

**SISKIYOU RESOURCE CONSERVATION DISTRICT
INCIDENTAL TAKE PERMIT APPLICATION**

For

Coho Salmon (*Oncorhynchus kisutch*)

I. GENERAL INFORMATION

A. Application date: March 29, 2005

B. Applicant:

Siskiyou Resource Conservation District
P. O. Box 268 / 450 Main Street
Etna, California 96027

C. Contact Person:

William P. Krum, President
Board of Directors
Address: same as above
Phone: 530-467-3975

D. Project Description: The proposed project includes ongoing permitted agricultural water diversions, other agricultural activities, and salmonid research and restoration projects to occur within the Scott River watershed.

E. Project Location: The area covered by the proposed ITP includes all areas within the Scott River Watershed as defined in the attached map.

F. Permit Duration: A term of 5 years is being sought by the Siskiyou Resource Conservation District (SRCD) for this Incidental Take Permit. At the end of this Permit the SRCD will seek renewal of the permit and update and modify any additional changes to avoidance, minimization, and/or mitigation measures required upon renewal.

G. Other Permits Required: The SRCD is submitting a 1600-Lake and Streambed Alteration Agreement notification to the Department of Fish and Game concurrently with this permit application.

H. CEQA Lead Agency: California Department of Fish and Game
Northern California-North Coast Region
601 Locust Street
Redding, CA 96001

Contact Person: Caitlin Bean
Phone: (530) 225-2273
Fax: (530) 225-2345

I. CEQA Documentation:

It is likely that a joint Environmental Impact Report/Environmental Impact Statement will be required. As the SRCD intends to simultaneously seek take authorization from NOAA Fisheries under Section 10 of the Federal Endangered Species Act, it is expected that, if required, a joint NEPA/CEQA document will be prepared.

II. Biological Analysis

A. Species to be Covered: This Permit covers the following species:

Name	Status ¹	Subject to DFG Code 2112 and 2114
Coho salmon (<i>Oncorhynchus kisutch</i>)	Threatened	Yes

B. Project Description:

The project includes ongoing permitted water diversion and other irrigation activities, livestock management, vehicular impacts, and ongoing fishery restoration activities². For a complete list of activities for which “take” authority pursuant to Fish and Game Code Section 2081 is sought refer to **Attachment 1 – Covered Activities**. The RCD is applying for “take” authority that would cover existing legal agricultural water diverters, should they choose to participate in this general permit.

C. Extent of project activity that may result in the incidental taking of coho:

State Definition of Take: Pursuant to FGC Section 86, “take” means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill. The exact definition of “kill” as used in this section has not been judicially construed. According to the most recent Attorney General opinion on the matter, issued in 1995, “the term ‘kill’ [as defined in FGC Section 86 and as applied in FGC Section 2080] means to act directly upon one or more members of [a listed] species, causing its death.” 78 Ops. Cal. Atty. Gen. 137, 139 (1995). According to the same Attorney General opinion, “State law does not prohibit indirect harm to a state-listed endangered or threatened species by way of habitat modification.” A detailed discussion of the extent of project activity that may result in the incidental taking of coho is provided in **Attachment 2**.

D. Impacts to coho and their habitat:

FGC 2081(b) (2) provides that for purposes of identifying measures to minimize and mitigate the impacts of an authorized take, the “impacts of taking include all impacts on the species that result from any act that would cause the proposed taking.” It is possible that the activities covered by this permit could cause take, but it is uncertain whether take will occur in a particular instance. Likewise,

¹ Refers to the status under CESA. Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species. All other species are “unlisted”.

² Activities not to be covered by this permit include municipal, industrial or mining water uses, along with power production for commercial purposes, and pesticide use in water delivery channels.

the extent of any take that might occur is difficult to determine. **Attachment 3** provides a complete description of all the impacts on the species that may result from the activity causing take.

E. Jeopardy Analysis:

Coho salmon populations in the Scott River watershed have been subject to water diversions and other agricultural activities for an extended period of time. The take avoidance, minimization and mitigation measures proposed in this project continue and go beyond measures taken in recent years by SRCD and agricultural water diverters that have been shown to be successful. Authorization of this project will result in improved conditions for coho. Based on the best available information, this project is unlikely to result in jeopardy to coho salmon in the Scott River. A detailed Jeopardy Analysis is provided in **Attachment 4**.

F. Avoidance, Minimization and Mitigation Measures:

In order to fully avoid, minimize and mitigate for incidental take of the coho salmon within the Shasta River watershed the SRCD has prepared an *Avoidance, Minimization and Mitigation Plan (Attachment 5)*. As described in the plan, each individual water diverter will have primary responsibility for avoidance and minimization measures taken on their property. The SRCD shall take responsibility for mitigation measures required to offset the potential for take.

G. Plan to Monitor Effectiveness and Compliance:

In order to insure that the avoidance, minimization and mitigation measures outlined in **Attachment 5** are implemented and meeting the goals of the mitigation plan, the SRCD prepared a *Compliance and Effectiveness Monitoring Plan (Attachment 6)*.

H. Sub-permittee Permit Structure with the RCD:

The RCD shall enter into an individual sub-agreement(s) covering these matters with any water user who wishes to participate (sub-permittee). The avoidance, minimization and mitigation measures required of the RCD and individual sub-permittees shall be roughly proportionate to the potential take by the sub-permittees and consistent with the specific operations of the sub-permittees. Sub-permittees will not be required to secure individual incidental take permits or Streambed Alteration Agreements other than the aforementioned sub-agreement(s). **Attachment 7** outlines responsibilities of the permittee, the sub-permittees, and CDFG. The standard form sub-permittee agreement shall be reviewed and approved by CDFG prior to SRCD entering into any sub-agreement with any sub-permittee.

I. Financial Assurances: Given the RCD's long term history of developing, funding and executing the types of measures described in this section, and the continued availability of funding from a variety of sources, the RCD foresees no major challenges to funding the measures discussed in the Mitigation Plan and the Monitoring Plan. For a detailed accounting of financial assurances see **Attachment 8**.

J. Adaptive Management: Implementation of the permit will be based on the principles of adaptive management as described in **Attachment 9**.

Certification

I certify that the information submitted in this application is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to civil and criminal penalties under the laws of the State of California.

Siskiyou Resource Conservation District

By: _____
William P. Krum, President

List of Attachments:

- Attachment 1: Covered Activities*
- Attachment 2: Extent of Project Activity that May Result in the Incidental Taking of Coho*
- Attachment 3: Water Diversions*
- Attachment 4: Jeopardy Analysis*
- Attachment 5: Avoidance, Minimization and Mitigation Plan*
- Attachment 6: Plan to Monitor Effectiveness and Compliance*
- Attachment 7: Sub-Permittee Permit Structure with the RCD*
- Attachment 8: Financial Assurances*
- Attachment 9: Adaptive Management*
- Map of the Scott River Watershed*
- References*

List of Appendices

- Appendix I: Siskiyou RCD History, Programs and Accomplishments*
- Appendix II: Scott River Watershed Coho Spawner Surveys*
- Appendix III: Inventory of General Conditions and Limiting Factors*
- Appendix IV: Recently Completed, Currently Active and Proposed Mitigation Measures*
- Appendix V: Historical Funding Sources for the Siskiyou RCD*