

NOAA's NATIONAL MARINE FISHERIES SERVICE

PERMIT

FOR

INCIDENTAL TAKE OF ENDANGERED/THREATENED SPECIES

Permit Number: 17158

Type of Permit:

Endangered/Threatened Species – Incidental Take, Endangered Species Act (ESA)
Section 10(a)(1)(B)

Effective Date: February 24, 2012

Expiration Date: February 24, 2022

Permittee:

PacifiCorp Energy
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Portland, OR 97232-2135
Telephone: 503-813-5000
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Name and Title of Principal Officer:

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Reporting Requirements:

Reports as described in the *PacifiCorp Klamath Hydroelectric Project Interim Operations Habitat Conservation Plan for Coho Salmon, dated February 16, 2012* (HCP), and in the associated Implementing Agreement (IA) shall be submitted to

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NOAA's National Marine Fisheries Service (NMFS), Northern California Office, 1655 Heindon Road, Arcata, CA 95521.

Abstract:

The Permittee is authorized incidental take of one (1) ESA listed anadromous species under NMFS' jurisdiction, associated with the Permittee's Klamath Hydroelectric Project (*i.e.*, Covered Activities) located in northern California and southern Oregon (*i.e.*, Permit Area), pursuant to ESA section 10(a)(1)(B).

The HCP utilizes a combination of conservation measures that are expected to minimize and mitigate to the maximum extent practicable, the impacts of take of the anadromous species addressed in the HCP. The anadromous species addressed in the HCP is the Southern Oregon/Northern California Coast (SONCC) coho salmon evolutionarily significant unit (ESU). The HCP includes a scientific and administrative framework that supports the development, implementation, and refinement of the minimization and mitigation measures designed to offset incidental take of listed species as a result of PacifiCorp's Klamath Hydroelectric Project. These measures are designed to conserve SONCC coho salmon in the Klamath River basin via actions and funding to improve water quality, better understand and reduce fish disease in the Klamath mainstem, improve hatchery management practices, and protect and restore coho spawning and rearing habitat throughout the basin. To ensure that the avoidance, minimization, and mitigation strategies are effective, the HCP incorporates monitoring and reporting requirements that will provide NMFS and PacifiCorp information necessary to ensure that the biological goals and objectives of the HCP are being met, and/or provide useful information for adaptive management purposes which can result in agreed upon adjustments to the conservation management activities set forth in the HCP.

Authorization of Incidental Take:

PacifiCorp ("Permittee"), and their designees, conducting "Covered Activities" within "Covered Lands" as those terms are defined in the HCP and associated Implementing Agreement (IA) are hereby authorized incidental take of one listed threatened species (see attached Table 1), associated with operations of their Klamath Hydroelectric Project ("Project") and general implementation of the PacifiCorp HCP. This authorization is subject to provisions of the IA, the provisions of Section 10 of the ESA of 1973, as amended, (16 U.S.C. § 1531-1543), NMFS' regulations governing ESA-listed species permits (50 C.F.R. §§ 222.301 - 222.307), and the conditions hereinafter set forth. In the event of a conflict between the provisions of this Permit and the IA, the language of the IA shall govern.

Covered Activities that may cause incidental take of listed species will mainly occur in the Middle and Upper portions of the Klamath River basin. The "Permit Area" as defined in the IA, where incidental take associated with PacifiCorp's Project will be authorized, includes PacifiCorp's existing Project facilities and the adjacent water and land areas potentially influenced by Project maintenance and operations, including the

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mainstem Klamath River and reservoirs from the outlet of Upper Klamath Lake down to the Klamath River estuary, inclusive. This area is known as the Permit Area for the ITP. As provided in section 11 of the IA, the Covered Lands, as that term is more specifically defined in the IA, can expand or contract throughout the term of the permit as well as be transferred to another landowner as long as such transactions are in compliance with the IA and HCP.

The proposed HCP anticipates impacts to SONCC coho salmon likely to result from PacifiCorp's Covered Activities and the measures that are necessary and appropriate to minimize or mitigate for those impacts. The incidental take of SONCC coho salmon ESU is expected to be in the form of harm as defined in 50 C.F.R. § 222.102, and harassment. All conservation measures described in the proposed HCP, together with the terms and conditions described in the associated IA and the Incidental Take Statement (ITS) contained in NMFS' Biological Opinion are hereby incorporated by reference as conditions of this Incidental Take Permit (ITP).

All of the conditions in this permit are non-discretionary and must be undertaken for the exemptions under section 10(a)(1)(B) of the ESA to apply.

Conditions:

1. NMFS regulations governing ESA listed species permits, (50 C.F.R. §§ 222.301 – 222.307), are conditions of this permit. If any such regulations are modified, 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 or in the IA.
2. The authorization granted by this permit is subject to full and complete compliance with, and implementation of the HCP and the IA, both of which are hereby incorporated into this permit.
3. The Permittee and its designees are authorized the amount and extent of incidental take as is described in the HCP and the ITS of the Biological Opinion.
4. All terms and conditions outlined in the Biological Opinion must be followed.
5. The ITP, HCP, and IA are binding upon the Permittee and all of its designees conducting "Covered Activities" in the "Permit Area" as those terms are defined in the HCP and the IA.
6. The required HCP conservation program for SONCC coho is described in Chapter VI, and is approved as constituted on the effective date. Any changes to the HCP shall be subject to the provisions of the IA, section 15 Modifications and Amendments.

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7. A copy of this permit, including the accompanying HCP and related agreements, must be available to PacifiCorp personnel and contractors. The Permittee shall ensure that all applicable provisions of this permit are presented and clearly explained to all persons carrying out activities covered by the permit and that said persons are made aware of all applicable requirements.
8. The Permittee shall refer to permit number 17158 in all correspondence and reports concerning permit activities. Any questions about this permit should be directed to the NMFS Northern California Office, 1655 Heindon Road, Arcata, California 95521.
9. Reports described in the HCP and IA shall be submitted to the NMFS Northern California Office, 1655 Heindon Road, Arcata, California 95521.
10. This permit does not relieve the Permittee from compliance with applicable foreign, state, local, or other federal law.
11. The Permittee, in effecting the take authorized by this permit, is considered to have accepted the terms and conditions of this permit, the applicable regulations, and the ESA.
12. As provided for in section 10.3 of the IA, 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 the 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.
13. The Permittee is responsible for the activities of its designees who are operating under the authority of this permit.
14. Upon locating any dead, injured, or sick individuals of any listed species covered by this permit, the Permittee shall, within three working days, notify the NMFS' Northern California Office, 1655 Heindon Road, Arcata, California, 95521. Instruction for the 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.
15. The fee in 50 C.F.R. section 222.307(d)(5) to cover the cost of issuance of this permit has been waived.

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Signed by:

Ch 94

FOR Rodney R. McInnis
Regional Administrator
Southwest Region

Date:

23 February 2012

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Table 1. List of anadromous salmonid species covered by Permit #17158

ITP Species	ESA listing status
Coho Salmon (<i>Oncorhynchus kisutch</i>)	
Southern Oregon/Northern California Coast Evolutionarily Significant Unit (ESU)	Threatened