



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XD327]

#### Endangered and Threatened Species; Take of Anadromous Fish

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; receipt of one incidental take permit application; availability of a draft environmental assessment; request for comments.

**SUMMARY:** Notice is hereby given that NMFS has received one Incidental Take Permit (ITP) application for the City of Santa Cruz's Anadromous Salmonid Habitat Conservation Plan (ASHCP). The ASHCP has been submitted pursuant to section 10(a)(1)(B) of the Endangered Species Act (ESA) of 1973, as amended. NMFS has also prepared a draft environmental assessment (EA) under the National Environmental Policy Act (NEPA) describing the potential effects of NMFS' proposed issuance of the Permit associated with the submitted ASHCP. NMFS is furnishing this notice in order to allow other agencies, tribes, and the public an opportunity to review and comment on these documents.

**DATES:** Written comments on the EA must be received at the appropriate address (see **ADDRESSES**) on or before 5 p.m. Pacific standard time on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments on this document, identified by Santa Cruz Habitat Conservation Plan (HCP), by any of the following methods:

- *E-mail:* [SantaCruzHCPNEPA.WCR@noaa.gov](mailto:SantaCruzHCPNEPA.WCR@noaa.gov). Include "Santa Cruz HCP" in the subject line of the message.

- *Mail*: Submit written comments to National Marine Fisheries Service, West Coast Region, Coastal California Office, 777 Sonoma Avenue, Room 325, Santa Rosa, California 95404; Attn: William Stevens.
- *Fax*: (707) 578-3435; Attn: William Stevens.

*Instructions*: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). When commenting, please refer to the specific page number and the subject of your comment.

The documents subject to public comment are available on the internet at:  
<https://www.fisheries.noaa.gov/west-coast/laws-and-policies/west-coast-region-national-environmental-policy-act-documents>.

**FOR FURTHER INFORMATION CONTACT**: William Stevens, Santa Rosa, CA,  
(707) 575-6066, [William.Stevens@noaa.gov](mailto:William.Stevens@noaa.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **ESA-Listed Species Covered in This Notice**

Central California Coast (CCC) Evolutionary Significant Unit (ESU) of coho salmon (*Oncorhynchus kisutch*) and threatened CCC Distinct Population Segment (DPS) of steelhead (*O. mykiss*).

#### **Background**

The City of Santa Cruz's operation, maintenance, rehabilitation, and management of their water supply and water system facilities, municipal facilities, and City lands are

essential to the welfare of the City's citizens and visitors. Normal, otherwise lawful operation of the City of Santa Cruz facilities could result in take of ESA-listed species. Section 10(a)(1)(B) of the ESA authorizes NMFS to issue an ITP to non-Federal parties for the potential incidental taking of endangered and threatened species. In support of their ITP application, the City of Santa Cruz has prepared an ASHCP to address effects of water diversions and for operation, rehabilitation, replacement, repair and maintenance of conveyance facilities and other existing infrastructure (covered activities) on salmonids listed under the ESA. The ASHCP plan area includes watershed and water service/urban areas that total approximately 176 square miles (~455.8 km<sup>2</sup>) in Santa Cruz County, California across three geographically distinct areas: (1) North Coast watersheds (Liddell, Laguna, and Majors); (2) San Lorenzo River watershed; and (3) City Urban Center. The ASHCP provides an assessment of impacts; measures to monitor, minimize, and mitigate for those impacts; and procedures to account for unforeseen or extraordinary circumstances.

### **Preliminary Proposed Action and Alternatives**

NMFS has prepared a draft EA, in accordance with the requirements of NEPA, to analyze the potential impacts on the human (biological, physical, social, and economic) environment caused by the City of Santa Cruz ASHCP (proposed action). Under the proposed action, NMFS would approve the ASHCP and issue an ITP with a 30-year permit term to the City of Santa Cruz for incidental take of covered species from covered activities in the plan area. Under the no action alternative, NMFS would not issue an ITP to the City, and the ASHCP would not be implemented. Under the no action alternative, the City would need to evaluate individual operations and maintenance activities to determine whether incidental take of listed salmonid species could be avoided through seasonal restrictions and other modifications to the activity, or whether an activity-specific incidental take authorization would instead be required.

### *Summary of Expected Impacts*

Incidental take is expected to result from covered activities described in the ASHCP. Expected impacts are less than what occurs under the City of Santa Cruz's current practices. The City of Santa Cruz is proposing a conservation strategy as part of their ASHCP that is intended to fully offset the impacts of the take.

Under the no action alternative, the City would conduct project-by-project reviews. It is anticipated that activities, if permitted, would occur at a slower pace and avoidance, minimization, and mitigation measures may be less comprehensive and more site-specific, compared to the proposed action. This type of mitigation can also be more expensive and time-consuming and provide less conservation benefit than a regional or watershed-level approach, as provided by the proposed action.

### **Authority**

Section 9 of the ESA and Federal regulations prohibit the taking of a species listed as endangered or threatened. The ESA defines "take" to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA and implementing regulations (50 CFR 222.307) provide for authorizing incidental take of listed species. The final permit decision will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

NEPA requires Federal agencies to conduct an environmental analysis of their proposed actions to determine if the actions may affect the human environment (42 U.S.C. 4321 *et seq.*; 40 CFR Parts 1500 through 1508; and Companion Manual for NOAA Administrative Order 216-6A, 82 FR 4306, January 13, 2017). Therefore, NMFS

is seeking public input on the scope of the required NEPA analysis in the EA, including the range of reasonable alternatives and associated impacts of any alternatives.

Dated: September 5, 2023.

**Angela Somma,**

*Chief, Endangered Species Division,*

*Office of Protected Resources, National Marine Fisheries Service.*

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