

Agency, Region 5, Chicago, Illinois, 60604, (312) 886-6081.

SUPPLEMENTARY INFORMATION: For additional information, see the information provided in the Direct Final notice which is located in the Rules Section of this **Federal Register**. Copies of the USEPA's analysis are available for inspection at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Telephone Jacqueline Nwia at (312) 886-6081 before visiting the Region 5 Office.

Authority: 42 U.S.C. 7401-7671q.

Dated: July 25, 1995.

Carol M. Browner,

Administrator.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition to List the Kootenai River Population of the Interior Redband Trout as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 90-day finding for a petition to list the Kootenai River population of the interior redband trout (*Oncorhynchus mykiss gairdneri*) under the Endangered Species Act of 1973, as amended. The Service finds that the petition did not present substantial scientific or commercial information indicating that the petitioned actions may be warranted, because it fails to substantiate that the interior redband trout of the Kootenai River are a distinct population segment.

DATES: The finding announced in this document was made on July 11, 1995.

ADDRESSES: Data, information, comments, or questions concerning this petition should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, 4696 Overland Road, Room 576, Boise, Idaho, 83705. The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Patricia Klahr, staff biologist (refer to

ADDRESSES section or telephone 208-334-1931).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U. S. C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. This finding is to be based on all information available to the Service at the time the finding is made. To the maximum extent practicable, this finding is to be made within 90 days of the date the petition was received, and the finding is to be published promptly in the **Federal Register**.

The Service has made a 90-day finding on a petition to list the Kootenai River population of the interior redband trout (*Oncorhynchus mykiss gairdneri*). The petition, dated April 4, 1994, was submitted by Brendan M. McManus of the Biodiversity Legal Foundation of Boulder, Colorado, and Donald Kern of Kalispell, Montana, and was received by the Service on April 8, 1994. The petitioner requested the Service list the Kootenai River drainage population of interior redband trout within the contiguous United States as threatened or endangered and designate critical habitat concurrently with the listing. The petitioners state that the best scientific data available indicates that interior redband trout residing in the Kootenai River drainage of Montana, and possibly Idaho, constitutes a separate and distinct vertebrate population segment, appropriate for listing as threatened or endangered according to the Act. The petitioners submitted information about threats to the Kootenai River interior redband trout, including hybridization and competition with non-native trout species, loss of habitat from land and water use practices, and inadequacy of existing regulatory mechanisms. The petitioners state that hybridization with non-native or introduced trout may be the most serious threat to the long-term persistence of the interior redband trout in the Kootenai River drainage.

The interior redband trout is currently classified as a category 2 candidate species by the Service (59 FR 58982; November 15, 1994). Category 2 includes taxa for which information in the Service's possession indicates that listing is possibly appropriate but for which the Service lacks substantial information upon which to base a

proposal to list as endangered or threatened.

The Service has reviewed the petition, the literature cited in the petition, and other literature and information available in the Service's files. On the basis of the best scientific and commercial information available, the Service finds the petition does not present substantial information indicating that the petitioned action may be warranted because information is lacking to show that the interior redband trout of the Kootenai River are a distinct population segment under the Act.

There has been confusion regarding the taxonomic classification of interior redband trout (Behnke 1986, Behnke 1992). This confusion may be a result of similar morphological and meristic characteristics with other rainbow and cutthroat trout species (Berg 1987). It is further complicated by their diversity and adaptability, as "redband trout" are found in high mountain streams as well as in hot, arid desert drainages. Behnke (1992) refers to the interior redband trout as the Columbia River redband trout and describes their distribution as the Columbia River basin east of the Cascades to barrier falls on Kootenai, Pend Oreille, Spokane, and Snake Rivers; the upper Fraser River basin above Hell's Gate; and Athabasca River headwaters of the Mackenzie River basin.

The subspecies *gairdneri* includes resident stream populations, populations adapted to lakes (kamloops trout), and anadromous steelhead populations. Resident populations of Columbia River redband trout are found throughout the Columbia River basin east of the Cascades. The native trout of the Oregon and southern Idaho desert basins are considered to be a primitive form of redband trout derived from the Columbia River basin. Kamloops trout occur in lakes in the upper Columbia and upper Fraser basins. Anadromous steelhead populations ascending the Columbia River east of the Cascade Range and into the Salmon and Clearwater River drainages are also currently classified with redband trout (Behnke 1992).

The interior redband trout of the Kootenai River drainage exhibits two distinct life histories, a resident stream form of generally smaller fish and the larger lake dwelling kamloops form (Huston 1994; Behnke 1986; Behnke 1992). The Kootenai River drainage interior redband trout is on the northeastern periphery of the subspecies' range and is believed to be important as a potential source of diversity and adaptability (Doug

Perkinson, Kootenai National Forest, *in litt.* 1993).

The petitioners state that based on genetic analysis of trout samples from 60 sites in the Kootenai River drainage, researchers have identified five remaining pure strain populations of interior redband trout in Montana. These five stream populations presently occupy approximately 56 kilometers (35 miles) of stream (Doug Perkinson, Kootenai National Forest, *in litt.* 1994). The petitioners assert that these populations have a high likelihood of being the only native populations remaining in Montana. The petitioners also state there are no documented stream populations of interior redband trout in the State of Idaho.

Any species that is in danger of extinction throughout all or a significant portion of its range may be declared an endangered species under the Act (50 CFR 424.02(e)). The term "species" is defined in 50 CFR 424.02(k) as "any species or subspecies * * * and any distinct population segment of any vertebrate species that interbreeds when mature." Thus the first deliberation is whether the Kootenai River population of interior redband trout is a recognized subspecies or distinct population that interbreeds.

Following receipt of the petition the Service found additional evidence of native redband trout, both pure populations and the presence of genetic material, in other tributaries in the Kootenai drainage. These data indicate that interior redband trout in the Kootenai drainage may be more widely distributed than previously assumed (Perkinson 1994A). The Idaho Conservation Data Center, *in litt.* 1994, cites populations of interior redband trout in the following drainages in Idaho—Weiser, Payette, Boise, Bruneau, Owyhee, and Wood, and numerous tributaries to the Snake River. The Service examined evidence of additional pure redband trout populations above Kootenai Falls, a presumed isolating barrier for the Kootenai River redband trout (Leary 1994). This evidence indicates nearly pure populations of redband trout outside the subspecies presumed home-range (Perkinson 1994C). The literature also indicates interior rainbow trout genetic material in numerous fish populations upstream from Kootenai Falls in the Kootenai River drainage (Huston 1994, Perkinson 1994A). A Service review of the literature and discussions with regional fisheries biologists reveals an ongoing debate about the definition of interior redband trout. Presently there appears to be general agreement that the interior

rainbow trout "complex" includes redband trout of the Columbia basin east of the Cascade Range up to barrier falls, and including anadromous steelhead, making the distribution of this subspecies wide and diverse.

The petitioners did not provide supporting data or literature to substantiate the claim that the interior redband trout residing in the Kootenai River drainage of Montana, and possibly Idaho, constitute a separate and distinct vertebrate population segment that is genetically, physically, or is otherwise distinct from other redband trout populations, or that these fish are significant to the survival of redband trout populations that occupy hundreds of miles of habitat in the inland northwest. In addition these fish do not constitute a significant portion of the range of the interior redband trout.

The Service concludes that the data contained in the petition, referenced in the petition, and otherwise available to the Service does not present substantial information that the petitioned actions may be warranted. The Service will retain the interior redband trout as a category 2 candidate, and will continue to seek information regarding the status or threats to the subspecies. If additional data becomes available in the future, the Service may reassess the listing priority for this subspecies or the need for listing.

References cited: A complete list of all references cited herein are available upon request from the Boise Field Office (see ADDRESSES section).

Author: The primary author of this document is Patricia Klahr, U.S. Fish and Wildlife Service, (see ADDRESSES section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: July 11, 1995.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Chapter VI

[I.D. 073195A]

Coral Reef Resources of Puerto Rico and the U.S. Virgin Islands

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

ACTION: Notice of availability of a fishery management plan; and request for comments.

SUMMARY: NMFS announces that the Caribbean Fishery Management Council has submitted a Fishery Management Plan for Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the U.S. Virgin Islands (FMP) for review by NMFS. Written comments are requested from the public.

DATES: Written comments must be received on or before October 10, 1995.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the FMP, which includes an environmental impact statement and a regulatory impact review, should be sent to the Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, PR 00918-2577, 809-766-5926.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813-570-5305.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that a council-prepared fishery management plan be submitted to NMFS for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that NMFS, upon receiving a fishery management plan, immediately publish a notice that it is unavailable for public review and comment.

This FMP proposes to (1) Prohibit the use of chemicals, plants, plant-derived toxins, and explosives to take coral reef resources in the exclusive economic zone (EEZ) around Puerto Rico and the U.S. Virgin Islands; (2) limit allowable harvest in the EEZ to dip nets and slurp guns or by hand; and (3) prohibit the possession or sale of stony corals, gorgonians, and live rock (prohibited species) taken in the EEZ.

The Director, Southeast Region, NMFS, based on a preliminary evaluation of the FMP, has disapproved the proposed adoption of certain state permit systems for harvesters and dealers of coral reef resources and for the taking of prohibited species for scientific, educational, or restoration purposes. His action was based on a determination that the state permit systems for coral reef resources are not yet fully developed and that state regulations authorizing such permits, where they exist, do not satisfy the Administrative Procedure Act, the Magnuson Act, and other applicable laws.