

Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during Recovery Plan development. The Services will consider all substantive comments and information presented during the public comment period in the course of finalizing this Recovery Plan.

The Gulf of Maine DPS of Atlantic salmon was listed as endangered under the Act on December 17, 2000 (65 FR 69459). The DPS includes all persistent, naturally reproducing populations of Atlantic salmon from the Kennebec River downstream of the former Edwards Dam site, northward to the mouth of the St. Croix River. At the time of listing, there were at least eight rivers in the geographic range of the DPS known to still support wild Atlantic salmon populations (Dennys, East Machias, Machias, Pleasant, Narraguagus, Ducktrap and Sheepscot Rivers and Cove Brook). In addition to these eight rivers, there are at least 14 small coastal rivers within the historic range of the DPS from which wild salmon populations have been extirpated.

The Gulf of Maine DPS has declined to critically low levels. Adult returns have continued to decline since the listing. In 2002, total adult returns to the eight rivers still supporting wild Atlantic salmon populations within the DPS were estimated to range from 23 to 46 individuals. No adults were documented in three of the eight rivers. Juvenile abundance estimates and survival have also continued to decline. Declining smolt production has been documented in recent years, despite fry stocking.

The Recovery Plan includes prioritized actions to recover the Gulf of Maine DPS. The major areas of action are designed to stop and reverse the downward population trends of the eight wild Atlantic salmon populations and minimize the potential for human activities to result in the degradation or destruction of Atlantic salmon habitat essential to its survival and recovery. The Draft Recovery Plan identifies the following actions as necessary for the full recovery of the DPS: (1) Protect and restore freshwater and estuarine habitat; (2) prevent take in freshwater, estuarine and marine fisheries; (3) reduce predation and competition on all life stages of Atlantic salmon; (4) reduce risks from commercial aquaculture operations; (5) supplement wild populations with hatchery-reared DPS salmon; (6) conserve the genetic integrity of the DPS; (7) assess stock status of key life stages; (8) promote salmon recovery through increased

public and government awareness; and (9) assess effectiveness of recovery actions and revise as appropriate.

The recovery planning process included a "threats assessment", which evaluated the geographic extent and the severity of threats to various life-stages of Atlantic salmon in the DPS. This evaluation resulted in the following threats being identified as high priority for action to reverse the decline of Atlantic salmon populations in the Gulf of Maine DPS: (1) Aquaculture practices which pose ecological and genetic risks; (2) acidified water and associated aluminum toxicity which decrease juvenile survival; (3) poaching of adults in DPS rivers; (4) incidental capture of adults and parr by recreational fishermen; (5) predation; and (6) excessive or unregulated water withdrawal.

Public Comments Solicited

The Services solicit written comments on the draft Recovery Plan. All substantive comments received by the date specified above will be considered prior to final approval of the Recovery Plan.

As is noted in the Recovery Plan, the National Research Council (NRC) was asked to describe what is known about the genetic makeup of Atlantic salmon in Maine and issued a report on this subject in January 2002. The NRC was also asked to assess the causes of decline and to suggest strategies for the rehabilitation of Atlantic salmon in Maine and issued a report addressing this issue on January 20, 2004. The Services' preliminary review of the NRC's January 20, 2004 report indicates that the report's findings are generally consistent with this draft Recovery Plan. However, several issues within this report warrant additional consideration as we develop a final recovery plan. The most significant of these issues include: (1) risks associated with the research and monitoring; (2) mortality as smolts transition from freshwater to the ocean; (3) potential impacts of hatchery operations; and (4) the need for a structured and inclusive risk and decision analysis process.

The Services are seeking public comment on these and other findings and recommendations in the NRC report as they relate to this Recovery Plan. It is important to note that the scope of the NRC report is broader than this Recovery Plan; the NRC report considered all Atlantic salmon populations in Maine, whereas the Recovery Plan focuses only on the Gulf of Maine DPS.

Authority

The authority for this action is section 4(f) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: May 14, 2004.

Laurie K. Allen,

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

Dated: May 12, 2004.

Marvin E. Moriarty,

*Regional Director, Region 5, U.S. Fish and
Wildlife Service.*

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Bureau of Reclamation

[INT-DES-04-32]

Draft Environmental Impact Statement/ Draft Environmental Impact Report (DEIS/DEIR) for the Lower Colorado River Multi-Species Habitat Conservation Program, Section 10 Permit Application for Incidental Take, Draft Lower Colorado River Multi- Species Habitat Conservation Plan, Draft Biological Assessment, and Draft Implementing Agreement

AGENCIES: U.S. Fish and Wildlife Service, Bureau of Reclamation, Interior.
ACTION: Notice of availability and public hearings.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), this notice advises the public that the U.S. Fish and Wildlife Service (Service) has received an application for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act), for the Lower Colorado River Multi-Species Conservation Program (LCR MSCP). The requested ITP, if granted, would authorize the LCR MSCP permittees incidental take of the following federally listed and candidate species: southwestern willow flycatcher (*Empidonax traillii extimus*) (flycatcher), Yuma clapper rail (*Rallus longirostris yumanensis*) (clapper rail), desert tortoise (*Gopherus agassizii*) (tortoise), bonytail (*Gila elegans*) (bonytail), humpback chub (*Gila cypha*) (humpback), razorback sucker (*Xyrauchen texanus*) (razorback), and yellow-billed cuckoo (*Coccyzus americanus*) (cuckoo). The requested ITP would also address incidental take for 20 other species of animals and plants that are not currently federally listed or candidate species. The

proposed take would occur in Mohave, La Paz, and Yuma counties, Arizona; San Bernardino, Riverside, and Imperial counties, California; and Clark County, Nevada, as a result of water storage and delivery, power generation, and other associated water management actions on the lower Colorado River (LCR) from the full pool elevation of Lake Mead to the Southerly International Boundary with Mexico. Such actions cause effects to aquatic, marsh, and riparian habitats. The Bureau of Reclamation (Reclamation), the Service, and The Metropolitan Water District of Southern California as joint lead agencies, have issued a DEIS/DEIR to evaluate the impacts of, and alternatives for, the possible issuance of an ITP and the implementation by Reclamation of conservation measures contained in the habitat conservation plan. The participating Federal and non-Federal entities have completed the draft Lower Colorado River Multi-Species Habitat Conservation Plan (HCP) as part of the application package submitted to the Service (collectively, the "Application") as required by the Act for consideration of issuance of an ITP, pursuant to section 10(a)(1)(B). The Application provides measures to minimize and mitigate the effects of the proposed taking of listed, candidate, and other species. As part of the LCR MSCP, Reclamation has completed a draft Biological Assessment (BA), which includes an evaluation of the effects of its proposed ongoing discretionary LCR operations and maintenance activities and its implementation of the conservation measures described in the Reclamation Draft BA and in the HCP for the listed, candidate, and other included species.

DATES: Written comments on the DEIS/DEIR and Application documents will be accepted until close of business August 18, 2004. Public hearings will be held the following dates and times:

- July 20, 2004, 6:30 p.m., Henderson, Nevada.
- July 21, 2004, 6:30 p.m., Blythe, California.
- July 22, 2004, 6:30 p.m., Phoenix, Arizona.

ADDRESSES: These documents are voluminous, so we suggest interested parties obtain these documents by going to the LCR MSCP Web site at <http://www.lcrmscp.org>. Alternatively, persons may obtain compact disks containing electronic copies of these documents by writing to Mr. Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021, calling (602) 242-0210, or faxing (602) 242-

2513; or Mr. Glen Gould, Bureau of Reclamation, P.O. Box 61470, LC-2011, Boulder City, NV 89006-1470, calling (702) 293-8702, or faxing (702) 293-8418. Finally, a limited number of printed copies will be made available, by request, at the same addresses, phone numbers, and fax numbers. Copies of the DEIS/DEIR and Application are also available for public inspection and review at the locations listed under **SUPPLEMENTARY INFORMATION** below. Comments may be submitted in writing to the above persons and fax numbers. Written and oral comments will also be accepted at the following public hearings:

- Henderson, Nevada; Henderson Convention Center, Vista Room; 200 South Water Street.
- Blythe, California; City Council Chambers, 235 North Broadway.
- Phoenix, Arizona; Arizona Department of Water Resources; 500 North Third Street.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021 or (602) 242-0210; or Mr. Glen Gould, Bureau of Reclamation, P.O. Box 61470, LC-2011, Boulder City, NV 89006-1470 or (702) 293-8702.

SUPPLEMENTARY INFORMATION: This notice advises the public that the Service and Reclamation have gathered the information necessary to: (1) Formulate alternatives and determine impacts for the DEIS/DEIR related to the potential issuance of an ITP for the LCR MSCP; and (2) develop and implement the HCP, which provides measures to minimize and mitigate the effects of incidental take of federally listed species to the maximum extent practicable.

Section 9 of the Act prohibits the "taking" of threatened and endangered species. However, the Service, under limited circumstances, may issue ITPs to take threatened or endangered wildlife species when such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing issuance of ITPs pursuant to the Act are published at 50 CFR parts 13 and 17. This notice is provided pursuant to section 10(c) of the Act and NEPA regulations (40 CFR 1506.6).

Preparation of the DEIS/DEIR and HCP Application pursuant to this **Federal Register** (FR) notice predated issuance of a recent decision by Judge Emmet G. Sullivan of the United States District Court for the District of Columbia in the *Spirit of the Sage Council, et al., v. Norton* litigation, Civ. No. 98-1873 (June 10, 2004). Issuance of

any ITPs as part of the LCR MSCP will conform to the provisions of that decision, unless modified by a court of competent jurisdiction, including the requirement that the Department of the Interior "shall refrain from approving new ITPs or related documents containing "No Surprise" assurances, as defined by * * * [the] No Surprise rule" "pending completion of the proceeding on remand" in the litigation.

Review and Inspection of DEIS/DEIR and Application: Copies of the DEIS/DEIR and Application are available for public inspection and review at the following locations (by appointment at government offices):

- Department of the Interior, Natural Resources Library, 1849 C. St., NW., Washington, DC 20240.
- U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., Room 4012, Albuquerque, NM 87102.
- U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021.
- Bureau of Reclamation, Lower Colorado Region, 500 Date Street, Boulder City, NV 86009-1470.
- Bureau of Reclamation, Upper Colorado Region, 125 South State Street, Room 6107, Salt Lake City, UT 84138-1102.
- Bureau of Reclamation Library, Denver Federal Center, 6th Avenue and Kipling, Building 67, Room 167, Denver, CO 80225.
- Bureau of Reclamation, Phoenix Area Office, 2222 W. Dunlap Ave., Suite 100, Phoenix, AZ 85021.
- Metropolitan Water District of Southern California, 700 N. Alameda St., Los Angeles, CA 90017.
- Government Document Service, Arizona State University, Tempe, AZ 85287.
- Yuma County Library, 350 S. 3rd Ave., Yuma, AZ 85384.
- Palo Verde Valley Library, 125 W. Chanslor Way, Blythe, CA 92225.
- Mohave County Library, 1170 Hancock Rd., Bullhead City, AZ 86442.
- Laughlin Library, 2840 South Needles Hwy., Laughlin, NV 89029.
- Clark County Library, 1401 East Flamingo Road, Las Vegas, NV 89119.
- James I. Gibson Library, 280 Water Street, Henderson, NV 89015.

Public Disclosure: Written comments become part of the public record associated with this proposed action. Accordingly, the Service and Reclamation make these comments, including names and home addresses of respondents, available for public review. Individual respondents may request that their home addresses be withheld from public disclosure, which will be honored to the extent allowable

by law. There also may be circumstances in which a respondent's identity would be withheld from public disclosure, as allowable by law. If you wish to have your name and/or address withheld, you must state this prominently at the beginning of your comments. However, anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Background: The initial Notice of Intent to prepare a DEIS/DEIR and hold public scoping meetings was published in the **Federal Register** on May 18, 1999 (64 FR 27000), and a supplemental Notice of Intent was published on July 12, 2000 (65 FR 43031). A summary of comments provided during the 1999 and 2000 scoping periods, which included public meetings, as well as during public meetings held in November 2003, is provided on the Reclamation Internet Web site: <http://www.usbr.gov/lc/region/mscp>.

The LCR MSCP and the conservation program described in the HCP and the draft BA were developed in a process involving participants and stakeholders from potentially affected or interested groups on the LCR. These groups include Federal agencies, *i.e.*, U.S. Fish and Wildlife Service, Bureau of Reclamation, Bureau of Indian Affairs, National Park Service, and the Bureau of Land Management; six Tribes; the States of Arizona, California, and Nevada; and other entities within the Lower Basin States of Arizona, California, and Nevada. The groups are organized into a Steering Committee and various subject matter subcommittees that oversee the development of the LCR MSCP. Meetings of the Steering Committee are open to the public and time for public comment is included at each meeting. The LCR MSCP Web site contains information on meetings, documents, and the status of the process. Three sets of public meetings were held from 1999–2003 to explain the need for the LCR MSCP, request information on important issues for the NEPA process, receive input on the conservation program, and present alternatives. With this extensive history of public involvement, the Service does not intend to extend the public comment period beyond 60 days unless warranted by extraordinary circumstances.

The Colorado River is an important source of water and hydropower to the Lower Basin States of Arizona,

California, and Nevada. Reclamation operates the large dams on the LCR for flood control, irrigation, municipal water supply, water storage, and hydropower generation and maintains the river channel through stabilization and other related actions. Each of the three Lower Basin States has an apportionment of Colorado River water they divert from the river and use for agricultural, municipal, and industrial purposes. Water diverted from the Colorado River travels as far as the cities of Los Angeles and San Diego in California, and Phoenix and Tucson in Arizona. The Colorado River is also the primary source of water for the City of Las Vegas and the greater Las Vegas area in southern Nevada. Extensive farming areas in California and Arizona, and to a lesser extent in Nevada, are also supplied with water from the Colorado River.

Operation of the facilities on the LCR by Reclamation and diversion of water by entities within the three Lower Basin States have resulted in significant changes to the physical and biological character of the LCR. Changes to present operations and water deliveries proposed by Reclamation and the states are projected to have adverse impacts to habitats and may result in incidental take of the flycatcher, clapper rail, tortoise, bonytail, humpback, razorback, and cuckoo. Habitat of the 20 non-listed species may also be adversely affected by such anticipated changes.

Proposed Action: The proposed action has two components. The first is the issuance of an ITP by the Service for covered activities on the LCR undertaken by the LCR MSCP, pursuant to section 10(a)(1)(B) of the Act. The activities that would be covered by the ITP are the water- and power-related actions, and other specific identified non-Federal actions involving the LCR. The area covered by the ITP includes Lake Mead up to its full pool elevation of 1,229 feet, Lake Mohave up to its full pool elevation of 647 feet, Lake Havasu up to its full pool elevation of 450 feet, and the LCR and its historical floodplain from the highest elevation of Lake Mead to the Southerly International Boundary with the Republic of Mexico. The requested term of the permit is 50 years. To meet the requirements of a section 10(a)(1)(B) ITP, the LCR MSCP has developed and, with the cooperation of Reclamation, will implement the conservation plan described in the Draft BA and in the HCP, which provides measures to minimize and mitigate incidental take of flycatchers, clapper rails, tortoises, bonytails, humpbacks, and razorbacks to the maximum extent practicable, and

which ensures that the incidental take will not appreciably reduce the likelihood of the survival and recovery of these species in the wild. The conservation plan identified in the Draft BA and the HCP also addresses potential impacts on the cuckoo (a candidate species) and 20 other species of animals and plants.

The second component is the implementation of the LCR MSCP HCP by Reclamation as part of its proposed action for consultation under section 7(a)(2) of the Act for its continued proposed discretionary operations and maintenance activities on the LCR.

Alternatives: Three other alternatives being considered as part of this process are:

1. No ITP—No issuance of an ITP. This alternative would require the LCR MSCP participants to pursue individual ITP's to address incidental take resulting from their actions on the LCR or avoid taking actions that would result in incidental take. This approach would require Reclamation to consult separately on its continued proposed discretionary operations and maintenance activities on the LCR.

2. Listed Species Only—Issuance of an ITP authorizing the same covered actions by the LCR MSCP participants but only requesting incidental take coverage for the six species currently listed as endangered or threatened pursuant to the Act. This alternative includes measures to minimize and mitigate for the potential take of federally listed species.

3. Off-Site Conservation—Issuance of an ITP authorizing the same covered actions by the LCR MSCP participants and the same list of 27 species. Habitat restoration activities would occur outside of the LCR MSCP planning area in adjacent river basins. This alternative includes measures to minimize and mitigate for the potential take of federally listed species, candidate species, and unlisted species.

Dated: June 15, 2004.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

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