Landino

**UNITED STATES DEPARTMENT OF COMMERCE**
**National Oceanic and Atmospheric Administration**
NATIONAL MARINE FISHERIES SERVICE
WASHINGTON HABITAT BRANCH OFFICE
510 Desmond Drive SE/Suite 103
LACEY, WASHINGTON 98503

May 6, 2004

Mr. Keith Simmons
Simpson Resource Company
Northwest Timberlands Division
P.O. Box 9001
215 N. Third Street
Shelton, Washington 98584

Subject: Request for Name Change on NOAA Fisheries Incidental Take Permit Number 1265

Dear Mr. Simmons:

This letter responds to your April 19, 2004 inquiry regarding NOAA's National Marine Fisheries Service (NOAA Fisheries) method of processing the pending name change from Simpson Resource Company to Green Diamond Resource Company. From your letter and recent conversation with David Hirsh of our staff, we understand this change is one in name only, and that Green Diamond is not a new business entity. You stated Green Diamond Resource Company will remain responsible for all of the obligations and commitments of Incidental Take Permit number 1265, according to the terms described in both the Simpson Timber Company Northwest Operations Habitat Conservation Plan and Implementation Agreement.

Since the nature of this change is one in name only, and Green Diamond is not a new business entity, NOAA Fisheries does not believe that a new permit need be issued, nor does the existing permit need to be transferred. As such the provisions of 50 CFR 222.305(a)(3) regarding the transfer of an existing incidental take permit need not be invoked. Please notify NOAA Fisheries Washington State Habitat Office (WSHO) upon the completion of the company name change. NOAA Fisheries will update our files and permit tracking database at that time.

If you have any continuing questions concerning this issue, please do hesitate to contact David Hirsh of the Washington State Habitat Office Staff, at (360) 753-9598.

Sincerely

Steven W. Landino
Washington State Director
For Habitat Conservation

SWR

HCP Simp. Permit

**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, WA 98115

NOV - 3 2000

Colin Moseley
Chairman, Simpson Timber Company
1301 Fifth Avenue, Suite 2800
Seattle, WA 98101-2613

Dear Mr. Moseley.:

Enclosed is Permit 1265 issued to the Simpson Timber Company under the authority of Section 10 of the Endangered Species Act (ESA). Permit 1265 authorizes incidental take of threatened Puget Sound (PS) chinook and Hood Canal summer-run chum associated with its timber harvest operations in the southwest Washington state.

The National Marine Fisheries Service (NMFS) has determined that if Simpson management activities are conducted as described in the Simpson Timber Company, Northwest Operations 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 PS chinook and Hood Canal summer-run chum 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 October 13, 2050.

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 finalization of the HCP become listed under the ESA, the new species will be added to this permit according to provisions in section 4.2(a) of the IA.

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 PS chinook is not authorized. If you have any questions concerning the permit, please contact the Washington State Habitat Branch Chief, Steven W. Landino, at (360) 753-9530.

Sincerely,

Donna Darm
Acting Regional Administrator

Enclosure

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

Permit Number: 1265

Expiration Date:

October 13, 2050

Permit Holder:

Simpson Timber Company
3rd and Franklin
Shelton, WA 985854

Principal Officer and Contact:
John D. Walker
VP NW Timber & Wood Products
Phone: (206) 224-5000
Fax: (206) 224-5060

Reporting Requirements: As described in Section 8 of the Implementation Agreement executed by the permittee, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service as of October 13, 2000 ("IA") and Sections 8.2 and 8.3 of the related Habitat Conservation Plan ("HCP").

Authorization:

Simpson Timber Company together with its authorized officers, employees, contractors, and agents are hereby authorized to incidentally take members of the species listed on the attached Table 1 ("Covered Species") in connection with its timber management activities in western Washington subject to the provisions of the IA, the provisions of the HCP incorporated therein, the provisions of Section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. §§ 1531-1543), the National Marine Fisheries Service (NMFS) regulations governing ESA-listed species permits (50 CFR Parts 222.301-222.309), and the conditions hereinafter set forth. In the event of a conflict between these provisions and the provisions of the IA, the language of the IA shall govern. The period of the permit is 50 years.

Abstract:

Simpson submitted applications for the issuance of incidental take permits pursuant to the Endangered Species Act of 1973, as amended (Act) on September 29, 1999, to the Fish and Wildlife Service ("USFWS") and the National Marine Fisheries Service ("NMFS"). The proposed permits would authorize take of the following endangered or threatened species incidental to otherwise lawful management activities: marbled murrelet (Brachyramphus marmoratus marmoratus), Puget Sound chinook salmon (Oncorhynchus tshawytscha), Hood Canal summer run chum salmon (Oncorhynchus keta), and bull trout (Salvelinus confluentus). Simpson is also seeking coverage for 48 currently unlisted species under specific provisions of the permits, should these species be listed in the future.

Simpson owns and manages approximately 261,575 acres of commercial timberland in the plan area of Thurston, Mason and Grays Harbor counties, Washington. These properties are located from just south of Highway 8, north into the southern foothills of the Olympic Mountains, and west across the Wynoochee River valley to the City of Aberdeen's Wishkah watershed. Management activities on the tree farm include forest management and timber harvest. Simpson has developed a Habitat Conservation Plan ("Plan") with technical assistance from USFWS and NMFS, to obtain permits for its activities on the subject lands. Activities covered by this permit include forest management and timber harvest activities more fully described in the Plan. The permit and Plan will also cover certain monitoring activities and related scientific experiments in the Plan area.

In general terms, the Plan applies prescriptions focussed on the protection of aquatic and riparian habitats. The Plan area is stratified into five "lithotopo units" ("LTU") (areas of similar lithology and topography). Within these units, stream segments are classified by channel type. Riparian management prescriptions by stream class are focused on the maintenance and development of riparian forest functions. The Plan also provides for limits on harvest and other activities within wetland conservation areas and on unstable slopes, and contains prescriptions dealing with road construction, maintenance and restoration activities and management for hydrologic maturity. The initial prescriptions in the Plan are subject to adjustment based on an adaptive management procedure outlined in the Plan. The Plan establishes a Scientific Advisory Team to review and comment upon the results of Plan implementation and to assist in developing the research and monitoring program.

As an additional measure, Simpson has worked with the Environmental Protection Agency and the Washington Department of Ecology to prepare a Total Maximum Daily Load (TMDL) for heat and sediment. The TMDL was developed to address general and specific water quality concerns within the Plan area, and to provide an additional level of technical rigor that increases NMFS' assurances about water quality for covered species. Both heat energy and sediment are water quality parameters that affect aquatic life, including salmon and other fishes. Although neither the Plan or TMDL are legally dependant on the other, much of the information and analysis developed for the preparation of the Plan was used in developing the TMDL. The primary link between the Plan and TMDL is that sediment and heat load allocations will serve as benchmarks to assess attainment and progress towards water quality in the adaptive management program set forth in the Plan. The TMDL Technical Assessment Report is included as an appendix to the Plan.

Incidental Take

The covered activities (as such term is defined in section 3.1 of the IA) that may cause incidental take of Covered Species will be conducted on the property described in Exhibit A to the IA (the "plan area"). The covered activities will be conducted on the permittee's property located in Mason, Grays Harbor and Thurston Counties in the State of Washington which property encompasses approximately 261,575 acres.

NMFS anticipates that an undetermined number of Covered Species may be taken as a result of covered activities over the 50-year life of the permit. The incidental take of this species is expected to be in the form of harm, harassment, kill and injury.

Conditions:

1. The provisions of this permit may be amended as provided in Section 11 of the IA.

2. The permittee may not transfer or assign this permit to any other person(s), as person is defined in Section 3(12) of the ESA. This permit is not in force or effective if transferred or assigned to any other person.

3. This permit does not authorize the permittee or any other person to take ESA-listed species in the territorial waters of another country without the consent of that country. The permittee 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 Simpson personnel at the permittee's office in Shelton, Washington (or if the permittee moves the operation center for its commercial timberland operations in the plan area to a different location, at the relocated center of operations). All applicable provisions of this permit must be presented and clearly explained to all authorized officers, employees, contractors, or agents of the permittee conducting covered activities in the plan area.

5. The permittee, 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. The permit authorization for take associated with the vertebrate control described in Section 1.5 of the HCP is limited to take resulting from appropriate means to control flat tail beavers (*Castor canadensis*) associated with roads where activities of such beavers pose a reasonably foreseeable risk to the integrity of one or more roads, including but not limited to erosion of the road surfaces, plugging of culverts and failure of road fills.

7. As provided for in Section 8.5 of the IA, upon request by NMFS, the permittee must allow NMFS to enter upon and inspect the plan area.

8. The permittee 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.

9. The permit will take effect for currently listed Covered Species on the effective date of a rule under Section 4(d) of the ESA prohibiting take of the species. For any unlisted covered species, the permit will take effect upon the listing of such species as endangered, or if such species is listed as threatened, upon the effective date of a rule under Section 4(d) of the ESA prohibiting take of such species.

10. Until completion of all related and required consultation under the National Historic Preservation Act, 16 U.S.C. § 470(f), this permit does not cover activities that but for this permit would constitute unlawful take of a Covered Species and that will adversely affect a Designated Historic Resource. As used in this definition, "Designated Historic Resource" means any site, building, structure, or object located within the Plan Area (a) that is included in the National Register of Historic Places or (b) that is (i) specifically identified in a writing received by Simpson prior to the conduct of its activity from either Service or from any Interested Party and (ii) is eligible for inclusion in the National Register of Historic Places. As used herein, "Interested Party" means the Washington State Historic Preservation Officer, each Indian Tribe that attaches religious and cultural significance to sites, buildings, structures, or objects that may be affected by the activity and each other "consulting party" under 36 CFR §800.2.

11. Upon locating any dead, injured, or sick individuals of any listed species covered by this permit, the permittee shall, within three working days, notify NMFS's Washington State Branch Office, Olympia, 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.

12. The fee in 50 CFR Section 222.307(d)(5) to cover the cost of issuance of this permit has been waived.

Issued by : Joe Scordino Date: 10/13/00

Donna Darm
for Acting Regional Administrator,
Northwest Region