



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
HABITAT PROGRAM/OLYMPIA FIELD OFFICE
510 Desmond Drive SE/Suite 103
LACEY, WASHINGTON 98503

June 16, 1999

The Honorable Jennifer Belcher
Commissioner of Public Lands
Washington Department of Natural Resources
1111 Washington Street SE
Olympia, Washington 98504-7000

Dear Commissioner Belcher:

Enclosed is Permit Number 1168 issued to the Washington Department of Natural Resources (WDNR) under the authority of Section 10 of the Endangered Species Act (ESA). Permit 1168 authorizes incidental take of threatened Lower Columbia River (LCR) steelhead, LCR chinook, Puget Sound (PS) chinook, Hood Canal summer-run (HCS) chum, Columbia River (CR) chum, and Ozette Lake (OL) sockeye associated with timber and non-timber management activities in western Washington state, as per the provisions of the WDNR Habitat Conservation Plan (HCP) and unlisted species provisions of the Implementation Agreement (IA).

The National Marine Fisheries Service (NMFS) has determined that if WDNR management activities are conducted as described in the HCP, and in compliance with the terms and conditions of IA and the permit, the expected take will be appropriately minimized and mitigated for and will not appreciably reduce the likelihood of survival or recovery of the Evolutionarily Significant Units (ESUs) of the LCR steelhead, LCR chinook, PS chinook, HCS chum, CR chum, and OL sockeye.

The authorization granted by this permit is subject to full and complete compliance with, and implementation of, the WDNR HCP and IA. The term of this permit is for the duration of the HCP and expires January 30, 2067. WDNR may apply for up to three extensions of 10 years each for both the HCP and this permit.

As per the terms of the unlisted species provisions of the IA, should any additional anadromous salmonid species that were unlisted at the time of finalization of the HCP become listed under the ESA, you may request an addition of the new species to this permit. At that time, NMFS would make a decision on issuance of the permit amendment without requiring additional mitigation, unless, within a specified sixty day period, NMFS demonstrates that extraordinary circumstances exist.



If you do not comply with the terms and conditions of the permit, or if you cannot provide adequate funding for the HCP, the incidental take of LCR steelhead, LCR chinook, PS chinook, HCS chum, CR chum, and OL sockeye is not authorized. If you have any questions concerning the permit, please contact Steve Landino at (360) 753-6054.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Applegate", enclosed within a large, stylized oval flourish.

Rick Applegate
Assistant Regional Administrator
for Habitat Conservation

Enclosure

cc: F/PR(R), P211K,
F/NWO3-Applegate/Landino/Longenbaugh/File Copy
F/NWR-Stelle
F/PR3-Koch



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Northwest Region
7600 Sand Point Way North East
BIN C15700, Building 1
Seattle, Washington 98115-0070

SECTION 10 PERMIT FOR TAKE OF ENDANGERED/THREATENED SPECIES

Permit Number: 1168

Expiration Date: January 30, 2067

Reporting Period: April 1 through March 30, annually

Annual Report Due: March 30

Permit Holder:

Washington Department of Natural Resources
1111 Washington Street SE
Olympia, Washington 98504-7000

Contact: Kaleen Cottingham, Deputy Commissioner for Public Lands

Phone: 360-902-1003

FAX: 360-902-1775

Authorization:

The Washington Department of Natural Resources (WDNR) is hereby authorized incidental take of threatened Lower Columbia River steelhead, LCR chinook, and Columbia River (CR) chum associated with its timber and non-timber management activities in western Washington state, subject to the provisions of the Implementation Agreement (IA) for the WDNR Habitat Conservation Plan (HCP), the provisions of Section 10 of the Endangered Species Act of 1973, as amended (ESA) (16 U.S.C. §§ 1531-1543), the National Marine Fisheries Service (NMFS) regulations governing ESA-listed species permits (50 CFR Parts 217-227), and the conditions hereinafter set forth.

Abstract:

WDNR is authorized an annual incidental take of Lower Columbia River (LCR) steelhead (*Oncorhynchus mykiss*); LCR chinook and Puget Sound (PS) chinook (*Oncorhynchus tshawytscha*); Hood Canal (HCS) summer-run chum and Columbia River (CR) chum (*Oncorhynchus keta*); and Ozette Lake (OL) sockeye (*Oncorhynchus nerka*) associated with WDNR's timber and non-timber management activities in western Washington state, pursuant to section 10(a)(1)(B) of the ESA and the unlisted species provisions of the IA for the WDNR HCP.



The WDNR HCP utilizes a combination of conservation measures that are expected to minimize and mitigate the impacts of take of the anadromous fish species addressed in the HCP. The riparian conservation strategy defines a riparian management zone consisting of an inner riparian buffer and an outer wind buffer where needed. The principal function of the riparian buffer is protection of salmonid habitat; the principal function of the wind buffer is the protection of the riparian buffer. All fishbearing streams (Washington State Type 1 through 3 waters) receive a conservatively managed buffer equal in width (measured horizontally from the 100-year floodplain) to a site-potential tree height (derived from 100-year site-index curves) or 100 feet, whichever is greater. This prescription should result in average riparian buffer widths between 150 and 160 feet. Non-fishbearing Type 4 streams receive a 100-foot buffer. No commercial harvest will be allowed in the first 25 feet of the riparian buffer. An outer wind buffer will be applied on all fishbearing streams in areas that are prone to windthrow. For Type 1-4 waters with a high hazard for windthrow, a 100 foot wind buffer is placed along the windward side, and a 50 foot wind buffer would be required windward of stream reaches rated as moderate hazard, based on the guidance provided by WDNR.

The management of these buffers will be site-specific according to riparian guidance developed by the Services, WDNR, and invited scientists. Little commercial timber harvest would occur within the 25 to 100 foot zone, and slightly more tree removal could occur outside 100 foot. Only restoration activities would occur in the first 25 feet, while wind buffers could have 50 percent volume removal.

Inner gorges and mass-wasting areas are protected by unstable hillslope and mass wasting protection provisions of the HCP (IV. 62) and it is expected that 50 percent of the seasonal streams (Type 5) will be protected as a result of the mass-wasting protection provisions. The other 50 percent of Type 5 streams receive interim protections as necessary and will be addressed within the Type 5 research and adaptive-management component to be completed within the first 10 years of the HCP. Watershed Analysis can only increase (not decrease) the level of protection these streams receive. Road management is another critical component of WDNR's HCP (HCP IV. 62-68).

These minimization and mitigation measures described above represent the minimum level of riparian conservation that WDNR has committed to implement. Several aspects of the HCP, including riparian protection, are subject to adaptive management. To ensure that the mitigation and minimization strategies are effective, the HCP incorporates a variety of aquatic monitoring components that will provide feedback for adaptive management, and if needed, increases in the mitigation for riparian protection. A scientific working group is also addressing the exact nature of the monitoring component within the side-boards established in the HCP (V. 1-9).

A. Level of Incidental Take

WDNR timber and non-timber management activities in western Washington state will result in incidental take of adult and juvenile LCR steelhead, LCR chinook, PS chinook, HCS chum, CR chum, and OL sockeye, which are listed as threatened under the ESA. Adverse effects of

management actions such as these are largely unquantifiable in the short-term, and may not be measurable as long-term effects on the species' habitat or population levels. Therefore, even though NMFS expects some low level of incidental take to occur due to these actions, the best scientific and commercial data available are not sufficient to enable NMFS to numerically estimate incidental take to each ESU. However, if WDNR management activities are conducted as described in its HCP, and in compliance with the terms and conditions of the IA, the expected take will be appropriately minimized and mitigated and will not appreciably reduce the likelihood of survival or recovery of LCR steelhead, LCR chinook, PS chinook, HCS chum, CR chum, and OL sockeye.

The extent of incidental take in terms of habitat alterations can be estimated by analysis of the magnitude of impacts to the riparian areas resulting from typical forest management activities. The estimated distance of fish-bearing streams that lies within the ESUs for the listed anadromous fish is 227 miles, or 17% of the plan area. The entire Columbia planning area, which includes the listed ESUs, includes an estimated 16,800 riparian acres, or 14% of the total riparian acreage of the plan area. Selective harvest in riparian buffers is expected to occur at any given location no more than once per timber harvest rotation, e.g., 60 to 140 years. Since the timber harvest rotation is about the same as the plan term of 70 to 100 years, and about 60% of the riparian forests will have ages and species of trees suitable for timber harvest over the plan term, and riparian areas in the Columbia planning area would not be harvested preferentially, the magnitude of potential annual impacts from near riparian forest activities is calculated to be about 0.1% of the total riparian area, i.e., 150 acres/year.

Potential incidental take from forest road impacts (i.e., delivery of sediment and altered hydrology) is widespread. The extent of take associated with road impacts is difficult to quantify but is expected to gradually lessen in severity and frequency as older roads are upgraded and new roads are better constructed and maintained. The extent of take resulting from non-road forestry activities' delivery of sediment to aquatic habitats is also difficult to measure, but can be estimated at *about double* that of an unaltered forested area, compared with background rates of erosion for this landscape. This projected extent of erosion is likely to lessen over the plan term as protection of potential landslide-prone sites and other erosion control measures become widely effective.

B. Special Conditions

The incidental take of ESA-listed anadromous salmonids is authorized as described in the application and subject to the provisions of the HCP and IA and the conditions specified in this permit.

1. The authorization granted by this permit is subject to full and complete compliance with, and implementation of, the WDNR HCP and IA.

2. The term of this permit shall be for the duration of the HCP and expires January 30, 2067. WDNR may apply for up to three extensions of 10 years each for both the HCP and this permit.
3. WDNR is authorized to incidentally take LCR steelhead, LCR chinook, PS chinook, HCS chum, CR chum, and OL sockeye in the course of otherwise lawful activities in accordance with the terms and conditions of the HCP, IA, the permit, and the Incidental Take Statement of the Conference Opinion, as amended for mining activities on January 22, 1998.
4. WDNR shall notify NMFS if any non-timber activity (as described in the IA) is expected to increase beyond its 1996 level and include with such notification a description of any take likely from any such increase.
5. Pursuant to provisions of the IA, should other anadromous salmonid species that were unlisted at the time of finalization of the HCP become listed under the ESA, WDNR may request an addition of the new species to this permit. At that time, NMFS will make a decision on issuance of the permit amendment without requiring additional mitigation, unless, within a specified sixty day period, NMFS demonstrates that extraordinary circumstances exist.

C. Permit Reporting and Reauthorization Requirements:

Contact: Kaleen Cottingham, Deputy Commissioner for Public Lands

D. Operational Reports and Notification Requirements:

Contact: Kaleen Cottingham, Deputy Commissioner for Public Lands

E. General Conditions:

1. The provisions of this permit may be amended upon reasonable notice by NMFS.
2. The Permit Holder may not transfer or assign this permit to any other person(s), as person is defined in Section 3(12) of the ESA. This permit is not in force or effective if transferred or assigned to any other person.
3. This permit does not authorize the Permit Holder or any other person take of ESA-listed species in the territorial waters of another country without the consent of that country. The Permit Holder is responsible for securing consent from that country and complying with that country's appropriate laws.

4. All personnel of the Permit Holder requiring state or Federal licenses to practice their profession, must be and, so long as employed by the Permit Holder in that capacity, remain duly licensed under the appropriate law.
5. Per Permit Holder, personnel, or designated agency acting on the Permit Holder's behalf must possess a copy of this permit when conducting monitoring studies.
6. The Permit Holder, in effecting the take authorized by this permit, is considered to have accepted the terms and conditions of this permit and prepared to comply with the provisions of this permit, the applicable regulations, and the ESA.
7. Upon request by NMFS, the Permit Holder must permit any employee(s) of NMFS, or any other person(s) duly designated by NMFS, to inspect the Permit Holder's records and facilities if such records and facilities pertain to activities for which a take of ESA-listed species is authorized by this permit, relate to ESA-listed species covered by this permit, or pertain to NMFS's responsibilities under the ESA.
8. Under the terms of the regulations, a violation of any of the terms and conditions of this permit will subject the Permit Holder any/or any individual who is operating under the authority of this permit to penalties as provided for in the ESA.
9. The Permit Holder is responsible for the activities of any individual who is operating under the authority of this permit. Such activities include capturing, handling, releasing, transporting, maintaining, and caring for any animal authorized to be taken by this permit.
10. 50 CFR Section 222.23(d)(8) provides for a reasonable fee to be charged to cover the costs of issuance of permits under the ESA. The fee for this permit has been waived.

Issued by :

William Stelle, Jr.

Date:

June 14, 1993

William Stelle, Jr.
Regional Administrator