



# NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

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## Action Memo

**File Number:REP 13-014**

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**Agenda Date**12/9/2013

**Agenda Number:**B-8

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Chris Oliver, Executive Director  
Eric Olson, Chairman

**SUBJECT:**

Protected Species Report (including SSL EIS and BiOp update)

**ESTIMATED TIME:**

6 hours (all B Reports)

**ACTION REQUIRED:**

Receive report on Protected Resources issues and take action as necessary.

**BACKGROUND:**

Steller sea lion Eastern DPS

On October 23, 2013 the National Marine Fisheries Service announced a final rule to remove the Eastern DPS of Steller sea lion from the U.S. Endangered Species List. The Final Rule is available on NOAA's site: [http://alaskafisheries.noaa.gov/frules/ssl\\_asfiled102313.pdf](http://alaskafisheries.noaa.gov/frules/ssl_asfiled102313.pdf). This is the first species that NOAA has delisted due to recovery since the eastern North Pacific gray whale was removed from the list in 1994. NOAA concluded that delisting of the EDPS is warranted because the stock has met the recovery criteria outlined in the 2008 Recovery Plan and no longer meets the definition of a threatened or endangered species under the Act. The best available scientific information indicates that the EDPS has increased from an estimated 18,040 animals in 1979 to 70,174 in 2010 and has experienced sustained significant population growth. The Eastern DPS of SSL will continue to be protected under the provisions of the Marine Mammal Protection Act.

NOAA fisheries is working with affected states and other partners to develop a post-delisting monitoring plan for the EDPS. The plan is available on NOAA's site:

<http://alaskafisheries.noaa.gov/protectedresources/stellers/edps/statusreview071813.pdf>. This monitoring plan will be in effect for 10 years, twice the five-year requirement under the ESA. This plan is intended to ensure that the recovery of the EDPS is maintained. The delisting of the EDPS will take effect 30 days after the publication of the final rule in the Federal Register.

Steller sea lion Western DPS

On October 16, 2013 the Ninth Circuit Court of Appeals denied a motion to reconsider their ruling upholding the 2010 SSL BiOp, ruling that the Agency's use of subregional data did not violate the Endangered Species Act and that the Agency utilized appropriate standards to find that continuing previous fishing levels in those sub-regions would adversely modify the critical habitat and jeopardize the continued existence of the entire population.

Following the October 2013 Council meeting, the Council sent a letter (Item B-8(a)) to Dr. James Balsiger (NOAA AKR Administrator) outlining the Council's selection of Alternative 5 (PPA) as the Preferred Alternative, and reiterating the Council's desire to see a draft Biological Opinion before publication of the final BiOp to allow the Council to remain involved in development of any Reasonable and Prudent Alternative, should one prove necessary.

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Either during B reports or at a later point in this meeting NMFS will present an update on the progress made on the EIS and BiOp, and outline options for moving forward including what would be necessary to prepare a draft BiOp and include Council participation in development of a RPA.

#### Kittlitz's Murrelet

On October 3, 2013 the U.S. Fish and Wildlife Service (USFWS) published a 12-Month Finding on a petition to list Kittlitz's murrelet (*Brachyramphus brevirostris*) as an endangered or threatened species (FR 78 No. 192 61764). The Agency concluded that the best available scientific and commercial information indicated that listing the Kittlitz's murrelet is not warranted at this time. The Agency continues to solicit information regarding threats to the Kittlitz's murrelet or its habitat.

#### Bowhead whales

A poster presented at the January, 2013 Alaska Marine Science Symposium presented information about the presence of scars on bowhead whales that indicate ship strikes, orca predation, and line entanglement. That analysis showed that bowhead whales ~17 m in length had a 50% probability of showing entanglement scars. Most of the variation in occurrence of line entanglement was explained by sex and size of the whale. Of 11 whales reported with line attached, at least three included line that was confirmed to be from commercial pot gear (see Item B-8(b)).

Recent sightings of whales with entanglement scars include younger, smaller whales (pers. comm, C. George, North Slope Borough Dept. Wildlife Management), a shift from previous results. This suggests that younger whales might be encountering commercial pot gear or other lines more frequently than in the past. Scientists from the North Slope Borough will continue to document entanglement scars to further elucidate entanglement trends.

#### Pinto Abalone

On November 18, 2013 the National Marine Fisheries Service published a 90-day finding regarding petitions from the Natural Resources Defense Council and the Center for Biological Diversity to list the Pinto Abalone (*Haliotis kamtschatkana*) as threatened or endangered throughout its range under the Endangered Species Act, and to designate critical habitat for the species. The Agency found that the petitions and information available present substantial scientific or commercial information indicating that the petitioned action may be warranted. The agency has initiated a status review of the species to determine if the petitioned action is warranted. NMFS is soliciting scientific and commercial information pertaining to the Pinto Abalone. Information and comments on the action must be received by January 17, 2014.

The Pinto Abalone inhabits shallow areas of coastal waters from Southeast Alaska to Pt. Conception, California. They are frequently found in kelp beds and on rocky bottoms from the low tide line to 30-40 feet depth. The abundance of Pinto Abalone declined sharply in Alaska from 1982-1995, and they continue to disappear in large areas of its range. Pinto Abalone are vulnerable to overharvest because of their patchy distribution, short larval period, slow growth, and low recruitment. Pinto Abalone are preferred prey for sea otters, and expansion of otters in Southeast Alaska is considered by the State of Alaska to be a threat to abalone.