect on any ESA listed species that may happen upon this area. Due to the duration of this Project almost all of the impacts were categorized as permanent even though most of these impacts will be removed/restored at the completion of the Project. I reworded the Updated ESA Word Doc to include your requests related to reinitiation—I hope this is sufficient. Let me know if you need anything else or if you think we should chat quick—Talk soon

Thanks, Chris

From: Zachary Jylkka - NOAA Federal <zachary.jylkka@noaa.gov>
Sent: Thursday, August 01, 2019 10:43 AM
To: Samorajczyk, Christopher W <Christopher.Samorajczyk@ct.gov>
Subject: Re: CTDOT 301-176 WALK Bridge Replacement_Norwalk CT

Hi Chris,

Thanks for the reminder. I did have a chance to read through - the Word Doc describing the updates and comparing to the original proposal was very helpful. My only question is, will there be a net increase/decrease in temporary/permanently affected habitat because of the proposed changes?

As for the conclusion at the bottom - what I would like to see is a recognition of the 4 ESA section 7 reinitiation triggers, a sentence clarifying which of those triggers apply in this case, and then a concluding statement that it is your determination that that trigger has not been met, reinitiation of consultation is not required at this time, and you request our concurrence. Does that make sense? You can find the reinitiation language at the bottom of our July 17, 2018 letter you attached (the fourth trigger is that take allowed under the ITS has been exceeded - since this is an informal without an ITS, that one doesn't apply). Let me know if you have any questions about that approach.

Cheers,
Zach

On Thu, Aug 1, 2019 at 9:48 AM Samorajczyk, Christopher W <Christopher.Samorajczyk@ct.gov> wrote:

Hi Zach-

Did you have a chance to look at this Project again? Let me know if you want to discuss or need any additional information----Talk soon

Thanks, Chris

Christopher W. Samorajczyk

Wildlife Biologist

Connecticut Department of Transportation

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From: Zachary Jylkka - NOAA Federal <zachary.jylkka@noaa.gov>
Sent: Monday, July 22, 2019 3:56 PM
To: Samorajczyk, Christopher W <Christopher.Samorajczyk@ct.gov>
Cc: Davis, Andrew H <Andrew.H.Davis@ct.gov>
Subject: Re: CTDOT 301-176 WALK Bridge Replacement_Norwalk CT

Hi Chris,

Great to finally meet you in person. Thanks for the summary of the proposed changes. I'll take a look in the next day or two and get back to you with any thoughts/comments on how I think we should proceed.

Best,

Zach

On Fri, Jul 19, 2019 at 2:15 PM Samorajczyk, Christopher W <Christopher.Samorajczyk@ct.gov> wrote:

Hi Zach-

Great meeting and talking quick with you yesterday---

As I mentioned yesterday, and we have spoken about over the winter, we have changed a few construction methodologies to CTDOT 301-176 WALK Bridge replacement, Norwalk, CT since PRD's insignificant finding dated July 17, 2018 (attached). The Department, on behalf of FTA, believes that the new construction methodologies will still be insignificant to ESA listed species that may occur within the Project

area. For your convenience I have attached a word document outlining the changes. The Construction activity Permit Plates are referenced in the narrative but they are large and I'm not sure that they add more to your review so I didn't attach them—but can if you would like to take a look. Also attached are CTDOT's pile driving results from this past November. Maybe a quick call would help—Didn't mean to dump a bunch of documents on you but thought sending this information could give you the complete picture to concur on these changed activities---again if you need anything else please let me know. I should be available next week Monday through Wednesday—if you want to talk through any of this –have a great weekend—talk soon

Thanks, Chris

Christopher W. Samorajczyk

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From: Samorajczyk, Christopher W
Sent: Thursday, December 27, 2018 9:26 AM
To: 'Zachary Jylkka - NOAA Federal' <zachary.jylkka@noaa.gov>
Cc: Davis, Andrew H <Andrew.H.Davis@ct.gov>
Subject: CTDOT 301-176 WALK Bridge Replacement_Norwalk CT

Hi Zach-

Happy Holidays- Not sure if you guys are in the Office -if not hope your enjoying your time off. Anyway – when you get chance let me know I want to talk quick about the WALK Bridge and some activities we are

changing and some we have tweaked due to the Contractors take and understanding of the commitments we had agreed to. Basically, we have too many consultants/ people working on this job and not everyone was on the same page. We also completed our acoustic and turbidity testing so I wanted to run that by you as well before we reinitiate consultation—talk soon

Thanks, Chris

Christopher W. Samorajczyk

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