City of Seattle
Seattle Department of Transportation
Peter Hahn, Director

October 21, 2010

Washington State Department of Transportation
Highway and Local Project Engineering
15700 Dayton Avenue North, MS-121
Seattle, Washington 98133

Attention: Ed Conyers, PE

Subject: No Effect Letter
Burke Gilman Trail Extension
Shilshole Avenue NW from 17th Avenue NW to NW Vernon Place
File No. 0129-128-00

INTRODUCTION

The Seattle Department of Transportation (SDOT) Burke-Gilman Trail Extension Project seeks to complete the missing link between two existing portions of the Burke-Gilman Trail between 11th Avenue NW and 30th Avenue NW (at the Hiram M. Chittenden Locks) in Seattle. SDOT issued a Determination of Nonsignificance for the project under the State Environmental Policy Act (SEPA) on November 26, 2008, which was appealed. However, the Federal Highway Administration approved the project (STPE-1140 [041]) as a categorical exclusion under the National Environmental Policy Act (NEPA) on February 26, 2009.

Now, upon remand by the King County Superior Court, SDOT has revised its description of the project to include Shilshole Avenue NW between 17th Avenue NW and NW Vernon Place in Seattle (referred to as the Shilshole segment for the purposes of this report). This document discusses the potential impacts to federally threatened or endangered species as a result of construction along the Shilshole segment, and serves as an addendum to the original No Effect Letter dated November 4, 2008.

Consistent with the original report, information on species listed under Section 7 of the Endangered Species Act (ESA) and potentially present in the Shilshole segment project area was obtained from the U.S. Fish and Wildlife Service (USFWS) list for King County (USFWS 2010), the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) listings for Western Washington (NOAA 2010), and the Washington Department of Fish and Wildlife (WDFW) Priority Habitat and Species (PHS) maps and database (WDFW 2010). A search of the Washington Department of Natural Resources (WDNR) Natural Heritage Program Geographic Information Systems (GIS) database revealed no records of any listed plants, high quality ecosystems or other significant natural features within the vicinity of the Shilshole segment project area (WDNR 2010).

The USFWS list, the NOAA list, and the WDFW data indicate the presence of Puget Sound/Coastal Distinct Population Segment (DPS) bull trout (*Salvelinus confluentus*), Puget Sound Evolutionary Significant Unit (ESU) Chinook salmon (*Oncorhynchus tshawytscha*), and Puget Sound DPS winter

steelhead (*Oncorhynchus mykiss*) in the vicinity of the Shilshole segment project area. Other ESA-listed species reported to occur in either Puget Sound or King County are not present in any part of the project area, and therefore not discussed further in this letter.

PROJECT SETTING

The Shilshole segment project area lies in a commercial and industrial urban setting north of the Salmon Bay Waterway, along Shilshole Avenue NW between 17th Avenue NW and NW Vernon Place, Township 25N, Range 3E, Section 11 (please see Figure 1 for a Vicinity Map). The project footprint for the Shilshole segment is located entirely within the publicly owned right-of-way (ROW). The surrounding area has historically been used for industrial and commercial purposes since the late 1800s and is currently heavily developed for commercial, retail and industrial use.

The Shilshole segment project area is relatively flat and the topography slopes downward toward Salmon Bay to the south-southwest. The Salmon Bay Waterway connects to Puget Sound via the Hiram M. Chittenden Locks. The project area ranges in elevation between 25 feet and 30 feet using City of Seattle datum. Surface water in the area generally flows to the south-southwest. Storm water from the roadway and portions of the shoulder are collected and conveyed in a storm system. Certain portions of the unpaved right of way shoulder along the Shilshole segment flow onto private property.

PROJECT DESCRIPTION

Project construction along the Shilshole segment will take place within the existing street ROW and will involve the same type of work and improvements involved in project construction for the other portions of the project route discussed in the original No Effect Letter. Specifically, construction will involve removal of existing concrete, asphalt, and compact gravel to be replaced with a 10- to 12-foot-wide multi-use pathway; additional improvements such as railway crossings, stormwater drainage controls, relocation of underground utilities, and reconstruction of existing driveways; and installation of traffic controls, warning signs, and signals to direct motor-vehicle, bicycle, and pedestrian traffic.

EXISTING AND PROPOSED DRAINAGE PATTERNS

The existing stormwater conditions for the Shilshole segment project area were identified through site visits, background information provided by the City of Seattle, including the City's GIS and sewer cards, and a field survey, as they were for the original No Effect letter.

Current stormwater flows from the Shilshole segment project area are generated primarily by pollution-generating impervious surfaces. These surfaces include arterial and non arterial streets, paved and gravel parking areas, and impervious vehicular maneuvering areas. There is no formal storm drainage treatment along the Shilshole segment corridor. Depending on the location, stormwater along Shilshole Ave NW enters the formal storm system and is discharged untreated to Salmon Bay through a public outfall, flows overland to a point where it is discharged overland, or flows overland and is discharged through a private system.

Storm drainage improvements will be included with the Shilshole segment project to comply with the Seattle stormwater regulations in effect at the time of construction. Improvements may include stormwater treatment, collection, and conveyance, similar to improvements proposed for the original Burke-Gilman Trail Extension Project. Where grades permit, stormwater runoff from the ROW will be collected in natural and concrete swales, catch basins, and trench drains. After construction, stormwater flows will continue to be conveyed to the public storm drain system that discharges to Salmon Bay. There will be no net increase in the amount of impervious surface.

CONSTRUCTION ACTIVITIES AND EQUIPMENT

General construction activities along the Shilshole segment may include relocation of utilities, jack hammering, saw cutting, pavement and sidewalk removal with a backhoe, grading, installation of pavement, and landscaping. Construction equipment that may be used for this project include a backhoe, a dump truck, a jack hammer, a concrete-mixing truck, a vibratory roller, paving machinery, and a compaction device.

IMPACT AVOIDANCE, MINIMIZATION MEASURES, AND BEST MANAGEMENT PRACTICES

The impact avoidance, minimization measures, and best management practices for the Shilshole segment will be similar to those proposed for the entire Burke-Gilman Trail Extension project, as described in the original No Effect Letter.

The contractor will be required to follow the most current edition of *Seattle Standard Plans and Standard Specifications for Road, Bridge, and Municipal Construction*. The Seattle standard specifications, special provisions in the project manual, and the contract drawings constitute the legal contract documents for City capital projects. Section 1-07.5 (Prevention of Environmental Pollution and Preservation of Public Natural Resources), along with Section 1-07.15 (Temporary Water Pollution, Erosion, and Sedimentation Control), apply to this project.

In addition, the contractor will be required to comply with the most current Stormwater, Grading, and Drainage Control Code (Seattle Municipal Code 22.800); Directors Rule 16-2009, *Construction Stormwater Control Technical Requirements Manual*; Directors Rule 18-2009, *Stormwater Code Enforcement Manual*; as well as the approved exceptions and flow control methods prescribed in Directors Rule 17-2009, *Stormwater Flow Control and Water Quality Control Technical Requirements Manual*.

All applicable best management practices (BMPs) will be implemented as described in the *Regional Road Maintenance Endangered Species Act (ESA) Program Guidelines* (Regional Road Maintenance Technical Working Group 2002) to assure protection of the environment and species of concern. This includes requiring the contractor to provide a Construction Plan, a Spill Prevention Plan, and an Emergency Spill Cleanup Plan before the start of construction. It also includes the use of catch basin filters, in catch basins located downgradient of the construction site, to prevent sediments and construction-related pollutants from entering the storm drainage system, in accordance with city erosion and sedimentation control practices. Furthermore, grading activities will be limited to dry days between April and October. During construction, the project will be covered under a National Pollution Discharge Elimination System

(NPDES) Construction Stormwater General Permit issued by the Washington Department of Ecology. The Contractor will produce a Surface Water Pollution Prevention Plan that will address spill prevention, fuel storage, erosion control and dewatering due to rainwater entering construction trenches.

ACTION AREA

The project action area is defined as all areas within the project construction limits (i.e., all areas used for staging and mobilization, all construction areas, and all other areas specifically related to the project activities), as well as adjacent areas where direct and indirect effects and effects due to interrelated and interdependent activities may occur during and after construction. Hence, the action area for construction along the Shilshole segment includes all areas that may be affected by the actions associated with the proposed project, including but not limited to, the actual work site (see Figure 2).

During construction, the existing ambient noise levels will be temporarily increased. The construction equipment used for the project will generate noise that is expected to carry up to 0.25 miles (approximately 400 meters) from the Project corridor. Considering the amount of urban traffic and construction noise commonly occurring in the area, it is anticipated that construction noise would attenuate to background noise even before reaching this point.

Construction of the Shilshole segment will not include any in-water work. Aquatic effects are not expected to occur due to the project characteristics, setting, and distance from any body of water. The stormwater system will be designed to meet the most current City of Seattle Stormwater requirements. Thus, although the action area shown in Figure 2 extends over the Salmon Bay Waterway, these areas would be affected only by terrestrial noise. Since the project is expected to have no effect on any freshwaters or marine waters, these portions of the action area are excluded from any water quality, underwater noise, or other effects on aquatic species or their habitat.

SPECIES AND HABITAT INFORMATION

Available public information sources regarding fish distribution and use in the action area was reviewed, as it was for the original No Effect Letter. These sources include StreamNet Pacific Northwest Interactive Mapper, administered by the Pacific States Marine Fisheries Commission, and WDFW's PHS report and SalmonScape mapper. Each of these data sources provides information about distribution and use of Chinook salmon as well as steelhead and bull trout. StreamNet, SalmonScape, and the PHS data indicate that fall Chinook, bull trout, and winter steelhead utilize Salmon Bay Waterway.

Coastal/Puget Sound Bull Trout Status

The Coastal/Puget Sound bull trout DPS is listed as a threatened species under the Endangered Species Act. On September 26, 2005, the USFWS designated critical habitat for the Coastal/Puget Sound DPS of bull trout that includes nearshore areas of Puget Sound. Critical habitat is included within the Shilshole segment action area in the Salmon Bay Waterway and marine waters downstream of the Hiram M. Chittenden Locks.

Puget Sound Chinook Salmon Status

The Puget Sound Chinook salmon ESU was listed as a threatened species by NMFS on March 24, 1999. The identified ESU includes all naturally spawned populations of Chinook salmon from rivers and streams flowing into Puget Sound. Critical habitat for Puget Sound Chinook salmon was re-designated on January 2, 2006 and includes nearshore areas. Critical habitat is included within the Shilshole segment action area in the Salmon Bay Waterway and marine waters downstream of the Hiram M. Chittenden Locks.

Puget Sound Steelhead Status.

The Puget Sound Steelhead DPS was listed as a threatened species by NMFS on May 11, 2007. This DPS includes all naturally spawned anadromous winter-run and summer-run steelhead populations, in streams in the river basins of the Strait of Juan de Fuca, Puget Sound (including Lake Washington and the ship canal), and Hood Canal, Washington, and the winter run steelhead hatchery stock from the Green River.

POTENTIAL EFFECTS OF THE ACTION

DIRECT EFFECTS RESULTING FROM CONSTRUCTION ACTIVITIES

Construction activities in the vicinity of the Shilshole segment corridor may result in the following potential direct effects, similar to those for the entire Burke-Gilman Trail Extension:

- Increased terrestrial noise during construction could occur. However, construction noise is expected to be within the baseline level currently experienced along the Shilshole segment.
- Accidental spills of fuel, oils, chemicals, and concrete leachate could occur during construction. However, the project will include the implementation of impact avoidance, minimization measures, and BMPs (e.g. use of catch basin filters), which are expected to prevent such spills from reaching Salmon Bay Waterway during construction.

EFFECT DETERMINATIONS

COASTAL/PUGET SOUND BULL TROUT

Construction of the trail along the Shilshole segment will have **no effect** on bull trout, Chinook salmon, or Puget Sound steelhead for the following reasons:

- No in-water work will occur. Construction of the trail along the Shilshole segment will not result in a net increase of pollution generating impervious surfaces and will not increase pollution generating activities (e.g., motor vehicle traffic through the action area).

- All applicable BMPs will be implemented as described in the *Regional Road Maintenance Endangered Species Act (ESA) Program Guidelines* to ensure protection of the environment and species of concern.

- No habitat Primary Constituent Elements of designated bull trout or Chinook salmon critical habitat will be impacted.

ESSENTIAL FISH HABITAT

The federal Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires federal agencies to consult with NMFS regarding activities that may adversely affect essential fish habitat. In addition, the statute requires fishery management councils to include descriptions of essential fish habitat in all federal fishery management plans.

Coastal pelagic and groundfish species are not found within the Shilshole segment action area. Their distribution is limited to marine environments downstream of the Hiram M. Chittenden Locks. Within Salmon Bay Waterway, however, the nearshore habitats used by Chinook, coho, and pink salmon are considered essential fish habitat. Construction of the trail along the Shilshole segment will have **no effect** on essential fish habitat for Pacific salmon, coastal pelagic fish species, or groundfish species for the following reasons:

- Coastal pelagic and groundfish species are not found within the Shilshole segment action area.
- No in-water work will occur.
- The proposed project will not increase pollutant generating surfaces and will not increase pollution generating activities (e.g. motor vehicle traffic through the action area).

This no effect letter was prepared to fulfill the responsibility of the City of Seattle under Section 7(c) of the Endangered Species Act and the Magnuson-Stevens Act. If you have questions or comments regarding this biological evaluation, please contact me at (206) 733-9117.

Sincerely,

Mark Mazzola
NEPA/SEPA Coordinator

Attachments: Figure 1. Vicinity Map
Figure 2. Action Area

REFERENCES

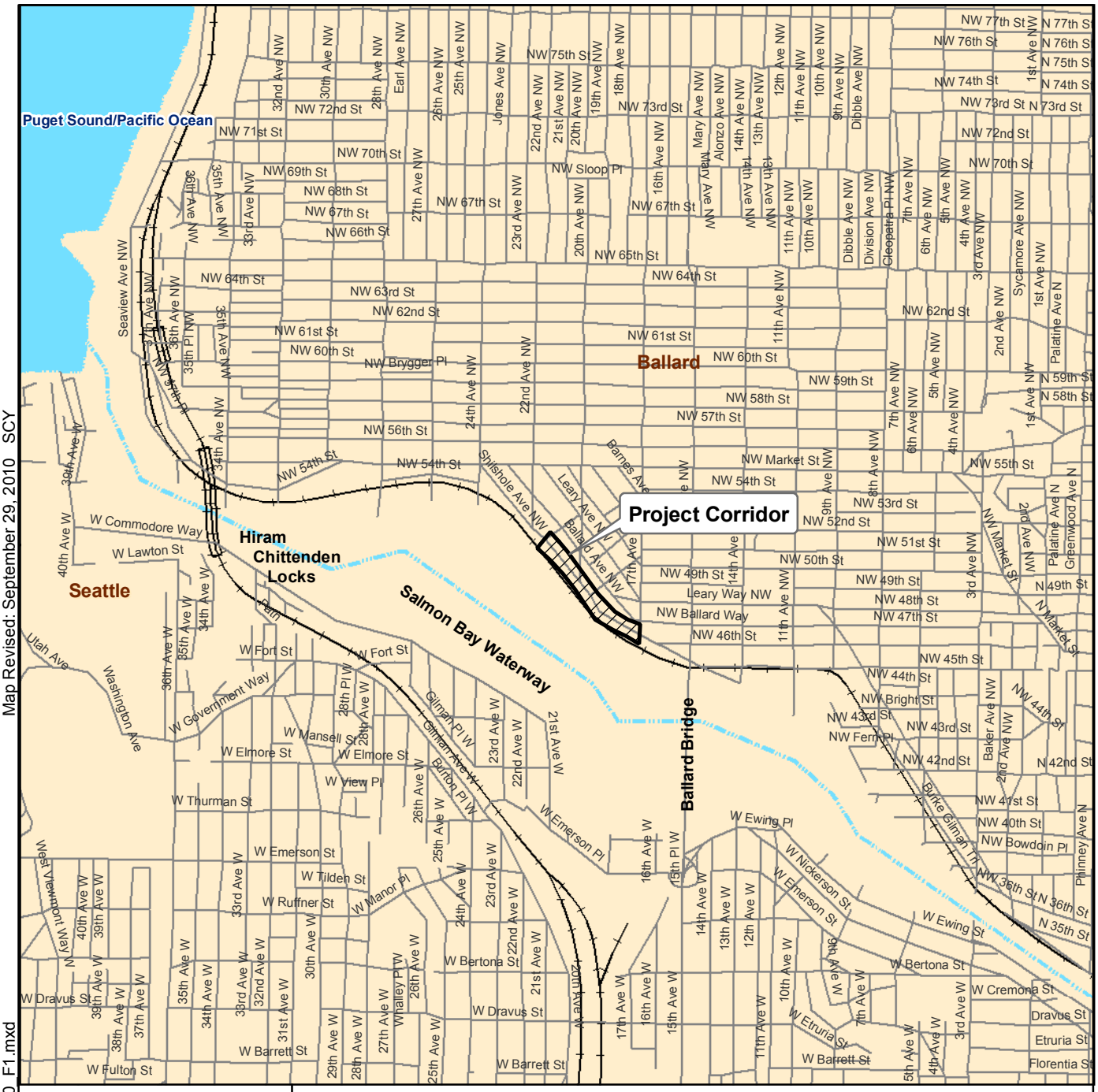
NOAA Fisheries. 2010. Listing on Endangered Species. National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Environmental and Technical Services Division, Habitat Conservation Division, Seattle, Washington. Obtained from agency website: <http://www.nwr.noaa.gov/Species-Lists.cfm.> Accessed October 7, 2010.

Regional Road Maintenance Technical Working Group. 2002. Regional Road Maintenance Endangered Species Act (ESA) Program Guidelines – Regional Guidelines. Developed by the Regional Road Maintenance Technical Working Group, Seattle, Washington. Obtained from King County website on January 18, 2002: <http://www.metrokc.gov/kcdot/roads/esa/regionalprogram/index.cfm>.

USFWS. 2010. Listed and Proposed Endangered and Threatened Species and Critical Habitat; Candidate Species; and Species of Concern in King County as Prepared by the U.S. Fish and Wildlife Service Western Washington Fish and Wildlife Office. (Revised November 1, 2007). <http://www.fws.gov/wafwo/speciesmap/KING.html.> Accessed October 7, 2010.

WDFW. 2010. Priority habitat and species data. Washington Department of Fish and Wildlife, Olympia, Washington. March 31, 2010.

WDNR. 2010. Washington Natural Heritage Program Geographic Information System, WNHP Data Set, June 2010. Data downloaded October 7, 2010. <http://fortress.wa.gov/dnr/app1/dataweb/dmmatrix.html.>



Notes:

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Data Sources: Interstates, state routes, and roads from TIGER 2000. County boundaries, cities, and waterbodies from Department of Ecology. USGS topo map provided by TerraServer (DRG-Scale4m).

Lambert Conformal Conic, Washington State Plane North, North American Datum 1983

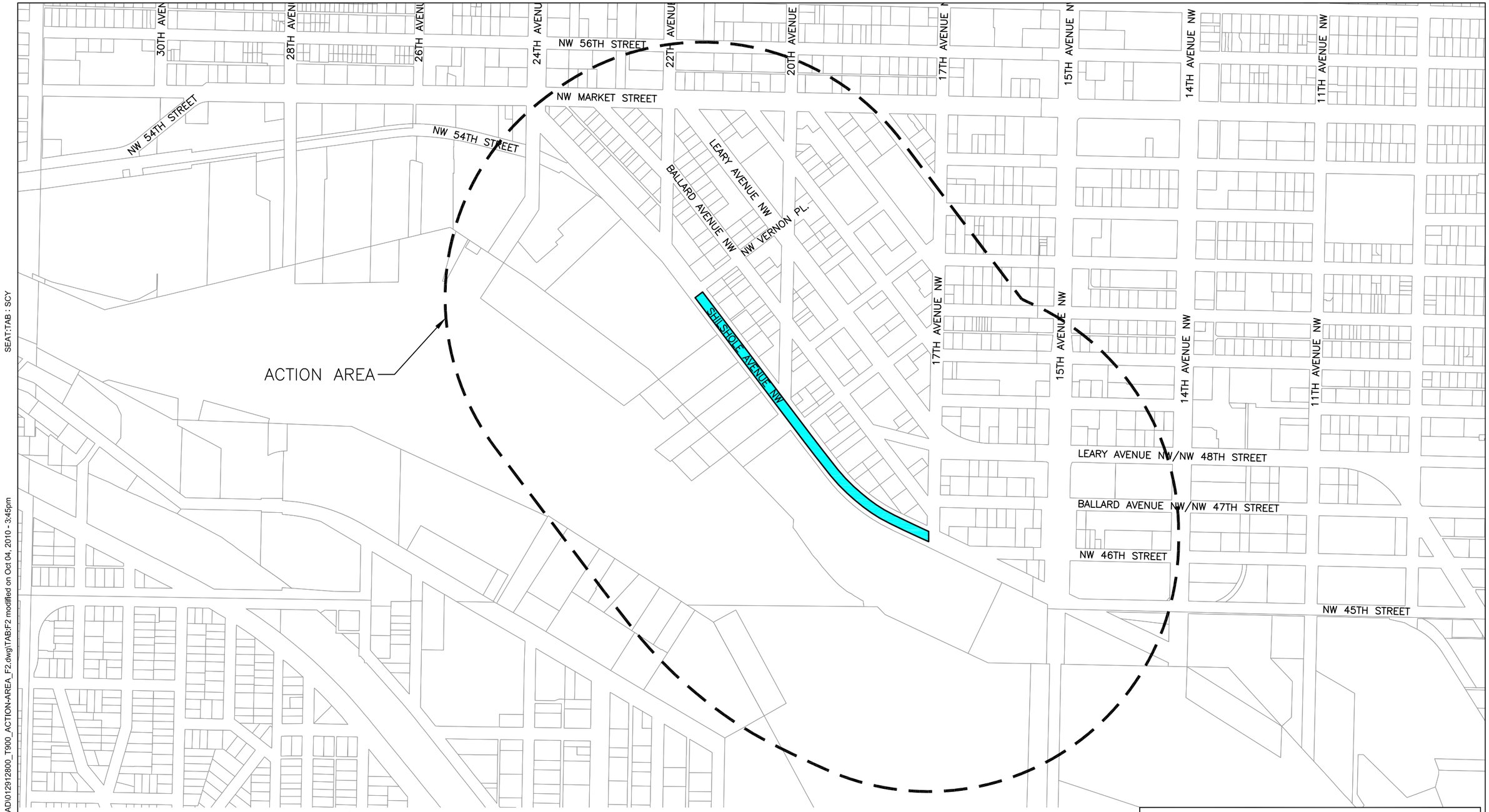
Vicinity Map

Burke Gilman Trail Corridor, Shilshole Segment
Shilshole Avenue, 17th Avenue NW to NW Vernon Place
King County, Washington

GeoEngineers

Figure 1

Office: SEAT Path: 0\0129128\00\GIS\0129128\00_T900_F1.mxd Map Revised: September 29, 2010 SCY



Legend

Proposed route, Shilshole Avenue, 17th Avenue NW to NW Vernon Place

N W E S

500 0 500
Feet

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Reference: Data parcels provided by King County GIS data.

Action Area

Burke Gilman Trail Corridor, Shilshole Segment
Shilshole Avenue, 17th Avenue NW to NW Vernon Place
King County, Washington

GeoEngineers

Figure 2

SEAT:TAB : SCY

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