Finding of No Significant Impact
for Issuance of a Protected Species Conservation and Recovery Grant to the Yurok Tribe (Award File 4720374) to Conduct Studies on Eulachon Smelt in Northwest California

National Marine Fisheries Service

The National Marine Fisheries Service, Office of Protected Resources (NMFS PR) proposes to provide financial assistance in the form of a grant to the Yurok Tribal Fisheries Program (YTFP) (Michael Belchik, P.I.). This award would be issued through the Protected Species Conservation and Recovery Grant Program (CFDA no. 11.472, Unallied Science Programs) authorized under the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*). This financial assistance award is planned to extend for three years (three annual payments) and is subject to semi-annual review by NMFS. The grant would support conservation activities for the ESA threatened eulachon smelt in northwest California.

In accordance with the National Environmental Policy Act (NEPA), as implemented by the regulations published by the Council on Environmental Quality and NAO 216-6, NMFS prepared an Environmental Assessment (EA) analyzing the impacts on the human environment associated with award issuance (*Issuance of a Protected Species Conservation and Recovery Grant to the Yurok Tribe (Award No. NA10NMF*4720374*) to Conduct Studies on Eulachon Smelt in Northwest California, June 2010).* The analyses in the EA support the following findings and determination.

The applicant is requesting funds to 1) determine the population status of eulachon in the Klamath River, Redwood Creek and the Mad River; 2) develop and implement an annual eulachon spawning stock biomass (SSB) estimate for the Klamath River that would allow managers to better track recovery and manage fishery impacts; 3) conduct egg and larvae surveys of known and potential spawning areas in the lower Klamath River, Mad River, and Redwood Creek in California to better characterize current eulachon smelt distribution and to inform NOAA Fisheries critical habitat decisions for the DPS; and 4) to clarify the genetic structure of eulachon populations in the Klamath, Redwood Creek and Mad Rivers.

The National Oceanic and Atmospheric Administration's Administrative Order 216-6 (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) NEPA implementing regulations at 40 C.F.R. 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

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

   Response: The project's proposed research activity, including boating and netting activities, would not take place in national marine sanctuaries. Also, no coral reef ecosystems occur in the action area and thus none would be affected. However, designated EFH would overlap with a section of the proposed action area. Although researcher's boats would pass through and over the water column in the action area where EFH does exist, NMFS determined this portion of the researcher's activities would not adversely impact the physical environment, including any portion considered EFH.

   NMFS PR requested concurrence on whether the proposed action as conditioned would have adverse impacts or not on designated EFH in the action area. The NMFS, Southwest Office of Habitat Conservation was contacted and agreed by email that the proposed boating and netting activities would have no more than minimal impact to EFH.

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.)?

   Response: No substantial impact on biodiversity or ecosystem function within the affected area is expected. The impact from the use of boat anchors is expected to be minimal.

   Due to the nature of netting, the researchers would expect that other non-target species may become enmeshed. Other non-target species collected in the past during netting activities include salmonids and three-spine sticklebacks. Non-target fish would be released if captured, minimizing any impacts.

3. Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

   Response: Issuance of this award is not expected to have substantial adverse impacts on public health or safety that could reasonably be expected by the proposed research activities. This action would involve the use of ethanol pre-measured in vials for preservation, storage, and transportation of tissue samples. All handling would be conducted by trained personnel.

4. Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

   Response: The proposed research activities will cause mortality of some individual eulachon, but the effects are not expected to have adverse population-level impacts.

   The award activities require the applicant to follow NMFS research and mitigation protocols to minimize mortality, stress, and harmful effects. NMFS determined in a BiOp issued by the Office of Protected Resources after completion of a formal ESA Section 7 consultation that

eulachon, salmon, steelhead, and green sturgeon would be adversely affected but not jeopardized by this action, nor would critical habitat be adversely modified.

It is possible that this action may have adverse impacts on salmonids although nets would be checked at short intervals to ensure the quick release of any salmon, steelhead, or green sturgeon. NMFS believes that salmonids captured in a net during eulachon research would result in short-term stresses and pose a potential risk to the individual salmon or steelhead but are not likely to result in serious injury or mortality.

In the unlikely event that marine mammals or marine birds are encountered while netting, researchers would be directed by award conditions to avoid contact with these animals. If researchers do come into contact with any of the aforementioned animals, either through boating or netting activities, the Office of Protected Resources suggested appropriate precautionary measures that would be required. Namely, netting would not be deployed when animals are observed within the vicinity of the research; and animals would be allowed to either leave or pass through the area safely before net setting is initiated. Also, in all boating activities, researchers would be advised to watch for marine mammals to avoid harassment or interaction.

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

   Response: There would be no significant social or economic impacts interrelated with natural or physical environmental effects because communities are not dependent upon the target and non-target species within the scope of the proposed action. Therefore, there are no social or economic impacts interrelated with natural or physical environmental effects.

6. Are the effects on the quality of the human environment likely to be highly controversial?

   Response: The effects on the quality of the human environment are not likely to be controversial. This project is similar to other existing projects that have negligible effects on the human environment and are not controversial.

7. Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?

   Response: The activities in this proposed award would not be expected to result in significant impacts to any unique areas mentioned above. Similar research has been conducted in the proposed area that has not impacted unique areas.

8. Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

   Response: Potential risks of proposed research methods are not unique or unknown, nor is there significant uncertainty about impacts. Monitoring reports from other projects of a similar nature, and published scientific information of impacts on eulachon and other ESA listed

species indicate the proposed activities would not result in significant adverse impacts to the human environment or the species affected. There is considerable scientific information available on the likely impacts for the proposed action.

9. Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

   Response: Overall, the proposed action would be expected to have no more than short-term effects on eulachon populations and few effects on other aspects of the environment. The incremental impact of the action when added to other past, present, and reasonably foreseeable future actions discussed in the environmental assessment would be minimal and not significant.

10. Is the proposed action likely 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?

    Response: The action would not adversely affect any district, site, highway, structure, or object listed in or eligible for listing in the National Register of Historic Places. The proposed action would also not cause loss or destruction of significant scientific, cultural or historical resources. The proposed action will not occur in the aforementioned areas.

11. Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

    Response: The U.S. Geological Survey has documented several aquatic nuisance species occurring in the action area having potential to be spread by the actions of the proposed research. However, the applicant has agreed to follow certain conditions proposed by NMFS to minimize the potential spread of these aquatic nuisance species. Therefore, the proposed research activities would not be expected to result in the introduction or spread of non-indigenous species to other watersheds.

12. Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

    Response: The decision to issue this award would not be precedent setting and would not affect any future decisions. NMFS has issued numerous awards to study eulachon. Issuance of an award to a specific individual or organization for a given research activity does not in any way guarantee or imply NMFS would authorize other individuals or organizations to conduct the same research activity. Any future request received, including those by the applicant, would be evaluated upon its own merits relative to the criteria established in the MMPA, ESA, and NMFS' implementing regulations.

13. Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

Response: Issuance of the proposed award is not expected to violate any Federal, State, or local laws for environmental protection. This award would not relieve the applicant of the responsibility to comply with other Federal, State, local, or international laws or regulations.

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?

    Response: The proposed procedures would have adverse impacts on individual eulachon, however the population effects are not anticipated to be significantly adverse. Because eulachon have high natural mortality and sampling would only target a small percentage of the total population, the cumulative effects on the species are not likely long-term or significant.

    Likewise, it is possible that this action may have adverse impacts on individual salmon, steelhead or green sturgeon although such interactions are expected to be minimal. Because there are award conditions placed on the researchers to minimize impacts to salmonids and green sturgeon, NMFS believes that salmonids or green sturgeon captured in a net during this research would be subject to short-term stress which could pose a potential low-level risk, but is not likely to result in serious injury or mortality.

    NMFS also considered impacts of potential marine mammal and seabird interactions during eulachon research. Although interactions with marine mammals or marine birds would be considered rare based on historical records in the river, the award conditions state that nets would not be set if marine mammals are seen in the vicinity of the research, and also mandates that animals must be allowed to leave the area before the nets are set, minimizing potential adverse impacts to these species.

    A BiOp was prepared for this award and found that this action would not jeopardize the existence of any listed species nor result in adverse modification or destruction of designated or proposed critical habitat.

DETERMINATION

In view of the information presented in this document and the analysis contained in the Environmental Assessment (EA) prepared for Issuance of Award No. NA10NMF4720374 it is hereby determined that the issuance of Award No. NA10NMF4720374 will not significantly impact the quality of the human environment as described above. 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 Environment Impact Statement for this action is not necessary.

JUN 2 4 2010

James H. Lecky
Director, Office of Protected Resources

Date