

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Parts 17 and 222**

[I.D. 120301B]

Notice of Public Scoping and Preparation of an Environmental Review Document for a Proposed Incidental Take Permit and Habitat Conservation Plan Addressing Chewuch River Water Withdrawal and Diversion

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, Commerce.

ACTION: Notice of intent to conduct public scoping and to prepare an environmental document.

SUMMARY: Pursuant to the National Environmental Policy Act this document advises the public that the Fish and Wildlife Service and National Marine Fisheries Service (Services) intend to gather information necessary to prepare an environmental review document (environmental assessment or environmental impact statement) related to the proposed approval of a Habitat Conservation Plan (Plan) and an issuance of an incidental take permit (Permit) to take endangered and threatened species in accordance with the Endangered Species Act of 1973, as amended (ESA). The Permit applicant is Chewuch Basin Council (CBC).

The Services are furnishing this document in order to advise other agencies and the public of our intentions and to obtain suggestions and information on the scope of issues to include in the environmental document.

DATES: Written comments from all interested parties must be received on or before March 18, 2002.

ADDRESSES: Comments and requests for information should be sent to Jon Hale, Chewuch Scoping Comments, U.S. Fish and Wildlife Service, 510 Desmond Drive, S.E., Suite 102, Lacey, WA 98503-1273, telephone (360) 753-4371, facsimile (360) 753-9518. Comments and materials received will be available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jodi Bush, Project Manager, U.S. Fish and Wildlife Service, (509) 665-3507; or Mike Grady, Project Manager, National

Marine Fisheries Service, (206) 526-4645.

SUPPLEMENTARY INFORMATION: The CBC is comprised of the three primary irrigation companies operating in the Chewuch River Basin, including the Chewuch Canal Company, the Fulton Ditch Company, and the Skyline Ditch Company. The application is related to water withdrawals from the Chewuch River located in Okanogan County, WA. The applicant intends to request Permits for chinook salmon, steelhead trout, and bull trout. The CBC may also seek coverage for cutthroat trout and other currently unlisted fish and wildlife species under specific provisions of the Permit, should these species be listed in the future. In accordance with the ESA, the CBC will prepare a Plan for, among other things, minimizing and mitigating any such take that could occur incidental to the proposed Permit activities (water diversion and distribution activities within the irrigation reach).

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 as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct. The U.S. Fish and Wildlife Service's definition of harm includes significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). The National Marine Fisheries Service's definition of harm includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, feeding, and sheltering (50 CFR 222.102).

The Services may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. U.S. Fish and Wildlife Service regulations governing permits for endangered species are promulgated in 50 CFR 17.22; and regulations governing permits for threatened species are promulgated in 50 CFR 17.32. National Marine Fisheries Service regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Background

The CBC is composed of the Chewuch Canal Company, the Fulton Ditch Company, and the Skyline Ditch

Company. These companies own and operate independent diversion structures, fish screens, irrigation ditches, pipes, canals, reservoirs, and related structures located on and adjacent to the Chewuch River in the vicinity to Winthrop, WA. Water from these water diversions is made available to individual shareholders for irrigation of agricultural, residential, and commercial properties and for stock use.

Section 10 of the ESA contains provisions for the issuance of incidental take permits to non-Federal landowners for the take of endangered and threatened species, provided the take is incidental to otherwise lawful activities and will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. In addition, the applicant must prepare and submit to the Services for approval a Plan containing a strategy for minimizing and mitigating all take associated with the proposed activities to the maximum extent practicable. The applicant must also ensure that adequate funding for the Plan will be provided.

The CBC has initiated discussions with the Services regarding the possibility of developing a Plan and securing a Permit for their Chewuch River water diversion and distribution operations. Activities proposed for coverage under the Permit include the following:

- (1) Water diversions, conveyance, storage, and shared or commingled drought storage.
- (2) Conservation and mitigation actions including: (a) reduction of diversions during low-flow periods, (b) conveyance and on-farm water use efficiency measures, (c) seasonal use of groundwater resources, (d) habitat reclamation and enhancement projects, and (e) expansion and use of water storage facilities.
- (3) Periodic operational and maintenance activities including: (a) repair and maintenance of diversion headgates, fish passage structures, diversion dams, and other in-stream improvements; (b) maintenance and improvements in side, return, and tailwater channels and storage facilities; (c) activities set forth in ditch operating plans; and (d) plans for various activities developed as part of an ongoing monitoring and adaptive management approach to watershed management.

The Services will conduct an environmental review of the Plan and prepare an environmental document. The environmental review will analyze the proposal, as well as a full range of reasonable alternatives and the

associated impacts of each. The Services are currently in the process of developing alternatives for analysis. Should information become available which indicates the likelihood of significant impacts from the proposed project, an Environmental Impact Statement will be prepared. Otherwise an Environmental Assessment will be prepared.

Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to this proposed action and to all significant issues are identified. Comments or questions concerning this proposed action and the environmental review should be directed to the Fish and Wildlife Service or to National Marine Fisheries Service at the address or telephone numbers provided above.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), National Environmental Policy Act Regulations (40 CFR parts 15001–508), other appropriate Federal laws and regulations, and policies and procedures of the Services for compliance with those regulations.

Dated: December 6, 2001.

Rowan W. Gould,

Deputy Regional Director, Fish and Wildlife Service, Region 1, Portland, OR.

February 11, 2002.

Phil Williams,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 012902A]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Public Hearings/Scoping Meetings

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

ACTION: Notice of intent to prepare a draft supplemental impact statement

(DSEIS) and notice of public hearings/scoping meetings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) intends to prepare a DSEIS to assess the impacts on the natural and human environments of the proposed measures in the Draft Secretarial Amendment to the Reef Fish Fishery Management Plan (Draft red grouper Amendment) which is being prepared by the Council and NMFS. The Draft red grouper Amendment would establish a rebuilding plan for red grouper in the Gulf of Mexico. The Council will convene public hearings to receive comments on the proposed measures of the Draft red grouper Amendment and to serve as scoping hearings to solicit public comments on the scope of issues to be addressed in the DSEIS. In conjunction with each public hearing on the Draft red grouper Amendment, a scoping meeting will also be held to obtain comments on whether the Council should begin to develop a regulatory amendment under the Coastal Migratory Pelagics Fishery Management Plan to address prohibitions on the use of pelagic longlines to harvest dolphin (fish) in the Gulf of Mexico. This scoping meeting is being held by the Council under its internal scoping process to receive public comments on whether development of a management action should proceed.

DATES: The public hearings/scoping meetings will be held in February. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the public hearings.

ADDRESSES: Written comments should be sent to, and copies of the Draft red grouper Amendment and options for the CMP scoping meetings are available from, the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, FL 33619, telephone: (813) 228–2815. Public Hearings will be held in Florida, Mississippi, Louisiana, and Texas. See **SUPPLEMENTARY INFORMATION** for specific hearing locations.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: The public hearings will be convened to receive comments on the Draft red grouper Amendment, which would establish a rebuilding plan for red grouper in the Gulf of Mexico, and to serve as scoping hearings to solicit public comments on the scope of issues to be addressed in the DSEIS. Red grouper were declared to be overfished

and undergoing overfishing by the Acting Southeast Regional Administrator for the National Marine Fisheries Service in October 2000. The Council originally began developing a red grouper rebuilding plan as part of Draft Reef Fish Amendment 18, which addressed a number of other reef fish issues. However, due to delays in the development of Draft Reef Fish Amendment 18, the Council chose to separate out the red grouper rebuilding plan and proceed with it through a separate action.

At each scoping hearing on the Draft red grouper Amendment, the Council will solicit public comments on the scope of issues to be addressed in the DSEIS. A scoping meeting under the Council's internal policy will also be held to obtain comments on whether the Council should begin to develop a regulatory amendment under the Coastal Migratory Pelagics (CMP) Fishery Management Plan to address prohibitions on the use of pelagic longlines to harvest dolphin (fish) in the Gulf of Mexico.

The Draft red grouper Amendment proposal contains alternatives for determining the sustainable fishing parameters on which a rebuilding plan is based. These include maximum sustainable yield (MSY), the fishing mortality rate that produces MSY (F_{MSY}), the biomass or biomass proxy that supports MSY (B_{MSY}), the minimum stock size threshold below which a stock is considered to be overfished, the maximum fishing mortality threshold above which a stock is considered to be undergoing overfishing, and optimum yield. The Draft red grouper Amendment also contains alternatives for selecting a rebuilding strategy and rebuilding scenarios (combinations of management measures) to achieve rebuilding. In addition to the pre-constructed scenarios, the Draft red grouper Amendment contains individual alternatives to adjust the shallow-water grouper quota, implement or adjust closed seasons, implement commercial trip limits, adjust recreational bag limits, establish closed areas, move the longline/buoy gear boundary, and phase out the use of longlines and buoy gear for reef fish fishing.

The public hearings/scoping meetings will meet from 6:30 p.m. to 10 p.m. at the following locations and dates.

1. *Monday, February 18, 2002:* Edison Community College, Lee County Campus, Corbin Auditorium, Building J–103, 8099 College Parkway, Fort Myers, FL 33919, telephone: 941–489–9300. Use Shoreline Blvd entrance. Park in 1st lot on right [Lot 8]. For Map