

in the collection of horseshoe crabs since 1993. The project submitted by Limuli Laboratories would provide morphological data on horseshoe crab catch, would tag caught horseshoe crabs, and would use the blood from the caught horseshoe crabs to manufacture *Limulus Amebocyte Lysate (LAL)*, an important health and safety product used for the detection of endotoxins. The LAL assay is used by medical professionals, drug companies, and pharmacies to detect endotoxins in intravenous pharmaceuticals and medical devices that come into contact with human blood or spinal fluid.

#### Results of 2008 EFP

No horseshoe crabs were collected from the Reserve by the applicant during the 2008 season. Thus, no results were submitted. The 2007 results were published in the **Federal Register** on June 2, 2008 (73 FR 31434) thus are not repeated here. Data collected under previous EFPs were supplied to NMFS, the Commission, and the State of New Jersey.

#### Proposed 2009 EFP

Limuli Laboratories proposes to conduct an exempted fishery operation using the same means, methods, and seasons utilized during the EFPs in 2001–2008. Limuli proposes to continue to tag at least 15 percent of the bled horseshoe crabs as they did in 2007. NMFS would require that the following terms and conditions be met for issuance of the EFP:

1. Limiting the number of horseshoe crabs collected in the Reserve to no more than 500 crabs per day and to a total of no more than 10,000 crabs per year;

2. Requiring collections to take place over a total of approximately 20 days during the months of August, September, October, and November. Horseshoe crabs are readily available in harvestable concentrations nearshore earlier in the year, and offshore in the Reserve from July through November;

3. Requiring that a 5 ½ inch (14.0 cm) flounder net be used by the vessel to collect the horseshoe crabs. This condition would allow for continuation of traditional harvest gear and adds to the consistency in the way horseshoe crabs are harvested for data collection;

4. Limiting trawl tow times to 30 minutes as a conservation measure to protect sea turtles, which are expected to be migrating through the area during the collection period, and are vulnerable to bottom trawling;

5. Restricting the hours of fishing to daylight hours only, approximately from

7:30 a.m. to 5 p.m. to aid law enforcement;

6. Requiring that the collected horseshoe crabs be picked up from the fishing vessels at docks in the Cape May Area and transported to local laboratories, bled for LAL, and released alive the following morning into the Lower Delaware Bay; and

7. Requiring that any turtle take be reported to NMFS, Northeast Region Assistant Regional Administrator of Protected Resources Division within 24 hours of returning from the trip in which the incidental take occurred.

As part of the terms and conditions of the EFP, for all horseshoe crabs bled for LAL, NMFS would require that the EFP holder provide data on sex ratio and daily harvest. Also, the EFP holder would be required to examine at least 200 horseshoe crabs for morphometric data. Terms and conditions may be added or amended prior to the issuance of the EFP.

The proposed EFP would exempt three commercial vessels from regulations at 50 CFR 697.7(e) and 697.23(f) which prohibit the harvest and possession of horseshoe crabs on a vessel with a trawl or dredge gear aboard from the Reserve.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: July 17, 2009.

**Kristen C. Koch,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XQ24**

### Endangered and Threatened Species; Recovery Plans

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

**ACTION:** Notice of availability; request for comments and notice of public meetings.

**SUMMARY:** The National Marine Fisheries Service (NMFS) announces that the Draft Southern California Steelhead Recovery Plan (Plan) is available for public review and comment. The Plan addresses the Southern California Steelhead (*Oncorhynchus mykiss*) Distinct Population Segment (DPS), which spawns in watersheds from the Santa

Maria River (just north of Point Conception) south to the Tijuana River at the U.S.-Mexico border. NMFS is soliciting review and comment from the public and all interested parties on the Draft Plan. In addition, public meetings will be held on August 25 and September 1, 2009, as opportunities for providing comments on the Draft Plan.

**DATES:** NMFS will consider and address all substantive comments received during the comment period. Comments must be received no later than 5 p.m. Pacific daylight time on September 21, 2009. Public meetings will also be held (see Public Meetings below).

**ADDRESSES:** Please send written comments and materials to Penny Ruvelas, National Marine Fisheries Service, 501 W. Ocean Blvd, Suite 4200, Long Beach, CA 90802. Comments may also be submitted by e-mail to: [SteelheadPlan.swr@noaa.gov](mailto:SteelheadPlan.swr@noaa.gov). Include in the subject line of the e-mail comment the following identifier: Comments on Southern California Steelhead Plan. Comments may be submitted via facsimile (fax) to 562–980–4027.

Persons wishing to review the Plan can obtain an electronic copy (i.e., CD-ROM) from Kimberly Speech by calling 562–980–4020 or by e-mailing a request to [kimberly.speech@noaa.gov](mailto:kimberly.speech@noaa.gov) with the subject line “CD-ROM Request for Southern California Steelhead Recovery Plan.” Electronic copies of the Plan are also available on-line on the NMFS website [http://swr.nmfs.noaa.gov/recovery/So\\_Cal.htm](http://swr.nmfs.noaa.gov/recovery/So_Cal.htm).

For locations and times of public meetings, see Public Meetings below.

#### FOR FURTHER INFORMATION CONTACT:

Mark Capelli, NMFS Southern California Steelhead Recovery Coordinator at 805–963–6478 x14 or Penny Ruvelas, NMFS SWR Protected Resources Division at 562–980–4197.

#### SUPPLEMENTARY INFORMATION:

##### Background

Recovery plans describe actions beneficial to the conservation and recovery of species listed under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). The ESA requires that recovery plans incorporate: (1) objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan’s goals; and (3) estimates of the time required and costs to implement recovery actions. The ESA requires the development of recovery plans for each listed species unless such a plan would not promote its recovery.

NMFS is responsible for developing and implementing ESA recovery plans for listed salmon and steelhead. In so doing, NMFS' goal is to restore endangered and threatened Pacific salmonids to the point that they are again self-sustaining members of their ecosystems and no longer need the protections of the ESA.

Recovery Plans developed under the ESA are guidance documents, not regulatory documents. However, the ESA envisions Recovery Plans as the central organizing tool for guiding the recovery of listed species. Recovery Plans also guide Federal agencies in fulfilling their obligations under section 7(a) (1) of the ESA, which calls on all Federal agencies to "utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species." In addition to outlining proactive measures to achieve species recovery, Recovery Plans provide a context and framework for implementing other provisions of the ESA with respect to a particular species, including consultations on Federal agency activities under section 7(a)(2) and the development of Habitat Conservation Plans in accordance with section 10(a)(1)(B).

This Recovery Plan serves as a guideline for achieving recovery criteria and goals by describing the criteria by which NMFS would measure species recovery, the strategy to achieve recovery, and the recovery actions necessary to achieve viable populations of steelhead within the Southern California steelhead DPS.

#### Recovery Criteria

Recovery criteria are built upon criteria recommended by the NMFS Technical Recovery Team (TRT) for the identification of viable anadromous *O. mykiss* populations and DPS. A viable population is defined as a population having a negligible risk (<5%) of extinction due to threats from demographic variation, non-catastrophic environmental variation, and genetic diversity changes over a 100-year time frame. A viable DPS is comprised of a sufficient number of viable populations sufficiently dispersed spatially, but well connected enough to maintain long-term (1,000-year) persistence and evolutionary potential (McElhany *et al.* 2000). The viability criteria are intended to describe characteristics of the species and its natural environments necessary for both individual populations and the DPS as a whole to be viable, i.e., persist over a specific period of time, regardless of other ongoing anthropogenic effects.

Recovery of the endangered Southern California Coast Steelhead DPS will require recovery of a sufficient number of viable populations within each of five Biogeographic Population Groups (BPGs) defined by the TRT. Recovery of these individual populations is necessary to conserve the natural diversity (genetic, phenotypic, and behavioral), spatial distribution, and abundance of the species, and thus the long-term viability of the DPS as a whole. Additionally, the DPS as a whole must contain a minimal number of viable populations, or interacting trans-basin populations, within each BPG that inhabit watersheds with drought refugia (needed to sustain juvenile populations throughout the low-flow period), are geographically separated (to maintain maximum genetic diversity and also to spread out the risk of extinction due to local disasters or other mortality factors), and exhibit the natural life-history diversity of the species (fluvial-anadromous, lagoon-anadromous, and freshwater resident).

#### Recovery Strategy

Achieving species recovery will require a number of coordinated activities, including: implementation of the strategic and threat-specific recovery actions identified in this Recovery Plan; monitoring of existing population's response to recovery actions; and further research into the diverse life-history patterns and adaptations of southern anadromous *O. mykiss* to a semi-arid and highly dynamic environment (e.g., the ecological relationship between anadromous and non-anadromous life-history patterns).

Effective implementation of recovery actions will also entail: (1) Extensive public education (including the general public, non-governmental agencies, and local, regional, State, and Federal governmental agencies,) regarding the role and value of the species within the larger watershed environment; (2) development of cooperative relationships with private land owners, special districts, federally-recognized tribes, and local governments with direct control and responsibilities over non-federal land-use practices; (3) participation in the land use and water planning and regulatory processes of local, regional, State, and Federal agencies; (4) close cooperation with other state resource agencies such as the California Department of Fish and Game, California Coastal Commission, CalTrans, and the California Department of Parks and Recreation, and (5) partnering with Federal resource agencies, including the U.S. Forest Service, U.S. Fish and Wildlife Service,

National Park Service, U.S. Bureau of Reclamation, U.S. Bureau of Land Management, U.S. Army Corps of Engineers, U.S. Department of Transportation, U.S. Department of Defense, and the U.S. Environmental Protection Agency.

A comprehensive strategic framework is necessary to serve as a guide to integrate the actions contributing to the larger goal of recovery of the Southern California Coast Steelhead DPS. This strategic framework incorporates the concepts of viability at both the population and DPS levels, and the identification of threats and recovery actions for specific BPGs.

NMFS has identified core populations intended to serve as the foundation for the recovery of the species in the Recovery Planning Area. In addition, threats assessments for the species indicate that recovery actions related to the modification of existing passage barriers and changes in water storage and management regimes within certain rivers of the Recovery Planning Area are critical to the recovery of the species. High quality habitat exists above the significant passage barriers in these river systems. As a result, NMFS expects significant improvements in species status once they are able to access these areas for spawning and rearing of young steelhead.

There remain uncertainties regarding the level of recovery necessary to achieve population viability, therefore, additional research and monitoring of anadromous *O. mykiss* populations within the SCCS Recovery Planning Area is an essential component of this Recovery Plan. As this Recovery Plan is implemented over time, additional information will become available to: (1) refine the viability criteria; (2) up-date and refine the threats assessment and related recovery actions; (3) determine whether individual threats have been abated; and (4) evaluate the overall viability of anadromous *O. mykiss* in the SCCS Recovery Planning Area. Additionally, there will be a review of the recovery actions implemented and population and habitat responses to these actions at the 5-year and 10-year status reviews of the DPS.

#### Recovery Actions

Many complex and inter-related biological, economic, social, and technological issues must be addressed in order to recover anadromous *O. mykiss* in the Southern California Coast Steelhead DPS. Policy changes at the Federal, state and local levels will likely be necessary to implement many of the recovery actions identified in this Recovery Plan. For example, without

substantial strides in water conservation throughout southern California, flow conditions for anadromous salmonids will limit recovery. Similarly, recovery is unlikely without programs to restore properly functioning historic habitat such as estuaries, and access to upstream spawning and rearing habitat.

Although the recovery of this species is expected to be a long process, the TRT recommended certain actions that should be implemented as soon as possible to help guide the recovery process for the Southern California Steelhead DPS (Boughton *et al.* 2007). Additional and more specific recovery actions to address specific threat sources in individual watersheds are discussed in the text.

#### Implementation and Cost Estimates

Implementation of this Recovery Plan by NMFS will take many forms. To achieve recovery, NMFS will need to promote the Recovery Plan and provide needed technical information and assistance to other entities responsible for actions that may impact the species' recovery. NMFS should work with key partners on planning and implementation of all high priority recovery actions. Additionally it will be important to work with local governments to ensure that protective measures consistent with recovery objectives are included in their general plans and local coastal plans. NMFS should also work with state and Federal regional entities on Regional Water Control Board Basin Plans and U.S. Forest Service Plans.

An implementation schedule describing time frames and costs associated with individual recovery actions is under development. Estimating total cost to recovery is much more challenging, if not impossible to estimate for a variety of reasons. These include the large geographic extent of the DPS; the need to refine recovery criteria; the need to complete watershed-specific investigations such as barrier inventories and assessments; the establishment of flow regimes for individual watersheds; and the review and possible modification of a variety of exiting land-use and water management plans (including waste discharge requirements) under a variety of local, state, and federal jurisdictions. Additionally, the biological response of many of the recovery actions is uncertain, and achieving full recovery will be a long-term effort likely requiring decades, and addressing new stressors that emerge over time. In some instances, however, NMFS is able to estimate the costs associated with certain common restoration activities

such as those undertaken as part of the California Department of Fish and Game Fisheries Restoration Grants Program. An appendix to the Plan contains estimates for these categories of typical watershed restoration actions.

The criteria and recovery actions identified in this Recovery Plan provide a comprehensive road-map for recovery and are consistent with many ongoing activities intended to protect and or restore ecosystem functions in southern California watersheds. As a result, many of these recovery actions will be undertaken by local, state and Federal agencies, as well as non-governmental organizations and other private entities as a part of their local ecosystem protection efforts. Also, the wide variety of threats to steelhead provide for a variety of potential funding sources available to develop and implement these recovery actions, often as part of other ongoing natural resource restoration, management, and mitigation programs.

#### Public Comments Solicited

NMFS solicits written comments on the Draft Plan. All comments received by the date specified above will be considered prior to NMFS' decision whether to approve the Plan. NMFS seeks comments particularly in the following areas: (1) the analysis of limiting factors and threats; (2) the recovery objectives, strategies, and actions; (3) the criteria for removing the DPS from the Federal list of endangered and threatened wildlife and plants; and (4) estimates of time and cost to implement recovery actions. NMFS will also hold public meetings to provide an opportunity for the public to learn more about the Draft Plan, ask questions of NMFS staff, and submit oral or written comments on the Draft Plan.

#### Public Meetings

NMFS will hold public meetings on the dates and at locations as follows:

–August 25, 2009, 3 p.m. to 5 p.m. at the Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road., Carlsbad, CA 92011.

–September 1, 2009, 5 p.m. to 7 p.m. at the Fess Parker's Double Tree Resort, 633 East Cabrillo Boulevard, Santa Barbara, CA 93103.

These meetings will provide an opportunity for the public to learn more about the Proposed Plan, ask questions of NMFS staff, and submit oral or written comments on the Proposed Plan.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: July 15, 2009.

**Angela Somma,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–ZP93**

#### Marine Mammals; File No. 14341

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

**ACTION:** Notice; issuance of permit.

**SUMMARY:** Notice is hereby given that Karen Terio, DVM, PhD, Zoological Pathology Program, College of Veterinary Medicine, University of Illinois, LUMC Room 0745, Building 101, 2160 South First Street, Maywood, IL 60153, has been issued a scientific research permit to import marine mammal specimens for scientific research.

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978)281–9300; fax (978)281–9333.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Skidmore or Kate Swails, (301)713–2289.

**SUPPLEMENTARY INFORMATION:** On March 9, 2009, notice was published in the **Federal Register** (74 FR 10035) that a request for a scientific research permit had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The permit authorizes the importation of unlimited biological samples from up