

**SUPPLEMENTARY INFORMATION:** This notice is relevant to the Ozette Lake sockeye salmon (*Oncorhynchus nerka*) ESU.

### Background

The Makah Indian Tribe, and the Washington Department of Fish and Wildlife as the co-managing resource management agency under the *United States v. Washington* fisheries management framework, have provided a joint RMP in the form of a Hatchery and Genetic Management Plan (HGMP) for Ozette Lake sockeye salmon. The RMP encompasses artificial propagation, research, and monitoring and evaluation activities within the range of the Ozette Lake sockeye salmon ESU. The range of the ESU is the Ozette River, Ozette Lake, and Ozette Lake tributaries accessible to anadromous salmon. Performance objectives specified in the RMP include establishment of self-sustaining tributary-spawning sockeye aggregations to increase natural spawning fish abundance levels in the Ozette Lake Basin. The RMP also includes research and monitoring and evaluation actions designed to identify life history characteristics of the listed beach spawning sockeye salmon population, and factors limiting the productivity of the listed sockeye salmon ESU. Monitoring and evaluation programs are also used to insure that the proposed artificial propagation measures are consistent with listed sockeye salmon conservation objectives.

As required by Section 223.203 (b)(6) of the ESA 4(d) Rule, the Secretary must determine pursuant to 50 CFR 223.203 and pursuant to the government-to-government processes therein whether the RMP for Ozette Lake sockeye salmon would appreciably reduce the likelihood of survival and recovery of the Ozette Lake sockeye salmon and other affected threatened ESUs. The Secretary must take comments on how the RMP addresses the criteria in 223.203(b)(5) in making that determination. The final National Environmental Policy Act and RMP determinations will not be completed until after the end of the 30-day comment period and will fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

### Authority

Under section 4 of the ESA, NMFS, by delegated authority from the Secretary of Commerce, is required to adopt such regulations as he deems necessary and advisable for the conservation of the

species listed as threatened. The ESA salmon and steelhead 4(d) Rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to actions undertaken in compliance with a RMP developed jointly by the Tribes and the State of Washington (joint plan) and determined by the Secretary to be in accordance with the salmon and steelhead 4(d) Rule (65 FR 42422, July 10, 2000).

Dated: July 26, 2002.

### Phil Williams,

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

[FR Doc. 02-19428 Filed 7-31-02; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 072402A]

### Receipt of Two Applications for Direct Take Permits (1395 and 1396)

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

**ACTION:** Notice of availability.

**SUMMARY:** NMFS has received applications for direct take permits (Permits) from the Washington Department of Fish and Wildlife (WDFW) and U.S. Fish and Wildlife Service (USFWS) pursuant to the Endangered Species Act of 1973, as amended (ESA) (permit numbers 1395 and 1396, respectively). Chelan County Public Utilities District (PUD) and Douglas County PUD are co-applicants with WDFW for permit 1395 as agreed to in the Habitat Conservation Plans (HCPs) developed for the operation of Rock Island, Rocky Reach and Wells hydro electric projects; the USFWS is the applicant for permit 1396. As required by the ESA, the WDFW, Chelan PUD, Douglas PUD and USFWS have prepared conservation plans (Plans) designed to minimize and mitigate any such take of endangered or threatened species. The Permit applications are for the direct and incidental take of ESA-listed adult and juvenile salmonids associated with carrying out hatchery programs for endangered Upper Columbia River steelhead in the upper Columbia River and its tributaries in the state of Washington. The duration of the

proposed Plans and Permits is 5 years. NMFS is 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 the ESA.

**DATES:** Written comments from interested parties on the Permit applications and Plans must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific daylight time on September 3, 2002.

**ADDRESSES:** Written comments on the applications and Plans should be sent to Kristine Petersen, Sustainable Fisheries Division, 525 N.E. Oregon Street, Suite 510, Portland, OR 97232. Comments may also be sent via fax to 503/872-2737. Comments will not be accepted if submitted via e-mail or the Internet. Requests for copies of the permit applications and Conservation Plans should be directed to the Sustainable Fisheries Division, 525 N.E. Oregon Street, Suite 510, Portland, OR 97232. The documents are also available on the Internet at <http://www.nwr.noaa.gov/>. Comments received will also be available for public inspection, by appointment, during normal business hours by calling 503/230-5409.

**FOR FURTHER INFORMATION CONTACT:** Kristine Petersen, Portland, OR (ph: 503/230-5409, fax: 503/872-2737, e-mail: [Kristine.Petersen@noaa.gov](mailto:Kristine.Petersen@noaa.gov)).

**SUPPLEMENTARY INFORMATION:** 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 limited circumstances, to take listed species for scientific purposes or to enhance the propagation or survival of the species under section 10(a)(1)(A) of the ESA. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

### Species Covered in This Notice

The following evolutionarily significant units (ESUs) are included in the Plan and Permit application:

Steelhead (*Oncorhynchus mykiss*): endangered, naturally produced and artificially propagated Upper Columbia River (UCR).

Chinook salmon (*O. tshawytscha*): endangered, naturally produced and artificially propagated, UCR spring-run.

### Applications Received

Two section 10(a)(1)(A) permits for artificial propagation and release of endangered Upper Columbia River Basin ESU steelhead will expire on May 31, 2003. In anticipation of this expiration date, the WDFW and USFWS are applying for new permits covering similar actions. Upper Columbia River Basin ESU steelhead were listed as endangered on August 18, 1997 (62 FR 43937). Included in the listing decision was the determination that the Wells Hatchery stock was part of the ESU and essential for recovery efforts.

On June 12, 2002, WDFW submitted an application to NMFS for an ESA section 10(a)(1)(A) permit for the take of ESA-listed anadromous fish species associated with operation of hatchery programs producing hatchery steelhead for release into the Columbia River at Ringold Springs Rearing facility and upstream of Rock Island Dam from the Wenatchee River to the Okanogan River Basin from 2002 to 2007. Incidental take would include endangered spring chinook salmon in the Upper Columbia River ESU. The proposed programs produce steelhead of native stock to enhance local naturally spawning salmon populations.

On June 11, 2002, USFWS submitted an application to NMFS for an ESA section 10(a)(1)(A) permit for the direct take of ESA-listed anadromous fish species associated with operation of hatchery programs producing endangered steelhead for release into the Methow River from 2002 to 2007. Incidental take would include endangered spring chinook salmon in the Upper Columbia River ESU. The proposed programs produce steelhead of native stock to enhance local naturally spawning salmon populations.

### Conservation Plans

The Conservation Plans prepared by WDFW and USFWS describe measures designed to monitor, minimize, and mitigate the take of ESA-listed anadromous steelhead and the incidental takes of ESA-listed salmon associated with the following steelhead hatchery programs that are proposed to be implemented from 2002 through 2007:

#### *Eastbank Fish Hatchery Steelhead Program*

The hatchery began operation in 1989 to mitigate for steelhead and salmon smolt losses resulting from the operation of Rock Island Dam. The hatchery is used for incubation and rearing of anadromous fish. Eastbank Fish Hatchery is located on the east side

of the Columbia River near Rocky Reach Dam at river mile 475, 7 miles north of Wenatchee, Washington. Artificial propagation of steelhead is intended to recover and enhance the natural steelhead population in the Wenatchee River Basin. Up to 208 adult steelhead are collected for broodstock at Tumwater and Dryden dams on the Wenatchee River. Holding and spawning of broodstock is conducted at Eastbank or Wells hatcheries. There are no on-station releases of fish at Eastbank Hatchery. Fish reared at Eastbank Hatchery and transferred to other locations for acclimation/release or scatter planted using tank trucks. The proposed steelhead program goal is 200,000 smolts released into the Wenatchee River basin in April or May.

#### *Turtle Rock Fish Hatchery Steelhead Program*

The Turtle Rock Hatchery is located immediately downstream of Rocky Reach Dam on the Columbia River. The steelhead rearing ponds are located on Turtle Rock Island at river mile 475 in the Rocky Reach Dam pool on the Columbia River. The hatchery is operated as a mitigation facility for fishery impacts caused by the construction and operation of Rocky Reach Dam. Artificial propagation of steelhead at this facility are intended to enhance the natural steelhead population in the Wenatchee River Basin. Broodstock are not collected at Turtle Rock Hatchery. Currently, broodstock for the program is provided annually through the Eastbank Hatchery steelhead program. Rearing occurs on Columbia River water which provides the juvenile steelhead natural water temperature regimes and may increase smolt to adult survival and increase the hatchery reared steelhead's ability to reproduce in the wild. The annual hatchery production goals are 200,000 juvenile steelhead for release in the Wenatchee River Basin in April and May.

#### *Wells Fish Hatchery Steelhead Program*

Wells Hatchery is located on the mainstem Columbia River just below Wells Dam at river mile 515. The hatchery operates as a mitigation facility for anadromous fish impacts caused by Wells Dam. The artificial propagation program is intended to enhance and assist in the recovery of natural populations in the Methow and Okanogan River Basins. Steelhead adults collected as broodstock for the enhancement program are trapped each year in July through November at Wells Dam fish ladders or as volunteers to the hatchery trap. Progeny of spawners

trapped at Wells Hatchery are incubated on-station and reared on-station or transferred as eyed eggs to other WDFW facilities with final rearing and release at Ringold Springs facility, or transferred as eyed eggs to Winthrop National Fish Hatchery for rearing and release. The annual Wells Fish Hatchery release goal is 450,000 juvenile steelhead. Juvenile steelhead are released at various locations throughout the Methow and Okanogan basins.

#### *Winthrop National Fish Hatchery Steelhead Program*

Winthrop National Fish Hatchery (NFH) is operated by USFWS and located on the Methow River at river mile 50, near the town of Winthrop. The hatchery operates as a mitigation facility for anadromous fish impacts caused by the Grand Coulee Fish Maintenance Project. Artificially produced steelhead are intended to enhance and recover natural steelhead populations in the Methow River. This program receives 125,000 eyed eggs from WDFW Wells Fish Hatchery steelhead program for rearing and release. The annual program release goal is 100,000 juvenile steelhead. Juvenile hatchery steelhead are released from Winthrop NFH into the Methow River.

#### *Ringold Steelhead Program*

The program's purpose is to provide a genetic reserve of UCR ESU steelhead. Approximately 240,000 eyed eggs from Wells Fish Hatchery will be transferred to other WDFW facilities for incubation and early rearing. Final rearing and release will occur at Ringold Springs Rearing Pond. The program goal is the release of 180,000 steelhead smolts in April or May.

Mortalities of ESA-listed fish associated with the steelhead hatchery programs are requested at levels specified in the Permit applications and in the Conservation Plans. The WDFW is proposing to limit broodstock collection and juvenile fish production and release methods applied at the hatcheries such that the direct impacts on ESA-listed salmonids will be minimized.

### Broodstock Management Techniques

It is possible that in some years returns to the hatchery may exceed the number of returns necessary to produce the number of offspring considered advisable for release into this ESU. Therefore, this surplus may by definition not be essential for

recovery efforts. Measures to manage hatchery adult returns include collection at specific sites for transplantation into landlocked lakes and limited harvest.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted thereon to determine whether the application meets the requirements of section 10(a)(1)(A) of the ESA. If it is determined that the requirements are met, permits will be issued to WDFW and USFWS for the steelhead enhancement programs in the Upper Columbia River. NMFS will publish a record of its final action in the **Federal Register**.

Dated: July 26, 2002.

**Phil Williams,**

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

[FR Doc. 02-19431 Filed 7-31-02; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 062502C]

**Marine Mammals; File No. 881-1443**

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

**ACTION:** Issuance of permit amendment.

**SUMMARY:** Notice is hereby given that the Alaska SeaLife Center, P.O. Box 1329, Seward, AK 99664 has been issued an amendment to scientific research Permit No. 881-1443.

**ADDRESSES:** The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13730, Silver Spring, MD 20910 (301/713-2289); and

Regional Administrator, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 21668, Juneau, AK 99802-1668 (907/586-7221).

**FOR FURTHER INFORMATION CONTACT:** Ruth Johnson or Amy Sloan, 301/713-2289.

**SUPPLEMENTARY INFORMATION:** On September 19, 2001, notice was published in the **Federal Register** (66 FR 48663) that an amendment of Permit No. 881-1443, issued March 27, 1998

(63 FR 14905), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of 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 provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Issuance of this amendment, as required by the ESA was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

The amendment authorizes modifications to existing research protocols as well as new research projects. Modifications to existing protocols include: (1) increasing frequency of blubber biopsies taken from Steller sea lions from 3 to 6 times per year for fatty acid and organochlorine testing; (2) increasing mass of blubber biopsies taken from harbor seals from 50 to 500 mg for organochlorine testing; (3) collecting saliva from Steller sea lions and harbor seals for deuterium, steroid, and hormone analyses; (4) analyzing vaginal and preputial swabs for cell cytology in Steller sea lions and harbor seals; and (5) administering stable isotopes to Steller sea lions for nutritional studies.

New projects include: (1) hormone stimulation studies and collection of feces for assessment of stress or well-being in relation to diet in Steller sea lions; (2) bioenergetic studies of Steller sea lions involving determination of metabolic rates using flow respirometry and metabolic chambers, and dietary marker administration and dry holding for collection of urine and feces; (3) collection of skin and mucosal swabs from harbor seals and Steller sea lions for development of cell lines and microbiological analyses; (4) administration of deuterium labeled vitamin E and a vitamin A analog and increased frequency of blood sampling to determine metabolic requirements of these vitamins; and (5) photographic studies to determine pelage pattern consistency of harbor seals.

Dated: July 25, 2002.

**Eugene T. Nitta,**

*Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service*  
[FR Doc. 02-19430 Filed 7-31-02; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

[Docket No. 2002-P-004]

**Grant of Interim Extension of the Term of U.S. Patent No. 4,229,449; Roboxetine Mesylate**

**AGENCY:** Patent and Trademark Office, Commerce.

**ACTION:** Notice of interim patent term extension.

**SUMMARY:** The United States Patent and Trademark Office has issued a certificate under 35 U.S.C. 156(d)(5) for a fourth one-year interim extension of the term of U.S. Patent No. 4,229,449.

**FOR FURTHER INFORMATION CONTACT:** Karin Ferriter by telephone at (703) 306-3159; by mail marked to her attention and addressed to the Commissioner for Patents, Box Patent Ext., Washington, DC, 20231; by fax marked to her attention at (703) 872-9411, or by e-mail to [Karin.Ferriter@uspto.gov](mailto:Karin.Ferriter@uspto.gov).

**SUPPLEMENTARY INFORMATION:** Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to a year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On November 20, 2001, patent owner Pharmacia & Upjohn, S.p.A., timely filed an application under 35 U.S.C. 156(d)(5) for a third subsequent interim extension of the term of U.S. Patent No. 4,229,449. The patent claims the active ingredient roboxetine mesylate (Vestra(TM)). The application indicates that a New Drug Application for the human drug product roboxetine mesylate (Vestra(TM)) has been filed and is currently undergoing regulatory review before the Food and Drug Administration for permission to market or use the product commercially.

Review of the application indicates that except for permission to market or use the product commercially, the