

Dated: January 11, 2002.

**Michael S. Moore,**

Senior Permit Biologist, Branch of Permits,  
Division of Management Authority.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Moorpark Highlands Habitat Conservation Plan, Ventura County, CA

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

**ACTION:** Notice of availability.

**SUMMARY:** Morrison-Fountainwood-Agoura (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit (Permit) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended. The Service proposes to issue a Permit to the applicant for a period of 10 years that would authorize take of the coastal California gnatcatcher (*Polioptila californica californica*) incidental to otherwise lawful activities at the northern terminus of Spring Road, Moorpark, California. Activities covered by the requested Permit and addressed by the proposed Plan include the construction and occupation of 570 residential units and appurtenant infrastructure on a 445-acre site north of the City of Moorpark, Ventura County, California.

The Service requests comment from the public on the application and Environmental Assessment which are available for review. The application includes the proposed Habitat Conservation Plan (HCP) and an accompanying Implementing Agreement (legal contract). The HCP describes the proposed project and the measures that the Applicant would undertake to minimize and mitigate take of the coastal California gnatcatcher.

This notice is provided pursuant to section 10(a) of the Endangered Species Act and National Environmental Policy Act regulations (40 CFR 1506.6). 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 must be received no later than March 26, 2002.

**ADDRESSES:** Written comments should be addressed to Diane Noda, Field Supervisor, Ventura Fish and Wildlife Office, 2493 Portola Road, Ventura, California 93003. Comments may also be sent by facsimile to (805) 644-3958.

**FOR FURTHER INFORMATION CONTACT:** Rick Farris, Fish and Wildlife Biologist, at the above address or by calling (805) 644-1766.

#### SUPPLEMENTARY INFORMATION:

##### Document Availability

You may obtain copies of these documents by contacting the Ventura Fish and Wildlife Office at the above address and telephone number. Documents also will be available for public inspection, by appointment, during normal business hours at the Ventura Fish and Wildlife Office.

##### Background Information

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 mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. However, the Service, under limited circumstances, may 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 at 50 CFR 17.32 and 17.22, respectively.

The Applicant has proposed to construct 570 residential units and appurtenant infrastructure on a 445-acre site. The project site is located at the northern terminus of Spring Road, north of the city of Moorpark, Ventura County, California. Typical land uses in the area surrounding the project site include agriculture, residential development, commercial buildings, and undeveloped shrublands. Biologists surveyed the project site for special-status plants and wildlife in 1996, 1997, and periodically between 1998 and 2001. Based on these surveys, the Service concluded that the project may result in the take of two pairs of the threatened coastal California gnatcatcher.

The Applicant proposes to implement numerous measures to minimize and mitigate take of the coastal California gnatcatchers. These measures include: (1) Purchase of mitigation credits equivalent to the territories of two pairs at a mitigation bank; (2) placement into permanent open space 94 acres of the site as the Habitat Conservation Plan Conservation Area; (3) creation and implementation of a habitat enhancement program to preserve and improve habitat values within the conservation area; (4) establishment of a non-wasting endowment for funding of the habitat maintenance program; (5)

controlling human access into the conservation area; (6) construction of the Spring Road extension to minimize impacts to habitat and the coastal California gnatcatcher; and (7) revegetation of disturbed areas with coastal sage scrub plant species. Other measures are defined in the Plan and implementing agreement.

The Environmental Assessment considers the environmental consequences of three alternatives in addition to the Proposed Project Alternative. The Proposed Project Alternative consists of the issuance of an incidental take permit and implementation of the Plan and its Implementing Agreement, which include measures to minimize and mitigate impacts of the project to the coastal California gnatcatcher. Under the No Action Project Alternative, the Permit would not be issued and no take of the coastal California gnatcatcher would occur. The Reduced Intensity Alternative would decrease the total number of dwelling units; however impacts to the coastal California gnatcatcher would be the same and the project would become economically infeasible. The No Development Alternative would still involve the construction of the Spring Road extension by the City of Moorpark and the loss of one pair of coastal California gnatcatchers; however, the second pair would not be taken because the residential development would not be built. Because the applicant would not be involved, it would suffer economic loss, and the City of Moorpark would have to apply for the Permit. In a single alternative, the EA also examines several variations on the proposed Spring Road alignment. All but the preferred alignment are deemed infeasible due to topography, circulation needs, fire department regulations, and impacts to the coastal California gnatcatcher.

This notice is provided pursuant to section 10(a) of the Act and regulations 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 the National Environmental Policy Act regulations and section 10(a) of the Act. If it is determined that the requirements are met, a permit will be issued to the Applicant for the incidental take of the coastal California gnatcatcher. The final permit decision will be made no sooner than 60 days from the date of this notice.

Dated: January 16, 2002.

**Miel R. Corbett,**

*Acting Deputy Manager, California/Nevada Operations Office, Sacramento, California.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Issuance of Permit for Marine Mammals

On August 7, 2001, a notice was published in the **Federal Register** (66 FR 41260) that an application had been filed with the Fish and Wildlife Service by Terri M. Williams, University of California, Santa Cruz, California, for a permit (PRT-045447) to take Southern sea otters (*Enhydra lutris nereis*) for the purpose of scientific research.

Notice is hereby given that on January 8, 2002, a permit (MA045447-0) was issued by the Fish and Wildlife Service, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358-2104 or fax (703) 358-2281.

Dated: January 11, 2002.

**Michael S. Moore,**

*Senior Permit Biologist, Branch of Permits, Division of Management Authority.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

#### Fish and Wildlife Service

[INT-DES-01-44]

#### Imperial Irrigation District Water Conservation and Transfer Project, Draft Habitat Conservation Plan, California

**AGENCIES:** Bureau of Reclamation and Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability of a draft environmental impact report/ environmental impact statement (EIR/ EIS).

**SUMMARY:** The Bureau of Reclamation (Reclamation) has issued a draft EIR/EIS

on Imperial Irrigation District's (IID) proposed project that would conserve and transfer the right to use up to 300,000 acre-feet per year of Colorado River water, which IID is otherwise entitled to divert for use within IID's water service area in Imperial County, California. The conserved water would be transferred to San Diego County Water Authority (SDCWA), Coachella Valley Water District (CVWD) and/or The Metropolitan Water District (MWD). These transfers, which are to remain in effect for up to 75 years, would facilitate efforts to reduce California's diversion of Colorado River water in normal years to its annual 4.4 million acre-feet apportionment. Approval of the Secretary of the Interior (Secretary) will be required to change the point of delivery for the transferred water. In addition, IID has applied for a permit with Fish and Wildlife Service (FWS) pursuant to section 10(a)(1)(B) of the Endangered Species Act (ESA). This Section 10 permit would authorize the incidental take of covered species associated with the proposed water conservation and transfer project, as well as IID's ongoing operation and maintenance activities. As a condition of applying for a Section 10 permit, IID has developed a Habitat Conservation Plan (HCP) in consultation with FWS and the California Department of Fish and Game, which is appended to the draft EIR/EIS. The HCP would provide measures to minimize and mitigate the effects of the proposed taking of listed and sensitive species and the habitats upon which they depend.

Both Reclamation's approval of the change in point of delivery of Colorado River water and FWS' approval of the HCP and issuance of a Section 10 permit are Federal actions that require compliance with the National Environmental Policy Act (NEPA) of 1969, as amended. This draft EIR/EIS has been prepared pursuant to NEPA and the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA, and is being issued by Reclamation as the lead agency. The FWS is a cooperating agency. Both agencies intend to use the EIR/EIS document to issue separate Records of Decision. This document also serves as IID's compliance with the California Environmental Quality Act (CEQA), and is therefore a combined draft EIR/EIS. Public hearings will be held to receive written or verbal comments on the draft EIR/EIS. Notice of hearings will appear at a future date.

**DATES:** A 90-day public review and comment period begins with the filing of the draft EIR/EIS with the

Environmental Protection Agency. Written comments must be received no later than April 12, 2002 (see **ADDRESSES** below).

**ADDRESSES:** Send written comments to one of the following: Mr. Bruce Ellis, Chief, Environmental Resources Management Division, Bureau of Reclamation, Phoenix Area Office (PXAO-1500), PO Box 81169, Phoenix, AZ 85069-1169; fax number (602) 216-4006; Mr. Elston Grubaugh, Manager, Resource Planning and Management Department, Imperial Irrigation District, PO Box 937, Imperial, CA 92251, fax number (760) 339-9009.

A read-only downloadable copy of the draft EIR/EIS document is available on the Internet at <http://www.is.ch2m.com/iidweb>. A copy of the draft EIR/EIS is also available upon request from Ms. Janice Kjesbo, Bureau of Reclamation, Phoenix Area Office (PXAO-1500), PO Box 81169, Phoenix, AZ 85069-1169, telephone (602) 216-3864, faxogram (602) 216-4006. A copy of the draft EIR/EIS is also available for public inspection and review at the locations listed under **SUPPLEMENTARY INFORMATION** below.

#### FOR FURTHER INFORMATION CONTACT:

Questions regarding the draft EIS should be directed to Mr. Ellis at the address provided above, or telephone (602) 216-3854. For information related to the HCP, please contact Ms. Carol Roberts at the Carlsbad FWS office, telephone (760) 431-9440.

**SUPPLEMENTARY INFORMATION:** The terms of IID's water conservation and transfer transactions are set forth in the "Agreement for Transfer of Conserved Water" (IID/SDCWA Transfer Agreement), executed by IID and SDCWA in 1998 (as amended), and a proposed Quantification Settlement Agreement (QSA) to be executed by IID, CVWD, and MWD. The QSA establishes a framework of conservation measures and water transfers within southern California for up to 75 years, and would facilitate California's efforts to reduce its diversions of Colorado River water in normal years to its annual 4.4 million acre-feet apportionment, thus benefiting the entire Colorado River Basin. It would authorize the transfer of up to 200,000 acre-feet to SDCWA pursuant to the IID/SDCWA Transfer Agreement, and provide for the transfer of up to 100,000 acre-feet of water conserved by IID to CVWD and/or MWD.

The Secretary of the Interior (Secretary), pursuant to the Boulder Canyon Project Act of 1928 and *Arizona v. California* 1964 Supreme Court Decree (376 U.S. 340), proposes to take Federal actions necessary to support