

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 111402C]

Alaska Transient Killer Whales; Notice of Petition Availability

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

ACTION: Notice of availability; request for information.

SUMMARY: NMFS has received a petition to designate a group (called the AT1 group) of killer whales (*Orcinus orca*) as a depleted stock under the Marine Mammal Protection Act (MMPA). In accordance with the MMPA, NMFS is announcing receipt of the petition and its availability for public review and is soliciting comments on the petition.

DATES: Comments must be received by December 23, 2002.

ADDRESSES: A copy of the petition may be requested from and comments should be submitted to Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via facsimile (fax) to (301) 713-0376, but will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas Eagle, Office of Protected Resources, Silver Spring, MD (301) 713-2322, ext. 105, or Mr. Michael Payne, Alaska Regional Office, Juneau, AK (907)586-7235.

SUPPLEMENTARY INFORMATION:**Electronic Access**

A copy of the petition and its attachments are available on the Internet at the following address:<http://www.fakr.noaa.gov/protectedresources/>.

The 2000 stock assessment report for Eastern North Pacific Transient Killer Whales is available on the Internet at the following address:http://www.nmfs.noaa.gov/prot_res/overview/mm.html.

Background

Section 3(1)(A) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1362(1)(A)) defines the term, "depletion" or "depleted", to include any case in which "...the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals ..., determines that a species or population stock is below its optimum sustainable population." Section 3(9) of

the MMPA (16 U.S.C. 1362(9)) defines "optimum sustainable population [(OSP)]...with respect to any population stock, [as] the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity [(K)] of the habitat and the health of the ecosystem of which they form a constituent element." NMFS' regulations at 50 CFR 216.3 clarify the definition of OSP as a population size that falls within a range from the population level of a given species or stock that is the largest supportable within the ecosystem (i.e., K) to its maximum net productivity level (MNPL). MNPL is the population abundance that results in the greatest net annual increment in population numbers resulting from additions to the population from reproduction, less losses due to natural mortality.

The MMPA provides for interested parties to submit a petition to designate a population stock of marine mammals as depleted. Section 115(a)(3) of the MMPA (16 U.S.C. 1383b(a)(3)) requires NMFS to publish a notice in the **Federal Register** that such a petition has been received and is available for public review. Within 60 days of receiving a petition, NMFS must publish a finding in the **Federal Register** as to whether the petition presents substantial information indicating that the petitioned action may be warranted.

If NMFS makes a positive 60-day finding, NMFS must promptly initiate a review of the status of the affected population stock of marine mammals. No later than 210 days after receipt of the petition, NMFS must publish a proposed rule as to the status of the species or stock, along with the reasons underlying the proposed status determination. Following a 60-day comment period on the proposed rule, NMFS must publish a final rule within 90 days of the close of the comment period on the proposed rule.

In its 2000 stock assessment report on the affected killer whales, NMFS recognized the AT1 group as a part of a population stock called Eastern North Pacific Transient Killer Whales, which includes transient killer whales in British Columbia, Southeastern Alaska, and the Gulf of Alaska in addition to the AT1 group (see Electronic Access to obtain a copy of this stock assessment report). The report states that the minimum number of whales in this stock is 346.

Petition on AT1 Killer Whales

On November 13, 2002, the National Wildlife Federation submitted a petition on behalf of itself and six other

organizations to NMFS to designate the AT1 group of killer whales as a depleted population stock under the MMPA. The petition describes the AT1 group as one of three populations of transient killer whales in the Eastern North Pacific Ocean, which lives exclusively in Prince William Sound and the Kenai Fjords, and provides information related to this group of killer whales as a separate stock under the MMPA.

The petition includes an abundance of 22 AT1 killer whales when observations began in 1984 and a current abundance of nine whales and suggests that the decline in numbers demonstrates that the stock is depleted. The petition states that the causes of the decline include the following:

- (1) The *Exxon Valdez* oil spill,
- (2) Chemical contaminants,
- (3) Increased vessel traffic, and
- (4) Reduction in available prey species.

In a comment dated July 18, 2002, on draft 2002 marine mammal stock assessment reports the petitioners stated that the AT1 group should be a separate stock. However, the Eastern North Pacific Transient Killer Whale report was not scheduled for revision in 2002 and had not been modified when the draft 2002 reports were made available for public review and comment.

In accordance with the MMPA, NMFS announces receipt of this petition, and its availability for public review (See **ADDRESSES** and Electronic Access). The petition includes two attachments. Attachment A is the comment that the petitioners submitted to NMFS on draft 2002 marine mammal stock assessment reports. Attachment B is an extract from a petition submitted by other organizations related to Southern Resident killer whales in Puget Sound, WA. NMFS also solicits comments and information related to the statements in the petition and additional background on the status of the AT1 group of killer whales.

Dated: November 18, 2002.

Donald R. Knowles

Director, Office of Protected Resources/National Marine Fisheries Service.

[FR Doc. 02-29776 Filed 11-21-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service**

[I.D. 101602C]

Notice of Availability of a Draft Environmental Impact Statement for an Incidental Take Permit Application and Habitat Conservation Plan

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of application and availability for public comment.

SUMMARY: This document advises the public that J.L. Storedahl & Sons, Inc. (Storedahl), has submitted an application to the Fish and Wildlife Service and the National Marine Fisheries Service (together, the Services) for incidental take permits (permits) pursuant to the Endangered Species Act of 1973, as amended (Act). The permit application includes: (1) the proposed Habitat Conservation Plan (HCP); and, (2) the proposed Implementing Agreement. The Services also announce the availability of a draft Environmental Impact Statement (DEIS) for the permit application.

This notice is provided pursuant to section 10(a) of the Act, and National Environmental Policy Act regulations. The Services are furnishing this notice 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 section 10(c) of the Act.

DATES: Written comments on the permit application, DEIS, HCP, and Implementing Agreement must be received from interested parties no later than January 21, 2003.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for addresses where hard-copies of the Plan and associated documents may be obtained or reviewed. Requests for documents on CD ROM should be made by calling the U.S. Fish and Wildlife Service at (360) 534-9330. The documents are also available electronically on the World Wide Web at <http://www.r1.fws.gov/>.

Comments and requests for information should be sent to Tim Romanski, Storedahl DEIS/HCP Comments, U.S. Fish and Wildlife Service, 510 Desmond Drive, S.E., Suite

102, Lacey, Washington 98503-1263, telephone (360) 753-5823, facsimile (360) 753-9518. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Tim Romanski, Project Manager, U.S. Fish and Wildlife Service, (360) 753-5823; or Laura Hamilton, Project Manager, National Marine Fisheries Service, (360) 753-5820.

SUPPLEMENTARY INFORMATION: Hard bound copies are available for viewing, or partial or complete duplication, at the following libraries: Woodland Community Library, 770 Park St, Woodland, WA (360) 225-2115; Battle Ground Community Library, 12 W Main St, Battle Ground, WA (360) 687-2322; Ridgefield Community Library, 210 N Main Ave, Ridgefield, WA (360) 887-8281; Vancouver Community Library, 1007 E Mill Plain Blvd, Vancouver, WA (360) 695-1566; and, Olympia Timberland Library, Reference Desk, 313 8th Avenue SE, Olympia, WA (360) 352-0595.

Background

As required by section 10(a)(2)(B) of the Act, Storedahl has also prepared an HCP designed to minimize and mitigate any such take of endangered or threatened species. The permit application is related to gravel mining and reclamation activities on approximately 300 acres of Storedahl-owned lands located in Clark County, Washington. The proposed permits would authorize the take of the following threatened species incidental to otherwise lawful activities: steelhead (*Oncorhynchus mykiss*), bull trout (*Salvelinus confluentus*), chum salmon (*Oncorhynchus keta*), and chinook salmon (*Oncorhynchus tshawytscha*). Storedahl is also seeking coverage for 5 currently unlisted species (including anadromous and resident fish) under specific provisions of the permits, should these species be listed in the future. Section 9 of the Endangered Species Act and Federal regulations prohibit the "taking" of a species listed as endangered or threatened. The term take is defined under the Act to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is defined to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and

sheltering (50 CFR 17.3, 50 CFR 222.102).

The Services may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. U.S. Fish and Wildlife Service regulations governing permits for endangered species are promulgated in 50 CFR 17.22; and, regulations governing permits for threatened species are promulgated in 50 CFR 17.32. National Marine Fisheries Service regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Storedahl owns and operates a gravel processing plant in rural Clark County, Washington, near the East Fork Lewis River. This site is known as the Daybreak Mine. It is located approximately 4 miles (6.4 km) southeast of the town of LaCenter, and approximately 1 mile (1.6 km) downstream of Clark County's Daybreak Park. The 300-acre site is composed of two parcels. One parcel is approximately 80 acres and consists of 5 pits, which were mined intermittently, under different owners, from 1968 to 1995. No active extraction of gravel from this site is now occurring. Current operations are limited to processing and distributing sand and gravel that is mined off-site. Processing involves separating the sand from the gravel, and separating the gravel into different size classes. The second parcel is located immediately to the north and east of this previously mined area, on a low terrace above the 100-year floodplain. This 178-acre parcel contains high quality sand and gravel deposits that have not been mined. Current operations on this parcel include cattle grazing and hay and crop production.

Storedahl proposes to mine the sand and gravel deposits from 101 acres of this 178-acre parcel, and continue processing operations at the other parcel. These operations would continue until sand and gravel extraction at the 178-acre parcel is complete, projected to be 15 years or less. Concurrent with, and following sand and gravel extraction, Storedahl would implement a site reclamation plan.

The proposed mining, processing, and reclamation activities have the potential to affect fish and wildlife associated with the East Fork Lewis River ecosystem. The majority of the gravel to be mined is located just below the water table in a shallow aquifer, and the proposed gravel mining and reclamation plan would create a series of open water ponds and emergent wetlands. The created ponds and wetlands will drain

via a controlled outlet to a small creek (Dean Creek) and then to the East Fork Lewis River. The shallow aquifer is connected to the East Fork Lewis River. The proposed mining and reclamation plan has the potential to affect a suite of habitat conditions, including, but not limited to, water quality, channel morphology, riparian function, off-channel connections, and the conversion of pastureland to forest, wetland, and open water habitats. Some of these effects could involve species subject to protection under the Endangered Species Act.

Section 10 of the Act, as previously stated, contains provisions for the issuance of permits to non-Federal land owners for the take of endangered and threatened species. Any such take must be incidental to otherwise lawful activities, and must not appreciably reduce the likelihood of the survival and recovery of the species in the wild. As required under the permit application process, Storedahl prepared and submitted to the Services for approval an HCP containing a strategy for minimizing and mitigating take associated with the proposed activities to the maximum extent practicable. Storedahl's HCP contains a funding strategy, which is also required under the permit application process.

Activities proposed for permit coverage include the following.

(1) Gravel mining and related activities in the terrace above the 100-year floodplain, with potential impacts on groundwater quality and quantity, potential impacts on surface water quality and quantity, potential influence on channel migration, and potential access to gravel ponds by anadromous salmonids.

(2) Gravel processing.

(3) Site reclamation activities including, but not limited to the creation of emergent and open water wetland habitat, riparian and valley-bottom forest restoration, habitat rehabilitation, riparian irrigation, low flow augmentation to Dean Creek, and construction of facilities (such as trails and parking lots) to support future incorporation of the site into the open space and greenbelt reserve.

(4) Monitoring and maintenance of conservation measures. The duration of the proposed permits and HCP is 25 years, though some aspects of the conservation measures associated with the proposed HCP would continue in perpetuity.

The Services formally initiated an environmental review of the project through publication of a notice of intent to prepare an environmental impact statement (EIS) in the **Federal Register**

on December 27, 1999 (64 FR 72318). That document also announced a 30-day public scoping period during which interested parties were invited to provide written comments expressing their issues or concerns relating to the proposal. Following this announcement and public scoping, the DEIS was prepared.

The DEIS compares Storedahl's proposal against two no-action scenarios. Differences between the no-action scenarios and the proposed action are considered to be the effects that would occur if the proposed action were implemented. One additional alternative to Storedahl's proposal and the two no-action scenarios is also analyzed. These analyses, consisting of the comparisons and the expected effects, are contained in the DEIS.

Alternatives considered in the analysis include the following.

(1) Alternative A-1: Partition the property into 20-acre parcels and sell as rural residential/agricultural tracts - No Action.

(2) Alternative A-2: Mine the property without permits and avoid take - No Action.

(3) Alternative B: Mine and undertake habitat enhancement and reclamation activity at the Daybreak property implementing the May 2001 public review draft HCP - Preferred Alternative.

(4) Alternative C: Mine and undertake habitat enhancement and reclamation activity at the Daybreak property following a design and conservation measures presented to the Services in July, 2000.

One alternative was considered during scoping but not analyzed in detail. That alternative is essentially a combination of the two no-action scenarios listed above, Alternatives A-1 and A-2. That alternative would have involved mining on the portion of the property currently zoned for mining, with subsequent partitioning and sale of the mined and unmined property for low-density rural residential development. This was dismissed from detailed analysis because the vast majority of marketable sand and gravel on the portion of the property currently zoned for mining has already been extracted, rendering the alternative not feasible.

This notice is provided pursuant to section 10(a) of the Act, and National Environmental Policy Act regulations. The Services will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the Act and National Environmental Policy Act. If it

is determined that the requirements are met, permits will be issued for the incidental take of listed species. The final permit decisions will be made no sooner than 30 days after the publication of the Final EIS.

Dated: October 28, 2002.

Rowan W. Gould,

Deputy Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon

Dated: November 19, 2002.

Margaret Lorenz,

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

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BILLING CODES 3510-22-S, 4310-55-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 021108269]

RIN 0648-ZB33

Joint Program Announcement on Climate Variability and Human Health for FY 2003; National Oceanic and Atmospheric Administration (NOAA), in Collaboration With; National Science Foundation (NSF), Environmental Protection Agency (EPA), and EPRI (formerly the Electric Power Research Institute)

AGENCY: Office of Global Programs, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: Due to an unavoidable administrative error, the wrong version of this notice was published on November 14, 2002, at 67 FR 69110. With the intent of stimulating integrated multidisciplinary studies and enhancing institutional collaboration, National Oceanic Atmospheric Administration (NOAA), Environmental Protection Agency (EPA), the National Science Foundation (NSF), and the Electric Power Research Institute (EPRI), announce our interest in receiving research proposals to improve our understanding of the human health consequences related to climate variability and enhance the integration of useful climate information into public health policy and decision-making. This joint announcement is intended to support the formation of multidisciplinary teams working in close collaboration on integrated projects to illuminate the human, biological, and physical pathways by which climate may affect human health,