

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration National Marine Fisheries Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[I.D. 061099C]

Notice of Application to Amend an Endangered Species Act Incidental Take Permit to Include Canada Lynx and Puget Sound/Coastal Bull Trout on the Plum Creek Timber Company Permit for Timber Harvest in the State of Washington, and to Issue an Incidental Take Permit for Middle Columbia River Steelhead, and Puget Sound Chinook to Plum Creek Timber Company in the State of Washington.

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce. U.S. Fish and Wildlife Service (FWS), Interior.

ACTION: Receipt of applications to amend an incidental take permit (PRT-808398) and to issue an incidental take permit (1220).

SUMMARY: This notice advises the public that FWS has received a request to add Canada lynx (*Lynx canadensis*) and Puget Sound/Coastal bull trout (*Salvelinus confluentus*) to the species covered by incidental take permit PRT-808398, issued to the Plum Creek Timber Company on June 27, 1996. NMFS has received a request for an incidental take permit (1220) for the Middle Columbia River (MCR) steelhead (*Oncorhynchus mykiss*) and Puget Sound (PuS) chinook salmon (*O. tshawytscha*). These requests have been submitted to FWS and NMFS (the Services) pursuant to the Implementation Agreement for the Habitat Conservation Plan (Plan) accompanying the incidental take permit. FWS is proposing to add Canada Lynx and Puget Sound/Coastal bull trout to Plum Creek's permit, and NMFS is proposing to issue an incidental take permit for the MCR steelhead and PuS chinook salmon. The purpose of this notice is to seek public comment on FWS' proposed permit amendment and NMFS' permit issuance.

DATES: Written comments regarding FWS' proposal to add Canada lynx and Coastal/Puget Sound bull trout to the Plum Creek permit or on NMFS' proposal to issue a permit for MCR steelhead and PuS chinook must be received on or before July 26, 1999.

ADDRESSES: Written comments on lynx and bull trout should be addressed to William Vogel, FWS; 510 Desmond Drive, S.E.; Suite 101; Lacey, Washington 98503; and written comments on steelhead and chinook should be addressed to Dennis Carlson, NMFS; 510 Desmond Drive, S.E.; Suite 103; Lacey, Washington 98503. Comments addressing general issues and all four species may be sent to either of the Services. Documents cited in this notice and comments received will be available for public inspection by appointment during normal business hours (8 a.m. to 5 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: William Vogel, Wildlife Biologist; FWS; 510 Desmond Drive, S.E.; Suite 101; Lacey, Washington 98503, (360) 753-4367 or Dennis Carlson, Fisheries Biologist; NMFS; 510 Desmond Drive, S.E.; Suite 101; Lacey, Washington 98503, (360) 753-5828.

SUPPLEMENTARY INFORMATION:**Background**

On June 27, 1996, FWS issued an incidental take permit (PRT-808398) to Plum Creek Timber Company, L.P., pursuant to section 10(a)(1)(B) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1532 et seq.). The permit authorized the incidental take of the threatened northern spotted owl (*Strix occidentalis caurina*), marbled murrelet (*Brachyramphus marmoratus*), and grizzly bear (*Ursus arctos*=*U.a. horribilis*), and the endangered gray wolf (*Canis lupus*), in the course of the otherwise lawful forest management and related land-use activities on Plum Creek lands in portions of King and Kittitas Counties, Washington. NMFS did not issue a permit as no species under NMFS' jurisdiction on the Plum Creek lands were listed under the ESA at the time the FWS permit was issued. Pursuant to the Plan and the Implementation Agreement, Plum Creek received assurances from the Services that then-unlisted vertebrate species, which may occur on Plum Creek lands would be added to the permit upon listing of those species in accordance with the ESA, the Implementation Agreement, and the Plan. On September 11, 1997, Plum Creek requested the addition of bull trout to their permit. On July 14, 1998, following the completion of a public comment period, Biological Opinion, and Set of Findings, FWS amended incidental take permit PRT-808398 to include the Columbia River Basin population of bull trout on the permit.

On July 8, 1998, FWS proposed to list the Canada lynx as threatened throughout its range in the contiguous United States, (63 FR 36994). On June 10, 1998, FWS proposed to list the Puget Sound/Coastal population of bull trout as threatened, (63 FR 31693).

On March 25, 1999, NMFS published a final rule listing the MCR and Upper Willamette River evolutionary significant units (ESUs) of steelhead as threatened species (64 FR 14517). In addition, on February 5, 1999, NMFS proposed to designate critical habitat for nine ESUs of steelhead previously listed and currently proposed for listing under the ESA, including Washington ESUs (64 FR 5740). Also on March 24, 1999, NMFS published a final rule listing the PuS chinook salmon as threatened (63 FR 11482).

The September 11, 1997, request from Plum Creek to add bull trout to the permit was partially fulfilled when FWS included the Columbia River Basin population of bull trout on the permit. That request is still effective with regard to the Puget Sound/Coastal population of bull trout. On May 20, 1998, Plum Creek requested that the MCR steelhead be added to the permit. On August 7, 1998, Plum Creek also requested that Canada lynx be added to the permit. On December 15, 1998, Plum Creek requested that PuS chinook be added to their permit as well. While FWS has not yet made final listing decisions for the Puget Sound/Coastal population of bull trout or Canada lynx, it is proposing to respond to Plum Creek's request and determine if addition of these species to the permit is appropriate.

Implementation Agreement Provisions

The Implementation Agreement is a legal document describing the roles and responsibilities of the Services and Plum Creek during the permit period. Under the Implementation Agreement, plan species are those vertebrate species dependent on the various habitat types analyzed in the Plan. The Implementation Agreement specifies that should any of the plan species that were unlisted at the time of permit issuance subsequently become listed under the ESA, Plum Creek may request a permit amendment to have that species added to their permit.

Plum Creek received assurances, absent extraordinary circumstances (as defined in the Implementation Agreement), that plan species would be added to the permit without requiring additional mitigation from Plum Creek if the Services determined that such action would not appreciably reduce the likelihood of the survival and recovery of the affected species, or any other

species, in the wild and that adding the species to the permit would be consistent with the Services' other responsibilities.

To determine whether adding Canada lynx and bull trout to Plum Creek's permit and issuing a permit for steelhead and chinook would appreciably reduce the likelihood of the survival and recovery of those species, or any other species, the Services will follow the Section 7 process under the ESA. The Services will also determine whether the permit amendment meets each of the issuance criteria described in section 10(a)(2)(B) of the ESA and that a substantial and material adverse change in the status of Canada lynx, bull trout, steelhead, or chinook has not occurred since initial permit issuance.

Summary

At the time of initial permit issuance, the Services made a preliminary determination that the Plan adequately provided protection for lynx, bull trout, steelhead, and chinook. Based on that analysis, it appeared that the Plan would have minimal adverse impacts on lynx, bull trout, steelhead, and chinook.

With respect to lynx, use of edge habitat as a surrogate for "classic" lynx foraging habitat definitions, the Services predict a decrease in foraging habitat. Should lynx occur in the planning area, they would most likely use edges for foraging and would most likely rely on secondary prey items. The Plan is expected to maintain as conducive a landscape for lynx as is possible given the geographic province.

The Plan generally provides for improving conditions for bull trout, steelhead, and chinook. Buffers on fishbearing and other perennial streams are expected to provide for the natural processes and functions that steelhead and chinook rely on such as large woody debris inputs, detrital and litter input, root strength and bank stability. The Services expect to see reductions in delivery of fine sediment from roads and recovery of forest stand structures to improve hydrologic conditions, and reduce peak flows and mass-wasting risks.

Significant public comments and data were received by the Services on the proposals to list lynx, bull trout, steelhead, and chinook as threatened or endangered under the ESA. The Services are reviewing that information to determine if the Services' initial lynx, bull trout, steelhead, and chinook determinations for the Plum Creek permit remain valid.

The Environmental Impact Statement developed for the initial permit decision analyzed the effects that implementing the Plan would have on lynx, bull trout,

steelhead, chinook, and other species. The effects of a proposed land exchange with the U.S. Forest Service and incorporation of that new land base into the Plan are also addressed in a Draft Supplemental Environmental Impact Statement, and will be further addressed in the Final Supplemental Environmental Impact Statement.

Dated: June 8, 1999.

Cynthia U. Barry,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

Dated: June 21, 1999.

Wanda L. Cain,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 990514132-9132-01; I.D. 032999A]

Taking and Importing of Marine Mammals; Italy as a Large-Scale High Seas Driftnet Nation

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

ACTION: Identification of Italy as a Large-Scale High Seas Driftnet Nation.

SUMMARY: The U.S. Court of International Trade ordered the Secretary of Commerce to identify Italy as a country for which there is reason to believe its nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation. The Secretary did so on March 19, 1999. As a result, the President is required to enter into consultations with Italy within 30 days after the identification to obtain an agreement that will effect the immediate termination of high seas large-scale driftnetting by Italian vessels and nationals. If consultations with Italy are not satisfactorily concluded, the importation into the United States of fish, fish products, and sportfishing equipment from Italy will be prohibited under the High Seas Driftnet Fisheries Enforcement Act (HSDFEA). Further, the Secretary of the Treasury has been directed to deny entry of Italian large-scale driftnet vessels to U.S. ports and navigable waters. In addition, pursuant to the Dolphin Protection Consumer Information Act (DPCIA), the importation of certain fish and fish

products into the United States from Italy is prohibited, unless Italy certifies that such fish and fish products were not caught with large-scale driftnets anywhere on the high seas. This action furthers the U.S. policy to support a United Nations moratorium on high seas driftnet fishing, in part because of the harmful effects that such driftnets have on marine mammals, including dolphins.

DATES: Effective March 19, 1999.

FOR FURTHER INFORMATION CONTACT:

Cathy L. Eisele, Fishery Biologist; telephone: 301-713-2322, or fax: 301-713-4060; or Paul Niemeier, Foreign Affairs Specialist; telephone: 301-713-2276, or fax: 301-713-2313.

SUPPLEMENTARY INFORMATION:

The HSDFEA furthers the purposes of United Nations General Assembly Resolution 46/215, which called for a worldwide ban on large-scale high seas driftnet fishing beginning December 31, 1992. On March 5, 1999, the U.S. Court of International Trade ordered the Secretary of Commerce to identify Italy as a country for which there is reason to believe its nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation, pursuant to the HSDFEA (16 U.S.C. 1826a). On March 19, 1999, the Secretary notified the President that he had identified Italy as such a country. Italian officials were notified by the Department of State on March 22, 1999.

Pursuant to the HSDFEA, a chain of actions is triggered once the Secretary of Commerce notifies Italy that it has been identified as a large-scale high seas driftnet nation. If the consultations with Italy, described in the **SUMMARY**, are not satisfactorily concluded within 90 days, the President must direct the Secretary of the Treasury to prohibit the importation into the United States of fish, fish products, and sport fishing equipment from Italy. The Secretary of the Treasury is required to implement such prohibitions within 45 days of the President's direction.

If the above sanctions are insufficient to persuade Italy to cease large-scale high seas driftnet fishing within 6 months, or Italy retaliates against the United States during that time as a result of the sanctions, the Secretary of Commerce is required to certify this fact to the President. Such a certification is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a), also known as the Pelly Amendment). This authorizes the President to restrict imports of "any products from the offending country for