

demands of other proceedings handled by the office administering this review, the Department has determined that it is not practicable to complete this review within the original time period. Accordingly, the Department is extending the time for completion of the final results until no later than May 10, 2006, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 15, 2006.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 06-2778 Filed 3-22-06; 8:45 am]

**BILLING CODE 3510-DS-M**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### North American Free Trade Agreement, Article 1904; NAFTA Panel Reviews; Notice of Panel Decision

**AGENCY:** NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Panel Decision.

**SUMMARY:** On March 17, 2006, the binational panel issued its decision in the review of the final results of the countervailing duty determination made by the International Trade Administration (ITA) respecting Certain Softwood Lumber Products from Canada (Secretariat File No. USA-CDA-2002-1904-03) affirmed the re-determination on remand of the Department of Commerce. A copy of the complete panel decision is available from the NAFTA Secretariat.

**FOR FURTHER INFORMATION CONTACT:** Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

**SUPPLEMENTARY INFORMATION:** Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

*Panel Decision:* On March 17, 2006, the Binational Panel affirmed the Department of Commerce's re-determination on remand.

The Secretariat will issue a notice of final panel action in this matter on the 11th day after the issuance of this decision (March 28, 2006).

Dated: March 17, 2006.

**Caratina L. Alston,**

*United States Secretary, NAFTA Secretariat.*

[FR Doc. E6-4172 Filed 3-22-06; 8:45 am]

**BILLING CODE 3510-GT-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[Docket No. 060317074-6074-01; I.D. No. 031306A]**

#### Endangered and Threatened Species: 90-Day Finding on Petition to Redefine the Southern Extent of the Central California Coho Salmon Evolutionarily Significant Unit

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

**ACTION:** Notification of 90-day petition finding.

**SUMMARY:** We, the National Marine Fisheries Service (NMFS), have received a petition to redefine the southern boundary of the Central California Coast (CCC) coho salmon (*Oncorhynchus kisutch*) Evolutionarily Significant Unit (ESU) to exclude coho salmon populations in the counties (Santa Cruz County and coastal San Mateo County) south of San Francisco Bay, California. Coho salmon populations south of San Francisco Bay are part of the CCC coho salmon ESU, which is listed as an endangered species under the Endangered Species Act of 1973, as amended (ESA). The petition fails to present substantial scientific or commercial information indicating that the petitioned action may be warranted. Furthermore, after reviewing the best available scientific and other information, NMFS finds the petitioned action is not warranted.

**DATES:** The finding announced in this document is effective March 23, 2006.

**ADDRESSES:** Comments or questions concerning this petition finding should be submitted to the Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 5200, Long Beach, CA 90802-4213.

**FOR FURTHER INFORMATION CONTACT:** Craig Wingert, NMFS, Southwest Region, (562) 980-4021, or Marta Nammack, NMFS, Office of Protected Resources, (301) 713-1401.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 2(b) of the ESA outlines the purposes of the statute which are to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (2)(a).

Section 4(a) of the ESA directs the Secretary to determine whether a species is endangered or threatened solely on the basis of the best scientific and commercial data available to him after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any state or foreign nation, to protect such species.

The ESA authorizes the listing, delisting, or reclassification of a species, subspecies, or distinct population segment of a vertebrate species (DPS) (16 U.S.C. 1533(4)(a)). We have determined that DPSs are represented by Evolutionarily Significant Units (ESUs) for Pacific salmon, and we treat ESUs as "species" under the ESA (Salmonid ESU Policy, 56 FR 58612; November 20, 1991). Under the Salmonid ESU policy, a stock of Pacific salmon is considered a distinct population, and hence a "species" under the ESA, if it represents an evolutionarily significant unit (ESU) of the biological species. A stock must satisfy two criteria to be considered an ESU: (1) It must be substantially reproductively isolated from other conspecific population units; and (2) It must represent an important component in the evolutionary legacy of the species.

Coho salmon populations that occupy coastal streams in Santa Cruz and San Mateo counties south of San Francisco Bay are currently considered part of the larger CCC coho salmon ESU. This ESU was originally listed as a threatened

species on October 31, 1996 (61 FR 56138), but has recently been reclassified as an endangered species (70 FR 37160; June 28, 2005). While the ESA authorizes the listing, delisting, or reclassification of a species, subspecies, or DPS of a vertebrate species, it does not authorize the listing or delisting of a subset or portion of a listed species, subspecies, or DPS (16 U.S.C. 1533(4); 50 CFR 424.11(d)).

Section 4(b)(3)(A) of the ESA requires that, to the maximum extent practicable, within 90 days after receiving a petition for delisting, the Secretary make a finding whether the petition presents substantial scientific information indicating that the petitioned action may be warranted. The ESA implementing regulations for NMFS 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 (50 CFR 424.14(b)(1)). In evaluating a petitioned action, the Secretary must consider whether such a petition: (1) clearly indicates the recommended administrative measure and the species involved; (2) contains a detailed narrative justification for the recommended measure, describing past and present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by appropriate supporting documentation (50 CFR 424.14(b)(2)).

### The Petition

On November 12, 2003, we received a petition from Mr. Homer T. McCrary (petitioner) to redefine the southern extent of the CCC coho salmon ESU boundary by excluding coho salmon populations occupying watersheds in Santa Cruz and coastal San Mateo counties, California, from the ESU. We received a petition addendum from the petitioner on February 9, 2004, that provided additional information clarifying the original petition and responding to new information regarding coho salmon museum specimens. On July 16, 2004, our Southwest Fisheries Science Center (Science Center) provided a scientific evaluation of the petition which was forwarded to the petitioner. On October 18 and 25, 2004, respectively, the petitioner responded to the Science Center's evaluation with a critique and supplemental information. The Science Center provided a second scientific evaluation of the petition and of the October 2004 information on March 17, 2005, which was subsequently

forwarded to the petitioner. The petitioner responded to the Science Center's second evaluation on May 10, 2005. On October 11, 2005, and December 5, 2005, the petitioner further questioned the Science Center's conclusions and the listing of these populations south of San Francisco pursuant to NMFS' Salmonid ESU policy (56 FR 58612; November 20, 1991). NMFS' Southwest Region and Science Center staff met with the petitioner and his representatives on November 30, 2005, to discuss information contained in the petition and supplementary information provided by the petitioner, the Science Center's evaluations of the petition, and NMFS' Salmonid ESU policy.

The petition and supplemental information and correspondence from the petitioner assert that coho salmon populations south of San Francisco Bay do not meet NMFS' criteria for protection as a threatened (or endangered) species, pursuant to the ESA. The petitioner's assertions are based on the following: (1) geographic range descriptions for coho salmon in the early scientific literature and old newspaper accounts that the petitioner asserts document San Francisco as the southern boundary for the species; (2) the absence of coho salmon remains in the refuse sites (i.e., middens) of the native people; (3) the physical characteristics (i.e., climate, geology, and hydrology) of streams originating in the Santa Cruz mountains, which are inhospitable to coho salmon; (4) the absence of self-sustaining, natural populations of coho salmon in streams south of San Francisco Bay prior to 1906 when exotic (out-of-ESU) stocks were artificially introduced, and the resulting conflict of NMFS' ESU policy for Pacific salmon with protecting these populations; and (5) the ephemeral, artificially maintained (i.e., through hatchery production) nature of the extant coho salmon in streams south of San Francisco that precludes them from constituting an important component in the evolutionary legacy of the species. Based on these arguments, the petitioner has requested that we redefine the southern boundary of the CCC coho salmon ESU to include only those populations north of San Francisco Bay.

To inform our decision on whether the petition presents substantial information indicating that the petitioned action may be warranted, we requested the Southwest Fisheries Science Center Laboratory in Santa Cruz to review the petition and all supplemental information to assess its scientific credibility. In addition, we reviewed the information in the petition

and supplemental documents to see if it provided any rationale for why including the southern populations in the CCC coho ESU did not comport with NMFS' Salmonid ESU Policy (56 FR 58612; November 20, 1991).

### Early Scientific Accounts

The petition asserts that there is no valid historic (including accounts from local newspapers) or scientific source which documents the presence of coho salmon south of San Francisco prior to 1912. Because the scientific documentation published prior to 1906, primarily by early ichthyologist David Starr Jordan (Jordan, 1892; Jordan and Gilbert, 1876–1919; Jordan, Gilbert, and Hubbs, 1882; Jordan and Everman, 1902; Jordan, 1904a; Jordan, 1904b; etc.), referenced coho salmon as occurring north of San Francisco, the petitioner concludes coho salmon were absent south of San Francisco. We disagree with the petitioner's claim. Jordan was describing the North American distribution of coho salmon in a general ichthyofaunal reference, and his use of commonly used phraseology that a species is abundant up to, or from, a geographical landmark does not mean that the species was absent in areas beyond the referenced landmark. Jordan also wrote, "This species (coho salmon) is not common south of the Columbia, but is sometimes taken in California" (Jordan, 1894). Coho salmon were more abundant in Oregon and California than indicated by this statement, further highlighting the problematic nature of relying on general ichthyofaunal references for precise species distribution information. Regarding the various excerpts from early newspaper articles, we view these as non-scientific reports of already depressed salmonid populations rather than as definitive scientific proof that these fish were unquestionably absent from the area.

We also disagree with the petitioner's claim that coho salmon are not native to streams south of the San Francisco Bay. In fact, coho salmon specimens collected from San Mateo and Santa Cruz county streams in 1895 and currently held in the California Academy of Science's (CAS) Ichthyological Collection (CAS, 2004) represent clear evidence that coho salmon were native to, and present in, streams south of San Francisco Bay prior to 1906. The CAS maintains four samples (jars) of specimens that authenticate the collection of 11 native coho salmon from Waddell Creek and four from Scott Creek in Santa Cruz County on June 5, 1895, by the party of Rutter, Scofield, Seale, and Pierson (CAS, 2004). Also, two coho salmon

specimens were collected from San Vicente Creek in Santa Cruz County and one from Gazos Creek in San Mateo County by the same party of investigators. Although the collection of these latter specimens is not dated, they can reasonably be assumed to have been collected during the same period. Coho salmon continue to persist in these four streams today.

In correspondence the petitioner submitted to us following submission of the petition, the petitioner questioned the validity of these coho salmon specimens based on an assumption there were lapses in their chain of custody. The petitioner also suggested that, even if the coho salmon specimens were valid, they represent nothing more than evidence of ephemeral colonies of coho salmon in the streams south of San Francisco Bay. The petitioner's questions regarding the validity of these specimens focus on three points: (1) damage suffered to the ichthyological collection as a result of the 1906 San Francisco earthquake when it was housed at Stanford University in Palo Alto, California; (2) one of the four jars of specimens is missing; and (3) the original misidentification of the specimens as chum and Chinook salmon and their subsequent corrected identification as coho salmon by an unknown individual at an unknown date.

In a letter to us dated October 25, 2004, the petitioner cited an excerpt from the Stanford Ichthyological Bulletin (Bohlke, 1953), describing damage to the University's fish collections. The excerpt from Bohlke (1953) states that "(m)ore than 1,000 jars and bottles were broken although the majority survived intact;" however, "much [specimens from broken containers] was saved although there were numerous instances in which the material had to be discarded. Nonetheless, some doubt regarding some specimens and their origin inevitably occurred \* \* \* and labels stating that the original containers were lost during the earthquake." (Bohlke, 1953). We believe it is improbable that all 1,895 specimens had their original containers broken, ended up on the floor, were misidentified from their original labels, and had their 'earthquake' labels removed. According to the Senior Collections Manager for the CAS Ichthyological Collection (Spence, pers. comm., 2004), there is no evidence to suggest that the fish in the collection jars are not coho salmon, or that the specimens are not the same fish collected by Rutter, Scofield, Seale, and Pierson in 1895. In addition, the Collections Manager added that the

appearance of the specimens is consistent with collection and preservation protocols used in the late 1800's (Spence, pers. comm., 2004). Prior to the early 1900s, specimens were preserved directly in alcohol, whereas in subsequent years, fish were initially "fixed" in a diluted formaldehyde solution (formalin) and then transferred to alcohol. The lens of the fish eye turns white in fish preserved directly in alcohol, but appears darker in those fixed in formalin. The Collections Manager stated that, although not a definitive test, "the eyes of all the specimens in question are consistent with direct alcohol preservation (no formalin)" (Spence, pers. comm., 2004).

Regarding the one missing specimen jar, the Collections Manager indicated that it evidently was misplaced because the CAS was preparing to move to another location, but the jar has since been relocated (Spence, pers. comm., 2004). With regard to the issue of misidentification, the Collections Manager confirmed that, when these specimens were originally entered into the Stanford University ledger, they were misidentified as chum and Chinook salmon rather than coho salmon (NMFS, 2005a, unpublished memorandum). However, the specimens were subsequently re-identified as coho salmon while still in the possession of Stanford University before the ichthyological collection was transferred to the CAS. When the CAS entered the Stanford University ichthyological collection into an electronic database in the 1990s, it initially used the original Stanford University ledgers as the source for species identifications and incorrectly entered the species identifications (NMFS, 2005a, unpublished memorandum). The database entries were corrected in 1999 when the original collection jars were examined and the re-identifications were once again discovered. These specimens were recently re-examined by CAS museum curators Dr. McCosker and Dr. Iwamoto, who concluded all but one of the specimens are coho salmon (Spence, pers. comm., 2004). The fact that these specimens were misidentified when originally catalogued is not particularly surprising, given the era in which they were collected. Prior to 1900, the taxonomy and nomenclature of salmonids was far from settled and not much was known about the early life history of the five Pacific salmon species. Based on the available information and our investigation, we find no reason to doubt that these fish are in fact the coho salmon collected

from streams in San Mateo and Santa Cruz counties in 1895. Tissues from the 1895 specimens were provided by the petitioner to the Santa Cruz Laboratory for genetic analysis; however, the laboratory was not able to obtain any useable material for genetic analysis (Adams, pers. comm., 2006).

Finally, we disagree with the petitioner's claim that, even if verified, the coho salmon specimens are only evidence of an ephemeral colony resulting from favorable ocean conditions rather than evidence of a native population. Metapopulation dynamics characterized by local extinction and recolonization, and reinforcement by straying, is typical for coho salmon in California (NMFS, 2005a, unpublished memorandum). Accordingly, it would be natural for coho salmon populations at the southern end of the species range to be founded and continually reinforced by straying migrants from elsewhere in the species range. NMFS believes these coho salmon populations south of San Francisco are part of the CCC coho salmon ESU, which functions as a metapopulation, and their inclusion in this ESU is consistent with the agency's ESU Salmonid policy (56 FR 58612).

#### *Archeological Excavations*

The petitioner argues that the failure of Gobalet *et al.* (2004) to identify the remains of coho salmon in the 1,238 fish bones found in Native American middens in Santa Cruz and coastal San Mateo counties is another line of evidence that the species is not native to the area. NMFS disagrees with the petitioner's claim. Gobalet *et al.* (2004) wrote "(t)he samples from the eight archaeological sites in San Mateo and Santa Cruz counties and the two sites previously reported by Gobalet and Jones (1995) were limited, did not include sites on Pescadero and San Gregorio Creeks (San Mateo County), and yielded 1,156 diagnostic elements, of which only five (0.4 percent) were salmonids (all steelhead which are the more abundant species in the area)." The low number of salmonid remains discovered is likely due to the fact that salmonid bones do not preserve well due to higher porosity and are generally thinner than other bony fish (Gobalet *et al.*, 2004). In fact, coho salmon have rarely been documented in archeological excavations within their known range in California, according to Gobalet *et al.* (2004). Coho salmon were only documented at archeological sites in the eastern San Francisco Bay area and Del Norte county, despite the fact that the species is known to be native to streams in Marin, Sonoma,

Mendocino, and Humboldt counties. Due to the paucity of material collected in San Mateo and Santa Cruz counties, much more extensive sampling would be needed to use archaeological excavation findings as definitive evidence for establishing the presence or absence of coho salmon in the area. If coho salmon material exists in the archaeological excavations of the San Mateo and Santa Cruz County coasts at the same frequency as in the San Francisco Bay area (14 of 105,000 elements), then at least 7,506 elements would have to be recovered and analyzed before a single coho salmon could be expected to be found (Gobalet *et al.*, 2004).

#### *Local Physical Conditions*

The petitioner also argues that the hydrologic, geologic, and climatic environments are so extreme in the streams south of San Francisco Bay that they preclude the long-term persistence of coho salmon because of the species' rigid 3-year life history. The available evidence does not support this argument. In fact, our Science Center has recently published an analysis predicting the potential for stream reaches within the geographic range of the CCC coho salmon ESU to exhibit habitat characteristics suitable for coho salmon during spawning or juvenile rearing as a function of the underlying geomorphological and hydrological characteristics of the landscape (NMFS, 2005b). This analysis, based on widely accepted fish-habitat relationships, uses indicators of geology, hydrology, precipitation, and climate (ambient air temperature) to express habitat conditions favorable to coho salmon. The analysis concludes that coastal streams south of San Francisco exhibit conditions favorable to coho salmon.

While some localized habitat differences may exist between watersheds north and south of San Francisco Bay, we are unaware of any conclusive scientific evidence, and the petition does not offer any, that would lead one to conclude that these habitat differences are significant enough to preclude coho salmon presence south of San Francisco. While climatic conditions, erosive geology, and variable hydrology can be detrimental to coho salmon, these conditions are not unique to the area south of San Francisco and also occur in other portions of the geographic range of this ESU where coho salmon are acknowledged to be native and persistent.

#### *Artificial Introduction*

The petition contends that coho salmon were first introduced to streams south of San Francisco Bay with the delivery of 50,000 coho salmon eggs from Baker Lake, Washington, to the Brookdale Hatchery on the San Lorenzo River in Santa Cruz county in 1906 (Bowers, 1906). The petition asserts that this introduction was the beginning of an effort to establish a coho salmon fishery which continues today and founded the coho salmon populations in San Mateo and Santa Cruz counties. The petition is correct in stating that coho salmon fry from sources outside of California have been planted in the streams south of San Francisco; however, coho salmon fry from sources within California and also from local watersheds have also been planted in these streams. Available evidence does not support the hypothesis that the out-of-state Baker Lake introductions founded the coho salmon populations south of San Francisco Bay. In fact, juvenile coho salmon specimens were collected in 1895 from San Mateo and Santa Cruz counties and are currently housed in the CAS Ichthyological Collection (CAS, 2004). As discussed previously, we do not question the authenticity of these specimens. These collections occurred 11 years prior to the coho salmon egg deliveries from Baker Lake to the Brookdale Hatchery on the San Lorenzo River, and therefore, demonstrate coho presence in the area prior to any introductions from other areas.

Available records of out-of-area coho salmon plantings prior to 1911 indicate a total of 400,000 eggs were transferred over 5 years from Baker Lake to the Brookdale Hatchery and planted in unspecified Santa Cruz County stream locations between 1905 and 1910 (Bowers, 1906, 1907, 1908, 1909, 1910). The number of Baker Lake eggs is relatively small and is not likely to have contributed to the coho salmon populations observed by Gilbert in 1910 (Smith, 1914). The Baker Lake coho salmon eggs were almost certainly planted as fry, which was the early practice of most hatcheries throughout California, including three plantings in Scott Creek from 1913 to 1930. This practice is no longer used by hatcheries because of the extremely poor survival rate of planted fry. Thus, it is likely that few if any of these planted fish survived to reproduce as adults, much less establish a new population in the area.

Recent genetic evidence supports this point (NMFS, 2005a, unpublished memorandum). Molecular genetic data assembled and analyzed by the

Southwest Fisheries Science Center's Santa Cruz Laboratory indicate coho salmon south of San Francisco Bay represent a historic part of the CCC coho salmon ESU (NMFS, 2005b) and are not the result of anthropogenic introductions (NMFS, 2005a, unpublished memorandum). These data are from two studies of genetic variation for 18 microsatellite genes in coho salmon populations from the entire range of the species in California. These two studies include genotypes from more than 5,500 fish, an examination of the genetics of fish from various life stages and brood years, and systematic sampling to remove temporal and age-class variation. The 18 microsatellite genes are highly variable, with a total of almost 500 alleles, and provide sufficient information content to detect isolation between populations and insight into biogeographic patterns at multiple scales (NMFS, 2005a, unpublished memorandum). Within this ESU, the studies found that all coho salmon populations south of San Francisco Bay are more closely related to each other than to any others, and their closest relatives are found in the populations just to the north of San Francisco Bay in Marin county. In some cases, alleles in coho salmon from San Mateo and Santa Cruz counties do not appear to be present in any other populations within the ESU. More generally, genetic structure within the CCC coho salmon ESU is one of isolation by distance, with genetic distance highly correlated with geographic distance. This is an equilibrium pattern that exists when populations are structured by adaptation-drift and distance-dependent migration acting together. The results are not consistent with the petitioner's claim that anthropogenic outplantings replaced lineages in the southern part of the range, or that these populations are non-native introductions (NMFS, 2005a, unpublished memorandum).

These results suggest that, while coho salmon south of San Francisco have unique genetic characteristics, they nonetheless are clearly part of the CCC coho salmon ESU. These findings do not rule out the possibility that coho salmon populations in San Mateo and Santa Cruz counties may have received some genetic signals from the introduction of out-of-state or out-of-ESU fish; however, the number of unique alleles in the southern populations clearly demonstrates the genetic attributes of a native species at the edge of its range (NMFS, 2005a, unpublished memorandum).

*South of San Francisco Bay Populations and NMFS' Salmonid ESU Policy*

The original petition argued that the inclusion of coho populations south of San Francisco Bay in the listed CCC coho salmon ESU did not comport with NMFS' Salmonid ESU policy (56 FR 58612) because coho salmon in the area south of San Francisco were of exotic origin (i.e., originated from out-of-state or -ESU hatchery plantings), and, therefore, could not represent an important evolutionary legacy of the species. In recent correspondence to us, the petitioner advocated delisting the southernmost coho salmon populations (i.e., those south of San Francisco) based on the argument that these populations (even if native) are not evolutionarily significant to the CCC coho salmon ESU as a whole because they do not exhibit any unique phenotypic or life history traits or contribute to the ESU as a whole because they are biological sinks for the ESU. Based on these arguments, the petitioner has asserted that including these southern populations in the ESU is not consistent with NMFS' Salmonid ESU Policy (56 FR 58612), and that if the policy was properly applied, they would be excluded from the CCC coho salmon ESU. We believe the southern populations are of native origin based on the reasons discussed earlier and disagree with the petitioner's rationale and interpretation of our Salmonid ESU Policy. Much of the discussion in Waples (1991), the paper that NMFS' Salmonid ESU Policy was based on, is concerned with whether to designate a population or group of populations as an ESU and not, as advocated by the petitioner's representatives, whether or not to include or exclude a population that is part of an ESU. Waples (1991) argued that ephemeral populations should not be considered ESUs by themselves but should be included within the context of larger populations that will persist over evolutionary time frames. Using this rationale, every population of coho salmon needs to be included in some coho salmon ESU. We believe coho salmon south of San Francisco are part of the CCC coho salmon ESU, which represents an important component in the evolutionary legacy of the species. While it is uncertain as to whether or not all the populations in this area are dependent (sink) or independent (source) populations, their inclusion in the CCC coho salmon ESU is clearly in accordance with our Salmonid ESU policy.

The petitioner has argued that sink populations contribute nothing to the ESU as a whole. We disagree with this

assertion. A sink population is one that produces fewer recruits than spawners and receives more immigrants than the migrants it produces. Being a sink, however, is not the same as being a biological black hole which simply absorbs migrants and contributes nothing to the population. We believe inclusion of these southern populations (even if historically smaller relative to other populations within the ESU) in the CCC coho salmon ESU is appropriate because they are native populations within the species' historic range and contribute to the ESU as a whole. Finally, we believe protection and restoration of the coho salmon populations south of San Francisco Bay are essential to the conservation of this ESU as a whole because this geographic area is at the southernmost edge of the species distribution in North America and is likely to be a source of evolutionary innovation for the species.

#### Petition Finding

After reviewing the information contained in the petition, we find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted. In any case, even if the information presented by the petitioner were to have been considered to warrant further review, a review of additional scientific and commercial information regarding the description of the CCC coho salmon ESU indicates that the petitioned action is not warranted.

#### References

Copies of the petition and related materials are available on the Internet at <http://www.swr.noaa.gov>, or upon request (see ADDRESSES section above)

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: March 17, 2006.

**James W. Balsiger,**

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

[FR Doc. E6-4192 Filed 3-22-06; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 032006B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Application for an Exempted Fishing Permit

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

**ACTION:** Notice of receipt of an application for an exempted fishing permit.

**SUMMARY:** This notice announces receipt of an application for an exempted fishing permit (EFP) from the Alaska Longline Fishermen's Association (ALFA). If granted, the EFP would support a project to develop hook-and-line, troll, and jig techniques specific to the harvest of several rockfish species in the Gulf of Alaska (GOA), Southeast Outside District (SEO). This project is intended to promote the objectives of the Fishery Management Plan for Groundfish of the GOA by improving utilization of the rockfish resources in the SEO. The project also would provide important biological information about rockfish in the SEO.

**ADDRESSES:** Copies of the EFP application and the environmental assessment (EA) are available by writing to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Walsh. The EA also is available from the Alaska Region, NMFS website at <http://www.fakr.noaa.gov/index/analyses/analyses.asp>.

**FOR FURTHER INFORMATION CONTACT:**

Jason Gasper, 907-586-7228 or [jason.gasper@noaa.gov](mailto:jason.gasper@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS manages the domestic groundfish fisheries in the GOA under the Fishery Management Plan for Groundfish of the GOA (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing the groundfish fisheries of the GOA appear at 50 CFR parts 600 and 679. The FMP and the implementing regulations at § 679.6 and § 600.745(b) authorize issuance of EFPs to allow fishing that would otherwise be prohibited. Procedures for issuing EFPs are contained in the implementing regulations.

NMFS received an EFP application from the ALFA in February 2006. The proposed EFP would allow for the testing of unbaited artificial lures (shrimp flies) to target rockfish in the SEO. Prior to a ban on trawling in the SEO on March 23, 1998 (63 FR 8356, February 19, 1998), trawl gear was used in the SEO to target the following rockfish species: Pacific Ocean perch (POP), pelagic shelf rockfish (PSR), and other slope rockfish (OSR). The goal of this project is to improve the utilization of rockfish species in the SEO using