Finding of No Significant Impact for the Funding of a Fish Processing Facility on the Yurok Indian Reservation in Requa, CA.

National Oceanic and Atmospheric Administration Administrative Order (NAO) 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) 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 following context criteria from NAO 216-6 and "context and intensity criteria" from the CEQ regulations:

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?

Response:
The proposed action will not cause substantial damage to the estuary, ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson-Stevens Act and identified in Fisheries Management Plans. The proposed facility site location is within the Yurok Tribe's Requa Resort which is a highly disturbed and modified area. The entire Requa Resort (i.e., RV Park and campground and boat launch facilities) are built on fill and lined by a riprap wall approximately 6-8 feet high. The facility will be located adjacent to the Requa Resort's boat launch along the north bank of the Klamath River estuary. In addition, the facility is designed to protect water quality and minimize odor, noise, and light pollution, as well as maintain the scenic and recreational qualities of the area. There are two systems to treat waste water: 1) sanitary waste water will be treated using the existing campground septic system; 2) processing waste water will be treated using a series of filtering systems and a newly constructed on-site waste water treatment system. In this latter system, the solids will be removed from the fish processing waste water for rendering. There will be a slight increase in noise and light pollution from the operation of the facility and associated vehicle traffic. However, there are multiple features incorporated into the building design to minimize noise and light pollution. For example all lights will be shaded and the building walls will be sound insulated. There will also be a large reduction in odors because the Tribal fishers will not be cleaning and processing their catch in the RV Park and boat launch area. NMFS evaluated and determined that the odor, noise, and light pollution from the facility will not adversely impact the project area or cause substantial damage to the ocean and coastal habitats and/or essential fish habitat.

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:
There will not likely be any impacts on the biodiversity or the ecosystem function. All construction and facility operations will be conducted within an existing highly disturbed area, and subsequent operations will improve the existing fish processing operations (e.g., slightly improve water quality and reduce odors).

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

Response:

The facility is designed to protect public health or safety. For example, waste generated by the plant and workers will be properly processed and treated in order to protect public health and safety. All human waste associated with the plant will be processed using the existing septic tank and leach field at the adjacent campground. Liquid wastewater from the fish processing will require a manual screen and grease interceptor, with a discharge to a new leach field. Fish processing wastes will be screened and disposed offsite by a rendering company.

There are several natural hazards that can potentially impact public health and safety because of the proposed facility's location including tsunamis, Klamath River floods, and debris slides along the Requa and Requa Resort access roads. The Yurok Tribe is well aware of these hazards and has plans to keep their employees, members, and the public safe in the event of one of these events. For example, the Tribe participates in the North Coast tsunami drills and has evacuation plans for the entire reservation within Lower Klamath River including the Requa Resort. There are tsunami warning sirens within the project area to warn of a tsunami. The Tribe also has access to the National Weather Service's river forecasting system which has a specific forecast for the Klamath River at Klamath, California several miles upstream of the project area. In additional, the Tribe has an estimate of what flow will start to over top the Requa Resort's riprap wall based on the December 31, 2005 flood flow as describe in the EA; therefore can predict when to close the resort to humans. The Tribe and the local residents who live with the periodic debris slides on the Requa Road know that this can be a hazard when there are prolong or sudden high intensity rains but as long as the road is open this will be a possibility.

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 effects to endangered or threatened species and their habitats were evaluated during the NEPA process and during Endangered Species Act Section 7 consultations with the NMFS and the USFWS. NMFS concluded, through informal Section 7 consultation, that funding the proposed fish processing facility and restaurant, and its subsequent construction and use are not likely to adversely affect listed resources and will have no effect on the EFH within the action area. NMFS reached these conclusions after evaluating the potential stressors on the environment: 1) odors from the fresh fish processing, solid waste treatment and disposal, and the fish smoking processes; 2) light pollution from building, security, and vehicle lights; 3) noise from the facility operations (e.g. freezer machinery), vehicles, and facility construction; 4) waste

water effluent from the fish processing, human generate sewage, and stormwater pollutants from delivery, maintenance, employees, and restaurant pardons' vehicles. NMFS then examined each potential stressor for its effect, whether the listed species were exposed, if they respond to the exposure, and if there is a potential risk associated. Effects on the following species were evaluated: Southern Oregon and Northern California Coastal (SONCC) coho salmon (*Oncorhynchus kisutch*), Southern DPS green sturgeon (*Acipenser medirostris*), Southern DPS eulachon (*Thaleichthys pacificus*), Gray whales (*Eschrichtius robustus*), and Steller sea lions (*Eumetopias jubatus*). There is no designated critical habitat within the action area; therefore none can be affected.

The US Fish and Wildlife Service (USFWS) provided technical assistance to the Yurok Tribe, who evaluated the potential effects to federally-listed and federal candidate species and/or their potential habitats under the purview of the USFWS and determined that there would be no effect on within USGS's Requa quadrangle. The tidewater goby (Eucyclogobius newberryi) is potentially present in the lower Klamath River, but surveys have not located any within the area. The Tribe determined that waste water from the plant is well-addressed. The USFWS evaluated potential affects on northern spotted owl (Strix occidentalis caurina) and marbled murrelet (Brachyramphus marmoratus) under a previous project with the Indian Health Service in Requa, which concluded that the young-growth forest was not sufficiently developed to provide suitable habitat structure. There are no known breeding sites for either species within approximately one mile of the seashore. Repeated surveys found no suitable beach or river bar habitat for western snowy plover (Charadrius alexandrinus nivosus), and did not find and birds feeding or breeding. There is a large patch of unsurveyed riverine hardwood habitat on the south side of the Klamath River at the river's mouth that may be suitable habitat for western yellow-billed cuckoo (Coccyzus americanus). However, this area is separated by the width of the Klamath River estuary, over 3,500 feet. Pacific fisher (Martes pennanti) may or may not be present within forested areas around Requa, but most likely avoid the kind of high-density human use around the waterfront area, including project site, the adjacent RV park, the boat ramp and the resort.

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

Response:
There are no significant impacts from this project. However, the facility will provide multiple year round jobs and provide an extremely efficient way for Yurok Tribal fishers to preserve and process their Chinook Salmon harvest for market resulting in higher quality fish product and greater financial returns. These social and economic benefits have minor effects that interrelate with natural or physical environmental effects including: 1) the facility will capture and remove all solid fish waste which will improve the smell and reduce the dumping of this waste into the estuary which will improve the conditions during the fishing season; 2) the facility will slightly increase air, noise, and light pollution during construction and operations (i.e., traffic, machinery exhaust gases, and particulate matter from the fish smoking process) which will very slightly reduce the environmental quality of the project area; and 3) the facility is proposed to be located within an active earthquake area, a tsunami zone for a Cascadia Subduction Zone earthquake, and within the 40 to 50-year or greater recurrence interval flood zone of the Klamath River. Either of these potential disasters will likely damage or destroy the facility but are not expected

to result in substantial injury or loss of life, assuming the building is constructed in accordance with the appropriate building design codes and required warning systems are installed and used.

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

Response:
The effects are not likely to be highly controversial, primarily because the proposed project's economic and social benefits are positive regarding the human environment. No one has raised concerns to NOAA about any perceived harm to the physical environment that would result from this plant.

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

Response:
The proposed project's effects to historic or cultural resources, the Klamath River's recreational designation under the Wild and Scenic River Act, floodplain management and flood risk, and the ecologically critical Klamath River Estuary were evaluated, and NMFS determined that there would be no substantial impacts to these unique resources. The Requa Resort, where the facility will be located, is a high use area with an old quarry, RV park and campground, restroom and shower facility, small seasonal store, and boat launch. The addition of a fish processing facility fits with the human use of the area and is unlikely to result in substantial impacts to unique or ecologically critical areas.

Initially, there was concern regarding the scenic or visual and cultural aspects of building a facility along the estuary. However, the facility designers integrated, with extensive oversight and review from the Tribe, traditional Yurok Tribal architecture and cultural aspects into the designs to ensure the facility retains or improves the visual and scenic qualities of the project area. These architectural designs also help to insure the proposed project will not affect the Klamath River's recreational designation under the Wild and Scenic River Act.

The facility will be located within the 100-year recurrence interval floodway as mapped by FEMA and according to NMFS flood frequency and flood inundation analysis will likely began being inundated during a 40 to 50-year recurrence interval flood. The site location was historically a Klamath River gravel bar that has been built up using riprap and fills material over the last 50+ years. For example, FEMA provided funds to rebuild the Requa Resort and raise the ground surface and re-enforce the riprap after the January 1, 1997 flood (approximately a 40-year recurrence interval flood) which destroyed the majority of the Requa Resort. In an effort to find a location outside of the 100-year and preferably the 500-year recurrence interval flood zone, NMFS, in conjunction with the Yurok Tribe, evaluated all practical alternatives. After a thorough evaluation, described within the EA, NMFS and the Tribe could not find a practical alternative location that meets the purpose and needs of the proposed project, was accessible by Tribal commercial fishers, and was on Tribal land. Therefore, NMFS is deciding to provide funding for the Tribe to locate the facility within the 100-year recurrence interval flood zone.

The facility will be within a high use area within the ecologically critical Klamath River Estuary but the facility's engineering designs provide for adequately treated waste water and limited air, light, and noise pollution. The thorough analysis in the EA describes how the air pollution will not likely be discernible and the light and noise will be minimal.

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

Response:
The project is not especially unique or complicated; the potential direct and indirect effects are fairly easily described and analyzed. Given the area, there is a well-known potential for a large earthquake (>8M) and tsunami or a 50-year recurrence interval or greater flood to damage or destroy the Requa Resort and fish processing facility. Given their long history in this area, the Tribe is acutely aware of these potential events and has asserted that they will establish evacuation plans and safety measures to limit the impacts. Therefore, the effects on the human environment are known and do not involve unique or unknown risks.

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

Response:
The effects of this proposed action *when added to* the impacts of other past, present, and reasonably foreseeable future actions are expected to make no discernible change in the quality of the human environment. Multiple potential cumulative effects were examined including odors, light and noise pollution, and air and water quality shifts. The project area currently has extremely good air quality, and limited noise, odor, and light pollution; however, the Lower Klamath River water quality is poor. The facility designs will limit odors, light, and noise pollution and ensure the adequate treatment of waste water leaving the facility. The construction and operation of the facility will slightly increase air, noise, and light pollution but these net impacts (taking into account the positive effects, also discussed in the EA) are expected to be so minor relative to the overall conditions of the area that the change is not expected to be discernible.

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 project is within the external boundaries of the Yurok Indian Reservation, is on Tribal land, and falls under the jurisdiction of the Yurok Tribe's Heritage Preservation Officer (THPO), Robert McConnell. Yurok Cultural Resource staff investigated the proposed project site and prepared a cultural resources study, "*Cultural Resources Inventory for the Yurok Fish Plant Project, Requa, CA*" (Clayburn 2011). This report is confidential. There were no known

eligible cultural resources found within the Requa Resort area (Clayburn 2011). The report identified that the project is located within the potentially eligible Traditional Cultural Property (TCP), the Klamath Riverscape, but determined that the project will not have an adverse effect on this TCP. The final recommendation of the report is that the Lead Agency, NMFS, make a determination of "No Adverse Effect." The THPO reviewed the proposed project, architectural designs, and facility location and provided "technical assistance" to the Yurok Tribe and NOAA in their evaluation efforts. NMFS evaluated and determined that funding the proposed Yurok Tribe fish processing facility will result in No Adverse Effects to cultural resources eligible or potentially eligible for the National Register of Historic Places. The NHPA process was completed upon receipt of the THPO Concurrence on a Determination of Effect for NHPA (McConnell, 2011). As part of the evaluation process the following considerations were taken into account. The Yurok Tribe's Inadvertent Discovery Policy shall be followed in the event that Cultural Resources or Artifacts are discovered during project construction.

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

Response:
The proposed project is not expected to increase the potential for the introduction or spread non-indigenous species. The surrounding area is highly disturbed and contains numerous non-indigenous species (e.g. blackberries and pampas grass). The facility site will be cleared of invasive plants prior to construction and rehabilitation of lower Cannery Creek. Native vegetation will be plant around the facility and in the creek corridor.

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

Response:
NOAA knows of no plans by other Tribes or organizations in the area to construct fish processing facilities. Therefore, this project does not appear to be a precedent for any future action. Likewise, there is no decision in principal involved in this project related to any known future project.

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:
The action will not threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment. The action was evaluated for its effects and compliance with the Endangered Species Act, National Historic Preservation Act, the Clean Water Act, and the California Coastal Act. NMFS followed the NOAA draft Implementing Procedures for and the Executive Orders 11988 Floodplain Management and 11990 Protection of Wetlands to ensure that the project did not have adverse impacts.

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:
This facility is not expected to impact the level of harvest of any fish species, target or non-target. Therefore, the action will not result in cumulative adverse effects to any species.

References

Clayburn, R. 2011. *Cultural Resources Inventory for the Yurok Fish Plant, Requa, CA*. Report prepared for NHPA Compliance per 36CFR800.

McConnell, R. 2011. *Cultural Resources Inventory for the Yurok Fish Plant Project, Requa, CA*. Tribal Heritage Preservation Officer confidential letter for the Yurok Tribe.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for the fish processing facility proposed for construction by the Yurok Indian Tribe, it is hereby determined that the facility 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 EIS for this action is not necessary.

Barry A. Thom
Deputy Regional Administrator

April 25, 2012
Date