

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 Ox Yoke Road Development, Shasta County, California**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability and Receipt of Application.

SUMMARY: This notice advises the public that William Schmitt (applicant) has applied to the Fish and Wildlife Service (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 the incidental take of the valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), federally listed as threatened, and modification of its habitat during the construction of approximately 140,000 square feet of industrial warehouse space just west of the Anderson City limits in Shasta County. The permit would be in effect for 10 years.

The Service announces the receipt of the applicant's incidental take permit application that includes the proposed "Low-Effect Habitat Conservation Plan for the Incidental Take of the Valley Elderberry Longhorn Beetle at the Ox Yoke Road Development, Shasta County, California." The proposed habitat conservation plan (Plan) is available for public comment. The Plan describes the proposed project and the measures the applicant would undertake to minimize and mitigate project impacts to the valley elderberry longhorn beetle. The Service has made a preliminary determination that the applicant's Plan qualifies as a "low-effect" habitat conservation plan eligible for categorical exclusion under the National Environmental Policy Act. We explain the basis for this determination in an Environmental Action Statement, which is also available for public review. This notice is provided pursuant to section 10(c) of the Act.

DATES: Written comments should be received on or before December 30, 1999.

ADDRESSES: Comments should be addressed to Mr. Wayne White, Field Supervisor, Fish and Wildlife Service, 2800 Cottage Way, Suite W2605, Sacramento, California 95825-1826. Comments may be sent by facsimile to 916-414-6712.

FOR FURTHER INFORMATION CONTACT: Kirsten Tarp or Jim Browning, staff

biologists, Sacramento Fish and Wildlife Office; telephone (916) 414-6600.

SUPPLEMENTARY INFORMATION:**Document Availability**

Individuals wishing copies of the Plan and associated documents for review should immediately contact the above office. Documents also will be available for review by appointment, during normal business hours at the above address.

Background

Section 9 of the Act and Federal regulation prohibit the "take" of fish or wildlife species listed as endangered or threatened, respectively. 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." Incidental take is 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 incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively.

The applicant proposes to construct 140,000 square feet of commercial warehouse space on approximately 10 acres of a 19-acre site. The remaining 9 acres of the project site lies in the 100-year floodplain of Spring Gulch and will not be developed. Instead, this area will be improved by removing asphalt, wood, and other debris that has been dumped there over the years. Riparian vegetation will be allowed to colonize this area. Mature valley oaks and other riparian vegetation located along the southeastern property line will be preserved.

The project site is located on the northeast corner of State Highway 273 and Ox Yoke Road in Shasta County, California. The proposed project consists of an industrial development comprising 12 lots. The building site, which consists of approximately 10 acres on the eastern portion of the 19-acre site would be graded and leveled. Earthwork on the 10 acres would involve approximately 11,000 cubic yards of cuts, 19,000 cubic yards of fill, and 8,000 cubic yards of imported earthen material. Land adjacent to the site is zoned for commercial use.

In 1998, biologists surveyed the proposed project area for special-status wildlife and plant species that could be affected by the project. Based upon the surveys, only one federally listed species, the valley elderberry longhorn beetle, has the potential to occur on site and to be directly impacted by the proposed project. The applicant has

agreed to implement the following measures to minimize and mitigate impacts that may result from incidental take of the beetle: (1) Mitigation and monitoring of transplanted elderberry shrubs and supplemental plants would be conducted according to the Service's Mitigation Guidelines for the Valley Elderberry Longhorn Beetle, dated July 9, 1999; (2) two affected elderberry bushes would be transplanted to a mitigation site at the proposed Stillwater Mitigation Bank located approximately 4 miles northeast of the proposed project site; (3) six additional elderberry cuttings (4 stems at a 1:1 ratio and one stem at a 2:1 ratio) and six associated native plants (1:1 ratio) would be planted to compensate for any adverse impacts to valley longhorn beetle habitat resulting from the proposed project; and (4) the mitigation area would be managed for the purpose of long-term protection of the valley elderberry longhorn beetle habitat.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the Plan, which includes measures to minimize and mitigate impacts of the project on the valley elderberry longhorn beetle. An alternative to the taking of listed species under the Proposed Action is considered in the Plan. Under the No Action Alternative, no permit would be issued. The two elderberry shrubs would remain on the project site and development would be planned around the shrubs. Because this is an industrial site, it is likely that large buildings would be constructed near the elderberry shrubs, thereby reducing their suitability as valley elderberry longhorn beetle habitat. Additionally, all other vegetation would be removed, leaving the two elderberry shrubs isolated from other riparian vegetation.

The Service has made a preliminary determination that the applicant's Plan qualifies as a "low-effect" habitat conservation plan as defined by the Service's Habitat Conservation Planning Handbook (November 1996). Low-effect habitat conservation plans are those involving: (1) Minor or negligible effects on federally listed, proposed, and candidate species and their habitats; and (2) minor or negligible effects on other environmental values or resources. The Ox Yoke Road Development Plan qualifies as a low-effect habitat conservation plan for the following reasons:

1. Approval of the Plan would result in minor or negligible effects on the valley elderberry longhorn beetle and its habitat. The Service does not anticipate significant direct or cumulative effects to the valley elderberry longhorn beetle

resulting from construction of the warehouse.

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

3. Approval of the Plan would not result in any cumulative or growth inducing impacts and, therefore, would not result in significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Flood plain 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 therefore has preliminarily determined that approval of the Plan qualifies as a categorical exclusion under the National Environmental Policy Act, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). Based upon this preliminary determination, we do not intend to prepare further National Environmental Policy Act documentation. The Service will consider public comments in making its final determination on whether to prepare such additional documentation.

This notice is provided pursuant to section 10(c) of the Act. We will evaluate the permit application, the Plan, and comments submitted therein to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, a permit will be issued for the incidental take of the valley elderberry longhorn in conjunction with implementation of the Ox Yoke Road Development project. We will make the final permit decision no sooner than 30 days from the date of this notice.

Dated: November 22, 1999.

Elizabeth H. Stevens,

*Deputy Manager, California/Nevada
Operations Office, Sacramento, California.*
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Extension of the Saddle Mountain National Wildlife Refuge Acquisition Boundary

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice and availability of the Record of Decision.

SUMMARY: This notice advises the public that we have adopted the Final Environmental Impact Statement (FEIS) adopting the Hanford Reach of the Columbia River Final Environmental Impact Statement for Comprehensive River Conservation Study, prepared a Record of Decision (ROD) based on the FEIS, and are making it available to the public. We have expanded an approved refuge acquisition boundary around the portions of the Hanford Site (the Saddle Mountain National Wildlife Refuge and the land known as the Wahluke State Wildlife Recreation Area) approximately 90,000 acres that are north and east of the Columbia River, to enable us to manage the land as part of the National Wildlife Refuge System (NWRS). Region 1 will be implementing the new approved acquisition boundary by adding most of the area within the boundary to Saddle Mountain Refuge in the near future. To ensure that the decision is in concert with Department of Energy (DOE) land-use policy, we also adopted the Habitat Conservation Plan (HCP) EIS. The HCP EIS and ROD provide DOE policies and procedures to guide development at the Hanford Site for 50 years or more.

DATES: We issued the Record of Decision on November 5, 1999.

ADDRESSES: Public reading copies of the ROD and the FEIS are available at the following libraries: Hanford Technical Library, Richland, Washington; Kennewick City Library, Kennewick, Washington; Mid-Columbia Regional Library, Kennewick, Washington; Othello City Library, Othello, Washington; Pasco Public Library, Pasco, Washington; Portland City Library, Portland, Oregon; Prosser City Library, Prosser, Washington; Richland City Library, Richland, Washington; Seattle City Library, Seattle, Washington; Vancouver City Library, Vancouver, Washington.

Copies of the ROD are available from U.S. Fish and Wildlife Service, Region 1, Division of Refuge Planning, 911 NE 11th Avenue, Portland Oregon, 97232-4181, phone number (503) 231-2231.

FOR FURTHER INFORMATION CONTACT:
Anne Badgley, Regional Director, US

Fish and Wildlife Service, Region 1, 911 NE 11th Avenue, Portland Oregon, 97232-4181, phone number (503) 231-6118.

SUPPLEMENTARY INFORMATION: Public Law 100-605 required the Secretary of the Interior to prepare, in consultation with the Secretary of Energy, a report for Congress evaluating the outstanding features of the Hanford Reach of the Columbia River and its immediate environment (including fish, wildlife, geologic, scenic, recreational, historical, cultural and other natural values) and to examine alternatives for preserving those values. The alternatives considered were to include, but not be limited to, inclusion of the Hanford Reach in the National Wild and Scenic Rivers System.

The Secretary selected the National Park Service (NPS) to lead the study. The NPS prepared the Environmental Impact Statement in compliance with section 102 of the National Environmental Policy Act of 1969 (NEPA) (40 U.S.C. 1051 *et seq.*) and pursuant to regulations promulgated by the Council on Environmental Quality (40 CFR Section 1505.2) and the implementing procedures of the National Park Service and the Department of the Interior.

We were a cooperating agency in the NEPA process under Interagency Agreement Number IA9000-0-0007 with the NPS, and pursuant to 40 CFR 1501.6. As a cooperating agency, FWS actively participated in the preparation of the Draft and Final EIS's and independently reviewed each document.

In July of 1994, the NPS released the Final Hanford Reach of the Columbia River Comprehensive River Conservation Study and Environmental Impact Statement (FEIS), followed by the Secretary's Record of Decision recommending that Congress establish a National Wildlife Refuge on the North Slope, and a Wild and Scenic River on the Hanford Reach. The Wild and Scenic River designation was recommended from river mile 346.5 to river mile 396, including a one-quarter mile wide corridor on both river banks. The Secretary selected the proposed action from the FEIS.

We adopted the FEIS to administratively establish an approved refuge acquisition boundary over the area known as the North Slope. The North Slope is comprised of the Saddle Mountain Refuge and the Wahluke Wildlife Recreation Area. This boundary provides our Region 1 with authority to acquire land and manage it as part of the NWRS. We may acquire lands through