



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
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Finding of No Significant Impact (FONSI)

Shasta River Template Safe Harbor Agreement Klamath River Basin, California

Background

NOAA's National Marine Fisheries Service (NMFS) prepared this Finding of No Significant Impact (FONSI) according to the guidelines and the National Oceanic and Atmospheric Administration's (NOAA) Administrative Order (NAO) 216-6, as amended, concerning requirements for compliance with the National Environmental Policy Act (NEPA). The environmental effects analysis in the attached environmental assessment (EA) dated November 19, 2020, supports this FONSI. NMFS also prepared the EA in accordance with the requirements of NEPA and agency guidelines.

Proposed Action

The proposed Federal action is issuance of fourteen Endangered Species Act (ESA) section 10(a)(1)(A) Enhancement of Survival Permits (ESPs) to Applicants listed in Table 1 of the EA in the Shasta River basin (Applicants), Siskiyou County, California. Under the proposed action, NMFS would enter into the Template Safe Harbor Agreement for Conservation of Coho Salmon in the Shasta River (Agreement), 14 related Site Plan Agreements, and issue the ESPs pursuant to ESA Section 10(a)(1)(A), in accordance with NEPA policy and guidelines.

Additional Description

Collectively, the Applicants own approximately 25,050 acres in the Shasta River basin and manage land and water for livestock and hay production. Grenada Irrigation District and Edson Foulke Ditch Company manage water and do not own an Enrolled Property. The ESPs, Agreement, Site Plan Agreements, and related ESA biological opinion include terms and conditions, an adaptive management program, and emergency, monitoring, and reporting requirements to achieve a net conservation benefit for the Southern Oregon Northern California Coast (SONCC) Evolutionarily Significant Unit (ESU) of coho salmon (the Covered Species), which is listed as threatened under the ESA.

NMFS would issue the permits for a 20-year period. The Covered Area encompasses the extent of the properties enrolled in the Agreement as shown in Figure 1 of the EA.

The Agreement and Site Plan Agreements were made and would be entered into by NMFS, the California Department of Fish and Wildlife (CDFW), and the Applicants listed in Table 1 of the EA. The Agreement establishes the general requirements for NMFS, under authority of ESA section 10(a)(1)(A) and implementing rule and policy, to issue ESPs to nonfederal landowners in the Shasta River basin for the purpose of promoting the conservation, enhancement of survival and recovery of the Covered Species.



Covered Activities include land and water management (referred to in the Agreement as Routine Agricultural Activities), including water diversion and delivery, wildlife, fisheries, and habitat management, and ranching operations including water diversions. The Agreement and Site Plan Agreements provide assurances to the non-federal landowners that future return of their lands back to Baseline Conditions or Elevated Baseline Condition (if specified) is authorized.

The ESPs authorize incidental take associated with the activities described in the Agreement and Site Plan Agreements. Section 10(a)(1)(A) of the ESA provides for the issuance of permits for any act that would otherwise be prohibited by ESA section 9, if the act would enhance the propagation or survival of the affected species. NMFS provides assurances through the ESPs that no new restrictions beyond those in the Agreement, Site Plan Agreements, and ESPs would be placed on the use of the Enrolled Properties should the Covered Species become more numerous as a result of the Covered Activities. The ESPs would assure the Applicants that no commitments of resources beyond what is agreed to in the Agreement and Site Plan Agreements would be required. The term of the Agreement, Site Plan Agreements, and proposed ESPs is 20 years from the time of signing, with potential extensions as described in the Agreement and Site Plan Agreements.

Alternatives Evaluated in the Environmental Assessment

Alternative 1: Issue Enhancement of Survival Permits (as described above).

Alternative 2: No Action. Under the No Action Alternative, NMFS would not issue ESPs and the voluntary Beneficial Management Activities (BMAs) identified in the Agreement and Site Plan Agreements would not be required to occur in the Covered Area. Beyond those actions currently included in the baseline (e.g. Montague Water Conservation District Conservation and Habitat Enhancement and Restoration Project), restoration, enhancement, and changes to operations and maintenance activities in the Shasta River watershed for the Covered Species in the Covered Area would not occur. This alternative is the baseline against which the action alternative is compared in the analysis of environmental consequences.

Selected Alternative

Alternative 1: Issue fourteen Enhancement of Survival Permits.

Conservation Measures / Terms & Conditions / Mitigation Measures / Measures to Reduce Impacts

Conservation efforts on non-federal properties are essential to the survival and recovery of the Covered Species because these properties provide significant portions of current and potential habitat. Safe Harbor Agreements provide an ESA mechanism and incentive to encourage proactive species conservation efforts by private and other non-federal property owners. Implementation and adherence to the following Template Safe Harbor Agreement components will reduce impacts and contribute to the recovery of the Covered Species:

- Diversion Reduction Schedules that will result in more water instream to benefit the Covered Species.

- BMAs (described in individual Site Plan Agreements for each Applicant) that conserve water and enhance instream and riparian habitat for the benefit of the Covered Species.
- Forbearance Agreement that ensures conserved water stays instream for the benefit of the Covered Species.
- Avoidance and Minimization Measures (AMMs) that minimize impacts from implementation of Routine Agricultural Activities and BMAs.
- Adaptive Management Program designed to improve understanding of how the system may respond to actions so as to achieve goals of the habitat enhancement.
- Terms and conditions described in the biological opinion including timely implementation of restorative actions.

Related Consultations

NMFS has completed an ESA section 7 and Essential Fish Habitat (EFH) consultation (NMFS 2020a) on the issuance of the ESPs to the Applicants for implementing the Agreement and Site Plan Agreements. NMFS has determined that the issuance of the ESPs will not jeopardize SONCC coho salmon or adversely modify their designated critical habitat. No adverse effects to EFH are identified.

NMFS issued a Federal Register Notice (FR 55145 October 15, 2019) in 2019 announcing receipt of the ESP applications under the ESA and received comments from Tribes (Karuk Tribe, Quartz Valley Indian Rancheria, Yurok Tribe) as well as the Shasta Valley Resource Conservation District, Siskiyou County Board of Supervisors, California Farm Bureau, Scott Valley and Shasta Valley Water Master Districts, Pacific Coast Federation of Fishermen Association as well as interested citizens and consultants. Comments were reviewed in detail and resulted in changes to the proposed actions.

NMFS contacted the Native American Heritage Commission for a review of the Sacred Lands File and invited Federally-recognized tribes (Karuk Tribe, Yurok, Pit River Tribe, and Quartz Valley Tribe) to consult on this undertaking. Non-federally recognized Tribes were also contacted (Klamath Tribe, Modoc Tribe, Shasta Indian Nation, Shasta Nation, Winnemem Wintu Tribe, and Wintu Tribe).

Cultural resources reports were completed for each Applicant and contain findings and management considerations to be implemented including archeological monitoring during significant ground-disturbing activities, such as use of heavy equipment. Archival research and an intensive survey of the Area of Potential Effects (APEs) resulted in the documentation of prehistoric and historic-era sites and artifacts. An evaluation of these resources indicated that none appear to retain the associations or characteristics that make them historically or scientifically important and none are recommended eligible per National Register of Historic Places (NRHP) criteria. Consequently, per the NHPA, no historic properties are contained within the APEs and no additional study or mitigation of project effects on these resources is necessary. NMFS completed consultation with the California State Historic Preservation Office (SHPO), and concluded that no historic properties would be affected by the proposed action; pursuant to 36 CFR § 800.4(d)(1), the SHPO does not object (SHPO 2020).

Significance Review

The Council on Environmental Quality (CEQ) Regulations state that the determination of significance using an analysis of effects requires examination of both context and intensity, and lists ten criteria for intensity (40 C.F.R. § 1508.27). In addition, the Companion Manual for National Oceanic and Atmospheric Administration Administrative Order 216-6A provides sixteen criteria, the same ten as the CEQ Regulations and six additional, 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 both beneficial and adverse impacts that overall may result in a significant effect, even if the effect will be beneficial?

Yes. NMFS has determined the proposed action will have benefits to the Covered Species and habitat through projects designed to improve habitat conditions including water quality, water quantity, and riparian habitat. Benefits to other species that depend on aquatic and riparian habitat are expected including bird species. Benefits to riparian vegetation and wetland habitats are also expected to occur. The EA (NMFS 2020b) and supporting analyses did not identify any adverse impacts that, after implementation of AMMs, remained significant. No significant irreversible adverse effects were identified associated with the proposed action. In summary, we expect the proposed action to result in beneficial effects to the Covered Species and habitat associated with implementation of the proposed conservation measures and BMAs included in the Safe Harbor Agreement and Site Plan Agreements.

2. Can the proposed action reasonably be expected to significantly affect public health or safety?

No. NMFS does not expect the proposed action to adversely affect public health or safety because the Covered Activities are generally restorative to the environment. The proposed action will not change road traffic, or result in increased pollution or noise. The proposed action would improve water quality and riparian habitat. AMMs would be implemented for all Covered Activities to reduce adverse effects to an insignificant level and to achieve a net conservation benefit for the Covered Species.

3. 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 project area includes unique watershed and species characteristics, including wetland, riverine habitats, and species dependent on those habitats including ESA-listed SONCC coho salmon. The proposed action is expected to have beneficial effects on water quality, water quantity, and riparian habitat. It will implement restorative actions

that will improve existing conditions for the Covered Species but would not change the unique characteristics of the geographic area.

Within the Covered Area, Alternative 1 (the selected alternative) is expected to result in improved instream and riparian habitat conditions for each life stage of SONCC coho salmon and their Critical Habitat including juvenile outmigration, adult migration, juvenile rearing, and spawning. Alternative 1 is expected to result in a net conservation benefit for SONCC coho salmon and contribute to the recovery of the species.

Three plant species listed as endangered under the ESA were identified as potentially occurring in the Covered Area. However, there is no record of them actually having been identified in the Covered Area, and critical habitat has not been designated for these plant species. Therefore, it is reasonable to conclude that Alternative 1 will not affect listed plant species.

Many of the BMAs included in the proposed action are designed to enhance the quantity and quality of waterways including adjacent riparian and wetland habitat. Restoration actions include reconnecting historic river oxbows so that aquatic species can utilize these important habitats that have previously been inaccessible, increasing cold water refugia, installation of large wood to increase instream habitat complexity, planting and protecting riparian revegetation to improve bank stability and stream shade, installation of livestock exclusion fencing/off-channel stock watering to reduce impacts from cattle, and creation of off-channel habitat areas for winter refugia. Therefore, it is expected that Alternative 1 would provide multiple benefits and would positively affect aquatic habitats including riparian and wetland habitat in the Covered Area.

Cultural resources reports were completed for each Applicant and contain findings and management considerations to be implemented including archeological monitoring during significant ground-disturbing activities. Archival research and an intensive survey of the APE's resulted in the documentation of prehistoric and historic-era sites and artifacts. An evaluation of these resources indicated that none appear to retain the associations or characteristics that make them historically or scientifically important and none are recommended eligible per National Register of Historic Places (NRHP) criteria. Consequently, per the NHPA, no historic properties are contained with the APE's and no additional study or mitigation of project effects on these resources is necessary.

The Covered Area consists primarily of existing private agricultural lands. One of the Covered Activities under Alternative 1 is Routine Agricultural Activities, modified to reduce adverse effects through the AMMs. The action would authorize incidental take of SONCC coho salmon that may occur from Covered Activities while providing a net conservation benefit to Covered Species and safe harbor assurances to the Applicants that allow continued operation of farming and ranching on agricultural lands in the Covered Area.

4. *Are the proposed action's effects on the quality of the human environment likely to be highly controversial?*

No. The analysis of effects did not find that effects are not likely to be unknown or unique. NMFS coordinated with interested and affected parties including agencies and individuals with specific jurisdiction and expertise. The Site Plan Agreements, Agreement, and related documents were made available for a public comment period from October 15, 2019 to December 31, 2019 ((84 FR 59358 (November 4, 2019), 84 FR 55145 (October 15, 2019)). NMFS considered these comments received on the Federal Register Notice. Each public and Tribal comment received was considered by NMFS and some changes to the Safe Harbor Agreement and/or Site Plan Agreements were made based on public and Tribal comments. The manner in which comments were considered and incorporated into Site Plan Agreements is described in Appendix B of the EA. This process addressed controversy over the proposed action's effects to the quality of the human environment and further controversy is not likely.

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

No. The project would not affect the human environment in highly uncertain or unknown ways. The proposed action includes a wide range of conservation actions including water demand reductions, and projects that are regarded as high priority recovery actions, described in NMFS' SONCC coho salmon recovery plan under the ESA. The proposed BMAs include conservation actions that have been well studied and implemented for other efforts including for other safe harbor agreements. There are no unknown risks associated with implementation of the proposed action. Any uncertainty regarding habitat responses to water conservation and habitat enhancement is addressed through monitoring and adaptive management, which will provide feedback that can be used to adjust actions in the future, if appropriate.

6. *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 proposed action does not establish a precedent for future actions because NMFS has completed other Safe Harbor Agreements in California including for individual landowners and a programmatic Safe Harbor Agreement for Dry Creek in the Russian River. The proposed action does not represent a decision in principle about any future considerations because the Covered Actions are confined to a specific Covered Area as described in the Agreement and Site Plan Agreements.

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

No. NMFS' EA considers cumulative impacts and evaluated the proposed action while considering past, present, and reasonably foreseeable future actions, including other

activities occurring in the Covered Area. The issuance of the ESPs would not result in the irretrievable or irrecoverable loss of resources. A decision to issue the ESPs would not automatically result in the approval of future projects. Future permit applications, if any, would be subject to independent environmental evaluation, coordination with others, and permitting procedures.

8. *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. The proposed action is not likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or significant scientific, cultural, or historical resources. The project would not increase existing ongoing traffic levels.

Cultural resources reports were completed for each Applicant and contain findings and management considerations to be implemented including archeological monitoring during significant ground-disturbing activities, such as use of heavy equipment. Archival research and an intensive survey of the APE's resulted in the documentation of prehistoric and historic-era sites and artifacts. An evaluation of these resources indicated that none appear to retain the associations or characteristics that make them historically or scientifically important and none are recommended eligible per National Register of Historic Places (NRHP) criteria. Consequently, per the NHPA, no historic properties are contained within the APE's and no additional study or mitigation of project effects on these resources is necessary.

9. *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. NMFS does not expect the activity to adversely affect ESA-listed species or their designated critical habitat. Protected species that occur in the project area are described in the EA and potential impacts to listed species are evaluated (NMFS 2020a).

NMFS expects a significant benefit to all life stages of ESA-listed SONCC coho salmon through implementation of the BMAs proposed to improve habitat conditions (e.g. water quality and water quantity) that occur in the Covered Area.

Various ESA listed non-fish species may be found in the Covered Area, including:

- Yellow-billed Cuckoo (*Coccyzus americanus*, ESA - Threatened),
- the Northern Spotted Owl (*Strix occidentalis caurina*, ESA - Threatened),
- Greater Sandhill Crane (*Antigone canadensis tabida*, CESA - Threatened),
- Bank Swallow (*Riparia riparia*, CESA - Threatened),
- the wolf (*Canis lupis*, ESA - Endangered),
- the fisher (*Pekania pennanti*, ESA -Threatened),

- the North American wolverine (*Gulo gulo luscus*, ESA - Threatened),
- the Conservancy Fairy Shrimp (*Branchinecta conservatioi*, ESA - Threatened),
- the Vernal Pool Tadpole Shrimp (*Lepidurus packardi*, ESA - Endangered),
- the Vernal Pool Fairy Shrimp (*Branchinecta lynchi*, ESA - Endangered),
- and, the Oregon Spotted Frog (*Rana pretiosa*, ESA - Threatened).

However, as described in the EA, the selected alternative is expected to either not affect these species, or have a beneficial effect on these species.

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

No. Issuance of the permits would comply with Federal law and the proposal has undergone compliance reviews to ensure that the proposed action will not result in a violation of Federal, State, or local laws and requirements.

A General Condition required by the ESPs states, “The permit holder must obtain any other Federal, state, and local permits/authorizations necessary for the conduct of the activities provided for in this permit.”

11. Can the proposed action reasonably be expected to adversely affect stocks of marine mammals as defined in the Marine Mammal Protection Act?

No. Marine mammals do not occur in the Covered Area and are not expected to be adversely affected by the proposed action. Increased natural production of Shasta River salmon should increase the forage population of salmon in the Pacific Ocean and could increase the forage base for some marine mammal species occurring in marine ecosystems outside of the Covered Area.

12. Can the proposed action reasonably be expected to adversely affect managed fish species?

No. The proposed action will not adversely impact managed fish species. In contrast, the proposed action is a conservation program with the purpose of improving the viability of SONCC coho salmon and habitat in the Covered Area, which may indirectly benefit federally managed Chinook salmon.

13. Can the proposed action reasonably be expected to adversely affect essential fish habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act?

No. Ground disturbing activities associated with habitat enhancement projects may result in short term, localized increases in turbidity but not measurable adverse effects to EFH. The proposed action will improve EFH in the short- and long-term once projects are implemented. NMFS expects improvements to instream habitat, riparian habitat, habitat complexity, and water quality and water quantity.

14. Can the proposed action reasonably be expected to adversely affect vulnerable marine or coastal ecosystems, including but not limited to, deep coral ecosystems?

No. The proposed action will have no adverse effect on the marine environment or coastal ecosystems. The proposed action may increase the survival and reproduction of coho salmon in the Shasta River, which may increase their population in the ocean to the benefit of the marine ecosystem.

15. Can the proposed action reasonably be expected to adversely affect biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)?

No. NMFS does not expect the activities conducted under the permit to have a substantial effect on biodiversity or ecosystem function. Effectiveness and implementation monitoring will be conducted to assess the benefits of projects over time. NMFS expects improvements to water quality and quantity, which would improve ecosystem function and biodiversity in the Covered Area.

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

No. The Applicants will not introduce or spread non-indigenous species. Noxious weeds are a concern in the Covered Area and a non-native weed management program will be implemented by landowners. Additionally, the removal and/or management of water impoundments will reduce habitats for non-indigenous fishes and help eradicate them.

Determination

Based on the information in this document and the EA, and in view of the information contained in the supporting documents prepared for the proposed action, it is hereby determined that the issuance of the fourteen ESA section 10(a)(1)(A) Enhancement of Survival Permits for implementation of the Shasta River Template Safe Harbor Agreement and associated Site Plan Agreements will not significantly impact the quality of the human environment as described above and in the supporting EA. 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.



Barry A. Thom
Regional Administrator
West Coast Region
National Marine Fisheries Service

November 19, 2020

Date

References

National Marine Fisheries Service (NMFS). 2020a. Endangered Species Act (ESA) Section 7(a)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response: Issuance of Fourteen Section 10(a)(1)(A) Enhancement of Survival Permits associated with the “Template Safe Harbor Agreement for Conservation Coho Salmon in the Shasta River” and individual Site Plan Agreements, affecting private lands and state lands in the Upper Shasta River, Big Springs Creek, Parks Creek and their tributary streams in Siskiyou County, California. NMFS Consultation Number: WCRO-2020-02923.

National Marine Fisheries Service (NMFS). 2020b. Environmental Assessment Issuance of Fourteen 10(A)(1)(A) Enhancement of Survival Permits Associated with the Template Safe Harbor Agreement for the Conservation of Coho Salmon in the Shasta River Klamath River Basin, California. Prepared by NMFS Northern California Coastal Office, National Marine Fisheries Service, 1655 Heindon Road. Arcata, California 95521.

State Historic Preservation Officer (SHPO). 2020. Letter. From: Julianne Polanco, State Historic Preservation Officer. CA Department Of Parks and Recreation, Office of Historic Preservation. To: Alecia Van Atta. ARA, NMFS. Reply in Reference To: NOAA_2020_1110_001 Through NOAA_2020_1110_014. November 12, 2020.