DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 6-Month Extension and Reopening of Comment Period on the Proposed Rule to List the Sacramento Splittail as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 6-month extension and reopening of comment period on proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) extends for not more than 6 months the time to make a decision on its proposal to list the Sacramento splittail (Pogonichthys macrolepidotus). On January 6, 1994, the Service published a proposal to list the Sacramento splittail as a threatened species pursuant to the Endangered Species Act, as amended (Act). The Act requires the Service to make a final determination on such a proposal within 12 months, but provides for a 6month extension if substantial disagreement exists regarding the sufficiency or accuracy of the available data relevant to that determination. The Service finds that there is substantial disagreement regarding sufficiency or accuracy of the available data and, therefore, extends the deadline with respect to the decision to list the species.

DATES: The deadline for final action on the proposal is now July 6, 1995. The public comment period is reopened for 45 days and comments must be received by February 24, 1995.

ADDRESSES: Comments and materials should be submitted to the U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, E–1803, Sacramento, California 95825–1846. FOR FURTHER INFORMATION CONTACT: Dr. Lesa Meng at the address listed above (telephone (916) 979–2725 or facsimile (916) 979–2723).

SUPPLEMENTARY INFORMATION:

Background

Sacramento splittail (*Pogonichthys macrolepidotus*), the only extant species in its genus, is a large cyprinid that can exceed 40 centimeters (16 inches) in length (Moyle 1976). Adults are characterized by an elongated body, distinct nuchal hump, and small, blunt head, usually with barbels at the corners of the subterminal mouth. The enlarged dorsal lobe of the caudal fin distinguishes the splittail from other

minnows in the Central Valley of California. Splittail are dull, silvery-gold on the sides and olive-gray dorsally. During spawning season, pectoral, pelvic, and caudal fins are tinged with an orange-red color. Males develop small white nuptial tubercles on the head.

Splittail are endemic to California's Central Valley, where they were once widely distributed (Moyle 1976). Historically, splittail were found as far north as Redding on the Sacramento River, as far south as the present-day site of Friant Dam on the San Joaquin River, and as far upstream as the current Oroville Dam site on the Feather River and Folsom Dam site on the American River (Rutter 1908). Recreational anglers in Sacramento reported catches of 50 or more splittail per day prior to damming of these rivers (Caywood 1974). The species was used as part of the Central Valley Native American diet (Caywood 1974).

In recent times, dams and diversions have increasingly prevented upstream access to large rivers, and the species is now apparently restricted to a small portion of its former range (Moyle and Yoshiyama 1992). Splittail enter the lower reaches of the Feather (Jones and Stokes 1993) and American Rivers (Charles Hanson, State Water Contractors, in litt., 1993) on occasion; however, the species now is largely confined to the Delta, Suisun Bay, Suisun Marsh, and Napa Marsh. The ''Delta'' refers to all tidal waters contained within the legal definition of the San Francisco Bay-Sacramento-San Joaquin River Delta, as delineated by section 12220 of the State of California's Water Code of 1969. Generally, the Delta is contained within a triangular area that extends south from the City of Sacramento to the confluence of the Stanislaus and San Joaquin Rivers at the southeast corner and Chipps Island in Suisun Bay.

In recent years, splittail have been found most often in slow moving sections of rivers and sloughs and deadend sloughs (Moyle et al. 1982, Daniels and Moyle 1983). Reports from the 1950s, however, mention Sacramento River spawning migrations and catches of splittail during fast tides in Suisun Bay (Caywood 1974). California Department of Fish and Game survey data from the last 15 years indicate that the highest catches occurred in shallow areas of Suisun and Grizzly Bays. Because they require flooded vegetation for spawning and rearing, splittail are frequently found in areas subject to flooding. Historically, major flood basins, distributed throughout the Sacramento and San Joaquin Valleys,

provided spawning and rearing habitat. These flood basins have all be reclaimed or modified into flood control structures (bypasses). Although primarily a freshwater species, splittail can tolerate salinities as high as 10 to 18 parts per thousand (Moyle 1976, Moyle and Yoshiyama 1992).

Section 4(b)(6) of the Act requires the Service to take one of three alternative actions within 1 year of a listing proposal: (1) Publish a final regulation listing the species, (2) publish a notice that the listing proposal is being withdrawn, or (3) publish a notice that the 1-year time period is being extended under section 4(b)(6)(B)(i). That section as implemented by regulation at 50 CFR 424.17(a)(1)(iv), provides that the Service may extend the 1-year period for not more than 6 months because there is "substantial disagreement among scientists knowledgeable about the species concerned regarding the sufficiency or accuracy of the available data relevant to the determination.'

On August 3 and 31, 1994, the State Water Contractors and Central Valley Project Water Association, respectively, wrote the Service requesting a 6-month extension alleging scientific disagreement with the listing proposal. Additionally, in a letter dated September 8, 1994, from the Secretary of the Resources Agency, the State requested more time for the Service to consider information developed for the Biological Assessment for the Central Valley Project/State Water Project operations and for the California Department of Fish and Game to complete a survey of splittail distribution and abundance. The survey was conducted to determine whether a resident splittail population occurred outside the Suisun Bay-Delta region. The State's letter stated that completed study results would be available to the Service in January 1995.

The Service finds that there is substantial disagreement regarding the possibility of a resident splittail population upstream of the Delta. Such a population would significantly expand the range of the splittail reported in the proposed rule. As a result, the Service extends until July 6, 1995, the period within which to make a final listing determination on this species. This extension will enable the Service to receive and analyze the State's final study results scheduled for release in January 1995. In addition, the Service solicits additional data regarding the status of the Sacramento splittail upstream of the Delta until February 24, 1995.