



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, Washington 98115

December 15, 2008

Doug Sutherland
Commissioner of Public Lands
Washington Department of Natural Resources
111 Washington St.
PO Box 47016
Olympia, WA 98504-7016

Dear Mr. Sutherland:

Enclosed is Permit 1608 issued to the Washington State Department of Natural Resources (DNR), under the authority of Section 10(a)(1)(B) of the Endangered Species Act (ESA). Permit 1608 authorizes incidental take of several fish, listed under the ESA, by DNR operating the State's commercial geoduck fishery.

NOAA's National Marine Fisheries Service (NMFS) has determined that if management activities are conducted as described in the Geoduck Fishery Conservation Plan (Plan) and in compliance with the terms and conditions of the Plan 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 ESA-listed species covered in the Plan.

The authorization granted by this Permit is subject to full and complete compliance with, and implementation of, the Plan. The term of this Permit is for the duration of the Plan and expires December 15, 2059.

As per the terms of the unlisted species provisions of the Plan, Section 8-2.1, should any additional Plan-covered species of fish or shellfish, that are now unlisted under ESA, become ESA-listed, the new species will be added to this Permit according to provisions in the attached Permit.

If you do not comply with the terms and conditions of the Permit, or if you cannot provide adequate funding for the Plan, the incidental take of covered species is not authorized. If you have any questions concerning the Permit, please contact the Washington State Director for Habitat Conservation, Steve Landino, at (360) 753-9530.

Sincerely,

D. Robert Lohn
Regional Administrator

Enclosure



NOAA's NATIONAL MARINE FISHERIES SERVICE
PERMIT FOR INCIDENTAL TAKE OF ENDANGERED/THREATENED SPECIES

Permit Number: 1608

Expiration Date: December 15, 2059.

Permit Holder:

State of Washington
Washington Department of Natural Resources
1111 Washington Street SE
PO Box 47001
Olympia, Washington 98504-7001

Principal Officer and Contact:

Doug Sutherland
Commissioner of Public Lands
Washington State Department of Natural Resources
1111 Washington St SE
PO Box 47016
Olympia, Washington 98504-7016
Phone: (360) 902-1001

Reporting Requirements:

Reports described in Section 5-5.7 of the Washington State Geoduck Fishery HCP (Geoduck HCP shall be submitted to the National Marine Fisheries Service, Washington State Habitat Office, 510 Desmond Drive SE, Suite 103, Lacey, Washington 98503.

Authorization:

Washington State (the Permittee) and all persons conducting "covered activities" on "covered lands" (i.e., geoduck tracts), as those terms are defined in sections 1-3 and 3-1.1 of the Geoduck HCP, are hereby authorized incidental take of 10 listed threatened and endangered species under NMFS' jurisdiction (see attached Table 1), associated with covered commercial sub-tidal geoduck harvest activities in Washington state, subject to the provisions of Section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. §§ 1531-1543), NOAA's National Marine Fisheries Service (NMFS) regulations governing ESA-listed species permits (50 C.F.R. Parts 222.301-222.307), and the conditions hereinafter set forth. Take authorization will become effective for covered unlisted species concurrent with the listing of these species under the Act and, for threatened species, the issuance of a rule prohibiting their take.

Abstract:

Detailed descriptions of the activities covered by the permit are provided on pages 36 to 45 of the Geoduck HCP. Conservation measures are described on pages 63 to 69. The action

encompasses the commercial harvest of geoducks as administered by the Washington State Department of Natural Resources (DNR) and for which the DNR has proprietary rights. Removal of geoducks for research and health sampling, when performed by the DNR or under contract to the DNR, is also included.

Incidental Take:

Covered activities (Chapter 3-2) that may cause incidental take of listed species will be conducted throughout the area covered by the HCP (Chapter 1-3). Covered geoduck tracts are submerged lands of Puget Sound, the Strait of Juan de Fuca and areas north to the Canadian border. Within this broad area, commercial geoduck harvest occurs subtidally in areas that have been surveyed between the depth contours of -18 and -70 feet (corrected to mean lower low water (MLLW)) and found to contain geoducks at sufficient densities. The area in which covered activities will be conducted consists of approximately 30,000 acres of submerged lands in Washington. Additional acres will be added to the total once the San Juan management region is surveyed and inventoried. Annual harvest will be allowed on a maximum of 6,000 of these acres, with no more than 1,500 acres in any of the six management regions. Of these 6,000 acres, a maximum of 1,140 acres of seafloor will be disturbed by harvest activities each year.

NMFS anticipates that an undetermined number of listed species may be taken in these areas as a result of covered activities over the 50-year life of the permit. The incidental take of these species is expected to be in the form of harm.

General Conditions:

- 1) All sections of Title 50 *Code of Federal Regulations, part 222*, NMFS regulations governing ESA-listed species permits (50 C.F.R. Parts 222.301-222.307), are conditions of this permit. If any such regulations are modified, any future action taken with respect to this permit shall be in accordance with such regulations in existence at the time such action is taken except as specifically otherwise provided for by law.
- 2) The authorization granted by this permit is subject to full and complete compliance with, and implementation of, the Geoduck HCP, which is hereby incorporated into this permit. The permit and Geoduck HCP are binding upon the permittee and all persons conducting “covered activities” on “covered lands” as those terms are defined in sections 1-3 and 3-1.1 of the Geoduck HCP.
- 3) The Geoduck HCP is generally described in Chapter 3 of the document titled “Final Habitat Conservation Plan for Washington Department of Natural Resources’ Geoduck Fishery,” and is approved as constituted on the date of permit issuance. Any changes to the Geoduck HCP shall be done according to the HCP section 8-1.1.
- 4) A copy of this permit, including the accompanying HCP, must be available to State personnel at DNR offices, currently located at the Aquatic Resources Program of WDNR in Olympia. All applicable provisions of this permit must be presented and clearly explained to

all authorized State employees involved in the HCP implementation. Permittee shall ensure that all persons carrying out activities covered by the permit are made aware of its applicable requirements.

- 5) The Permittee shall refer to permit number 1608 in all correspondence and reports concerning permit activities. Any questions about this permit should be directed to the State Director, National Marine Fisheries Service, 510 Desmond Drive SE, Suite 103, Lacey, Washington 98503, telephone (360) 753-9530.
- 6) Reports described in Section 5-5.7 of the Geoduck HCP shall be submitted to the State Director, National Marine Fisheries Service, 510 Desmond Drive SE, Suite 103, Lacey, Washington 98503, telephone (360) 753-9530.
- 7) This permit does not authorize the Permittee or any other person to take ESA-listed species in the territorial waters of another country without the consent of that country. The Permittee is responsible for securing consent from that country and complying with that country's appropriate laws.
- 8) The Permittee, in effecting the take authorized by this permit, is considered to have accepted the terms and conditions of this permit and to be prepared to comply with the provisions of this permit, the applicable regulations, and the ESA.
- 9) Upon request by NMFS, the Permittee will use its best efforts to allow NMFS, or any other person(s) duly designated by NMFS, to inspect Covered Lands on which Covered Activities have occurred or are expected to occur if such activities pertain to (i) activities for which take of listed species is authorized by this permit, (ii) ESA-listed species covered by this permit, or (iii) NMFS' responsibilities under the ESA.
- 10) For unlisted covered species, the permit will take effect upon the listing of a species as endangered, and for a species listed as threatened, on the effective date of a rule under Section 4(d) of the ESA prohibiting take of the species.
- 11) Upon locating any dead, injured, or sick individuals of any listed species covered by this permit, the Permittee shall, within three working days, notify NMFS' Washington State Habitat Office, Lacey, Washington ((360) 753-9530). Instructions for proper handling and disposition of such specimens will be issued at that time. Care must be taken in handling sick or injured specimens to ensure effective treatment and care and in the handling of dead specimens to preserve biological material in the best possible state. This condition does not apply to spawned-out carcasses.
- 12) The fee in 50 C.F.R. § 222.307(d)(5) to cover the cost of issuance of this permit has been waived.

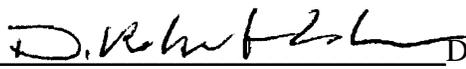
Issued by:  Date: 12/18/2008
D. Robert Lohn
Regional Administrator

Table 1. Covered Species under NMFS Jurisdiction (by listing status).

| Common Name | Scientific Name |
|---|--|
| Threatened Species | |
| Puget Sound chinook salmon | <i>Oncorhynchus tshawytscha</i> |
| Hood Canal summer run chum salmon | <i>Oncorhynchus keta</i> |
| Puget Sound steelhead | <i>Oncorhynchus mykiss</i> |
| Southern DPS green sturgeon | <i>Acipenser medirostris</i> |
| Unlisted Species | |
| Pacific herring | <i>Clupea harengus pallasii</i> |
| Puget Sound/Strait of Georgia Coho Salmon | <i>Oncorhynchus kisutch</i> |
| Pink Salmon: Even year and Odd year | <i>Oncorhynchus gorbuscha</i> |
| Pinto abalone | <i>Haliotis kamtschatkana</i> |
| Olympia oyster | <i>Ostrea conchaphila</i> (also known as <i>O. lurida</i>) |