

GLOSSARY OF TERMS

4(d) Rule – (ESA Section 4) The protective rule promulgated by the lead federal agency at the time it makes a final decision to list a **species** as threatened. This rule is developed only for a single species at a time. The content of a **4(d) rule** may be a restatement of Section 9(a) prohibitions on **take** of a species, but also may specify activities which have been determined to be adequately regulated and therefore can be given legal coverage for the **incidental take** of the listed species.

Biological Assessment – Information prepared by or under the direction of the lead federal agency concerning listed and proposed **species** and designated and proposed **critical habitat** that may be present in the action [i.e., project] area and the evaluation of potential effects of the action on such species and **habitat** [50 CFR 404.02]; this assessment would be evaluated by the federal agency and the results potentially incorporated into a **Biological Opinion**.

Biological Opinion – Part of the Section 7 consultation process, a written statement provided to the affected federal agency that details how the reviewed action affects the **species** or its **critical habitat**. If **jeopardy** or adverse modification of critical habitat is found to be a result of the activity the opinion will contain suggestions for reasonable and prudent alternatives for that action which would minimize its impacts and allow the activity to proceed [Endangered Species Habitat Conservation Planning Handbook].

Boldt Decision – The decision arising from the court case *United States v. Washington* (1974) which established that the tribal harvest treaty right is for 50% of the harvestable amount of each run of fish returning to tribal **usual and accustomed fishing areas**. This case included elements regarding **habitat** which remain to be adjudicated, commonly referred to collectively as “Boldt Phase 2”. As a result of this decision, treaty tribes share comanagement authority and responsibility with non-Indian fishery managers. “Boldt” comes from the name of the judge who presided over the case, George Boldt.

Candidate Species – Under US Fish and Wildlife Service regulations, “those **species** for which the Service has on file sufficient information on biological vulnerability and threat(s) to support proposals to list them as endangered or **threatened species** [but] [p]roposal rules have not yet been issued because this action is precluded...”. For those species under the jurisdiction of NMFS, this term refers to a species for which concerns remain regarding their status, but for which more information is needed before they can be proposed for listing. Species protections, e.g., prohibitions on **take**, provided by the ESA do not apply to candidate species [Endangered Species Habitat Conservation Planning Handbook].

Citizen Suit – (ESA Section 11) A civil suit filed to force the proper implementation of the ESA or to stop the activity of any person, including the United States and any other governmental body or agency, who is alleged to be in violation of any part of the ESA or a regulation issued under its authority. Any citizen can file a **third party lawsuit** regarding ESA implementation.

Conservation – (ESA Section 3(3)) The ESA defines **conservation** as the use of all methods and procedures which are necessary to bring any **endangered species** or **threatened species** to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, **habitat** acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Conference – (ESA Section 7) Between the time a **species** is proposed for listing and a final listing decision, all federal agencies shall confer with the lead federal agency on any of their actions likely to jeopardize the continued existence of any species proposed to be listed or destroy or adversely modify its proposed **critical habitat**. These informal discussions include recommendations to minimize or avoid adverse impacts of the actions.

Consultation Procedure – (ESA Section 7) After a listing decision is made final, all federal agencies shall, in consultation with the lead federal agency, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of the listed **species** or destroy or adversely modify its **critical habitat**. If the listing agency finds that an action will cause the **take** of a listed species, it must propose mitigations or “reasonable and prudent” alternatives to the action. If the proponent rejects these alternatives, the action cannot proceed. Issuance of an **Incidental Take Permit** – necessary for undertaking any otherwise legal action without a federal link that could result in the non-purposeful take of the species – is a federal action subject to the consultation process.

Critical Habitat – (ESA Section 4), The specific areas within the geographical area occupied by the **species**, when it is listed, which contain the physical or biological features 1) essential to the **conservation** of the species and 2) which may require special management considerations or protection. **Critical habitat** may also include specific areas outside the geographical area occupied by the species when it is listed if those areas are essential for the conservation of the species (ESA Section 3(5A)]. Critical habitat is described and designated by the lead federal regulatory agency making status determinations for a species. Designations usually accompany final listing decisions, but may be delayed to allow comprehensive review of the necessary technical data.

Cumulative Effect – Under NEPA regulations, the incremental environmental impact or effect of an action together with the effects of past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions [40 CFR 1508.7]. Under ESA Section 7 regulations, the effects of future state or private activities not involving federal activities, that are reasonably certain to occur within the action area of the federal action subject to consultation [50 CFR 402.02].

Distinct Population Segment (DPS) – A portion of the overall population of a **species** which is both a discrete and significant part of that population. “Discrete” means that the group in question is separated from others due to physical, physiological, ecological, or behavioral factors, or if it is separated by a jurisdictional boundary that denotes significant differences in protective mechanisms for the species. “Significant” means that, at least, 1) the discrete group in question persists in an ecological setting unusual or unique for the species; 2) loss of the discrete group would create a significant gap in the range of the species; 3) the discrete group represents the only natural occurrence of a species that may be more abundant elsewhere as an introduced population outside its historic range; or 4) the genetics of the discrete group differ markedly from that of other populations of the species. This term is used by **USFWS** in its status determinations for inland **salmonid** populations [61 FR 4721].

Endangered Species – “...any **species** [including subspecies or qualifying **distinct population segment**] which is in danger of extinction throughout all or a significant portion of its range.” [ESA Section 3(6)]. The lead federal agency for the listing of a species as endangered is responsible for reviewing the status of the species on a five-year basis.

Escapement – The number of fish that have survived all causes of mortality and will make up the spawning population.

Essential Fish Habitat – Those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity; within this definition, *waters* include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; *substrate* includes sediment, hard bottom, structures underlying the waters, and associated biological communities; *necessary* means the **habitat** required to support a sustainable fishery and the managed **species**' contribution to a healthy ecosystem; and *spawning, breeding, feeding, or growth to maturity* covers a species' full life cycle; this concept originated in the 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act; current efforts to define EFH are underway for groundfish and Pacific salmon [62 FR 66531].

Evolutionarily Significant Unit (ESU) – A population or group of populations of salmon that 1) is substantially reproductively isolated from other populations and 2) contributes substantially to the ecological/genetic diversity of the biological **species**. This term is used by NMFS in its status determinations for anadromous salmon populations [61 FR 4721].

Extinct Species – A species no longer present in its original range or as a distinct species elsewhere [Salmon and Steelhead **Stock** Inventory].

Factors for Decline – Specific land management activities, resource management strategies, or environmental conditions that directly or indirectly affect a salmon **stock** or its **habitat** in a manner that reduces its population size.

Habitat – The location where a particular **species** (or identified subspecies) of plant or animal lives and its surroundings, both living and non-living. **Habitat** includes the presence of a group of particular environmental conditions surrounding an organism including air, water, soil, mineral elements, moisture, temperature, and topography.

Habitat Conservation Plan – (**ESA Section 10**) A planning document that is a mandatory component of an **Incidental Take Permit** application, also known as an “**HCP**” [ESA Section 10(a)(2)(A)]. This plan, negotiated by the lead federal agency and the applicant, specifies the activities that will be covered by the Incidental Take Permit and how their effects will be minimized and **mitigated**. This plan also describes the geographic limits of the covered activities.

Harm – Defined in regulations implementing the ESA as an act “which actually kills or injures” listed wildlife. **Harm** may include “significant **habitat** modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering” [50 CFR 17.3].

Incidental Take – **Take** of any federally listed wildlife **species** that is incidental to, but not the purpose of, otherwise lawful activities [ESA section 10(a)(1)(B)]. This is the only type of take of an **endangered species**, or a **threatened species** that is protected by Section 9 prohibitions on take, that is legal, and is legal only if the activity resulting in take is covered under an approved **Habitat Conservation Plan**.

Incidental Take Statement (ITS) - Statement issued concurrent with a **Biological Opinion** that allows **take** incidental to otherwise lawful activities. The **ITS** specifies the impact of such incidental taking on the **species**, any reasonable and prudent measures considered necessary or appropriate to minimize such impact, and the terms and conditions that must be complied with by the Federal agency or any applicant to implement the reasonable and prudent measures. [50 CFR 402.14(i).]

Indirect Effect – An effect, caused by the activity in question, that occurs later in time but is still reasonably certain to occur [50 CFR 402.02]; insufficient accounting for **indirect effects** can be grounds for denying an **Incidental Take Permit**, but denial must be based upon the likelihood of **jeopardy** occurring as a result of the indirect effects of an activity, not just the existence of indirect effects [Endangered Species Habitat Conservation Planning Handbook].

Incidental Take Permit (ITP) – (ESA Section 10) A permit that exempts, for a specified set of activities, the applicant from the prohibitions on **take** of a listed **species**. This permit can only be issued after the completion of a **Habitat Conservation Plan** and allows the **Incidental Take** of a species within guidelines established in the plan. These permits are also referred to as section 10(a)(1)(B) or section 10 permits [Endangered Species Habitat Conservation Planning Handbook].

Jeopardy – A determination, reached through the consultation process, that an activity would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and **recovery** of a listed **species** in the wild by reducing the reproduction, numbers, or distribution of that species [Coastal Salmon Conservation – Working Guidance for Comprehensive Salmon Restoration Initiatives on the Pacific Coast].

Mitigate – To moderate, reduce, or alleviate the impacts of a proposed activity, including: a) avoiding the impact by not taking a certain action or parts of an action; b) minimizing impacts by limiting the degree or magnitude of the action; c) rectifying the impact by repairing, rehabilitating or restoring the affected environment; d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; e) compensating for the impact by replacing or providing substitute resources or environments [40 CFR 1508.20].

“No Surprises” Policy – Policy that guarantees successful **Habitat Conservation Plan** applicants that they will not be responsible for additional **conservation** or mitigation measures for **species** covered under their properly-implemented **HCP**. This policy specifies that if the status of a species addressed under an HCP unexpectedly worsens because of unforeseen circumstances, the primary obligation for implementing additional conservation measures would be the responsibility of the Federal government, other government agencies, or other non-federal landowners who have not yet developed an HCP [63 FR 8859].

Properly Functioning Condition (PFC) – State of the physical, chemical, and biological aspects of watershed ecosystems which will sustain a healthy **salmonid** population(s). Properly functioning condition generally defines a range of values for several measurable criteria rather than specific, absolute values. The range for these values may vary from watershed to watershed based upon a variety of factors, e.g., geology, hydrology, and stream geomorphology, and the improved understanding of how these factors shape ecosystem functions [Coastal Salmon Conservation – Working Guidance for Comprehensive Salmon Restoration Initiatives on the Pacific Coast].

Recovery – The process by which the decline of an endangered or **threatened species** is arrested or reversed, and threats neutralized so that its survival in the wild can be ensured. The goal of the ESA is for the recovery of listed **species** to levels where protection under the ESA is no longer necessary [50 CFR 402.02].

Recovery Plan – (ESA Section 4) A plan, required of the lead federal regulatory agency for a listing under the ESA, for the **conservation** and survival of **species** listed as endangered or threatened. A **Recovery Plan** must contain 1) a description of site-specific management actions necessary for **recovery**;

2) objective, measurable criteria which when met will allow delisting of the **species**; and 3) estimates of the time required and cost to carry out the recommended recovery measures. Recovery Plans are drafted for entire **Evolutionarily Significant Units** but, if appropriate, will include recommendations for action at the watershed scale.

Salmonid – Any member of the taxonomic family Salmonidae, which includes all **species** of salmon, trout, and char [Salmon and Steelhead **Stock** Inventory].

Species – (**ESA Section 3**) Any subspecies of fish or wildlife or plants, and any **distinct population segment** of any **species** of vertebrate fish or wildlife which interbreeds when mature.

Stevens Treaties – A series of treaties, six of which were reached between Indian Tribes and the United States government in 1854-1855 in Washington Territory. These six treaties documented agreements through which the Tribes gave up or retained certain rights and the U.S. government made concessions to the Tribes for the millions of acres of land they ceded ownership of for settlement by U.S. citizens. Five of these treaties were for area in Western Washington:

- the Treaty of Quinault (Quinault, Quileute, Hoh Tribes),
- the Treaty at Neah Bay (Makah),
- the Point No Point Treaty (S'Klallams, Skokomish),
- the Medicine Creek Treaty (Squaxin Island, Nisqually, Puyallup), and
- the Treaty of Point Elliott (Lummi, Nooksack, Swinomish, Upper Skagit, Sauk Suiattle, Stillaguamish, Tulalips, Suquamish, Muckleshoot).

One was for area in Eastern Washington:

- the Treaty of Yakama (Yakama).

Stock – The fish spawning in a particular lake or stream(s) at a particular season, which to a substantial degree do not interbreed with any group spawning in a different place, or in the same place at a different season [Salmon and Steelhead **Stock** Inventory].

Take – (**ESA Section 3**) “...to harass, **harm**, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” with respect to federally listed **endangered species** of wildlife. Federal regulations provide the opportunity to apply take prohibitions to **threatened species** as would ordinarily only apply to endangered **species** [50 CFR 17.31(a)]. Take of a listed species includes modifying the **habitat** of a listed species in such a way that interferes with essential behavioral patterns including breeding, feeding or sheltering.

Third Party Lawsuit – (see **Citizen Suit**)

Threatened Species – “...any **species** which is likely to become an **endangered species** within the foreseeable future throughout all or a significant portion of its range” [Section 3(19) of the ESA]. The lead federal agency for the listing of a **species** as threatened is responsible for reviewing the status of the species on a five-year basis.

Total Maximum Daily Load (TMDL) – A water quality planning and implementation tool required under Section 303(d) of the Clean Water Act. This measure specifies, through the use of a scientifically-based process, the amount of a pollutant that can be discharged to a water body without affecting beneficial uses and mechanisms for ensuring discharges do not exceed that amount. **TMDLs** can focus on both point and nonpoint sources of pollution, and one watershed may have a TMDL developed for both simultaneously.

Treaty Rights – Rights of Indian Tribes that were confirmed in the **Stevens Treaties**. These rights have been affirmed by judicial decisions. These rights include the right of Tribal members to harvest fish resources throughout their **usual and accustomed fishing areas**. Several U.S. Supreme Court Decisions have also recognized that any rights not specifically given up in the treaties are rights retained by the Tribes. (See also: **Boldt Decision**.)

Usual and Accustomed Fishing Area (U&A) - Described in the **Boldt decision**, the primary area in which a Treaty Tribe historically fished, has the right to continue to fish, and participates in management of the resources fished. Before, during, and after the signing of the **Stevens Treaties** the areas fished by the Tribes were well-documented sites held either Tribally or by families. Depending upon family connections and wealth some Tribes had a wider range than that of other Tribes, allowing them more and broader areas in which they gathered fish. U&As for various Tribes may overlap.

Water Resource Inventory Area – (WRIA) – a geographic area, defined by hydrologic boundaries on the basin and sub-basin scale, designated by the state as a way to describe administrative units for resource management; the state comprises 62 WRIsAs, with those adjacent to bodies of saltwater customarily including a major river drainage and nearby smaller drainages.

Wild Native Salmon – A salmon produced through natural spawning and rearing in the natural **habitat** in its original range and that has not been substantially impacted by genetic interactions with non-native fish [Salmon and Steelhead **Stock Inventory**].

GLOSSARY OF ACRONYMS

ACOE – Army Corps of Engineers

CWA – Clean Water Act

DOE – Washington Department of Ecology

DFW – Washington Department of Fish and Wildlife

DPS – Distinct Population Segment

EFH – Essential Fish Habitat

EPA – United States Environmental Protection Agency

ESA – Endangered Species Act

ESU – Evolutionarily Significant Unit

FEMAT – Forest Ecosystem Management Assessment Team

GMA – Growth Management Act

HCP – Habitat Conservation Plan

ITP - Incidental Take Permit (ESA Section 10)

ITS – Incidental Take Statement (ESA Section 7)

LWD – large woody debris

NFP – Northwest Forest Plan

NPDES – National Pollution Discharge Elimination System

NMFS – National Marine Fisheries Service

NWIFC – Northwest Indian Fisheries Commission

PFMC – Pacific Fishery Management Council

PSWQA – Puget Sound Water Quality Authority

SASSI – Salmon and Steelhead Stock Inventory

TFW – Timber, Fish, and Wildlife state forum.

Long Live the Kings

Glossary

TMDL – Total Maximum Daily Load

TRT – Technical Recovery Team

USFWS – United States Fish and Wildlife Service

WRIA – Water Resource Inventory Area

WQS – Water Quality Standard