

instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument incorporates a digital camera with a sophisticated software package specifically designed and integrated to monitor neuronal activities. The National Institutes of Health advises in its memorandum of December 18, 2001 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

**Gerald A. Zerdy,**

*Program Manager, Statutory Import Programs Staff.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 040202B]

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

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

**ACTION:** Notice of application for Incidental Take Permit with a Habitat Conservation Plan and availability for public comment; Notice of Availability of Draft Environmental Assessment.

**SUMMARY:** Notice is hereby given that NMFS has received an application for an incidental take permit (Permit) from the Grants Pass Irrigation District (GPID) pursuant to the Endangered Species Act (ESA). As required by the ESA, GPID has also prepared a habitat conservation plan (Plan) designed to minimize and mitigate any such take of endangered and threatened species. The Permit application is related to the operation of Savage Rapids Dam in Josephine and Jackson Counties, in the State of Oregon. The dam is owned and operated by GPID for the sole purpose of providing irrigation water to its customers. The effective dates of the permit will be from May 7, 2002, until November 1, 2005. The permit may be extended for 1 year, until November 1, 2006, in accordance with the provisions of the Consent Decree in *United States v. Grants Pass*

*Irrigation District*, Civil No. 98-3034-HO (D. Or., August 27, 2001). The Permit application includes the Plan. The Permit application is for the incidental take of ESA listed salmonids associated with otherwise lawful activities. NMFS also announces the availability of a draft Environmental Assessment (EA) for proposed issuance of the Permit. NMFS is furnishing this notification in order to allow other agencies and the public an opportunity to review and comment on these documents. All comments received will become part of the public record and will be available for review pursuant to the ESA.

**DATES:** Written comments from interested parties on the permit application, the Plan and the draft EA must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Standard Time on May 10, 2002.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** for specific addresses where copies of the Permit application, plan, and draft EA can be viewed. Comments on the permit application, Plan or draft EA and requests for information should be directed to Frank Bird, Project Biologist, Habitat Conservation Division, National Marine Fisheries Service, 525 NE Oregon Street, Suite 210, Portland, OR 97232-2778. Comments may also be sent via fax to 541-957-3386. Comments will not be accepted if submitted via e-mail or the internet. Requests for copies of the permit application, Plan and draft EA should be directed to the Habitat Conservation Division, NMFS Roseburg Office, 2900 Stewart Parkway N.W., Roseburg, OR 97470 or by calling NMFS at (503) 231-2377. The documents are also available electronically on the Internet at <http://www.nwr.noaa.gov/1habcon/habweb/hcp.htm>. Comments received will also be available for public inspection, by appointment, during normal business hours by calling (503) 231-2377 or (541) 957-3383.

**FOR FURTHER INFORMATION CONTACT:** Frank Bird, Roseburg, OR (ph: 541/957-3383, fax: 541/957-3386, e-mail: [Frank.Bird@noaa.gov](mailto:Frank.Bird@noaa.gov)).

**SUPPLEMENTARY INFORMATION:** Address for Documents and for Comments Regarding This Action Copies are available for viewing, or partial or complete duplication, at the following libraries: Medford Headquarters Library, Headquarters Regional Services, 413 West Main Street, Medford, OR 97501, Tel 541-774-8689; Rogue River Regional Library, West County Regional Services, 412 East Main Street, Rogue River, Oregon 97537, Tel 541-582-1714; Josephine County Library Services,

Main Library, 200 N.W. 'C' Street, Grants Pass, OR 97526, Tel (541) 474-5480.

#### Authority

Section 9 of the ESA and Federal regulations prohibit the taking of a species listed as endangered or threatened. The term "take" is defined under the ESA 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 section 10(a)(1)(B) of the ESA, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. Authority to take listed species is subject to conditions set forth in the permits. Permits are issued in accordance with and are subject to the ESA and NMFS regulations governing threatened and endangered species (50 CFR 222.307).

#### Species Covered in This Notice

The following species are covered in this Notice:

Southern Oregon/Northern California coho salmon (*Oncorhynchus kisutch*); as well as one proposed species (Klamath Mountain Province steelhead) under specific provisions of the Permit, should this species be listed in the future.

#### Background

GPID currently provides irrigation water to approximately 8,000 customers who own a total of 7,700 acres in Jackson and Josephine counties. Savage Rapids Dam provides GPID with its primary water supply. Water is delivered through 160 miles (257 Kilometers) of canals in the greater Grants Pass, Oregon area. The water provided by GPID is not treated and, thus, is not used for human consumption. Of the 8,000 customers, about 300 own more than 5 acres and the remaining 7,700 own less than 5 acres. The customers with more than 5 acres represent a variety of agricultural interests as well as some industrial interests. Of the 7,700 customers owning less than 5 acres, most use GPID water for small hayfields and/or personal vegetable gardens.

Fish passage has been an issue at Savage Rapids Dam since the dam was constructed in 1921 by GPID. Currently, there are fish ladders located at both the north and south sides of the dam to provide for upstream and downstream fish migration. The north fish ladder is a rectangular, concrete structure containing pools 8 feet (2.4 meters) long and 9 feet (2.7 meters) wide. The south fish ladder is a concrete structure approximately 100 feet (30.5 meters)

long and divided into 10 pools. Extending from the bottom of the south ladder to the river are a series of fish resting pools and attraction channels.

GPID has agreed to remove the dam and replace it with electric powered pumping facilities to provide water to its customers. GPID will operate the dam with the conservation measures developed in previous years during the interim period of May 7, 2002, until November 1, 2005. The permit may be extended for 1 year, until November 1, 2006, in accordance with the provisions of the Consent Decree in *United States v. Grants Pass Irrigation District*, Civil No. 98-3034-HO (D. Or., August 27, 2001).

#### Habitat Conservation Plan

GPID proposes to operate the dam consistent with conservation measures developed during 1998-2000 and as set forth in its permit application and the Plan to reduce take, with further operational modifications based on the timing of fish runs and additional alterations which may be provided from annual operations. From May 7, 2002, until November 1, 2005 (or November 1, 2006), GPID will continue to pursue Federal authorization and funding for dam removal, and will install and operate a replacement pumping system. At the end of or during this interim period, a new incidental take permit application with a new habitat conservation plan, and National Environmental Policy Act (NEPA) review will be prepared to cover the long-term operation of the replacement pumping facility.

The permit and Plan for the interim operation period would allow GPID to divert 150 cubic feet per second (cfs) of water from the Rogue River into GPID's distribution system during the inclusive irrigation seasons, from April to October each year. Activities associated with the north turbine/pump intake, south gravity intake and the fish ladders have the potential to affect listed species subject to protection under the ESA. The Plan for GPID's operation of Savage Rapids Dam, and the activities proposed for inclusion in this permit include the following: All aspects of operating the dam including opening and closing the radial gates, installation and removal of the stoplogs, operation of the fish ladders, operation of the turbine and the screens, operation of the fish sampling trap, and operation of the diversion facilities. The Plan and the permit application also cover monitoring activities, related scientific experiments in the Plan area and sources of adequate funding for the Plan.

#### Environmental Assessment

The EA package contains a draft EA and Finding of No Significant Impact (FONSI). Four Federal action alternatives have been analyzed in the draft EA: (1) The no action alternative, (2) the proposed action, issue an incidental take permit from May 7, 2002 until November 1, 2005 (or November 1, 2006 with a 1 year extension) with conditions included in the Plan, (3) issue an incidental take permit for 1 year with conditions included in the Plan with shut down triggers similar to alternative 2; and (4) issue an incidental take permit for 99 years with a habitat conservation plan that would include replacing the north irrigation screens in compliance with NMFS screen criteria, and no removal of Savage Rapids Dam or its water-powered turbine pumps.

This notice is provided pursuant to section 10(a) of the ESA. NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the ESA and NEPA regulations. If it is determined that the requirements are met, a permit will be issued for the incidental takes of listed species under the jurisdiction of NMFS. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period and NMFS will fully consider all public comments received during the comment period.

Dated: April 5, 2002.

**Susan Pultz,**

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

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

[I.D. 030402C]

##### Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Retrofit Project in Humboldt County, CA

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

**ACTION:** Notice of receipt of application and proposed incidental harassment authorization; request for comments.

**SUMMARY:** NMFS has received a request from the California Department of

Transportation (CALTRANS) for an authorization to take small numbers of marine mammals by harassment incidental to a project to seismically retrofit three bridges at Humboldt Bay in Humboldt County, CA. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize CALTRANS to incidentally take, by harassment, small numbers of Pacific harbor seals in Humboldt Bay for a 1-year period.

**DATES:** Comments and information on CALTRANS' request and NMFS' proposal must be received no later than May 10, 2002.

**ADDRESSES:** Comments on the request and proposed authorization should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3282. Copies of CALTRANS' request may be obtained by writing to this address or by telephoning one of the contacts listed below. Comments will not be accepted if submitted via e-mail or the Internet.

#### FOR FURTHER INFORMATION CONTACT:

Simona Perry Roberts, Office of Protected Resources, (301) 713-2322 ext. 106 or Christina Fahy, Southwest Regional Office, (562) 980-4023.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as:

...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.