

prohibition if the taking is incidental to, and not the purpose of otherwise lawful activities.

Gopher tortoise surveys conducted by the Applicant have identified at least one adult gopher tortoise within the Project. Land clearing, construction and heavy equipment operations can directly kill or injure tortoises as a result of their becoming crushed or entombed in burrows.

The Plan describes measures the Applicant will take to avoid and mitigate such taking, including: (1) Translocation of all resident tortoises from the Project to a suitable 25-acre recipient site which already contains a colony of the species; (2) management of the recipient site for the long term benefit of the relocated tortoise(s) and the resident population; and, (3) monitoring and reporting on the effectiveness of the chosen mitigation and minimization strategy.

As earlier stated, the Service has determined that the Plan qualifies as a "low-effect" Habitat Conservation Plan (HCP) as defined by the Service's Habitat Conservation Planning Handbook (November 1996). Low-effect HCPs are those involving: (1) Minor or negligible effects on federally listed and candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources. The Applicant's Plan qualifies for the following reasons:

1. Approval of the Plan would result in minor or negligible effects on the Gopher tortoise and its habitat. The Service does not anticipate significant direct or cumulative effects to the Gopher tortoise resulting from construction of the Project.

2. Approval of the Plan would not have adverse effects on known unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the Plan would not result in any significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

5. Approval of the Plan would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

The Service has therefore determined that approval of the Plan qualifies as a categorical exclusion under the NEPA,

as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). No further NEPA documentation will therefore be prepared. In the Service's continuing efforts to ensure compliance with section 106 of the National Historic Preservation Act, the Service's Regional Archaeologist will determine, after further investigations which are currently underway, the effect of the proposed construction on cultural resources that may be present within the project area. Results of these investigations will be considered and incorporated into the Service's final determinations on this Plan.

The Service will evaluate the Plan and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, an ITP will be issued for the incidental take of the Gopher Tortoise. The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP; the final decision will be made no sooner than 30 days from the date of this notice.

Dated: March 11, 1999.

**H. Dale Hall,**

*Deputy Regional Director.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### **Availability of an Environmental Assessment and Receipt of an Application for a Permit to Allow Incidental Take of Threatened and Endangered Species in Connection With the North Peak Development Project in the City of Lake Elsinore, Riverside County, California**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of Availability.

**SUMMARY:** North Peak Partners, L.P., (Partners) have applied to the Fish and Wildlife Service for an incidental take permit pursuant to the Endangered Species Act of 1973, as amended (Act). The Partners request a 30-year permit authorizing incidental take of certain species in connection with the development of a master planned

community, road improvements, ongoing management on open space and facilities, and implementation of conservation measures in the planning area located in the City of Lake Elsinore, Riverside County, California. The proposed permit would allow take in the form of harm or harassment of 3 currently listed species [coastal California gnatcatcher (*Polioptila californica californica*), least Bell's vireo (*Vireo bellii pusillus*), and Stephens' kangaroo rat (*Dipodomys stephensi*)] and 30 sensitive species that may be listed as threatened or endangered during the period permit. The proposed permit also would allow take in the form of harassment of 16 bird and mammal species, primarily raptors and bats that forage in the area. In addition, the Partners anticipate that 12 additional species would need to be added to the permit (if found to be present and a taking would occur) and have proposed a streamlined amendment process to determine measures to avoid, minimize, mitigate, and authorize take of those species. As required under the Act, the Partners have prepared a habitat conservation plan (Plan) for the species that would be covered by the incidental take permit and have submitted the Plan to the Service, together with an Implementation Agreement. The Plan and Implementation Agreement are part of the permit application.

The Service announces the availability of the permit application and the Environmental Assessment for public review and comment. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

**DATES:** Written comments on the permit application and the Environmental Assessment should be received on or before April 16, 1999.

**ADDRESSES:** Comments should be addressed to Jim Bartel, Assistant Field Supervisor, Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Comments may be sent by facsimile to 760-431-9624.

**FOR FURTHER INFORMATION CONTACT:** Michelle Shaughnessy, Branch Chief, or Dan Brown, Fish and Wildlife Biologist, at the above address (telephone: 760-431-9440).

#### **SUPPLEMENTARY INFORMATION:**

##### **Availability of Documents**

If you would like a copy of the documents, contact the Service's Carlsbad Fish and Wildlife Office at the above referenced address or telephone. Documents also are available for public

inspection, by appointment, during normal business hours at the above address.

### Background Information

Under section 9 of the Act and its implementing regulations, "taking" of threatened or endangered wildlife species is prohibited. That is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 USC 1538). The Service, however, may issue permits to take such species if the taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing such permits are in 50 CFR 17.32 for threatened species and 50 CFR 17.22 for endangered species.

The permit requested by the Partners would allow incidental take of up to 61 species in connection with direct and indirect effects of development and management activities identified in the Plan. The area covered by the proposed permit includes approximately 997 acres within a Specific Plan area and 23 acres along the road providing access to the site. It is estimated that 1 pair of California gnatcatchers, 1 acre of potential least Bell's vireo habitat, and 220 acres of Stephens' kangaroo rat habitat would be harmed. Take of other species covered by the Plan is estimated in terms of habitat removal and would range from 1 to 621 acres depending on the habitat of the species. To avoid, minimize, and mitigate the effects of take, the Partners propose to limit direct harm to species, conserve 511 acres of natural habitats (including 340 acres of coastal sage scrub and 19 acres of riparian/wetland habitats), provide for the ongoing management of onsite conserved habitat, and maintain wildlife corridors and habitat connections across the property and to other protected lands. Approximately 411 acres would be conserved onsite (including 36.6 acres revegetated with coastal sage scrub and 11 acres of created/enhanced riparian and wetland habitats). Onsite conserved habitat would include 1 coastal California gnatcatcher use area, 6 acres of least Bell's vireo habitat, and 290 acres providing regionally significant habitat connections for Stephens' kangaroo rat. Two parcels totaling 100 acres would be dedicated to existing wildlife reserves in the region.

The Environmental Assessment considers six alternatives, including No Action. The first alternative considers the effects of the development project on the species of concern assuming implementation of the Plan as proposed by the Applicant. The second alternative considers reduced habitat

impacts and increased onsite conservation in the master planned community through elimination of one of two proposed golf courses. The third alternative considers preservation of the area proposed for the master planned community under a mitigation banking agreement. Two variations of the third alternative are presented: one that covers the plan area identified in the Partner's Plan, and one that would conserve an additional 773 acres in the Specific Plan area as part of the mitigation bank. The 773 acres that would be added under the second variation have already been proposed by the Partners as a mitigation bank. The fourth alternative considers additional residential development instead of two golf courses in the master planned community. The fifth alternative considers development and onsite conservation as proposed in the 1991 Specific Plan for the property. The sixth alternative (No Action) considers a continuation of existing conditions in the plan area.

This notice is provided pursuant to section 10 (a) of the Act and Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of law. If the Service determines that the requirements are met, a permit will be issued for the incidental take of the listed species. A final decision on permit issuance will be made no sooner than 30 days from the date of this notice.

Dated: March 10, 1999.

**Elizabeth H. Stevens,**

*Deputy Manager, California/Nevada Operation Office, Region 1, Sacramento, California.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Notice of Fund Availability and Distribution Process of the FY 1999 Housing Improvement Program Appropriation

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** The Fiscal Year (FY) 1999 Department of the Interior, Bureau of Indian Affairs (Bureau), Housing Improvement Program (HIP)

appropriation is \$18,780,383. This Notice of Fund Availability describes the process by which this appropriation will be distributed to Bureau Area Offices and subsequently for individual eligible grantees through Indian tribal governments for FY 1999.

**FOR FURTHER INFORMATION CONTACT:** June Henkel, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS-4603-MIB, Washington, D.C. 20240. Telephone 202-208-3667, Fax 202-208-2648.

**SUPPLEMENTARY INFORMATION:** The purpose of this notice is to identify the methodology that will be used to distribute the Housing Improvement Program FY 1999 Appropriation.

### Background

The HIP provides housing services to individuals, in the form of a grant, and is available to the neediest of the needy Indian applicants residing on Indian reservations or within "approved service areas." An Indian reservation means any federally recognized Indian tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92-203, and Indian allotments. Eligible individual Indian applicants are those with limited resources who do not qualify for or otherwise cannot receive assistance from other housing programs. The HIP provides a non-duplicative service and differs from the Department of Housing and Urban Development (HUD) Indian housing programs specifically because the recipients of HIP grants are unable to meet HUD's minimum income requirements.

Revised HIP regulations, published in the **Federal Register** on March 2, 1998, and effective on April 1, 1998 (63 FR 10134), establish the Bureau's housing policy that every American Indian family should have the opportunity for a decent home and suitable living environment. To the extent possible, the program will serve the neediest of the needy Indian applicants. Accordingly, the Bureau defines the HIP as a secondary safety net program which provides assistance to Indian applicants who have no other recourse for housing assistance.

The limited availability of funds for this program require the continued use of a needs based distribution methodology. Funds are made available to tribal governments based upon the submission of: (1) viable, annual work plans, containing (a) the identification of eligible applicants; (b) identification