

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

Permit Number: 16247

Expiration Date: September 6, 2061.

Permit Holder:

City of Kent
400 West Gowe Street
Kent, Washington 98032

Principal Officer and Contact:

Tim LaPorte
Director of Public Works
City of Kent
Public Works Engineering
400 West Gowe Street
Kent, Washington 98032
Phone: (253) 856-5547

Reporting Requirements:

Reports described in Section 5 of the City of Kent's (City) Clark Springs Water Supply System Habitat Conservation Plan (HCP) shall be submitted to the National Marine Fisheries Service, Washington State Habitat Office, 510 Desmond Drive SE, Suite 103, Lacey, Washington 98503.

Authorization:

The City of Kent (the Permittee) and all persons conducting "covered activities" on "covered lands", as those terms are defined in sections 1.6 and 1.5 of the HCP, are hereby authorized incidental take of 2 listed threatened and endangered species under NMFS' jurisdiction (see attached Table 1), associated with operation of the Clark Springs Water Supply System on Rock Creek, subject to the provisions of the implementing agreement (IA) and 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 1-19 to 1-23 of the HCP. Conservation measures are described on pages 4-1 to 4-47. The action encompasses the operation of the Clark Springs Water Supply System on Rock Creek as administered by the City of Kent.

Incidental Take:

Covered activities (Chapter 1.6) that may cause incidental take of listed species will be conducted throughout the covered lands defined by the HCP (Chapter 1.5). The covered lands include (1) the 320 acres of land owned by the City and collectively called the Clark Springs Facility; (2) Rock Creek, Sixth Field Hydrologic Unit Code (HUC) 171100120106, from the upstream end of the City's Clark Springs Watershed property, downstream to the mouth of the creek (latitude 47°22'54" N and longitude 122°1'00" W); and (3) areas along Rock Creek where mitigation, monitoring, and restoration activities described in Chapter 4 of the HCP would occur.

The NMFS did not have sufficient information to determine the number of fish that will be harmed, so we quantified the extent of take based on the extent of habitat modified (51 FR 19926 at 19954; June 3, 1986). This method is based on the general relationship between habitat function and the extent to which normal behaviors can be expressed. In this case, weighted usable area (WUA, an index of the amount of suitable habitat) will serve as a reliable measure of the extent of take. The difference between the optimal WUA and the median baseline WUA for the Chinook salmon and steelhead life stages by month, as given in Table 2 of NMFS' biological opinion, will be the extent of incidental take anticipated and exempted in this incidental take statement.

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 City's HCP, which is hereby incorporated into this permit. The permit and HCP are binding upon the permittee and all persons conducting "covered activities" on "covered lands" as those terms are defined in sections 1.6 and 1.5 of the HCP.
- 3) The HCP is described in general in Chapter 1 of the document titled "City of Kent Clark Springs Water Supply System Conservation Plan" and is approved as constituted on the date

of permit issuance. Any modifications and amendments to the HCP shall be done according to the Implementing Agreement sections 12.1 and 12.2.

- 4) A copy of this permit, including the accompanying HCP, must be available to City personnel. All applicable provisions of this permit must be presented and clearly explained to all authorized City 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 16247 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 of the 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) This permit does not relieve the Permittee from compliance with applicable foreign, state, local or other federal law.
- 10) 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.
- 11) 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.
- 12) 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.

13) 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: William W. Stelle, Jr. Date: Sept 6, 2011
William W. Stelle, Jr.
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>
Puget Sound steelhead	<i>Oncorhynchus mykiss</i>
Unlisted Species	
Puget Sound/Strait of Georgia chum salmon	<i>Oncorhynchus keta</i>
Puget Sound/Strait of Georgia coho salmon	<i>Oncorhynchus kisutch</i>
Sockeye salmon	<i>Oncorhynchus nerka</i>