



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
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SEP - 2 2011

F/SER31:CH

MEMORANDUM FOR: Jim Lecky
Director, Office of Protected Resources

FROM: Roy E. Crabtree, Ph.D. Miles M. Croom
Regional Administrator

SUBJECT: Removal of the saltmarsh topminnow (*Fundulus jenkinsi*) from the
Species of Concern List – DECISION MEMORANDUM

This memorandum transmits my recommendation that NOAA's National Marine Fisheries Service (NMFS) remove the saltmarsh topminnow (*Fundulus jenkinsi*) from the Species of Concern list. I request your concurrence.

BACKGROUND

NMFS identified the saltmarsh topminnow as a Candidate Species in 1991 (56 FR 26797) and transferred it to the Species of Concern list on April 15, 2004 (69 FR 19975). On September 7, 2010, NMFS received a petition from WildEarth Guardians and Ms. Sarah Felsen to list the saltmarsh topminnow as threatened or endangered under the Endangered Species Act (ESA) and to list the species under the emergency listing provisions of the ESA (16 U.S.C. 1533(b)(7)) owing to perceived threats from the Deepwater Horizon oil spill. The petition was sent to NMFS and U.S. Fish and Wildlife Service (USFWS). Both NMFS and USFWS had information in our files concerning the species. The species estuarine habitat falls within an area where both services manage species. Collectively, NMFS and USFWS determined that the petition presented substantial scientific information indicating that the petitioned action may be warranted and published a joint 90-day finding in the Federal Register (76 FR 49412; August 10, 2011; attached). USFWS has agreed to assume sole jurisdiction of the species and will be responsible for conducting the 12-month finding and determining whether listing the saltmarsh topminnow is warranted.

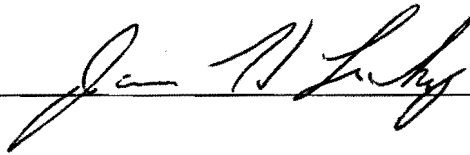
RECOMMENDATION

USFWS has assumed sole jurisdiction over the saltmarsh topminnow and any subsequent management decisions; therefore, I recommended that the saltmarsh topminnow be removed from NMFS' Species of Concern list.



I request that you approve the recommendation to remove the saltmarsh topminnow from the Species of Concern list.

1. I concur.

A handwritten signature in black ink, appearing to read "Jan N. Luby", is written over a horizontal line.

2. I do not concur.

Attachment

cc: F/PR3