



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

NMFS Tracking No.:
2010/05983

May 6, 2011

Erika Conkling, Senior Planner
City of Renton
Department of Community and Economic Development
1055 S. Grady Way
Renton, WA 98057

Ryan Milkaric
U.S. Department of Housing and Urban Development
Seattle Federal Office building
909 First Avenue, Suite 200
Seattle, WA 98104-1000

Re: Endangered Species Act Section 7 Informal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Sunset Terrace Redevelopment Project (HUC 1711001203, Lake Washington)

Dear Ms. Conkling and Mr. Milkaric:

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 City of Renton submitted a Biological Assessment (BA) to the National Marine Fisheries Service (NMFS) for the Sunset Area Community Planned Action project on December 8, 2010. Additional information was provided on February 23, April 5, and April 29, 2011. The City will use funding from the U.S. Department of Housing and Urban Development (HUD) to redevelop the Sunset Terrace public housing community and replacement sites. For the purposes of ESA, the City is acting as the designated non-federal representative for informal consultation.



The City requested NMFS' concurrence with the following determinations: 1) "may affect, not likely to adversely affect" for Puget Sound Chinook (*Oncorhynchus tshawytscha*) salmon (PS Chinook), 2) "may affect, not likely to adversely affect" for PS Chinook critical habitat, 3) "may affect not likely to adversely affect" for PS steelhead (*O. mykiss*). PS Chinook was listed as threatened under the ESA on March 24, 1999 (50 CFR 223 and 224), and critical habitat was designated on September 2, 2005 (70 FR 52630). PS steelhead was listed as threatened on March 29, 2006 (71FR15666). The NMFS has not designated Critical habitat for PS steelhead. This consultation with the City is conducted under section 7(a)(2) of the ESA, and its implementing regulations, 50 CFR 402.

The City's original project proposal included redevelopment of the Sunset Terrace public housing community (approximately 13 acres), as well as the related redevelopment actions in the larger Sunset Area Community neighborhood (approximately 255 acres), also called the Planned Action Study Area. Their proposal was to redevelop the Sunset Terrace public housing community as part of a Planned Action that would encourage redevelopment in the Planned Action Study Area through land use growth allowances, public service and infrastructure improvements, and a streamlined environmental review process via adoption of a Planned Action Ordinance.

Due to funding and permitting timelines, the City has limited their current project proposal to redevelopment of the Sunset Terrace public housing community and the replacement housing sites near the Sunset Terrace Redevelopment subarea (see Attachment A). Sunset Terrace is a 7.3-acre property with 100 existing units contained in 27 two-story buildings. The housing units are over 50 years old and considered of substandard size and quality. The Renton Housing Authority (RHA) additionally owns properties in the subarea abutting Sunset Terrace where senior and affordable housing will be built, some of which will be replacement housing. Most replacement units would occur in the Sunset Terrace subarea, others would occur on City or RHA properties in the EIS study area, including Sunset Court Park, the existing King County library site, and existing parcels located near Hillcrest Terrace.

The project action area includes the Sunset Terrace Housing site, the replacement sites within the Sunset Terrace redevelopment subarea and EIS study area, and downstream areas that are affected by construction activities and stormwater originating from these sites. No streams are present in the action area, but the area drains to Johns Creek. The creek is mostly a piped system that discharges into Lake Washington near the mouth of the Cedar River. The mouth of Johns Creek is influenced heavily by the seasonally controlled Lake Washington levels, and is not sensitive to increased peak and duration of stormwater discharges. The mouth of Johns Creek and about 1,500 feet upstream is a very important rearing area for juvenile PS Chinook salmon during their outmigration from the Cedar River in late February to mid-July (the most used tributary of 17 surveyed tributaries of Lake Washington). Adult Chinook are present in Lake Washington during their upstream fall migration to the Cedar River, but do not use Johns Creek. Adult and juvenile PS steelhead and coho (*O. kisutch*) salmon also rear and migrate through Lake Washington year round, but do not use Johns Creek.

Construction activities are not expected to increase stormwater volumes or velocities to Johns Creek or Lake Washington, or decrease water quality. During construction, stormwater and erosion control Best Management Practices (BMPs) will be used to control runoff rates, and prevent sediment-laden water from entering conveyance systems that discharge to Johns Creek, and eventually Lake Washington.

As a result of the redevelopment, the operation of the project will generate additional stormwater from additional impervious surfaces. Since the project is still in the conceptual phase, Renton cannot specify the development that will actually occur. For the purposes on this analysis, parcels within the potential land swap/replacement housing sites are anticipated to be redeveloped by others at the maximum intensity allowed by code (maximum allowable impervious area). It is unlikely that the replacement housing sites will be constructed at the maximum capacity unless they are purchased by the City. If the City does not purchase the properties, they will likely remain in their present use or be converted to open space. The NMFS analysis considered the worst case scenario in terms of estimating increases in impervious surfaces and thus stormwater runoff. Lower rates of development are expected to have fewer effects to listed species.

The redevelopment projects could include a range of total increase in impervious surfaces of 36 to 47 percent. The area of pollution generating impervious surfaces would change from a range an increase of 21 percent to a decrease of 16 percent, and the area of untreated pollution generating impervious surfaces would decrease from 90 to 100 percent. All pollution generating surfaces will be treated via Flow Control BMPs (also known as Low Impact Development practices) and/or Enhanced Water Quality treatment. All runoff will match 2011 pre-development peak flows. The project will also include a sub-regional facility, located at Sunset Terrace, to treat and control peak flows from up to 2.6 acres to provide advance mitigation from the net additional impervious area projected over the Planned Action Study Area.

Species Determination

Puget Sound Chinook Salmon
Puget Sound Steelhead

NMFS analyzed the potential effects of the project on PS Chinook salmon and PS steelhead and determined that the effects will be discountable and insignificant.

Short-term construction-related effects are discountable for juvenile PS Chinook salmon, as BMPs are expected to prevent sediments from entering the man-made conveyance system which discharges to Johns Creek. As well, construction BMPs will prevent any changes in stormwater volumes and velocities to John's Creek so salmon will not be exposed to increased stormwater volumes and velocities. Short-term effects to PS Chinook adults and PS steelhead (adults and juveniles) are expected to be discountable as any changes to stormwater volumes, velocities, and water quality are not expected to affect Lake Washington's water quality or quantity.

NMFS expects the long-term effects of the project to juvenile PS Chinook salmon to be insignificant as stormwater volumes and velocities entering Johns Creek will be decreased by the new peak flow controls required as part of the housing projects. In addition, the mouth of the creek is not expected to be affected by changing peak flows, because of the influence of controlled lake levels. Stormwater quality will also be improved as the result of new stormwater treatment requirements. The combined use of Enhanced water quality treatment and LID methods for all the new pollution generating impervious surfaces is expected to avoid long-term exposure of juvenile PS Chinook salmon to metals and other pollutants in Johns Creek. Long-term effects to PS Chinook adults and PS steelhead (adults and juveniles) in Lake Washington are also expected to be insignificant due to the improvement in stormwater treatment and controls.

Because all potential adverse effects to PS Chinook salmon and PS steelhead are discountable or insignificant, NMFS concurs with the City's effect determination of "may affect, not likely to adversely affect" for PS Chinook and PS steelhead.

Critical Habitat Determination

NMFS designated critical habitat for the PS Chinook salmon on September 2, 2005 (70 FR 52630). In the action area, Lake Washington is designated as critical habitat, but Johns Creek was excluded from critical habitat designation. Two of the six primary constituent elements of PS Chinook critical habitat: PCE-2 freshwater rearing sites, and PCE-3 freshwater migration corridors are in the action area of the Sunset Terrace redevelopment project. NMFS analyzed the potential effects of the project on PS Chinook PCEs and determined that the effects will be insignificant.

The conservation values of PCEs 2 and 3 will not be adversely affected during construction. On site BMPs will prevent sediment from being discharged into conveyance systems that flow into Johns Creek, and eventually reach Lake Washington. Construction BMPs will also prevent any changes to stormwater quantities discharged to Lake Washington. In addition, the conservation values will not be adversely affected during project operation. Stormwater controls will be implemented for water quality and water quantity, reducing Johns Creek peak flows and minimizing discharge of pollutants. Therefore, adequate flows and water quality for adult and juvenile Chinook salmon rearing and migration will be maintained in Lake Washington. No project actions will obstruct migration corridors or increase predation. Thus, the long-term conservation value will be maintained for freshwater rearing and migration.

Because adverse effects to critical habitat are expected to be insignificant, NMFS concurs with the City's determination that the project "may affect, but is not likely to adversely affect" critical habitat for PS Chinook.

This concludes informal consultation according to the regulations implementing the ESA, 50 CFR 402.10. The City must re-initiate the ESA consultation if new information reveals effects of the action that may affect listed species in a way not previously considered, the action is

modified in a manner that causes an effect to the listed species that was not previously considered, or a new species is listed that may be affected by the identified action.

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 City 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 actions are described in the BA and additional information provided. The action area includes habitat, which has been designated as EFH for various life stages of Chinook and coho salmon.

EFH Conservation Recommendations: Because the conservation measures that the City included as part of the proposed action 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 City 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 City will need to reinstate consultation in accordance with the implementing regulations for EFH at 50 CFR 600.920(l).

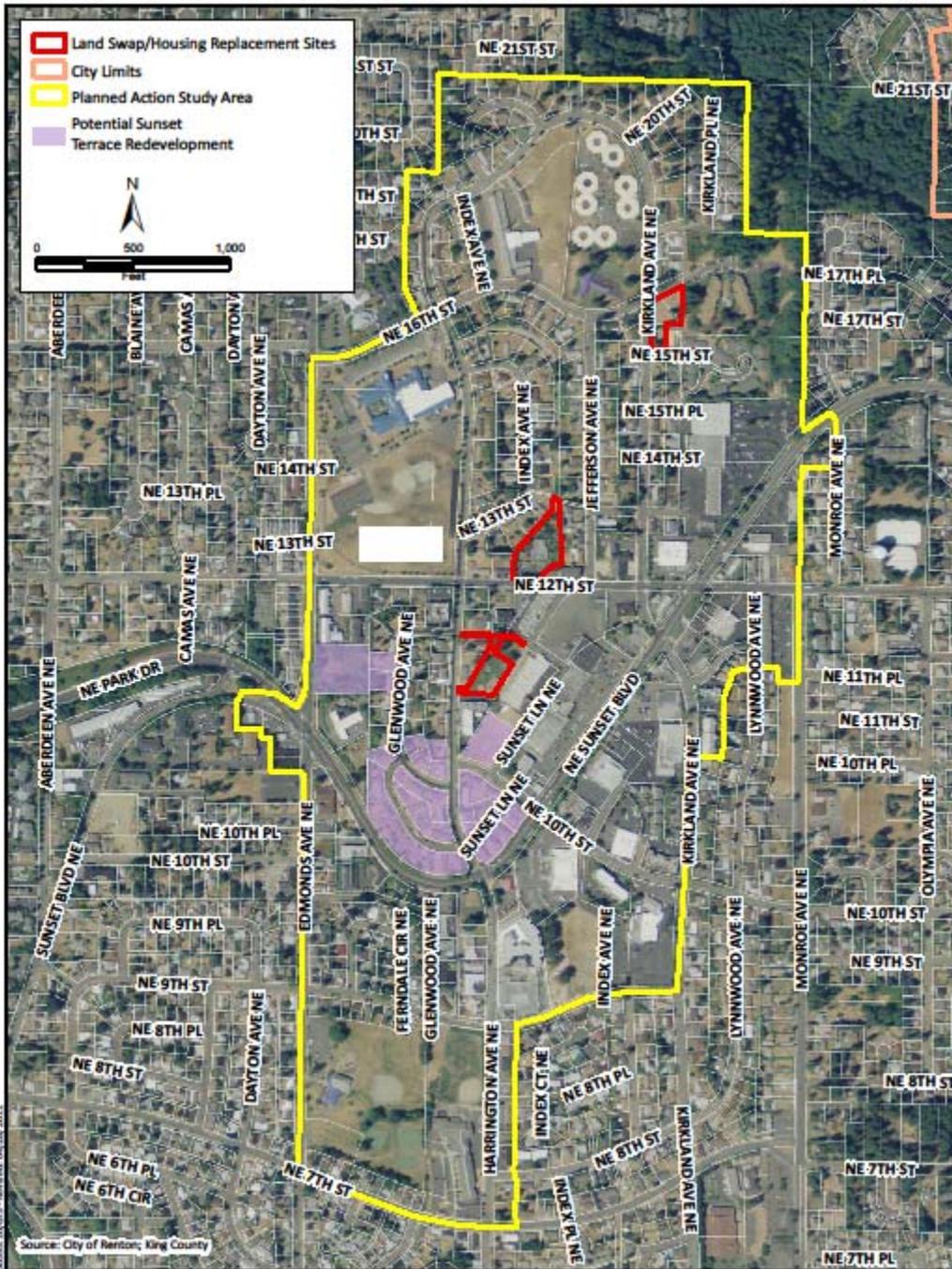
If you have questions regarding either the ESA or EFH consultation, please contact DeeAnn Kirkpatrick of the Washington State Habitat Office at (206) 526-4452, or by electronic mail at deeann.kirkpatrick@noaa.gov.

Sincerely,



WWS William W. Stelle, Jr.
Regional Administrator

Attachment



Sunset Terrace Redevelopment Area and Land Swap/Replacement Housing Sites
Sunset Area Community Planned Action Draft NEPA/SEPA EIS

bc: F/NWR – PDF (Nickerson)
WSHO – PDF (Chron)
WSHO - File Copy
WSHO – PDF (Kirkpatrick)
WSHO – PDF (Sibley)