

Endangered Species Act Handbook: **for Local Governments in Western Washington**

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1. Helpful Websites
2. The Endangered Species Act = http://www.house.gov/resources/105cong/reports/105_c/esaidx.htm
3. Federal Register July 10, 2000: 4(d) Rule = <http://www.nwr.noaa.gov/1salmon/salmesa/fedreg/al10jy00a.pdf>
4. Federal Register February 16, 2000: Designated Critical Habitat = <http://www.nwr.noaa.gov/1salmon/salmesa/fedreg/al16fe00.pdf>

Acknowledgements

Special thanks to:

- Jay Watson and the members of Hood Canal Coordinating Council for inspiring the need for this handbook and providing input on the questions to be answered;
- Gerry Jackson, and Jeff Chan of the US Fish and Wildlife Service western Washington Office, Will Stelle and Eric Laschever of Preston, Gates and Ellis, Jay Watson of the Hood Canal Coordinating Council, and Michael Kern of Long Live the Kings for their review of the handbook.
- Jackie Kirn of King County for information on the Tri-county 4(d) model.
- Ernest Keeley, Idaho State University for allowing the use of his Chinook photo for the handbook cover.

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Introduction

The “Endangered Species Act Handbook for Local Governments in Western Washington” was developed by Long Live the Kings¹ with a grant from the US Fish and Wildlife Service, Department of the Interior. It is intended to assist local governments in western Washington affected by the recent and potential future listings of salmon and trout as threatened under the federal Endangered Species Act (ESA). These listings include Puget Sound and Lower Columbia River chinook salmon, Hood Canal summer chum salmon, Lake Ozette sockeye salmon, Lower Columbia steelhead salmon, and bull trout. Candidates for listing include Puget Sound/Strait of Georgia coho salmon and Lower Columbia River/Southwest Washington coho salmon. Several marine species are currently proposed for listing.

Each county and city in western Washington that has a listing can use this handbook to help understand how the recent salmonid listings may affect it and what options it has for responding. Other city and county governments in the Northwest affected by these listings may also find the information useful.

Using a question and answer format, the main section of the handbook provides general information on how local governments may be affected by the recent **salmonid** listings, and how they can work to comply with the ESA. As the ESA is only one tool in an overall effort to recover wild salmon to harvestable levels, we have included sidebars throughout the text that describe current opportunities for working at watershed and regional levels toward overall salmon recovery. Throughout the text, we have included reference materials and suggestions about where to go for more information.

Following this main section, we have included maps of the areas affected by each listing; a list of the cities, counties and tribes within these areas; and information on the status and critical habitat for each listing. Because the ESA has brought with it a whole host of new terms and acronyms text highlighted in bold can be found in the glossary. Reference materials in the appendix section include a list of helpful websites, a copy of the Endangered Species Act, and copies of the Federal Register notices that detail the **4(d) rule** for 14 **Evolutionarily Significant Units** (ESU) and the critical habitat for 19 ESUs.

Several factors compelled LLTK to develop this handbook:

- Salmon survival is dependent on the existence of multiple habitats, from eel grass beds in estuaries to clean gravel in spawning streams. Maintaining or restoring these

¹ Long Live the Kings (LLTK) is a private non-profit organization dedicated to restoring wild salmon to the waters of the Pacific Northwest. Since 1986, LLTK has created on-the-ground and in-the-river recovery projects designed to rescue and rebuild imperiled salmon runs. LLTK is known for developing and demonstrating innovative fish rearing techniques, helping local communities establish watershed recovery plans, and creating community-based partnerships between tribal, business, government and non-profit leaders. In recent years, LLTK has gained a reputation for involving strategic and innovative thinkers and for stimulating private sector involvement in long-standing salmon management and recovery challenges. Visit www.longlivethekings.org for more information.

habitats will require locally based solutions, suited to the needs of each stream or river. In Washington state, it is local governments that have the power to regulate land use and surface water. These are critical tools for salmon restoration. We hope this handbook will help enable local governments to effectively use these tools toward salmon recovery.

- Because of the limited regulatory reach of the ESA, compliance will not automatically ensure the recovery of a listed species to harvestable levels. The power of the Act is in its ability to prevent further harm to a species and to develop a long-term, federally driven recovery plan to achieve conservation of the species. Recovering wild salmon as part of our fishery resources can be achieved only through local and regional, multi-jurisdictional efforts working together toward a shared goal. The ESA is only one tool to help recover salmon. By providing information on watershed and regional efforts, we encourage local governments to go beyond compliance and help recover wild salmon.
- The ESA is constructed to directly affect federal land and projects. The enforcement mechanisms do not work efficiently to protect listed species on non-federal and private land. There is no reward system that encourages non-federal and private landowners to protect listed species and their habitats. The future of wild salmon depends on what we choose to do now at the local level, rather than what the federal government will seek to impose over time.

The ESA is likely to constrain the activities of both private individuals and local governments. It is too early to predict the precise impact of salmon listings on all non-federal activities. In July 2000, NMFS published its rule outlining activities harmful to salmon that will be prohibited (see **4(d) rule** in Appendix 3). As is the case with most federal remedies, it is a blunt instrument not well designed for local circumstances. LLTK believes that salmon recovery is too important to leave to federal or state level tools alone. It is up to landowners, fishers, citizens and their local governments to assume responsibility at the local level to ensure our rivers and estuaries remain available for salmon to come home to spawn in.

In the face of current (and future) ESA listings, local governments face important responsibilities and increased costs while armed with few answers. However, a number of important steps can be taken that eventually will protect both salmon and local governments. They include:

- Conducting an inventory of activities both undertaken and permitted to determine the risk of “**take**” (see question 5);
- Working with other local governments and state agencies to analyze the function of existing land use and regulatory programs;
- Working with local Water Resource Inventory Area (WRIA) and Watershed Councils to identify priority recovery projects (see Sidebar 4 on page 23);

- Identifying sources and processes for funding salmon recovery programs such as the Salmon Recovery Funding Board (see Sidebar 4 on page 23);
- Developing programmatic consultation procedures for local government activities subject to Section 7 consultation (see pages 35 - 41);
- Working with NMFS and USFWS to determine local government responsibilities under the ESA (see question 10); and
- Educating local government employees and citizens about the ESA and what it means for the community.

In any event, proactive efforts to reduce impacts on salmon will lessen the likelihood that private projects and local government decisions will be disrupted by the listing of salmon under the ESA, all while allowing local governments to fulfill their important role in protecting and restoring Washington's fishery resources.

