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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, WA 98115

NMFS Tracking No.:
2005/00484

June 15, 2005

Mark Ziminske, Chief
Environmental Resources Section
Corps of Engineers, Seattle District
Post Office Box 3755
Seattle, Washington 98124-3755

Re: Endangered Species Act Section 7 Informal Consultation and Conference and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for the Puget Sound Dredge Disposal Analysis (PSDDA) program. (HUCs: 171100200306 Lower Dungeness River, 171100200403 Ennis/Tumwater Creek, 171100020204 Anacortes, 171100020104 Lower Whatcom Creek, 171100110202 Lower Snohomish River, 171100130399 Lower Green River, 171100140599 Lower Puyallup River, 171100190503 Anderson Island).

Dear Mr. Ziminske:

This correspondence is in response to your request for consultation under the Endangered Species Act (ESA). Additionally, this letter serves to meet the requirements for consultation under the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Endangered Species Act

The Army Corps of Engineers (COE) submitted a Biological Evaluation (BE) to the National Marine Fisheries Service (NMFS) for the above referenced project on March 25, 2005 and requested NMFS' concurrence with a determinations of "may affect, not likely to adversely affect" for Puget Sound (PS) Chinook salmon (*Oncorhynchus tshawytscha*), Hood Canal (HC) summer chum salmon (*O. keta*), Stellar sea lion (*Eumetopias jubatus*) and humpback whale (*Megaptera novaeangliae*), no jeopardy to the continued existence of the southern resident killer whale (*Orcinus orca*) and "may affect, not likely to adversely affect" proposed critical habitat for PS Chinook salmon and HC summer chum salmon. This consultation with the COE is conducted under section 7(a)(2) of the ESA, and its implementing regulations, 50 CFR 402.

The COE proposes to continue depositing dredge material at sites that have been approved by the Puget Sound Dredge Disposal Analysis (PSDDA) program. There are eight PSDDA sites, five non-dispersive and three dispersive. The non-dispersive sites are located in Bellingham Bay, Port Gardner, Elliott Bay, Commencement Bay and Nisqually Reach near Ketron Island. These non-dispersive sites have maximum bottom current velocities of 25 centimeters per second. Material dumped into these sites remains within the site. The dispersive sites are located in Rosario Strait near Anacortes, in the Strait of Juan de Fuca near Port Townsend, and the Strait of Juan de Fuca near Port Angeles. The dispersive sites have bottom current velocities in excess of 100

centimeters per second. Material dumped into dispersive sites is dispersed and does not accumulate in the site. The material placed in PSDDA sites is relatively clean and may not exceed specific criteria for contaminants. Material that exceeds the criteria deposited in approved upland landfills. Dredge material is generally transported to the PSDDA sites via modern bottom dump barges that are designed to minimize the loss of dredge material in transit.

Species Determination

NMFS expects the effects of the project to be discountable or insignificant because: (1) Small (less than 70mm) PS Chinook or HC chum salmon juveniles are unlikely to be found at any of the PSDDA sites; (2) dredging, and thus dredge disposal, is conducted at times of the year when juvenile salmonids are unlikely to be present; (3) adult PS Chinook and HC chum salmon that may pass through PSDDA site areas when returning to spawn will be transient and will avoid areas with high suspended sediment concentrations if disposal is occurring; (4) the low concentration of contaminants in materials that are acceptable for disposal will reduce the risk of water quality degradation; (5) Stellar sea lions are infrequent visitors in the PSDDA sites and are unlikely to be affected by the action; and (6) humpback whales are rarely found anywhere in Puget Sound and are unlikely to be affected by the action. Therefore NMFS concurs with your findings of "may affect, not likely to adversely affect" for PS Chinook salmon, HS summer chum salmon, Stellar sea lions and humpback whales.

Because the concentration of contaminants in disposed sediments is below levels that will cause impacts to southern resident killer whales, project activities are expected to have discountable and insignificant effects to killer whales. Therefore, NMFS concurs with your "no jeopardy" determination.

Critical Habitat Determination

NMFS proposed critical habitat for the PS Chinook and HC Chum salmon Evolutionary Significant Units (ESUs) on December 14, 2004 (69 FR 74572). The Primary Constituent Elements (PCEs) proposed for the critical habitat of the PS Chinook and HC chum salmon ESUs are:

1. Freshwater spawning sites with water quantity and quality conditions and substrate supporting spawning, incubation and larval development.

2. Freshwater rearing sites with water quantity and floodplain connectivity to form and maintain physical habitat conditions and support juvenile growth and mobility, water quality and forage supporting juvenile development, and natural cover such as shade, submerged and overhanging large wood, log jams, etc.

3. Freshwater migration corridors free of obstruction and excessive predation with water quantity and quality conditions and natural cover such as submerged and overhanging large wood, aquatic vegetation, etc.

4. Estuarine areas free of obstruction and excessive predation with water quality, water quantity, and salinity conditions supporting juvenile and adult physiological transitions between fresh and salt water, natural cover such as submerged and overhanging large wood, aquatic vegetation, etc., and juvenile and adult forage, including aquatic invertebrates and fishes, supporting growth and maturation.

5. Nearshore marine areas free of obstruction and excessive predation with water quality and quantity conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation, and natural cover such as submerged and overhanging large wood, aquatic vegetation, etc.

6. Offshore marine areas with water quality conditions and forage, including aquatic invertebrates and fishes, supporting growth and maturation.

NMFS has analyzed the potential impacts of the project on proposed critical habitat and the PCEs. Proposed critical habitat boundaries within the action area for the proposed project include areas contiguous with the shoreline from the line of extreme high water out to a depth no greater than 98.4 feet (30 meters) relative to Mean Lower Low Water. The offshore marine area PCE is within the action area. NMFS has determined that the impacts to this PCE will be insignificant and discountable for the following reasons:

1. The project will not result in a barrier to migration to, or through, any marine habitat. The project proposes to dispose of clean dredge material in specified locations. This will have little, or no, impact to proposed critical habitat since the impact to affected areas will be transient. Effects to migratory habitat from the project are insignificant.

2. The project will not alter the food base within the action area. Macroinvertebrate and fish prey species will continue to be available. Prey species such as surf smelt (*Hypomesus pretiosus*), sand lance (*Ammodytes hexapterus*), and Pacific herring (*Clupea harengus pallasi*) are unlikely to be impacted by the project activities because these species do not spawn in PSSDA sites. Therefore, the project is not likely to reduce the abundance of prey.

3. The proposed project has the potential to alter water quality during dumping because of mobilization of sediment into the water column. However, the effects will be local and temporary and will not significantly impact water quality.

NMFS concurs with your determination "may affect, not likely to adversely affect' for proposed PS Chinook and HC chum salmon critical habitat.

This concludes informal consultation and conferencing pursuant to the regulations implementing the ESA, 50 CFR 402.10. This project should be reanalyzed if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not considered in this consultation. The project should also be reanalyzed if the action is

subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this consultation, and/or if a new species is listed or critical habitat for another species is designated that may be affected by this project.

Magnuson-Stevens Fishery Conservation and Management Act

Federal agencies are required, under section 305(b) (2) of the MSA and its implementing regulations (50 CFR 600 Subpart K), to consult with NMFS regarding actions that are authorized, funded, or undertaken by that agency that may adversely affect Essential Fish Habitat (EFH). The MSA section 3 defines EFH as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." If an action would adversely affect EFH, NMFS is required to provide the Federal action agency with EFH conservation recommendations (section 305(b) (4) (A)). This consultation is based, in part, on information provided by the Federal agency and descriptions of EFH for Pacific coast groundfish, coastal pelagic species, and Pacific salmon contained in the Fishery Management Plans developed by the Pacific Fishery Management Council and approved by the Secretary of Commerce.

The proposed action is described on the pages 13 through 19 of the BE. The project area includes habitat, which has been designated as EFH for various life stages of 46 species of groundfish, four species of coastal pelagics, and three species of Pacific salmon (see Table 1 enclosure).

The EFH Conservation Recommendations: Because the conservation measures that the COE included as part of the proposed action (page 61 of the BE) to address ESA/EFH concerns are adequate to avoid, minimize, or otherwise offset potential adverse effects to the EFH of the species, conservation recommendations pursuant to MSA (section 305(b) (4) (A)) are not necessary. Since NMFS is not providing conservation recommendations at this time, no 30-day response from the COE is required (MSA section 305(b) (4) (B)).

This concludes consultation under the MSA. If the proposed action is modified in a manner that may adversely affect EFH, or if new information becomes available that affects the basis for NMFS' EFH conservation recommendations, the COE will need to reinitiate consultation in accordance with the implementing regulations for EFH at 50 CFR 600.920(l).

If you have questions regarding either the ESA or EFH consultation, please contact Robert Donnelly of the Washington State Habitat Office at (206) 526-6117, or by electronic mail at bob.donnelly@noaa.gov.

Sincerely,

Matt Longabaugh for

D. Robert Lohn
Regional Administrator

cc: Brian Missildine, USFWS
Kenneth Brunner, COE

Table 1. Species of fishes with designated EFH occurring in Puget Sound.

Groundfish Species	redstripe rockfish *S. proriger*	Dover sole *Microstomus pacificus*
spiny dogfish *Squalus acanthias*	rosethorn rockfish *S. helvomaculatus*	English sole *Parophrys vetulus*
big skate *Raja binoculata*	rosy rockfish *S. rosaceus*	flathead sole *Hippoglossoides elassodon*
California skate *Raja inornata*	rougheye rockfish *S. aleutianus*	petrale sole *Eopsetta jordani*
Longnose skate *Raja rhina*	sharpchin rockfish *S. zacentrus*	rex sole *Glyptocephalus zachirus*
Ratfish *Hydrolagus colliei*	splitnose rockfish *S. diploproa*	rock sole *Lepidopsetta bilineata*
Pacific cod *Gadus macrocephalus*	striptail rockfish *S. saxicola*	sand sole *Psettichthys melanostictus*
Pacific whiting (hake) *Merluccius productus*	tiger rockfish *S. nigrocinctus*	starry flounder *Platichthys stellatus*
black rockfish *Sebastes melanops*	vermilion rockfish *S. miniatus*	arrowtooth flounder *Atheresthes stomias*
Bocaccio *S. paucispinis*	yelloweye rockfish *S. ruberrimus*	
brown rockfish *S. auriculatus*	yellowtail rockfish *S. flavidus*	**Coastal Pelagic Species**
canary rockfish *S. pinniger*	shortspine thornyhead *Sebastolobus alascanus*	anchovy *Engraulis mordax*
China rockfish *S. nebulosus*	cabezon *Scorpaenichthys marmoratus*	Pacific sardine *Sardinops sagax*
copper rockfish *S. caurinus*	lingcod *Ophiodon elongatus*	Pacific mackerel *Scomber japonicus*
darkblotch rockfish *S. crameri*	kelp greenling *Hexagrammos decagrammus*	market squid Loligo opalescens
Greenstriped rockfish *S. elongatus*	sablefish *Anoplopoma fimbria*	**Pacific Salmon Species**
Pacific ocean perch *S. alutus*	Pacific sanddab *Citharichthys sordidus*	Chinook salmon *Oncorhychus tshawytscha*
quillback rockfish *S. maliger*	butter sole *Isopsetta isolepis*	coho salmon *O. kisutch*
redbanded rockfish *S. babcocki*	curlfin sole *Pleuronichthys decurrens*	Puget Sound pink salmon *O. gorbuscha*