Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of approval of an application for lethal removal and notice of availability of an Environmental Assessment.

SUMMARY: NMFS announces approval of an application from the State of Washington to authorize the intentional lethal taking of individually identifiable California sea lions that have preyed on wild winter-run steelhead that migrate through the Ballard Locks in Seattle, WA. NMFS also announces the availability of an Environmental Assessment (EA) that was prepared jointly by NMFS and the Washington State Department of Fish and Wildlife. The EA examines the environmental consequences of alternatives for protecting the depressed Lake Washington winter-run of wild steelhead migrating through the Lake Washington Ship Canal and Ballard Locks from predation by California sea lions. The proposed action is authorized under section 120 of the Marine Mammal Protection Act (MMPA). ADDRESSES: A copy of the EA may be obtained by writing to William Stelle, Jr., Director, Northwest Region, NMFS, 7600 Sand Point Way, NE, Seattle, WA 98115 or by telephoning one of the contacts listed below.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, Northwest Region, NMFS, 206–526–6143 or Ken Hollingshead, Office of Protected Resources, NMFS, 301–713–2055.

SUPPLEMENTARY INFORMATION:

Background

Section 120 of the MMPA (16 U.S.C. 1361 et seq.) as amended in 1994, provides the Secretary of Commerce (Secretary) the discretion to authorize the intentional lethal taking of individually identifiable pinnipeds that are having a significant negative impact on salmonids that are either: (1) Listed under the Endangered Species Act (ESA), (2) approaching a threatened or endangered status, or (3) migrate through the Ballard Locks in Seattle. The authorization applies only to pinnipeds that are not: (1) Listed under the ESA, (2) designated as depleted, or (3) designated a strategic stock. The process for determining whether to implement the authority in section 120 commences with a state submitting an application that provides a detailed description of the interaction problem, the means of identifying the individual pinnipeds, and expected benefits of the taking. Within 15 days of receiving an application, the Assistant Administrator

for Fisheries, NOAA (AA) must determine whether the applicant has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force (Task Force) to address the situation described in the application. If the application provides sufficient evidence, NMFS must publish a document in the Federal Register requesting public comment on the application, and establish a Task Force consisting of: (1) NMFS/NOAA staff, (2) scientists who are knowledgeable about the pinniped interaction that the application addresses, (3) representatives of affected conservation and fishing community organizations, (4) treaty Indian tribes, (5) the states, and (6) such other organizations as NMFS deems appropriate. The Task Force must, to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests. Meetings of the Task Force must be open to the public. Within 60 days after establishment, and after reviewing public comments in response to the Federal Register document, the Task Force is to recommend to NMFS approval or denial of the proposed intentional lethal taking along with recommendations on the proposed location, time, and method of such taking, criteria for evaluating the success of the action, and the duration of the intentional lethal taking authority. The Task Force must also suggest non-lethal alternatives, if available and practicable, including a recommended course of action. Within 30 days after receipt of the Task Force's recommendations, NMFS must either approve or deny the application. If such application is approved, NMFS must immediately take steps to implement the intentional lethal taking. The intentional lethal taking is to be performed by Federal or state agencies, or qualified individuals under contract to such agencies.

On July 6, 1994, the Secretary received an application, dated June 30, 1994, from the State of Washington, to authorize the intentional lethal taking of individually identifiable California sea lions (Zalophus californianus) that prey on wild winter-run steelhead (Oncorhynchus mykiss) that migrate through the Ballard Locks in Seattle, WA. The State requested that the Secretary establish a Task Force and initiate the process provided by section 120 of the MMPA so that lethal removal, if approved, is authorized in time for protection of the 1994–95 winter-run of wild steelhead.

The AA determined that the State's application was sufficient to warrant

formation of a Task Force because all the necessary determinations and required information were either in the letter or in the documents referenced in the letter. Research by the State and NMFS has shown that California sea lions consume as much as 60 percent of the returning adult wild steelhead as they migrate through the Ballard Locks area, and that such exploitation rates can have a significant impact on the status or recovery of the Lake Washington winter-run wild steelhead. Notice of receipt and acceptance of the State's application was published in the Federal Register on August 2, 1994 (59 FR 39325) with a request for public comments. A Pinniped-Fishery Interaction Task Force on the sea lion/ steelhead conflict at the Ballard Locks was established on September 30, the date of their first public meeting. Notice of establishment of the Task Force and its meeting was published in the Federal Register on September 27, 1994 (59 FR 49234). Subsequent meetings were announced through NOAA Press Releases and reported in local media. The Task Force held 3 more meetings (open to the public) for a total of 8 days of meetings to consider pertinent data on California sea lions, winter-run steelhead, the nature and extent of the interaction at the Ballard Locks, the design and operation of the Locks/ fishway facility, past measures and considerations for reducing or eliminating the sea lion/steelhead interaction, and public comments on the State's application received during the

comment period.

The Task Force submitted its recommendation on the State's request for lethal removal to NMFS on November 23, 1994. By a 13 to 8 vote, the Task Force recommended approval of lethal removal of individually identifiable California sea lions, with conditions on when lethal removal may occur and the numbers and identity of animals that it may be applied to. A minority view from Task Force members opposed to lethal removal was submitted on December 5, 1994. Details of the Task Force recommendations are included in the EA.

Findings and Conditions

Based on the Task Force's recommendations and scientific information collected since 1985 on the California sea lion/steelhead interaction, NMFS has concluded that lethal removal of California sea lions at the Ballard Locks is a necessary, last resort for removing the sea lion preying on steelhead based on: (1) The declining and depressed status of the wild winterrun steelhead and the need to prevent