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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

**RIN 0648-XE221**

#### **Endangered and Threatened Species; Take of Anadromous Fish**

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

**ACTION:** Application for one new enhancement of survival permit.

**SUMMARY:** Notice is hereby given that NMFS has received an application for a new enhancement of survival permit and a request for entry into an associated proposed Programmatic Safe Harbor Agreement (Agreement) between the applicant and NMFS. The proposed Enhancement of Survival Permit and Agreement are intended to promote the survival and recovery of species listed under the Endangered Species Act (ESA). Information NMFS received as a part of the application is available to the public as a matter of public record and is available upon request by contacting the NMFS California Coastal Office in Santa Rosa, California.

**DATES:** Comments or requests for a public hearing on the action proposed in the application or related matters must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments on this document and requests for a public hearing, identified by NOAA-NMFS-2015-0149, by either of the following methods:

***Electronic Submission:*** Submit electronic public comments via the Federal e-Rulemaking Portal.

Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0149](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0149),

Click the “**Comment Now!**” icon, complete the required fields

Enter or attach your comments.

- OR -

**Mail, Email, Fax:** Submit written comments and requests for a public hearing to California Coastal Office, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404. Comments and requests may also be submitted via fax to 707-578-3435 or by email to [WCR\\_DryCreekValleyPSHA.comments@noaa.gov](mailto:WCR_DryCreekValleyPSHA.comments@noaa.gov) (include permit number 20032 in the subject line of the fax or email).

***Instructions:***

Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Dan Wilson, Santa Rosa, CA (ph.:

707-578-8555), Fax: 707-578-3435, e-mail:

[WCR\\_DryCreekValleyPSHA.comments@noaa.gov](mailto:WCR_DryCreekValleyPSHA.comments@noaa.gov)).

**SUPPLEMENTARY INFORMATION:**

**Species Covered in This Notice**

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened California Coastal (CC).

Coho salmon (*O. kisutch*): endangered Central California Coast (CCC).

Steelhead (*O. mykiss*): threatened Central California Coast (CCC).

### **Authority**

Enhancement of Survival Permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR parts 222-227). NMFS issues permits based on findings that such permits: (1) are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Under a Safe Harbor Agreement, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Act (16 U.S.C. 1531 *et seq.*). Safe Harbor Agreements, and the subsequent Enhancement of Survival Permits that are issued pursuant to section 10(a)(1)(A) of the Act, encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased property use restrictions as a result of their efforts to attract listed species to their property or to increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for Enhancement of Survival Permits through Safe Harbor Agreements are found in 50 CFR

222.308(b), 222.308(c) and June 17, 1999 (64 FR 32717). These permits allow any necessary future incidental take of covered species above the mutually agreed-upon baseline conditions for those species in accordance with the terms and conditions of the permits and accompanying agreements.

An interested party may submit written data, views, arguments, or a request for a hearing with respect to the action proposed in the application or related matters. Anyone requesting a hearing on a matter pursuant to this notice should set out the specific reasons why a hearing on that matter would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

### **Application Received**

#### *Permit 20032*

The Sonoma County Water Agency (Applicant) is requesting an Enhancement of Survival Permit and approval of the associated proposed Agreement that was developed by NMFS and the Applicant. The Enhancement of Survival Permit will facilitate implementation of the Agreement that is expected to promote the recovery of the Covered Species on non-federal properties within Dry Creek below Warm Springs Dam, a tributary to the Russian River in Sonoma County, California. The proposed duration of the Agreement and the associated Enhancement of Survival Permit is 35 years. The proposed Enhancement of Survival Permit would authorize the incidental taking of the Covered Species associated with routine viticulture activities and the potential future return of any property included in the Agreement to the Elevated Baseline Conditions. Under this Agreement, individual landowners (Cooperators) may include their properties by entering into a Cooperative Agreement with the Applicant. Each Cooperative

Agreement will specify the restoration and/or enhancement, and management activities to be carried out on that specific property and a timetable for implementing those activities. All Cooperative Agreements will be reviewed by NMFS to determine whether the proposed activities will result in a net conservation benefit for the Covered Species and meet all required standards of the Safe Harbor Policy (64 FR 32717). Upon NMFS approval, the Applicant will issue a Certificate of Inclusion to the Cooperator. Each Certificate of Inclusion will extend the incidental take coverage conferred by the Enhancement of Survival permit to the Cooperator. Certificates of Inclusion will be valid for a minimum of 10 years, but no longer than term of the Enhancement of Survival permit.

The Agreement requires that each enrolled property adopt an Elevated Baseline Condition. Elevated Baseline levels for the Covered Species will be determined by completing the Elevated Baseline Habitat Worksheet (Table 1 in Attachment 3 of the Agreement), which will be completed by the Applicant. NMFS will review each Elevated Baseline determination prior to the Applicant issuing a Certificate of Inclusion to the Cooperator. The Agreement also contains a monitoring component that requires the Applicant to ensure that the Cooperators are in compliance with the terms and conditions of the Agreement and that the Elevated Baseline levels of habitat for the Covered Species occurs on the Enrolled Property. Results of these monitoring efforts will be provided to NMFS by the Applicant in annual reports for the duration of the 35-year permit term.

Upon approval of this Agreement, and consistent with the NMFS's Safe Harbor Policy (64 FR 32717), NMFS would issue an Enhancement of Survival Permit to the Applicant. The Enhancement of Survival Permit will authorize those Cooperators who

have been issued a Certificate of Inclusion to take Covered Species incidental to the implementation of the management activities specified in the Agreement, incidental to other lawful uses of the property including Routine Viticulture Activities, and to return to baseline conditions if desired. In addition to meeting other criteria, actions to be performed under an Enhancement of Survival Permit must not jeopardize the existence of federally listed species.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments submitted to determine whether the application meets the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: November 12, 2015.

**Perry Gayaldo,**

*Deputy Director,*

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

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