

arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: August 31, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E7-17748 Filed 9-7-07; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Federal Consistency Appeal by AES Sparrows Point LNG, LLC and Mid-Atlantic Express, L.L.C.

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Commerce).

**ACTION:** Notice of appeal.

**SUMMARY:** This announcement provides notice that AES Sparrows Point LNG, LLC and Mid-Atlantic Express, L.L.C. (collectively, "AES") have filed an administrative appeal with the Department of Commerce asking that the Secretary override the State of Maryland's objection to AES's proposed LNG terminal in Baltimore County, Maryland.

**ADDRESSES:** Materials from the appeal record will be available at the NOAA Office of the General Counsel for Ocean Services, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910 and on the following Web site: <http://www.ogc.doc.gov/czma.htm>.

**FOR FURTHER INFORMATION CONTACT:** Odin Smith, Attorney-Advisor, NOAA Office of the General Counsel, 301-713-7392.

**SUPPLEMENTARY INFORMATION:**

## I. Notice of Appeal

AES has filed a notice of appeal with the Secretary of Commerce pursuant to the Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1451 *et seq.*, and implementing regulations found at 15 CFR part 930, subpart H. AES appeals an objection, filed by the State of Maryland, to a consistency determination prepared by AES related to its proposed LNG terminal project in Baltimore County, Maryland.

Under the CZMA, the Secretary may override the State's objection on grounds that the project is consistent with the objectives or purposes of the CZMA, or necessary in the interest of national security. To make the determination that the proposed activity is "consistent with the objectives or purposes" of the CZMA, the Secretary must find that: (1) The proposed activity furthers the national interest as articulated in sections 302 or 303 of the CZMA, in a significant or substantial manner; (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with enforceable policies of the State's coastal management program. 15 CFR 930.121. To make the determination that the proposed activity is "necessary in the interest of national security," the Secretary must find that a national defense or other national security interest would be significantly impaired were the proposed activity not permitted to go forward as proposed. 15 CFR 930.122.

## II. Appeal Documents

NOAA intends to provide the public with access to all publicly available materials and related documents comprising the appeal record during business hours, at the NOAA Office of the General Counsel for Ocean Services.

For additional information about this appeal contact Odin Smith, 301-713-7392.

Dated: September 5, 2007.

**Joel La Bissonniere,**

*Assistant General Counsel for Ocean Services.*

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance.]

[FR Doc. 07-4416 Filed 9-7-07; 8:45 am]

**BILLING CODE 3510-08-M**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 070727423-7424-01]

RIN 0648-XB75

#### Endangered and Threatened Species; Notice of Finding on a Petition to List the Lynn Canal Stock of Pacific Herring as a Threatened or Endangered Species

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

**ACTION:** Notice of petition finding; request for information; and initiation of status review.

**SUMMARY:** On April 2, 2007, we, NMFS, received a petition to list the Lynn Canal (Alaska) stock of Pacific herring, *Clupea pallasii*, as a threatened or endangered species under the Endangered Species Act (ESA). After review, we find that the petition presents substantial scientific and commercial information indicating that the petitioned action may be warranted.

We are initiating a review of the status of the Lynn Canal population of Pacific herring, and we request data, information, and comment on the subject action. Specifically, we are soliciting information regarding population structure and stock delineations of Pacific herring in Southeast Alaska, the Gulf of Alaska, and the North Pacific Ocean; population trends and ecology of Pacific herring in Lynn Canal and Southeast Alaska waters; habitat requirements and current habitat conditions; known and anticipated threats to the viability of the population; and efforts being made to protect the species.

**DATES:** Information and comments should be submitted to NMFS by December 10, 2007.

**ADDRESSES:** Data, information, or comments may be submitted to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Ellen Sebastian.

Information may be submitted by any of the following methods:

- Mail: P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building: 709 West 9th Street, Juneau, AK, 99802;
- Fax: (907) 586-7557;
- E-mail: [LCHERRING@noaa.gov](mailto:LCHERRING@noaa.gov).

Include in the subject line of the e-mail the following identifier: Lynn Canal Herring. E-mail comments, with or

without attachments, are limited to five megabytes.

Interested persons may obtain a copy of the petition from the above address or online from the NMFS Alaska Region website: <http://www.fakr.noaa.gov/protectedresources>.

**FOR FURTHER INFORMATION CONTACT:**

Erika Phillips, NMFS Alaska Region, telephone (907) 586-7312, Kaja Brix, NMFS Alaska Region, (907)586-7235, or Marta Nammack, NMFS, Office of Protected Resources, (301) 713-1401.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) requires that we determine whether or not a petition to list a species presents substantial scientific and commercial information to demonstrate that the petitioned action may be warranted. Joint ESA-implementing regulations between NMFS and U.S. Fish and Wildlife Service (50 CFR 424.14) define "substantial information" as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.

In making a finding on a petition to list a species, the Secretary of Commerce (Secretary) must consider whether the petition: (i) clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (ii) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (iii) provides information regarding the status of the species over all or a significant portion of its range; and (iv) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)). 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**. When it is found that substantial information is presented in the petition, we are required to promptly commence a review of the status of the species concerned. Within 1 year of receipt of the petition, we shall conclude the review with a finding as to whether or not the petitioned action is warranted.

On April 2, 2007, we received a petition to designate the Lynn Canal Stock of Pacific herring (*Clupea pallasii*) as a Distinct Population Segment (DPS) and to list the DPS as threatened or endangered under the ESA. The petition was submitted by the Juneau Group of the Sierra Club, Juneau, Alaska. The Petitioner also requested that critical habitat be designated for Lynn Canal Pacific herring concurrent with listing under the ESA. The petitioner may provide information that describes any recommended critical habitats to boundaries and physical features, and indicates any benefits and/or adverse effects on the species that would result from such designation. Such information, however, will not be the basis for the determination of the substantiality of the petition (50 CFR 424.14(b)(2)(iv)).

We have reviewed the petition, the literature cited in the petition, and other literature and information available in our files. On the basis of that information, we find that the petition meets the aforementioned requirements of the regulations under 50 CFR 424.14(b)(2) and therefore determine that the petition presents substantial information indicating that the requested listing action may be warranted. Our finding is based in part on: (1) documented population trends, which indicate an 85 percent decline in estimated biomass since the 1970s; (2) evidence that the Lynn Canal population has remained depressed for more than 2 decades, failing to show signs of rebound despite closure of the commercial fishery from 1982 to present; (3) documented losses of spawning habitat and abandonment of degraded spawning grounds at the southern end of the historic spawning range for the stock, such that spawning activity is compressed to the area in and around Berners Bay, Alaska; and (4) proposed development activities in Lynn Canal, including Berners Bay, that threaten to further modify or curtail the population's habitat and spawning range. Specifically, our analysis of available data on Lynn Canal herring from 1971 through 2002 indicates that spawning biomass declined from an average of 4866 tons for the period from 1972 through 1980 to an average of 692 tons of spawning biomass for the period from 1990 through 2002. This suggests that Lynn Canal spawning biomass has declined approximately 85 percent since the 1970s. These biomass estimates are based on measurements of shoreline miles of spawn, which have declined from an average of 12 nautical miles from 1953 through 1981 down to

an average of 3.5 nautical miles from 1982 through 2003.

**Stock Structure and Distinct Population Segments for Pacific Herring**

The petitioner provided references that demonstrate that natural stock structure exists for Pacific herring in the Gulf of Alaska and the northern Pacific Ocean. The petitioner also noted that life history differences (e.g., spawning timing, seasonal migration patterns, length-at-age and growth rates), morphological distinctions, and geographic isolation may contribute to population discreteness. Pacific herring stocks in Southeast Alaska have not been examined in detail for population discreteness, but several studies conducted in the North Pacific may help shed light on whether DPSs are present in Southeast Alaska.

**2001 Status Review of Pacific Herring**

In 2001, we completed a status review of Pacific herring in response to a petition to list 18 species of marine fishes in Puget Sound, including Pacific herring. Through that process, the Biological Review Team (BRT) reviewed Pacific herring life history, genetics data, information on larval distribution and transport, tagging studies and other information on herring stocks throughout the eastern North Pacific. The BRT concluded that the Pacific herring stocks in Puget Sound do not constitute a DPS as defined under the ESA, but instead are part of a larger, regional Georgia Basin DPS. The Georgia Basin DPS extends from the southern end of Puget Sound to the northern end of the Strait of Georgia and the north end of Vancouver Island and includes the Strait of Juan de Fuca. The BRT did not analyze or describe additional DPS structure beyond the Georgia Basin region.

**2005 Status Review of the Cherry Point Stock of Pacific Herring**

In 2005, we completed a status review for the Cherry Point stock of Pacific herring in response to a petition to list the stock as a threatened or endangered DPS under the ESA. The BRT based its DPS analysis on the findings of the 2001 Pacific herring status review and new information, including new genetics data. Through the 2005 status review process, the BRT determined that the Cherry Point stock is not a separate DPS, but instead is part of the larger Georgia Basin Pacific herring DPS. Although some of the life history and genetics data analyzed by the BRT included information on Pacific herring stocks in Southeast Alaska, the team did not

describe additional DPS structure beyond the Georgia Basin region.

#### Status Review for Lynn Canal Pacific Herring

Subsequent to publishing this finding, we will commence a status review to determine whether the petitioned action is warranted. To ensure that the review is complete and is based on the best available scientific and commercial data, we request any available information regarding the taxonomy and status of the Lynn Canal stock of Pacific herring, its habitat, biology, movements and distribution, stock structure and age composition, threats to the species, or other pertinent information.

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 4, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. E7-17779 Filed 9-7-07; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XC38

#### Marine Mammals; File No. 1034-1854

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

**ACTION:** Notice; receipt of application for amendment.

**SUMMARY:** Notice is hereby given that Markus Horning, Department of Fisheries & Wildlife, Oregon State University, Hatfield Marine Science Center, 2030 SE Marine Science Drive, Newport, OR 97365, has requested an amendment to scientific research Permit No. 1034-1854.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before October 10, 2007

**ADDRESSES:** The amendment request 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 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach,

CA 90802-4213; phone (562)980-4001; fax (562)980-4018.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)427-2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1034-1854.

#### FOR FURTHER INFORMATION CONTACT:

Amy Sloan or Tammy Adams, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** The subject amendment to Permit No. 1034-1854, issued on September 18, 2006 (71 FR 56110) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 1034-1854 authorizes the permit holder to conduct research on Weddell seals (*Leptonychotes weddellii*) to compare oxygen handling, body condition, muscle physiology, and foraging behavior in young adults and old adults. A total of 48 animals may have the following procedures performed: capture; sedation; morphometrics; ultrasound; blood and muscle samples taken; administration of Evans blue dye and deuterium oxide; external and internal data recorders deployed; release; recapture to add device to manipulate energy expenditure; and recapture to remove instruments. Up to 250 animals seals may be incidentally harassed during these activities. The permit expires on September 30, 2011.

The permit holder requests authorization to (1) increase the number of sequential blood samples from animals with Evans blue dye administered from three to five samples for accurate plasma volume determinations; (2) leave the satellite data transmitters on adult females until they fall off no later than the annual molt, rather than removing them at the

end of the field season, for the purpose of recording more dives and increasing the power of age group dive behavior comparisons; and (3) opportunistically attach satellite transmitters to selected adult females older than 21 years when first encountered, for subsequent recapture, sampling, and outfitting with remaining telemetry devices. The permit holder requests pre-tagging older females because of the difficulty in encountering adult, non-pregnant and non-lactating females older than 21 years. Such tagged females could be tracked and captured to be fully included in the experiments when all sampling equipment was in place. No changes to the number of animals permitted, or handling durations during procedures, are proposed. The permit holder also proposes to collect opportunistic fecal samples and import them into the U.S. for fecal corticosterone analysis to determine individual animal stress levels.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: September 4, 2007.

**P. Michael Payne,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. E7-17776 Filed 9-7-07; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XC37

#### Marine Mammals; File No. 1032-1917

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

**ACTION:** Notice; issuance of permit.

**SUMMARY:** Notice is hereby given that Robert A. Garrott, Ecology Department, Montana State University, 310 Lewis Hall, Bozeman, MT, 59717 has been issued a permit to conduct research on Weddell seals (*Leptonychotes weddellii*).

**ADDRESSES:** The permit 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