

## **Questions and Answers**

### **Sacramento Splittail 12-month Finding**

**Q: What measures are being taken now to protect the splittail?**

**A:** A number of safeguards protecting splittail are already in place. The splittail is currently a California Department of Fish and Game (DFG) species of special concern. In March 2010, the DFG put in place new fishing regulations limiting the take of splittail to two individuals per day. The Splittail is also currently a targeted species of the Delta Stewardship Council (DSC, formerly known as CALFED). Many of the provisions provided in the DSC plan will be carried through to the Bay-Delta Conservation Plan. While the DSC has specifically identified 29 species enhancement conservation measures for splittail, there are more than 150 projects underway that benefit the splittail or its habitat in the plan, over half of which have been completed. The Service will continue to monitor splittail population range and abundance and will periodically review the status of the splittail. If at any time in the future evidence suggests that these threats are contributing to significant population declines, the Service may propose the species for Endangered Species Act protection.

**Q: What does the evidence suggest about the splittail's population trends?**

**A:** Although the splittail has declined from its historic levels, there is no evidence to show that the adult splittail population is currently experiencing a decline. Young of Year (splittail less than one year old) population abundances correlate to existing drought cycles and follow a natural boom-bust cyclical trend. The decline in splittail YOY abundance during drought years has historically been followed by spikes in the YOY population during wet hydrological years. This pattern is seen in the current analysis in the 12- month finding.

**Q: The Service found that the splittail was in decline in 2003. What has changed?**

**A:** The abundance analysis conducted in 2003 relied on a methodology that did not accurately represent splittail population trends. The survey data used for this analysis did not focus on splittail and the sampling techniques were not geared to sample splittail abundance effectively. For example, the Fall Midwater Trawl conducts surveys on the water surface, while splittail are benthic feeders that are typically found deeper in the water column. In addition, the streams sampled have experienced a marked decrease in turbidity over the last decade, which better enables the fish to see and evade sampling nets. As a result, surveys could be showing a decline in abundance that is not justified. Recently published material has allowed FWS to better evaluate splittail population fluctuations using a model-based approach. The model used in the current finding

incorporates the natural population fluctuation of splittail YOY. This current analysis shows that the population is not in decline, but YOY production is low due to recent dry years. Models predict that YOY populations are expected to increase again with the next flooding of key areas including the Yolo Bypass.

Based on best available science, no recent decline in the overall abundance of the species has been shown and no threats rise to the level of being significant to the splittail at the population level.

**Q: What is a DPS and how does it correlate with this finding?**

**A:** The Endangered Species Act permits the listing of a portion of the population of any vertebrate species, even if the overall population of the species does not warrant protection as threatened or endangered, provided that the portion in question satisfies the Service's criteria as a Distinct Population Segment (DPS). There are two criteria that must be met for a species to qualify as a DPS. The first criterion requires that the population be discrete in relation to the remainder of the species to which it belongs. The second criterion requires that the population segment in question be biologically and ecologically significant to the overall population of the species.

Recent genetic research conducted by UC Davis has shown that the San Pablo population of splittail is markedly separate from the Delta population due to genetic variation, and is therefore discrete in the relation to the remainder of the species to which it belongs. One of the considerations studied to make this determination is whether or not there is evidence that the discrete population differs markedly from other populations of the species in its genetic characteristics. This criteria has been met due to the research conducted by UC Davis, and the service has concluded that the San Pablo population contributes significantly to the overall splittail population. Because the San Pablo population of splittail has met both criteria, it is considered a DPS under the ESA.

After concluding that the San Pablo population of splittail does qualify as a DPS, the service was then tasked with conducting an analysis to determine if the San Pablo DPS is in danger of extinction now or in the foreseeable future. The analysis did not indicate that the San Pablo DPS was likely to become endangered now or in the foreseeable future. Therefore, the Service has determined that listing is not warranted at this time.

**Q: What role do environmental contaminants play in the overall splittail population?**

**A:** Laboratory and field studies have shown certain contaminants – such as selenium, mercury, and ammonium – to be detrimental to individual splittail, and the co-occurrence of splittail with contaminants has been documented.

Although negative impacts to individual splittail from contaminants have been shown, the overall extent of such cases, and impacts to the population as a whole, remain largely unknown. No studies to date have shown contaminants to have a significant effect on splittail at the population level and therefore, the Service does not consider contaminants to be a significant threat to the species at this time. Steps are being taken to limit the amount of contaminants discharged into the system. The Service has no evidence that contaminant exposure will increase to the extent that it is a significant threat to the splittail population in the foreseeable future.

**Timeline of Sacramento splittail actions:**

- Nov. 5, 1992 – Service received a petition to list and designate critical habitat for the Sacramento splittail.
- 1994 – Service proposed to list the splittail as threatened, but the listing was delayed by three extensions of the comment period and a 1-year moratorium on all federal endangered species listings.
- Feb. 8, 1999 – Service published a final rule, listing the splittail as threatened under the ESA.
- June 23, 2000 – the courts ruled in support of the San Luis and Delta-Mendota Water Authority finding the final rule listing the splittail as threatened was unlawful.
- Sept. 22, 2000 – the court remanded the determination of whether or not the splittail is a threatened or endangered species to the Service.
- Sept. 22, 2003 – Service published a final rule in the Federal Register (68 FR 55140) removing the splittail from the endangered species list, based upon population trends at that time and conservation efforts in the Central Valley, including the DSC program.
- Aug. 13, 2009 – The Center for Biological Diversity filed a complaint in U.S. District Court for the Northern District of California, challenging the Service on the merits of the 2003 removal of the splittail from the Endangered Species Act list and alleging improper political influence by former Department of Interior official Julie MacDonald.
- Feb. 1, 2010 – In a settlement agreement, the Service agreed to submit to the *Federal Register* a new status review and 12-month finding as to whether listing the Sacramento splittail is warranted or not warranted, by Sept. 30, 2010.