NOAA Finding of No Significant Impact for the Damage Assessment and Restoration Plan and Environmental Assessment for the January 11, 2010 Adak Petroleum Diesel Spill, and Proposed Helmet Creek Restoration Action

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

National Environmental Policy Act (NEPA) regulations, 42 U.S.C. § 4321; 40 C.F.R. Parts 1500-1508, require that the significant environmental impacts of a proposed federal action be considered before implementation. Likewise, the Council on Environmental Quality (CEQ) regulations require a consideration of the context and intensity of the proposed federal action, in reference to ten criteria listed below. (40 C.F.R. § 1508.27) In addition, the National Oceanic and Atmospheric Administration (NOAA) Administrative Order (NAO) 216-6 provides criteria for determining whether the impacts of a proposed action are significant. Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?

No, NOAA believes that the proposed restoration projects would have no adverse effect on any Essential Fish Habitat (EFH), and are intended to beneficially restore EFH and enhance these federally managed fishery resources. Additionally, the proposed work is covered under a programmatic EFH consultation (NOAA's August 20, 2012 Memorandum, *Essential Fish Habitat Programmatic Consultation for Restoration Center Program Activities in Alaska*). NOAA completed an EFH consultation and the proposed restoration actions have been determined to fall within the best management practices of the programmatic EFH consultation.

2) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

No, the proposed project has been designed to restore natural resources and their services injured by the spill into Helmet Creek and associated wetlands and habitats on Adak Island. While the project will restore and increase biodiversity and some trophic fishery functions to this area, it is at a relatively small scale and will not be substantial at an ecosystem-wide level of magnitude.

3) Can the proposed action reasonably be expected to significantly affect public health or safety?

No. There are no anticipated significant effects of the proposed restoration project on public health and safety. Prior to any disturbance from construction activities

and removal of soil (and during the proposed restoration activities), the Trustees will require that sampling be undertaken in both the stream bank and the creek. If there is any discovery of unexploded ordnance (UXO) or potential environmental contamination during the restoration activities, work would be halted at that location and the Navy will be notified. Also, any work in the area will be performed following U.S. Navy's protocol regarding precautions for work in areas that may contain possible UXO.

4) Can the proposed action reasonably be expected to have a significant impact on endangered or threatened species, or their critical habitat as defined under the Endangered Species Act of 1973?

No. It is not anticipated that the proposed restoration activity will negatively affect the Endangered Species Act (ESA) listed Kittlitz's Murrelet (*Brachyramphus brevirostris*) and threatened Steller's Eider (*Polysticta stelleri*). The area in which the restoration occurs is not a known nesting location of these species; there is no evidence that either of these species have been recent inhabitants of the area proposed for restoration. Also, the ESA-listed Aleutian shield fern (*Polystichum aleuticum*) is not known to occur in the area that may be affected by the proposed restoration project. The candidate species for ESA listing, yellow-billed loon will not be directly affected by project construction activity, as the construction will occur upstream in Helmet Creek. In addition, NOAA noted that marine mammals, such as the federally-listed Stellar sea lion *(Eumetopias jubatus),* northern sea otter (*Enhydra lutris kenyoni*) and Pacific harbor seal *(Phoca vitulina),* may use Sweeper Cove – which is in the vicinity of the Helmet Creek restoration but would not be affected by the proposed restoration activities. Trustees agreed that, if these species are seen in the restoration project area, activities will be postponed; however, this is unlikely because restoration work will occur well upstream of Sweeper Cove. Finally, silt fences will be used to mitigate potential adverse impacts of construction activities whenever it is determined that restoration work may result in runoff that could increase the turbidity of water draining into Sweeper Cove.

5) Are significant social or economic impacts interrelated with natural or physical environmental effects?

No. There are no significant social or economic impacts expected to result from the implementation of this project. The project area is not located in a heavily used recreation area and the construction phase would be short in duration. Further, no substantial social or economic effects are likely to be related to effects on other natural or physical resources. Cumulative impacts would be largely positive, and potentially include increased osmoregulation and greater opportunity for fish spawning. Social and economic benefits could occur from increased fish populations, however, this benefit would be constricted to one section of Helmet Creek, where the ecological value of this proposal would be very limited.

6) Are the proposed action's effects on the quality of the human environment likely to be highly controversial?

No. The environmental impacts of the selected restoration projects are not controversial. These natural resource restoration projects will benefit both the injured natural resources and local communities. The goal of the proposed action is to improve fish passage, water quality, and in-stream flow in a salmonid-bearing stream, as well as enhance salmon rearing capabilities, while improving water quality. In accordance with State and Federal permit conditions, in-water work would be timed to minimize impacts to fish species, and it would be conducted during regulated seasonal time periods when no major fish runs occur. Any adverse impacts would be very minor and short-term, however, there would be long-term ecological and environmental benefits provided by improved habitat, spawning and nesting opportunities resulting from the proposed restoration.

7) Can the proposed action reasonably be expected to result in significant impacts to unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas?

No. The projects involved with the Helmet Creek Restoration Alternative will not diminish the unique characteristics of ecological resources, such as wetlands, wild scenery or critical areas. Instead, the proposed work is expected to benefit injured resources by removing barriers to fish passage (which currently trap juvenile fish) and uplift areas that are unsuitable for fish rearing. This will be accomplished by removing degrading barrels and possible sources of stream contamination. Also, this Restoration Alternative will improve fish passage, availability of overwintering habitat and water quality. The removal of unstable stream bank material is expected to protect against future degradation of the stream.

8) Are the proposed action's effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

No. The natural resource restoration projects that would be implemented by this proposed action are the usual and customary projects used to restore aquatic habitats to address injury to natural resources. There is no uncertainty or unique or unknown risks from the proposed projects. In the short term, the localized and temporary sound of machinery and equipment used during construction and other restoration activities could negatively disturb wildlife and humans. Likewise, public access could be temporarily disrupted during proposed construction activities, but since the preferred projects are not located in heavily used recreation areas, any adverse effects would be minimal. In addition, implementation time for these projects would be relatively short and any negative impact on recreational activities would be minor and temporary.

9) Is the proposed action related to other actions that when considered together will have individually insignificant but cumulatively significant impacts?

No. Since the Trustees proposed projects are expected to improve the recovery of injured natural resources and services in a localized area, any cumulative environmental consequences are expected to be beneficial and not significant. These cumulative impacts include restoration of the injured ecosystem by increasing fish, invertebrate and wildlife habitats. The proposed projects could also provide educational opportunities.

10) Can the proposed action reasonably be expected to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources?

No. Although the former Adak Army and Naval Operations Base is a National Historic Landmark, the proposed projects would not adversely affect this site or any other known archaeological or culturally significant sites. The project managers have consulted with the State Office of Archaeology and Historic Preservation to ensure that any historic sites would remain undisturbed by the proposed restoration actions. There are no significant scientific or cultural resources present in the proposed project area.

11) Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

No. The proposed restoration action will avoid the proliferation of non-native and invasive species by requiring scheduled planting of an approved native seed mixture in disturbed soil.

12) Can the proposed action reasonably be expected to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

No. The natural resource restoration projects that would be implemented by this proposed action are the usual and customary projects used to restore aquatic habitats to address injury to natural resources. Fish passage and river restoration projects have been implemented previously for unrelated actions through funding provided by the Trustee agencies and project partners involved. We are not expecting uncertain, unique or unknown risks from these types of projects. A decision on this action does not set a precedent or represent a decision in principle about any future considerations. Any future actions that are not part of the proposed action would be independently reviewed and analyzed under NEPA.

13) Can the proposed action reasonably be expected to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection?

No. It is not anticipated that the proposed Helmet Creek restoration will involve a violation of federal, state or local laws or regulations. The Adak Restoration Plan/Environmental Assessment, as well as more detailed work plans, will outline applicable legal and regulatory requirements that must be met before, during and after

restoration. The Trustees will also oversee the implementation of the proposed restoration to ensure that legal requirements of the work plans are met.

14) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

No. This natural resource restoration project is designed to address the injury which has occurred to natural resources from the spill. Completion of this project will result in a net benefit to the injured natural resources and provide beneficial services to the affected area on Adak Island. No cumulative adverse effects are expected.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for the Helmet Creek restoration at the Adak oil spill site, it is hereby determined that the proposed restoration plan will not significantly impact the quality of the human environment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an environmental impact statement for this action is not necessary.

Frederick C. Sutter
Director, Office of Habitat Conservation

5/29/13
Date