U.S. Department of Homeland Security
Region X
130 228th Street SW
Bothell, Washington 98021-9796

FEMA

March 29, 2010

Steve Landino, Director
Washington State Habitat Office
National Marine Fisheries Service
510 Desmond Drive, Suite 103
Lacey, Washington 98503-1263

RE: Individual Informal Consultation
Samish Hatchery Friday Creek Intake
Washington Department of Fish and Wildlife
FEMA-1817-DR-WA
Project Worksheet 817

Dear Mr. Landino:

This is a request for informal consultation regarding permanent repairs for the Samish Hatchery Friday Creek intake/screens, waterline rip rap, and road. FEMA has determined that the project does not meet the requirements of the Programmatic Biological Assessment for 14 categories of FEMA-funded activities and is therefore initiating individual consultation. Enclosed is our biological assessment, in the form of a completed Specific Project Information File (SPIF).

ESA Effects Determination:

Chinook salmon, Puget Sound ESU - May Affect, Not Likely to Adversely Affect
Steelhead trout, Coastal/Puget Sound DPS - Habitat May Affect, Not Likely to Adversely Affect

MSA Effects Determination:

Essential Fish Habitat for Chinook and coho salmon - No Adverse Effect (no consultation)

Thank you for your consideration and assistance. We look forward to your concurrence. If you have any questions, please contact Susan King by email (susan.king@dhs.gov) or phone (337-281-4957), or myself by email (mark.eberlein@dhs.gov) or phone (425-487-4735).

Sincerely,

for Mark Eberlein
Regional Environmental Officer

Enclosure

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.:
2010/01226

April 15, 2010

Mark Eberlein
Federal Emergency Management Agency
Federal Regional Center
130 228th Street, Southwest
Bothell, WA 98021-8627

Re: Endangered Species Act Section 7 Informal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for Samish Hatchery Repair (6th Field HUC 171100020202, Samish River, FEMA 1817-DR-WA, PW 817 and 819).

Dear Mr. Eberlein:

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 Federal Emergency Management Agency (FEMA) submitted a Biological Evaluation (BE) to the National Marine Fisheries Service (NMFS) for the above referenced project on March 29, 2010. NMFS requested additional information from the FEMA on March 31, 2010 and received a response on April 2, 2010. The FEMA requested NMFS' concurrence with the following determinations: (1) "may affect, not likely to adversely affect" Puget Sound (PS) Chinook (*Oncorhynchus tshawytscha*) salmon and (2) "may affect, not likely to adversely affect" PS steelhead (*O. mykiss*). PS Chinook salmon was listed as threatened under the ESA on March 24, 1999 (50 CFR 223 and 224). The PS steelhead Distinct Population Segment (DPS) was listed as threatened under the ESA on June 11, 2007 (72 FR 26722). This consultation with the FEMA is conducted under section 7(a)(2) of the ESA, and its implementing regulations, 50 CFR 402.

The FEMA proposes to provide funding to the Washington Department of Fish and Wildlife (WDFW) Samish Hatchery under the Stafford Act for the repair and removal of debris from the hatchery. The purpose of the project is to repair damages caused by flooding in Friday Creek and restore the hatchery to proper working order.

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The action area is limited to the immediate vicinity of construction at 5585 Old Highway 99 North Road in Burlington, Washington. The action area is used by the Samish/Mainstem Nooksack Chinook salmon and the Samish winter-run steelhead. There is no designated critical habitat in the action area.

Flooding in Friday Creek, a tributary off the Samish River caused the following damage to the Samish Hatchery system:
PW 817

- 30 linear feet of riprap protection was washed away from the water main exposing the intake;
- Two 4-foot 7-inch square removable debris screens that protect the intake from debris were damaged beyond repair;
- Three 25-foot by 6-foot high steel tubular cyclone fence sections were damaged;
- Approximately 21 cy (cubic yards) of 5/8-inch crushed stone was washed away from the intake parking area;
- A 24-inch diameter steel pipe that housed the air pressure relief valve as part of the intake air control was damaged and leaking
- Two-inches of aggregate spread over a 285-foot section of the access road was washed away and collected with debris in a nearby 250-foot ditch;
- Two sections of Jersey barrier that protects the access road needs to be reset;

PW 819

- 520 cy of sediment debris and an undisclosed amount of vegetative and organic debris accumulated at the intake of a 12-inch diameter 24-foot corrugated metal pipe.

Emergency completed repairs included excavating and replacing the relief valve, installing 24 cy of crushed rock to repair the access road, and removing the 520 cy of sediment debris and all vegetative and organic debris from the intake. Emergency work was completed between January 7th and 8th, and again from March 23rd through the 26th. The road was repaired to provide machinery access to the site for emergency excavation. The intake system was repaired to stop the leaking. The emergency removal of debris was accomplished using an excavator to clear the intake system from debris.

Further proposed repairs include:
PW 817

- Replacing approximately 26 cy of riprap to protect the water main. This amount is equal to the amount lost during flooding;
- Install two replacement removable debris screens to protect the intake system;
- Replace three damaged fence sections;
- Install approximately 21 cy of 5/8-inch crushed gravel at the parking area;
- Clean and shape 250-feet of roadside ditch along the access road;
- Reset the Jersey barrier sections;

PW 819

- Clean and flush the 12-inch diameter by 24-foot metal pipe and remove any remaining vegetative debris.

Potential adverse effects include temporary degradation to water quality when fish could potentially be in the area. Construction activities increase noise and suspended sediment while excavating sediments that accumulated in the intake pipes following flood event. Increased noise and suspended sediments cause physiological and behavioral changes in fish, and temporarily displace fish away from the work site. Emergency work was completed outside the approved work window when fish might have been present. Dredging and placing riprap have the potential to remove shallow water habitat.

Species Determination

Puget Sound Chinook Salmon
Puget Sound Steelhead

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

The effects were and will be discountable because PS Chinook salmon and PS steelhead were not present during emergency construction and are not likely to be present during the completion of proposed work. The approved work window for the Samish River above the hatchery is between June 15th and August 15th. This allowable work window is after juvenile fish have migrated downstream and out of the area, and before adult salmon begin to migrate upstream to spawn.

If a few salmon or steelhead do occur in the action area, the effects are expected to be insignificant. The noise and suspended sediment from excavating and dredging are temporary and return to preconstruction conditions following the cessation of activity. No habitat will be lost by the repair activities. All riprap replaced was to protect the water main and doesn't remove rearing habitat. The repairs immediately returned the habitat to pre-disaster conditions so no shallow water habitat was removed. The excavation mainly occurred in the intake pipe, an area inaccessible to fish. The excavator didn't enter the wetted channel and no vegetation was removed for the repairs.

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

This concludes informal consultation pursuant to the regulations implementing the ESA, 50 CFR 402.10. The FEMA must re-analyze this 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 or critical habitat that was not previously considered, or a new species is listed, or critical habitat designated, 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 Federal action agency and descriptions of EFH for Pacific salmon contained in Appendix A to amendment 14 to the Pacific Coast Salmon Plan (August 1999) developed by the Pacific Fishery Management Council and approved by the Secretary of Commerce (September 27, 2000).

The proposed action is described in the BE. The proposed action includes habitats, which have been designated as EFH for various life stages of Chinook salmon and coho (*O. kisutch*) salmon.

The EFH Conservation Recommendations: Because the conservation measures that the FEMA 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. NMFS concurs with the FEMA effect determination of "will not adversely affect" for the EFH. Since NMFS is not providing conservation recommendations at this time, no 30-day response from the FEMA 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 FEMA 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 Brianna Blaud of the Washington State Habitat Office at (206) 526-4749, or by electronic mail at brianna.blaud@noaa.gov.

Sincerely,

for Barry A. Thom
Acting Regional Administrator

cc: Tim Snowden, FEMA