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

Permit Number: 1235

Expiration Date: December 31, 2050

Permit Holder:
City of Seattle
Seattle Public Utilities
710 2nd Avenue
Seattle, WA 98104

Principal Officer and Contact:
Diana Gale, Director
Phone: (206) 684-5850
FAX: (206) 684-4631

Reporting Requirements: As described in section 4.5 of the habitat conservation plan (HCP)

Authorization:

The City of Seattle - Seattle Public Utilities (City) is hereby authorized incidental take of threatened Puget Sound chinook salmon associated with its water supply and watershed management activities in western Washington state, subject to the provisions of the Implementation Agreement (IA) for the City of Seattle - Cedar River Watershed final Habitat Conservation Plan (HCP), the provisions of Section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543), the National Marine Fisheries Service (NMFS) regulations governing ESA-listed species permits (50 CFR Parts 222.301-222.309), and the conditions hereinafter set forth. In the event of a conflict between these general provisions and the provisions of the IA, the language of the IA shall govern. The period of the permit is 50 years.

Abstract:

The City of Seattle is authorized incidental take of Puget Sound (PS) chinook salmon (Oncorhynchus tshawytscha) associated with the City's water supply and watershed management activities in western Washington state, pursuant to Section 10(a)(1)(B) of the ESA and the provisions of the IA for the City's final HCP. Currently unlisted species that are adequately addressed by the HCP, and are therefore covered species, are coho salmon (Oncorhynchus kisutch), steelhead trout (Oncorhynchus mykiss), coastal cutthroat trout (Oncorhynchus clarki), and sockeye salmon (Oncorhynchus nerka), including kokanee. Incidental take for unlisted covered species will be authorized as appropriate under the provisions of Condition 8.

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 CFR Section 222.307(d)(5) to cover the cost of issuance of this permit has been waived.

Issued by : William Stelle V Date: 4/21/08

William Stelle, Jr.
Regional Administrator,
Northwest Region

5. The City, 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.

6. As provided for in section 8.3 of the IA, upon request by NMFS, the City must allow NMFS, or any other person(s) duly designated by NMFS, to inspect the City's records and facilities if such records and facilities 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's responsibilities under the ESA.

7. The City 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 fish authorized to be taken by this permit.

8. The permit will take effect for listed covered species on the effective date of a rule under Section 4(d) of the ESA prohibiting take of the species. 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.

9. Activities conducted pursuant to the permit shall not jeopardize an ESA-listed species. In the event that after permit issuance, unforeseen circumstances arise or new information becomes available, and such circumstances or information lead NMFS to believe that the effects of the City's activities on a covered species will be more severe than originally analyzed under the ESA Section 7 intra-service consultation performed at the time of permit issuance, NMFS shall proceed as follows. First, it shall utilize its resources to conserve the species. Second, it shall work with the City to voluntarily reduce the effects of covered activities on the species. Third, the occurrence of unforeseen circumstances or the new information shall trigger reinitiation of Section 7 consultation on the permit, and NMFS shall document its analysis of the new effects in a biological opinion. Conservation efforts undertaken by NMFS or the City shall be considered in the analysis. If reinitiation of consultation results in a finding that covered activities are likely to jeopardize the species, then NMFS will (i) consult with the City to identify a reasonable and prudent alternative (RPA) and modify the HCP accordingly; or (ii) remove that species from the ITP, after which any prohibitions against take would apply.

10. This permit does not cover activities that may affect any site, building, structure, or object that is included in, or eligible for inclusion in, the National Register of Historic Places until completion of any procedural steps that may be required under Section 106 of the National Historic Preservation Act with regard to that activity.

11. Upon locating any dead, injured, or sick individuals of any listed species covered by this permit, the City shall, within three working days, notify NMFS's Washington State Branch Office, Olympia, 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

The City of Seattle - Cedar River Watershed 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 fish species addressed in the HCP for watershed management, fisheries mitigation, and instream flows. These minimization and mitigation measures described in the HCP are the minimum level of conservation that the City has committed to implement. Several aspects of the HCP are subject to adaptive management. To ensure that the mitigation and minimization strategies are effective, the HCP incorporates a variety of monitoring components and supplemental studies that will provide feedback for adaptive management, and if needed, changes in the conservation measures. Three oversight committees are established to advise the City in implementing the HCP and related agreements for Instream Flows and Anadromous Fish. The HCP incorporates the Instream Flow Agreement for the Cedar River (IFA) and the Landsburg Mitigation Agreement for the Fish Migration Barrier at the Landsburg Diversion Dam (LMA).

Incidental Take

Covered activities, as defined in section 3.2 of the IA, that may cause incidental take of listed species will be conducted in locations described in sections 3.2 and 3.3 of the IA. The principal area in which covered activities will be conducted is the Cedar River Municipal Watershed, which encompasses approximately 90,545 acres in east King County, Washington.

The NMFS anticipates that an undetermined number of PS chinook salmon may be taken as a result of covered activities over the 50-year life of the permit. The incidental take of this species is expected to be in the form of harm, harassment, kill and injury.

Conditions:

1. The provisions of this permit may be amended as provided in section 12.2 of the IA.

2. The City 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 City or any other person to take ESA-listed species in the territorial waters of another country without the consent of that country. The City is responsible for securing consent from that country and complying with that country's appropriate laws.

4. A copy of this permit, including the accompanying HCP and related agreements, must be available to City personnel at the City's on-site office in the Cedar River watershed. All applicable provisions of this permit must be presented and clearly explained to all authorized officers, employees, contractors, or agents of the City conducting authorized activities.