



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
1201 NE Lloyd Blvd, Suite 1100  
Portland OR, 97232

Refer to NMFS No:  
WCR 2017-6578

April 20, 2017

Michelle Walker  
Regulatory Branch CENWS-OD-RG  
U.S. Army COE of Engineers  
Post Office Box 3755  
Seattle, WA 98124-3755

Re: Endangered Species Act Section 7(a)(2) and Magnuson-Stevens Fishery Conservation and Management Act Concurrence Letter for the DCT Industrial Wetland Fill Project, Pierce County, Washington (Puyallup River 4<sup>th</sup> Field HUC 17110014, COE Reference Number NWS-2016-312)

Dear Ms. Walker:

On March 22, 2017, NOAA's National Marine Fisheries Service (NMFS) received your request for a written concurrence that the U.S. Army COE of Engineers' (COE) authorization under Section 404 of the Clean Water Act for the DCT Industrial Wetland Fill and Warehouse Construction Project is not likely to adversely affect (NLAA) species listed as threatened or endangered or critical habitats designated under the Endangered Species Act (ESA). This response to your request was prepared by the NMFS pursuant to section 7(a)(2) of the ESA, implementing regulations at 50 CFR 402, and agency guidance for preparation of letters of concurrence.

The NMFS also reviewed the proposed action for potential effects on essential fish habitat (EFH) designated under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), including conservation measures and any determination you made regarding the potential effects of the action. This review was pursuant to section 305(b) of the MSA, implementing regulations at 50 CFR 600.920, and agency guidance for use of the ESA consultation process to complete EFH consultation. In this case, the NMFS concluded that the action would not adversely affect EFH. Thus, consultation under the MSA is not required for this action.

This letter underwent pre-dissemination review using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554). The concurrence letter will be available through the NMFS' Public Consultation Tracking System entitled WCR 2017-6578. A complete record of this consultation is on file electronically at the NMFS Oregon-Washington Coastal Office.



## Proposed Action and Action Area

The proposed project includes construction of two industrial buildings with parking and associated infrastructure, including the creation of two stormwater ponds. The proposed project will require the fill of approximately 8,599 square feet (0.20 acre) of Category IV depressional wetland in the northwestern portion of the site adjacent to West Valley Highway East. Partial fill of 2,402 square feet (0.05 acre) of three other small wetlands is also required by the project. In addition, the project proposes to fill approximately 11,017 square feet (0.25 acre) of drainage and irrigation ditches. An on-site compensatory mitigation plan has been developed to create 1.18 acres of wetland and enhance an additional 1.72 acres of existing wetland at this location. Two enhanced treatment stormwater wetlands are also proposed on-site within the same area to manage runoff from new impervious surfaces, and to enlarge the area of accessible habitat and wetland continuity.

All work that will occur in ditches will take place in the dry during summer months to reduce downstream turbidity that may enter Sotain Creek, which is located 500 feet from the proposed project. Sotain Creek is not documented to have PS Chinook or PS steelhead present. The White River, which Sotain Creeks empties into and which contains PS Chinook and PS steelhead is located over 0.5 miles from the proposed construction.

The action area encompasses 200 feet from construction operations to account for any possible effects from turbidity.

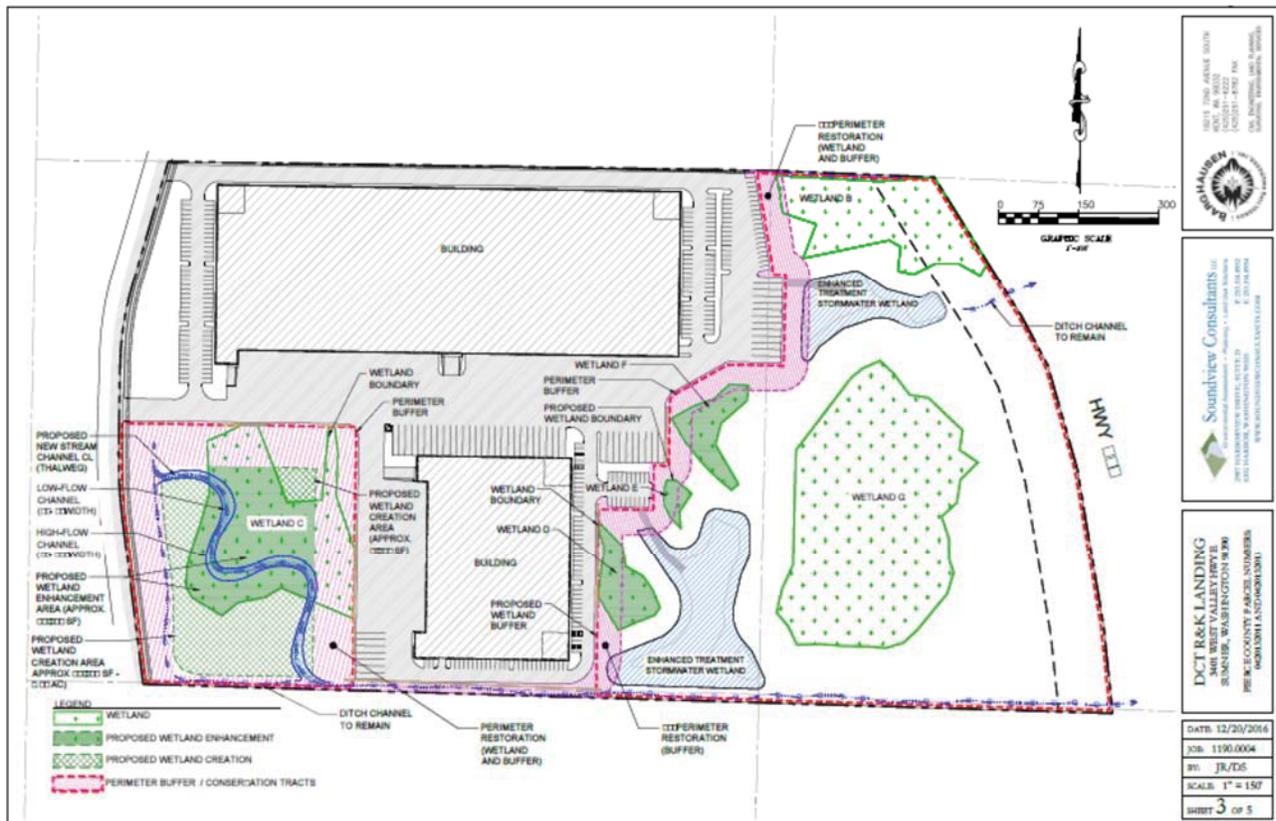


Figure 1. DCT Proposed Industrial Site

### Action Agency's Effects Determinations

The following table identifies the listed species within the White River (located 0.5 miles from the proposed construction) and the COE' effect determination.

ESA-Listed Species Distinct Population Segment	Scientific Name / FR Listing	ESA Status	Present in White River	Present in Action Area	Effect Determination
Puget Sound (PS) Chinook salmon	<i>Oncorhynchus tshawytscha</i> 70 FR 37160, 6/28/2005	Threatened	Yes	No	NLAA
PS Chinook salmon Critical habitat	70 FR 52630, 9/2/2005	Designated	Yes	No	NLAA
PS Steelhead	<i>Oncorhynchus mykiss</i> 72 FR 26722, 5/11/2007	Threatened	Yes	No	NLAA
PS Steelhead Critical habitat	81 FR 9251, 2/24/2016	Designated	Yes	No	NLAA

The COE determined in their Memorandum for the Services, dated March 16, 2017, that the proposed action is not likely to adversely affect Puget Sound Chinook salmon or PS steelhead or their critical habitat based upon analysis and rationale provided in a biological evaluation dated December 2016. Because of the timing of the work in the ditches (July 15 through August 31) and the unlikely presence of PS Chinook or PS steelhead in Sotain Creek during construction of the commercial facility and mitigation site, the COE stated the effects are expected to be discountable.

The COE stated that direct effects on both species is likely limited to the discharge of turbid waters during the first rains after the in-water portion of the project is completed. Other direct effects resulting from the action could include the increase of hazardous materials (e.g., fuels, lubricating fluid, etc.) as run off from new impervious surfaces. These impervious surfaces will also change disrupt infiltration patterns which can alter the flow regime throughout the year into Sotain Creek from the project site.

### Consultation History

The NMFS received from the Army Corps of Engineers (COE) a Memorandum for the Services, Biological Evaluation (BE), and a request for concurrence on March 22, 2017 on which date consultation was initiated.

## ENDANGERED SPECIES ACT

### Effects of the Action

Under the ESA, "effects of the action" means the direct and indirect effects of an action on the listed species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action (50 CFR 402.02). The applicable standard to find that a proposed action is not likely to adversely affect listed species or critical habitat is that all of the effects of

the action are expected to be discountable, insignificant, or completely beneficial. Beneficial effects are contemporaneous positive effects without any adverse effects to the species or critical habitat. Insignificant effects relate to the size of the impact and should never reach the scale where take occurs. Discountable effects are those extremely unlikely to occur.

The impacted wetlands are not within the floodplain of the White River, and are not accessible by listed salmonids. The amount of natural wetland to be filled is 0.255 acre, whereas the wetland mitigation will be enhancement or creation of 1.9 acres of wetland. The altered flow regime created by new impervious surface is mitigated by the detention of stormwater through the created and enhanced wetlands. The wetland mitigation and storm water detention ponds are expected to increase detention and treatment of stormwater, which will improve water quality and hydrologic function, and will provide a moderate to high level of function for wildlife habitat in the long term. The stormwater treatment ponds will reduce sediment such that effects from water quality and quantity will be insignificant to habitat function, and discountable to listed species, as sediment is not expected to transit as far as the White River, where listed salmonids could otherwise be exposed. Because of the lack of presence of PS Chinook and/or PS steelhead in Sotain Creek, and the fact that increased sediment is not expected to reach the creek, it is unlikely that any individuals among ESA-listed species would be adversely affected.

There is no PS Chinook or PS steelhead critical habitat in the action area.

## **Conclusion**

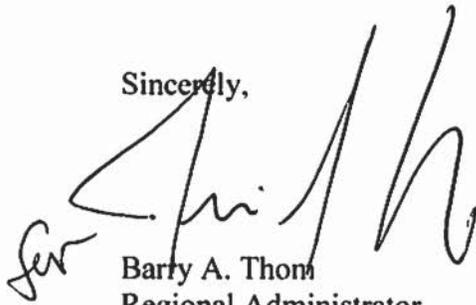
Based on the above analysis, the NMFS concurs with the COE that the proposed action is not likely to adversely affect Puget Sound ESU Chinook or PS steelhead.

## **Reinitiation of Consultation**

Reinitiation of consultation is required and shall be requested by the COE or by NMFS, where discretionary Federal involvement or control over the action has been retained or is authorized by law and (1) new information, such as an increase in the volume and frequency of rail traffic, reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (2) the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this concurrence letter; or if (3) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16). This concludes the ESA portion of this consultation.

If you have questions concerning this consultation, please contact Shandra O'Haleck of the Oregon Washington Coastal Area Office at 360-753-9533, or by e-mail at shandra.ohaleck@noaa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry A. Thom". The signature is written in a cursive style with a large initial "B" and "T".

Barry A. Thom  
Regional Administrator

CC: Tom Bloxton, COE