

Finding of No Significant Impact (FONSI)

Background

Proposed Action:

The proposed action is a determination by the National Marine Fisheries Service (NMFS) as to whether a Tribal Resource Management Plan (TRMP) submitted by the Hoopa Valley Tribe (HVT) meets the requirements of the Endangered Species Act (ESA) Tribal 4(d) Rule, including whether implementation of the TRMP would reduce the likelihood of survival and recovery of the Southern Oregon/Northern California Coast (SONCC) Coho Salmon Evolutionarily Significant Unit (ESU).

This FONSI and EA is being prepared using the 1978 CEQ National Environmental Policy Act (NEPA) Regulations. NEPA reviews initiated prior to the effective date of the 2020 CEQ regulations may be conducted using the 1978 version of the regulations. The effective date of the 2020 CEQ NEPA Regulations was September 14, 2020. This review began on August 11, 2020, and the agency has decided to proceed under the 1978 regulations.

Alternatives Evaluated in the Environmental Assessment:

- Alternative 1 (No Action) – NMFS does not issue a determination that the TRMP meets the requirements of the Tribal 4(d) Rule.
- Alternative 2 (Preferred Alternative) – NMFS issues a determination that the TRMP meets the requirements of the Tribal 4(d) Rule.

Selected Alternative:

Alternative 2 (Preferred Alternative) – NMFS issues a determination that the TRMP meets the requirements of the Tribal 4(d) Rule.

Related Consultations:

ESA and Essential Fish Habitat (EFH) consultations for the Proposed Action are documented in (NMFS 2022). The biological opinion concluded that the Proposed Action is not likely to jeopardize the continued existence of the SONCC Coho Salmon ESU. NMFS' Magnuson-Stevens Act (MSA) EFH consultation concluded that the Proposed Action is not likely to adversely affect designated EFH for Pacific salmon.

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 (1978)). 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?*

The Proposed Action is not expected to cause beneficial or adverse impacts that would result in a significant effect. The proposed action is a determination that the TRMP, as submitted by the HVT, meets the requirements of the Tribal 4(d) Rule. The fisheries and associated harvest levels resulting from implementation of the TRMP are similar to and within the range of those occurring over the last 20 years and will not have significant effects.

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

The Proposed Action will not affect public health and safety. The Proposed Action is a determination that the HVT TRMP meets the requirements of the Tribal 4(d) Rule. This will result in management of salmon fisheries by the HVT in freshwater areas. This would not affect federal, state, and local requirements for safe operation of fishing activities, and compliance with the operation of fisheries would not occur in a way that would affect safety or health.

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?*

The Proposed Action is not expected to result in significant impacts to any unique characteristics of the geographic area. No new infrastructure is proposed. The proposed action includes harvest of salmon and steelhead in tribal fisheries. As part of the fisheries a fishing weir will be installed temporarily. This weir has been installed in previous years and will not significantly affect the geographic area.

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

The HVT TRMP, under consideration in the Proposed Action was developed by the HVT with input from NMFS. NMFS has provided an opportunity for public comment in analyzing the likely impacts of the Proposed Action by soliciting input from the public at large by notification through the Federal Register. A draft version of the EA and NMFS' proposed evaluation were made available for 30 days. No comments were received during the 30-day public comment period. Therefore, the action is not expected to be highly controversial.

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

The Proposed Action's effects on the human environment are not likely to be highly uncertain or involve unique or unknown risks. The HVT fisheries associated with the

Proposed Action have been conducted in some form since time immemorial. NMFS did not receive any comments on the EA or determination. This is indicative that the methodology used to assess the effects of the fisheries with the alternatives considered in the EA is adequate and based on the best available scientific information. The effects of the TRMP fisheries are well known and are expected to be similar to recent history.

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?*

The Proposed Action is not likely to establish a precedent for future actions with significant effects or to represent a decision in principle about a future consideration. TRMPs are considered on a case-by-case basis to determine compliance with the Tribal 4(d) Rule.

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

The Proposed Action is not likely to result in cumulatively significant impacts when considered with other actions. NMFS considered the incremental impact of the Proposed Action when added to other past, present, and reasonably foreseeable future actions. The EA examined this in the Cumulative Effects section and concluded that no cumulative significant impacts are expected.

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?*

The Proposed Action will not affect any historic, scientific, or cultural properties or resources. No permanent construction will occur as part of the Proposed Action.

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?*

The Proposed Action is not expected to have significant impacts on ESA listed species or their critical habitat. NMFS considered the HVT fisheries in a 2022 biological opinion and determined that they will not appreciably reduce the likelihood of survival and recovery of ESA-listed (NMFS 2022). The HVT TRMP takes into consideration the impacts to the ESA-listed SONCC Coho Salmon ESU. The TRMP includes many protective measures, monitoring plans, and re-evaluation triggers. The activities within the TRMP are entirely carried out within the Hoopa Valley Reservation which does not contain critical habitat for SONCC coho salmon.

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

The Proposed Action is not expected to violate any federal, state, or local laws or requirements imposed for environmental protection. It has been determined to be consistent with the ESA, the Magnuson-Stevens Fishery Conservation and Management Act, the Data Quality Act, the Fish and Wildlife Coordination Act, and other applicable laws (NMFS 2022).

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

The Proposed Action will not affect marine mammals. The geographic area where the activities conducted under the TRMP will occur is entirely contained within the Trinity River where no marine mammals are present.

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

The Proposed Action is not expected to result in significant adverse impacts to managed fish species. The HVT fisheries associated with the Proposed Action are a continuation of the fisheries that have occurred for many years. The fisheries will continue to provide necessary conservation constraints for SONNC coho salmon, while allowing access to harvestable salmon and steelhead stocks.

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

The Proposed Action will not significantly adversely affect EFH. A MSA consultation was conducted simultaneously with the ESA consultation and found that EFH would not be adversely affected.

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

The Proposed Action will not affect marine or coastal ecosystems. The geographic area where the activities conducted under the TRMP will occur area is entirely contained within the Trinity River.

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

The Proposed Action is not expected to significantly adversely affect biodiversity or ecosystem functioning. A very small proportion of Trinity River salmon and steelhead are expected to be harvested as part of the HVT's fisheries. Additionally, the TRMP represents a continuation of similar harvest levels to previous years, which have indicated low impact and therefore no significant impact.

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

The proposed action is not expected to result in introduction or spread of nonindigenous species. The activities associated with the Proposed Action will not introduce species to a new area.

Determination

In view of the information presented in this document and the analysis contained in the supporting EA prepared for NMFS' determination, that the HVT's TRMP meets the requirements of the ESA Tribal 4(d) Rule, it is hereby determined that the HVT TRMP determination will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. 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.



July 27, 2022
Date

West Coast Region
National Marine Fisheries Service

References:

NMFS. 2022. Endangered Species Act (ESA) Section 7(a)(2) Biological Opinion and Magnuson–Stevens Fishery Conservation and Management Act Essential Fish Habitat Response Issuance of a Tribal 4(d) Rule Determination for a Tribal Resource Management Plan as submitted by the Hoopa Valley Tribe. WCRO-2020-03718. NMFS West Coast Region. July 13, 2022. 53 pages.