

**Finding of No Significant Impact for Proposed Application of a Section 4(d) of the
Endangered Species Act Limitation
For Threatened Species of Salmon and Steelhead
Associated with the Five Counties Salmonid Conservation Program's
"A Water Quality and Stream Habitat Protection Manual
for County Road Maintenance in Northwestern California Watersheds"**

National Marine Fisheries Service
Southwest Region

National Oceanic and Atmospheric Administration 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 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 as defined under the Magnuson-Stevens Act and identified in FMPs?

Response: Implementation of the best management practices required by NMFS for the routine road maintenance program have the potential for environmental improvements to watersheds due to the emphasis on reducing road-related impacts, such as hydrologically disconnecting roads through out-sloping, increased ditch relief culverts & critical dips, where feasible, and by preventing erosion. Culverts are encouraged to be sized for 100-year flood events, reducing the potential for flooding of roads. Water drafting best management practices would help protect streamflows for fish. It's also expected that there would be improved salmonid access to streams, due to priority implementation of fish passage inventories at county road crossings.

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: The major emphasis of the Manual is on water quality protections. Implementation of best management practices and crew training program would increase water quality protections and contribute positively to conditions supporting biodiversity and ecosystem function. Sediment sources would be targeted for corrective action and potential spills of hazardous substances would be prevented.

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

Response: The purpose of the Five Counties' Manual is to provide a user-friendly, fish-friendly guide for county road maintenance staff as part of each county's primary mission to provide a safe and open road system for the traveling public.

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: Best management practices would occur in all streams for all routine road maintenance activities that could affect any fish, listed or not. Habitat and population conditions would likely benefit as improved practices become routine. Proactive road-related best management practices to protect the ecologically significant unit species would accelerate. Fish

passage inventories would prioritize needs for culvert replacements to help listed salmonids move up and downstream.

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

Response: While there would be a potential for increased local costs to implement some best management practices, improved roads could help stimulate local economies.

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

Response: The proposed best management practices for routine road maintenance activities and the associated benefits expected to fish and wildlife species are generally well accepted by the affected and interested parties and are not known to be controversial. An announcement of the environmental assessment process was sent by e-mail in April 2004 to various local, state, federal, and tribal agencies and interested parties. The draft EA was made available for public review and comment during September 2005. No issues of controversy were identified as a result of those notifications.

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: Nothing has been identified in association with the Manual or the proposed application of the section 4(d) limitation that would result in adverse effects to historical, archaeological, paleontological, cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat or ecologically critical areas. Existing state laws and regulations prevent the counties from causing disturbance or harm to cultural resources (subsection 4.13, Affected Environment – Cultural Resources).

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

Response: NMFS has previous favorable experience with routine road maintenance programs in the states of Oregon and Washington. There were no uncertain effects or unique or unknown risks identified during the scoping process, nor did any surface during preparation of the environmental assessment.

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

Response: Other road-related actions that are ongoing in the region include the California Fish Passage Forum, a collaboration among public and private sectors on fish passage restoration programs and activities seeking a coordinated approach to restoring fish passage for anadromous salmonids in coastal watersheds; and, Fish Net 4C, which is similar to the Five Counties Salmonid Conservation Program (5C) in that it is a regional effort extending from the Russian River Basin in Mendocino County to San Luis Obispo County, encompassing the portions of the ESUs to the south of the 5C region and the 4 ESUs of this analysis. Both programs are similar to the Five Counties effort in that they seek to achieve conservation benefits for listed salmonids and would not be considered to have potentially adverse impacts, individually or cumulatively.

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: Nothing has been identified in association with the Manual or the proposed application of the section 4(d) limitation that would result in adverse effects to historic places eligible for the National Register, nor cause the destruction or loss of significant scientific, cultural or historical resources. Existing state laws and regulations prevent the counties from causing disturbance or harm to cultural resources (subsection 4.13, Affected Environment – Cultural Resources).

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

Response: There are two invasive, non-native fish species in the project area that with remote potential to affect the ESUs. Brown trout are currently limited to the Trinity River and the California Department of Fish and Game has decided to stop stocking brown trout in the Trinity. Pikeminnow have already become established throughout the Eel River drainage, with the exception of the Upper Middle Fork of the Eel, where a barrier near the mouth of the river has restricted their movements. In general, providing enhanced passage for anadromous fish in the upper tributaries would not be expected to benefit either brown trout or pikeminnow. Brown trout are not upper tributary spawners and prefer to inhabit mainstem rivers throughout their life cycle, while pikeminnow cannot negotiate the steep gradients that the salmon and steelhead must negotiate to get to their spawning areas. It's important to note that any proposed project that would require a special permit, such as might be required from the Corps of Engineers under the Clean Water Act, would be subject to further NEPA and ESA review and analysis of non-indigenous species issues.

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: NMFS has previous favorable experience with routine road maintenance programs in the states of Oregon and Washington. The 1999 Oregon program was found to greatly improve protections for listed fish by minimizing the activities' impacts on streams. NMFS considers the Oregon Department of Transportation's (ODOT) manual, to be a model under Limit 10 and encourages other counties to follow the ODOT example. In 2002, the Washington State Department of Transportation, seven Washington counties, and 17 Washington cities also submitted a joint routine road maintenance program to NMFS, aimed at protecting salmon listed under the Endangered Species Act and the City of Portland's Office of Transportation submitted its Routine Road Maintenance Program in May 2003 under a Limit 10.

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?

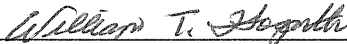
Response: The scoping process completed in April 2004 for the environmental assessment, sought identification of issues and concerns from various local, state, federal, and tribal agencies and interested parties. Potential issues identified as a result of that notification resulted in the Five Counties Program working closely with NMFS, the California Department of Fish and Game, and the North Coast Regional Water Quality Control Board to ensure that the Manual's practices would be in compliance with regulations protective of fish habitat and water quality. The Manual is consistent with policies in the counties' General Plans (including the Land Use Element and Open Space and Conservation Elements) as well as zoning and other related ordinances (e.g., Trinity County 2004).

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: Any cumulative effects anticipated as a result of implementing the best management practices associated with routine road maintenance activities within the five counties would be expected to be positive in terms of effects on the target species and some non-target species. Any proposed activities outside the bounds of the best management practices would be subject to individual federal permit considerations under laws such as the Clean Water Act and ESA, and would therefore require further NEPA review.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting environmental assessment prepared for the Proposed Application of a Section 4(d) of the Endangered Species Act Limitation For Threatened Species of Salmon and Steelhead Associated with the Five Counties Salmonid Conservation Program's "A Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds," it is hereby determined that the approval by NMFS of the Five Counties Routine Road Maintenance Manual under Limit 10 of the 4(d) rule will not significantly impact the quality of the human environment as described above and in the 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 EIS for this action is not necessary.



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2/3/06
Date