

the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

**Permit Number TE 015551**

*Applicant:* Jeffrey A. Laborda, Indiana State University, Terre Haute, Indiana

The applicant requests a permit to take (capture and release) endangered Gray bats (*Myotis grisescens*) and Indiana bats (*Myotis sodalis*) in the State of Indiana. Activities are proposed for the enhancement of survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056. Telephone: (612/713-5343); Fax (612/713-5292).

Dated: July 28, 1999.

**Charles M. Wooley,**

*Program Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Statewide Electrified Fence Project in California**

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

**ACTION:** Notice of availability.

**SUMMARY:** The California Department of Corrections has applied to the Fish and Wildlife Service for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The proposed permit would authorize incidental take of the federally threatened desert tortoise (*Gopherus agassizii*), Aleutian Canada goose (*Branta canadensis leucopareia*), bald eagle (*Haliaeetus leucocephalus*), western snowy plover (*Charadrius alexandrinus nivosus*), coastal California gnatcatcher (*Poliophtila californica californica*), and the

federally endangered blunt-nosed leopard lizard (*Gambelia silus*), California brown pelican (*Pelecanus occidentalis californicus*), American peregrine falcon (*Falco peregrinus anatum*), southwestern willow flycatcher (*Empidonax taillii extimus*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*) and San Joaquin kit fox (*Vulpes macrotis mutica*).

The proposed taking of these species would be incidental to the implementation of the Statewide Electrified Fence Project at 25 existing prisons and 4 planned prison sites throughout California. The proposed permit also would authorize future incidental take of 51 currently unlisted species, should any of them become listed under the Act in the future. The permit would be in effect for 50 years. The permit application, available for public review, includes a Habitat Conservation Plan (Plan) which describes the proposed project and mitigation, and the accompanying Implementing Agreement.

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

**DATES:** Written comments should be received on or before September 3, 1999.

**ADDRESSES:** Comments should be addressed to the Field Supervisor, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821-6340. Written comments may be sent by facsimile to (916) 979-2723.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lori Rinek, Fish and Wildlife Biologist, at the above address (telephone: 916-979-2129).

**SUPPLEMENTARY INFORMATION:**

**Availability of Documents**

Individuals wishing copies of the application, Environmental Assessment, the Plan, and Implementing Agreement for review should immediately contact the above office. Documents also will be available for public inspection, by appointment, during normal business hours at the above address.

**Background Information**

Section 9 of the Act and Federal regulation prohibit the "take" of animal species listed as endangered or threatened. 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). Under limited circumstances, the Service, however, may issue permits to authorize "incidental take" of listed animal species (defined by the Act as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). Regulations governing permits for threatened species and endangered species, respectively are at 50 CFR 17.32 and 50 CFR 17.22.

**Background**

The California Department of Corrections seeks a permit for take of the federally listed desert tortoise, Aleutian Canada goose, bald eagle, western snowy plover, coastal California gnatcatcher, blunt-nosed leopard lizard, California brown pelican, American peregrine falcon, southwestern willow flycatcher, Tipton kangaroo rat and the San Joaquin kit fox incidental to the implementation by the Department of lethal electrified fences at 25 existing prisons and 4 planned prison sites throughout California. The proposed permit also would authorize future incidental take of 39 bird, 9 mammal, and 3 reptile species that are currently unlisted, should any of them become listed under the Act in the future. Collectively these listed and unlisted species addressed in the Plan are referred to as the "covered species" for the Statewide Electrified Fence project.

The California Department of Corrections has installed and is operating lethal electrified fences at 25 existing prison sites throughout California, and is considering installation of such fences at 4 future prison sites. The primary reason for implementing the Statewide Electrified Fence Project is to reduce the operational costs of State prisons, while maintaining perimeter security. The project involves the installation and activation of lethal electrified fences within the secured perimeter of the prison facilities. The potential cause of the taking is the direct mortality of animals by accidental electrocution on the lethal electrified wires of the fence. The 29 prison sites are generally located near rural communities or in isolated areas in 16 counties. All of the electrified fence sites are located on State property.

To compensate for project impacts, California Department of Corrections has organized their minimization and mitigation program into three tiers. Tier 1 measures include maintenance and operational-related measures designed to modify or remove habitat or other attractions to wildlife from the secured

perimeter area of each prison, which in turn would reduce wildlife use of the perimeter and thus lower electrocution risks. These measures affect only previously disturbed areas and do not result in the modification or destruction of any listed species habitat. Tier 2 measures involve installation of exclusion and deterrent fence devices which are designed to prevent or deter wildlife from making contact with the electrified fences. The most critical exclusion device that California Department of Corrections has/will install that prevents most birds from contacting the fence is vertical mesh netting that envelops both sides of the electrified fence. Tier 3 measures are designed to offset the residual loss of wildlife resources at the prisons as a result of electrocution risks that remain even after Tier 1 and Tier 2 measures have been implemented. Tier 3 measures include acquisition of lands; habitat enhancement via creation, restoration, or management; and monetary contributions to species recovery efforts.

The Environmental Assessment considers the environmental consequences of five alternatives in addition to the Proposed Action. The Proposed Action consists of the issuance of an incidental take permit to the California Department of Corrections and implementation of the Plan and its Implementing Agreement. Under Alternative 1, the Selective Use of Electrified Fences, California Department of Corrections would reinstate the traditional perimeter security approach of guard tower surveillance at the seven prisons with the highest wildlife mortality or the three prisons with the least labor cost to staff guard positions, thereby reducing the overall risk of incident take of the covered species. Alternative 2 would entail the use of the stun-lethal alternative design for the electrified fences instead of the lethal design. Alternative 3 would involve netting the electrified fence all the way to the top. Alternative 4 would entail installing netting at the five prison sites which have the smallest numbers of bird electrocutions. Under Alternative 5, the No Action Alternative, the Service would not issue an incidental take permit. The electric fences would not be energized, and no incidental take of the listed species would occur.

This notice is provided pursuant to section 10(a) of the Endangered Species 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 covered species. The final permit decision will be made no sooner than 30 days from the date of this notice.

Dated: July 22, 1999.

**Elizabeth H. Stevens,**

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

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Availability of a Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for the Tulare Irrigation District Main Intake Canal Lining Project, Tulare County, California

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

**ACTION:** Notice of availability and receipt of application.

**SUMMARY:** The Tulare Irrigation District has applied to the Fish and Wildlife Service for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended. The Service proposes to issue a 5-year permit to the Tulare Irrigation District that would authorize take of the threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) incidental to otherwise lawful activities. Such take would occur during the concrete lining of 9.7 miles of an existing canal in Tulare County, California. Lining of the canal would result in the loss of up to 54 elderberry plants with 227 stems which provide habitat for the valley elderberry longhorn beetle.

We request comments from the public on the permit application, which is available for review. The application includes a Habitat Conservation Plan (Plan). The Plan describes the proposed project and the measures that the Tulare Irrigation District would undertake to minimize and mitigate take of the valley elderberry longhorn beetle.

We also request comments on our preliminary determination that the Plan qualifies as a "low-effect" Habitat Conservation Plan, eligible for a categorical exclusion under the National Environmental Policy Act. The basis for this determination is discussed in an

Environmental Action Statement, which also is available for public review.

**DATES:** Written comments should be received on or before September 3, 1999.

**ADDRESSES:** Send written comments to Mr. Wayne White, Field Supervisor, Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821-6340. Comments may be sent by facsimile to 916-979-2744.

**FOR FURTHER INFORMATION CONTACT:** Mr. Chris Davis, Fish and Wildlife Biologist, at the above address or call (916) 979-2728.

#### SUPPLEMENTARY INFORMATION:

##### Document Availability

Please contact the above office if you would like copies of the application, Plan, and Environmental Action Statement. Documents also will be available for review by appointment, during normal business hours at the above address.

##### Background

Section 9 of the Endangered Species Act and Federal regulation prohibit the "take" of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act to include kill, harm, or harass. The Service may, under limited circumstances, issue permits to authorize incidental take; i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively.

The Tulare Irrigation District operates the Main Intake Canal (canal) primarily to transport an average of 60,000 acre-feet of water from the St. Johns and Kaweah Rivers to agricultural areas within Tulare Irrigation District boundaries. The canal begins at a turnout on the Friant-Kern Canal, approximately 4 miles east of the community of Ivanhoe in Tulare County, and proceeds in a general southwesterly direction to the Tulare Irrigation District boundary at Road 132, approximately 3 miles west of the community of Farmersville. The existing canal is unlined with a varying capacity up to 900 cubic feet per second. Since 1978, the canal has conveyed water an average of 177 days per year. According to the Tulare Irrigation District, approximately 10 percent of water conveyed through the canal is lost to seepage. Therefore, the Tulare Irrigation District has proposed to line the canal to conserve water, increase water deliveries, and decrease