



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Washington Fish and Wildlife Office
510 Desmond Dr. SE, Suite 102
Lacey, Washington 98503

JAN 08 2009

Doug Sutherland, Commissioner
Washington Department of Natural Resources
1111 Washington Street, S.E.
PO Box 47001
Olympia, Washington 98504

Dear Commissioner Sutherland:

This document transmits the U.S. Fish and Wildlife Service's incidental take permit (PRT-TE187810-0) to the State of Washington for the Department of Natural Resources' Low Effect Commercial Geoduck Fishery Habitat Conservation Plan. Issuance of an incidental take permit is pursuant to section 10(a)(1)(B) and section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). The State of Washington requested 50-year coverage for the incidental take of the Federally threatened bull trout (*Salvelinus confluentus*), the Federally threatened marbled murrelet (*Brachyramphus marmoratus*) and the Federally endangered brown pelican (*Pelecanus occidentalis*) that may arise from commercial geoduck fishery activities they manage within the submerged lands of Puget Sound, the Strait of Juan de Fuca and areas north to the Canadian border. The Incidental Take Permit, herein, includes those three listed species as well as three unlisted species, the tufted puffin (*Fratercula cirrhata*), bald eagle (*Haliaeetus leucocephalus*) and coastal cutthroat trout (*Oncorhynchus clarki clarki*), WDNR requested coverage for in their application for an incidental take permit.

Sincerely,

Ken S. Berg, Manager
Washington Fish and Wildlife Office



FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

WASHINGTON DEPARTMENT OF NATURAL RESOURCES
1111 WASHINGTON STREET SE
PO BOX 47001
OLYMPIA, WA 98504
U.S.A.

2. AUTHORITY-STATUTES

16 USC 1539(a)
16 USC 1533(d)

REGULATIONS (Attached)

50 CFR 17.22
50 CFR 17.32

50 CFR 13

3. NUMBER

TE187810-0

4. RENEWABLE

YES
 NO

5. MAY COPY

YES
 NO

6. EFFECTIVE

01/08/2009

7. EXPIRES

01/08/2059

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business)

DOUG SUTHERLAND
COMMISSIONER OF PUBLIC LANDS

9. TYPE OF PERMIT

THREATENED AND ENDANGERED SPECIES

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

State-owned aquatic lands of Puget Sound, the Strait of Juan de Fuca, and areas north to the Canadian border.
Commercial geoduck harvest occurs subtidally on surveyed geoduck tracts between the depths of -18 and -70 feet corrected for mean lower low water (MLLW).

11. CONDITIONS AND AUTHORIZATIONS:

- A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.
- B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.
- C. VALID FOR USE BY PERMITTEE NAMED ABOVE.
- D. Further conditions of authorization are contained in the attached Special Terms and Conditions.

ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS

ISSUED BY

Ken S Berg

TITLE

PROJECT LEADER, WESTERN WASHINGTON FWO

DATE

JAN 08 2009

**U.S. Fish and Wildlife Service, Western Washington Fish and Wildlife Office,
Lacey, Washington
Special Terms and Conditions for Permit PRT-TE187810-0**

1. All sections of Title 50 *Code of Federal Regulations*, Parts 13, 17.22, and 17.32 are conditions of this Permit. If any such regulations are modified, any future action taken with respect to this Permit shall be in accordance with such regulations in existence at the time such action is taken except as otherwise specifically provided for by law.
2. The authorization granted by this Permit is subject to full and complete compliance with, and implementation of the Washington Department of Natural Resources' Geoduck Fishery Habitat Conservation Plan (Geoduck HCP). The Permit and Geoduck HCP are binding upon the Permittee and all other persons conducting "covered activities" on "covered lands" as those terms are defined in the Geoduck HCP.
3. The Geoduck HCP is generally described in Chapters 3 and 5 of the document entitled "Habitat Conservation Plan for Washington Department of Natural Resources, Geoduck Fishery" dated July 2008, and is approved as constituted on the date of Permit issuance.
4. A copy of this Permit and Geoduck HCP must be made available to State personnel at the Department of Natural Resources, Aquatic Resources Program office in Olympia, Washington, and other affected office, as appropriate. The Permittee shall ensure that all persons carrying out activities covered by the Permit are made aware of its applicable requirements.
5. The Permittee shall maintain trained compliance and enforcement personnel on site to ensure compliance with measures in the Geoduck HCP and the terms and conditions of this Permit.
6. The Permittee and all persons conducting "covered activities" on "covered lands" as defined in the Geoduck HCP are authorized pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act)(USC 1531 et seq.), to incidentally take covered species, listed in Table 1, in the course of otherwise lawful conduct of "covered activities" as described in the Permittee's application, Geoduck HCP, and supporting documents. Take authorization would become effective for the currently unlisted species concurrent with the listing of these species under the Act. For any of these species, take is authorized to the extent that take would otherwise be prohibited under section 9 of the Act and its implementing regulations, or pursuant to a special rule promulgated under section 4(d) of the Act. Such take is authorized only when incidental to otherwise lawful activities associated with the harvest of geoducks and when consistent with the Geoduck HCP, as conditioned herein.
7. Upon request by FWS, the Permittee will use its best efforts to allow FWS, or any other person(s) duly designated by FWS, to inspect Covered Lands on which Covered Activities have occurred or are expected to occur if such activities 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) FWS' responsibilities under the ESA.

8. The FWS is to be notified in writing within 3 working days of the accidental death of, or injury to a federally listed species or of the finding of any dead or injured listed species during implementation of the proposed HCP. Notification must include the date, time, and location of the incident or discovery, as well as any pertinent information on circumstances surrounding the incident or discovery.

9. The Permittee shall refer to permit number PRT-TE187810-0 in all correspondence and reports concerning Permit activities. Any questions about this permit should be directed to the Manager, U. S. Fish and Wildlife Service, Western Washington Fish and Wildlife Office, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503, telephone (360) 753-9440.

Table 1. Species covered in the Incidental Take Permit for the State of Washington's Commercial Geoduck Fishery Habitat Conservation Plan

<u>Common Name</u>	<u>Scientific Name</u>
<u>Threatened and Endangered Species</u>	
Bull trout	<i>Salvelinus confluentus</i>
Marbled murrelet	<i>Brachyramphus marmoratus</i>
California brown pelican	<i>Pelecanus occidentalis</i>
<u>Unlisted Species</u>	
Tufted puffin	<i>Fratercula cirrhata</i>
Coastal cutthroat trout	<i>Oncorhynchus clarki clarki</i>
Bald eagle	<i>Haliaeetus leucocephalus</i>