



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
BIN C15700
Seattle, WA 98115-0070

April 15, 2004

Kimball Storedahl
J. L. Storedahl and Sons, Inc.
2233 Talley Way
Kelso, Washington 98626

Dear Kimball Storedahl:

Enclosed is Permit No. 1483 issued to J. L. Storedahl and Sons, Inc., under the authority of Section 10 of the Endangered Species Act (ESA). Permit No. 1438 authorizes incidental take of threatened Lower Columbia River (LCR) chinook salmon, Columbia River (CR) chum salmon, and LCR steelhead trout associated with J. L. Storedahl and Sons' Daybreak mine expansion and gravel mining operations near the East Fork Lewis River, Washington State.

NOAA's National Marine Fisheries Service (NOAA Fisheries) has determined that if J. L. Storedahl and Sons gravel mining activities are conducted as described in the J. L. Storedahl and Sons, Inc. Daybreak Mine Expansion and Habitat Conservation Plan (HCP), and in compliance with the terms and conditions of the Implementing Agreement (IA) and the Permit, the expected take will be appropriately minimized and mitigated for and will not appreciably reduce the likelihood of survival or recovery of the LCR chinook salmon, CR chum salmon, and LCR steelhead trout Evolutionarily Significant Units (ESUs).

The authorization granted by this permit is subject to full and complete compliance with, and implementation of, the HCP and IA. The term of this permit is for the duration of the HCP and expires April 9, 2029.

As per the terms of the unlisted species provisions of the IA, should any additional anadromous salmonid species that were unlisted at the time of Permit issuance become listed under the Endangered Species Act, the new species will be added to this permit according to provisions in section 4.2.1 of the IA and section 3.1 of the Biological Opinion.

If you do not comply with the terms and conditions of the permit, or if you cannot provide adequate funding for the HCP, the incidental take of LCR chinook, CR chum salmon and LCR steelhead trout is not authorized. If you have any questions concerning the permit, please contact the Washington State Habitat Office Director, Steven Landino, at (360) 753-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Robert Lohn".

D. Robert Lohn
Regional Administrator

Enclosure



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

Permit Number: 1483

Expiration Date: Twenty-five years from date of signing this Permit.

Permit Holder:

J. L. Storedahl & Sons, Inc.
2233 Talley Way
Kelso, Washington 98626

Principal Officer and Contact:

Kimball Storedahl, Vice President for J. L. Storedahl & Sons, Inc.
Phone: (360) 636-2420
Fax: (360) 577-3906

Reporting Requirements: As described in section 5 of the habitat conservation plan (HCP) and in section 8 of the implementation agreement (IA).

Authorization:

J. L. Storedahl & Sons, Inc. (Storedahl) is hereby authorized incidental take of threatened Lower Columbia River (LCR) chinook salmon, Columbia River (CR) chum salmon, and LCR steelhead trout, associated with its gravel extraction and related management activities in Washington state, subject to the provisions of the IA for the Storedahl HCP, the provisions of Section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. §§ 1531-1543), NOAA's National Marine Fisheries Service (NOAA Fisheries) regulations governing ESA-listed species permits (50 C.F.R. Parts 222.301-222.309), and the conditions hereinafter set forth.

Abstract:

Storedahl is authorized incidental take of LCR chinook (*Oncorhynchus tshawytscha*), CR chum (*O. keta*), and LCR steelhead trout (*O. mykiss*) associated with Storedahl's covered activities in Washington State, pursuant to Section 10(a)(1)(B) of the ESA. Unlisted, candidate status Lower Columbia River/Southwest Washington (LCR/SW) coho salmon (*O. kisutch*) are also covered under this Permit.

The Storedahl 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. The HCP includes 18 Water Quality, Water Quantity, Channel Avulsion, and Species and Habitat Conservation Measures (CM) (Chapter 4). The CMs were developed in an integrated manner with the mining and reclamation site plan. Some measures will begin prior to initiation of mining activities, while others will be implemented concurrent with mining activities. The implementation of each CM includes the use of specific monitoring and evaluation measures (Chapter 5) and consultation with NOAA Fisheries and other appropriate agencies. To ensure that the mitigation and minimization strategies are effective, the HCP incorporates a variety of monitoring and reporting components and supplemental studies that will provide feedback for adaptive management, and if needed, changes in the conservation measures set forth (Chapter 5).

Incidental Take:

Covered activities (Chapter 1.5) that may cause incidental take of listed species will be conducted throughout the area covered by the HCP (Chapter 1.4). The area in which covered activities will be conducted consists of approximately 300 acres owned by Storedahl adjacent to the north bank of the East Fork Lewis River, and all locations where actions will take place to minimize or mitigate the effects of the HCP on the covered species. These locations include the mainstem and all side channels of the East Fork Lewis River from approximately one mile upstream of the project area (River Mile 10) downstream to the area of tidal influence (River Mile 5.9).

NOAA Fisheries anticipates that an undetermined number of listed species may be taken in these areas as a result of covered activities over the 25-year life of the permit. The incidental take of these species is expected to be in the form of harm, harassment, kill and injury.

No Surprises:

Storedahl is granted the “No Surprises” assurances as codified at 50 C.F.R. § 222.307(g) at the time this permit is issued. In the event that any judicial decision or determination, including without limitation the decision from the District Court for the District of Columbia in Spirit of the Sage, et al v. Norton, et al, 98-CV-1873 (D.D.C 2003), may hold that the Department of Commerce’s “No Surprises” assurances rule (or similar successive rule) is vacated, unenforceable or enjoined for any reason or to any extent, the “No Surprises” assurances applicable to this permit shall be enforceable only to the degree allowed by any such decision or determination; provided that the remainder of the permit, implementation agreement, and HCP shall remain in full force and effect to the maximum extent permitted by law. In the event that the “No Surprises” assurances rule may be vacated, unenforceable or enjoined by such decision or determination but is later reinstated, the “No Surprises” assurances provision shall likewise be automatically reinstated and apply to the entire term of the permit. If, in response to any such

judicial decision or determination, the "No Surprises" assurances rule is revised, the "No Surprises" assurances shall be automatically amended in a manner consistent with the revised rule so as to afford the maximum protection to Storedahl consistent with the revised rule.

Conditions:

1. The provisions of this permit may be amended as provided in section 13.2 of the IA.
2. Storedahl may transfer or assign this permit only according to the provisions of 50 C.F.R. § 222.305(a).
3. This permit does not authorize Storedahl or any other person to take ESA-listed species in the territorial waters of another country without the consent of that country. Storedahl 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 Storedahl personnel at Storedahl's on-site offices, currently located at the Daybreak Mine, Battleground, WA. All applicable provisions of this permit must be presented and clearly explained to all authorized officers, employees, contractors, or agents of Storedahl conducting authorized activities.
5. Storedahl, 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 8.4 of the IA, upon request by NOAA Fisheries, Storedahl must allow NOAA Fisheries, or any other person(s) duly designated by NOAA Fisheries, to inspect Storedahl'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) NOAA Fisheries' responsibilities under the ESA.
7. Storedahl 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. 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. Upon locating any dead, injured, or sick individuals of any listed species covered by this permit, Storedahl shall, within three working days, notify NOAA Fisheries' Washington State Branch Office, Lacey, 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 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.

10. The fee in 50 C.F.R. § 222.307(d)(5) to cover the cost of issuance of this permit has been waived.

Issued by: Date: April 15, 2004



D. Robert Lohn
Regional Administrator