

**From:** [Nicholas Green](#)  
**To:** ["Rebecca Viray - NOAA Federal"](#)  
**Cc:** [Aaron Lieuallen](#); [tyler.j.krug@usace.army.mil](mailto:tyler.j.krug@usace.army.mil); [Nick Ducote](#)  
**Subject:** RE: Coordination on the City of John Day Gateway project and federal requirements  
**Date:** Monday, January 24, 2022 1:32:49 PM

---

Rebecca,

CDBG-HUD (Business Oregon Office) recently contacted us to inform us there was an inquiry to NOAA about one of our projects. Unfortunately, they could not tell us which one or share the nature of the inquiry. I assumed it was the John Day Wastewater System Improvements (WWSI) Project since that's the only one CDBG-HUD has been involved in funding, but I may be wrong about that.

As I have not seen the inquiry, I can't respond to it directly, but I did want to reach out to you just to confirm that at this time we are not requesting pre-consultation from NOAA, the Army Corps, or any other federal agency on the WWSI or any other city-sponsored project.

Also, just as an FYI, HUD-CDBG is no longer involved in the construction of the WWSI, the lead agency is USDA Rural Development. They will make the final determination on the environmental assessment for the WWSI project, which we expect will also be a determination of No effect regarding Endangered and Threatened Species as the project, by design, will not have any direct or indirect effect on listed species or designated critical habitat. We also expect a Finding of No Significant Impact on the project as a whole.

If you have any questions please let me know.

Best regards,

Nicholas Green, City Manager  
City of John Day  
450 East Main Street  
John Day, OR 97845  
PH: 541-575-0028  
Fax: 541-575-3668  
Email: [green@grantcounty-or.gov](mailto:green@grantcounty-or.gov)  
Website: [www.cityofjohnday.com](http://www.cityofjohnday.com)

CONFIDENTIALITY NOTICE: This email (including any attachments) is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure, and/or distribution of this email is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the email (including any attachments).

PUBLIC RECORDS LAW DISCLOSURE: Under Oregon's Public Records Law (ORS 192.410 - 192.505),

emails are generally considered “public records.” Therefore, this email (including any attachments) may be subject to public inspection unless exempt from disclosure under Oregon’s Public Records Law.

**From:** Rebecca Viray - NOAA Federal <Rebecca.Viray@noaa.gov>

**Sent:** Wednesday, November 10, 2021 10:54 AM

**To:** Nicholas Green <greenn@grantcounty-or.gov>

**Cc:** Aaron Lieuallen <lieuallena@grantcounty-or.gov>; tyler.j.krug@usace.army.mil; Nick Ducote <ducoteconsulting@gmail.com>

**Subject:** Re: Coordination on the City of John Day Gateway project and federal requirements

Greetings Nick,

The ESA consultation is an interagency federal process that initiates when the lead federal action agency determines there is a potential effect on listed species, and officially requests NMFS to engage in ESA consultation. It is an independent law and requirement for the lead federal agency to initiate consultation. We previously received an email from Ducote Consultants that a No Effect determination was made regarding the Wastewater Treatment project.

The intent of my previous e-mail is specific to the Innovation Gateway Park Project, and any potential development along the riparian corridor, or in the John Day River. While the project may still be in conceptual planning, there are potentially multiple elements and activities that may likely adversely affect ESA-listed species. For example, any in-water work that requires a permit through the JPA with the US Corps of Engineer/ ODEQ will trigger the ESA consultation process, any

indirect or direct federal grant funding, or any other agencies that may provide support for the project may lead to the ESA consultation requirement. NMFS will likely then need to review all short and long-term potential effects of the entire projects through ESA consultation. With the multiple potential activities and development in the conceptual plan, it is recommended pre-consultation with the lead federal agency should occur. Some activities with adverse effects to ESA-listed species can involve complex negotiations and requirements. Pre-consultation during plan development may improve the efficiency and prevent unanticipated difficulties from arising if the project designs are fully developed before agencies are approached.

I can be available to further discuss and answer any question regarding the ESA consultation process.

Best Regards,

**Rebecca Viray**

Fish Biologist, Interior Columbia Basin Office/ West Coast Region

NOAA Fisheries | U.S. Department of Commerce

Office: (541) 962-8524

Mobile: (541) 786-5177

[www.fisheries.noaa.gov](http://www.fisheries.noaa.gov)



\*\*During the COVID-19 pandemic I am under mandatory telework. I may be working flexible hours to balance family and personal needs. I appreciate your patience if my response time is delayed. If you have a request, please specify important timeframes or deadlines. I will do my best to respond accordingly. Thank you.\*\*

On Tue, Nov 9, 2021 at 3:06 PM Nicholas Green <[green@grantcounty-or.gov](mailto:green@grantcounty-or.gov)> wrote:  
Thanks Rebecca, I appreciate you reaching out.

All of our plans at this stage with regard to the riverfront restoration at the Innovation Gateway are conceptual. We've done some groundwater monitoring with regard to the proposed wastewater treatment plant and we'll be submitting a permit application to DEQ in the coming weeks for that facility, but it has already gone through the coordination process.

We sent a first notice for the wastewater facility in 2019 and the final notice in July 2020 to all state, federal and tribal agencies (see email, attached). We received correspondence from SHPO and the USFWS. I don't recall any other correspondence at the federal level, but I would have to check my files.

Happy to discuss this overall project further, and you're welcome to reach out to Nick Ducote (cc'd) or myself if you want additional info on the treatment plant project.

Nick

Nicholas Green, City Manager  
City of John Day  
450 East Main Street  
John Day, OR 97845  
PH: 541-575-0028  
Fax: 541-575-3668  
Email: [green@grantcounty-or.gov](mailto:green@grantcounty-or.gov)  
Website: [www.cityofjohnday.com](http://www.cityofjohnday.com)

CONFIDENTIALITY NOTICE: This email (including any attachments) is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure, and/or distribution of this email is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the email (including any attachments).

PUBLIC RECORDS LAW DISCLOSURE: Under Oregon's Public Records Law (ORS 192.410 - 192.505), emails are generally considered "public records." Therefore, this email (including any attachments) may be subject to public inspection unless exempt from disclosure under Oregon's Public Records Law.

**From:** Rebecca Viray - NOAA Federal <[Rebecca.Viray@noaa.gov](mailto:Rebecca.Viray@noaa.gov)>

**Sent:** Tuesday, November 9, 2021 2:33 PM

**To:** Aaron Lieuallen <[lieuallena@grantcounty-or.gov](mailto:lieuallena@grantcounty-or.gov)>; Nicholas Green <[green@grantcounty-or.gov](mailto:green@grantcounty-or.gov)>

**Cc:** [tyler.j.krug@usace.army.mil](mailto:tyler.j.krug@usace.army.mil)

**Subject:** Coordination on the City of John Day Gateway project and federal requirements

Greetings Aaron and Nick,

I am with the National Marine Fisheries Service's (NMFS) Columbia Basin Office based in Eastern Oregon. Our office conducts Endangered Species Act (ESA) consultations with other federal agencies about any projects with potential effects to threatened or endangered salmon and steelhead or their critical habitat as required under the ESA Law. NMFS closely works with the lead Federal agencies (ex. U.S. Army Corps, FEMA, HUD, EPA, NPS, USFWS, FS etc. ) when projects need any permits (i.e. Clean Water Act, wetlands etc), federal funding (grants) or other federal link, regardless if the project is on private or public federal lands. We specifically review and analyze all activities and elements of a project and implementation that may include potential effects to riparian areas or critical habitat, when there is any federal connection. The John Day River contains Middle Columbia River (MCR) steelhead listed as threatened under the endangered species act and is designated critical habitat. For example, projects with in-stream or over-water construction in streams, riparian areas, wetlands or even recreational impacts with effects to ESA-listed streams likely are required to have a federal permit and complete ESA consultation.

We received an inquiry about the City of John Day's

Gateway Park Project. Based on the description on the City's website and conceptual plans, it appears to be a very interesting project for John Day and the surrounding community. Our office has not been informed by any lead Federal agency of the project's or potential project details. I understand the U.S. Army Corps has also not been involved in preliminary preconsultation. The process required through the multiple federal agency reviews can be complex and take time for large scale projects. Many applicants and consultants may not be aware of the federal requirements. We recommend early coordination with federal permit agencies during early project planning and development to ensure a project completes its required sufficient review and approval to meet desired implementation timelines.

I have cc'd the U. S. Army Corps of Engineers' staff assigned Grant County projects. Please feel free to contact either of our agencies with any questions about federal requirements, or the ESA consultation process.

Best regards,  
Rebecca Viray

**Rebecca Viray**

Fish Biologist, Interior Columbia Basin Office/ West Coast Region  
NOAA Fisheries | U.S. Department of Commerce  
Office: (541) 962-8524

\*\*Mobile: (541) 786-5177

[www.fisheries.noaa.gov](http://www.fisheries.noaa.gov)



\*\*During the COVID-19 pandemic I am under mandatory telework. I may be working flexible hours to balance family and personal needs. I appreciate your patience if my response time is delayed. If you have a request, please specify important timeframes or deadlines. I will do my best to respond accordingly. Thank you.\*\*