

**Definitions Related to This Notice**

The following definitions are provided to assist those persons who contemplate submitting information regarding the species being reviewed— (A) Species includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate, which interbreeds when mature; (B) Endangered means any species that is in danger of extinction throughout all or a significant portion of its range; (C) Threatened means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

**How Do We Determine Whether a Species Is Endangered or Threatened?**

Section 4(a)(1) of the Act establishes that we determine whether a species is endangered or threatened based on one or more of the five following factors— (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. Section 4(a)(1) of the Act requires that our determination be made on the basis of the best scientific and commercial data available.

**What Could Happen as a Result of This Review?**

If we find that there is new information concerning Kendall Warm Springs dace, Dudley Bluffs bladderpod, and Dudley Bluffs twinpod indicating a change in classification may be warranted, we may propose a new rule that could do one of the following—(a) reclassify the species from endangered to threatened (downlist); (b) reclassify the species from threatened to endangered (uplist); or (c) remove the species from the List. If we determine that a change in classification is not warranted, then these species will remain on the List under their current status.

**Authority**

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 15, 2006.

**James J. Slack,**

Regional Director, Denver, Colorado.

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**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****Draft Safe Harbor Agreement and Application for an Enhancement of Survival Permit for the Tempe Reach of the Rio Salado Environmental Restoration Project**

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

**ACTION:** Notice of availability; receipt of application; request for comments.

**SUMMARY:** The City of Tempe (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit. The requested permit, which is for a period of 50 years, would authorize incidental take of Yuma clapper rail (*Rallus longirostris yumanensis*), southwestern willow flycatcher (*Empidonax traillii extimus*), and bald eagle (*Haliaeetus leucocephalus*) as a result of operation and maintenance activities associated with the Rio Salado Project. We invite public comment.

**DATES:** To ensure consideration, written comments must be received on or before October 20, 2006.

**ADDRESSES:** Persons wishing to review the application, draft Safe Harbor Agreement (SHA), or other related documents may obtain a copy by written or telephone request to the Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Office, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021-4951 (602/242-0210). Electronic copies of these documents will also be available for review on the Arizona Ecological Services Office Web site, <http://www.fws.gov/arizonaes/>. The application and related documents will be available for public inspection, by appointment only, during normal business hours (8 a.m. to 4:30 p.m.) at the Service's Phoenix office. Comments concerning the application, draft SHA, or other related documents should be submitted in writing to the Field Supervisor (address above) or by fax to (602) 242-2513. Please refer to permit number TE-133286-0 when submitting comments. All comments received, including names and addresses, will become a part of the official administrative record and may be made available to the public.

**FOR FURTHER INFORMATION CONTACT:**

Mike Martinez at the U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021-4951, 602/242-0210 x224, or by email at [Mike\\_Martinez@fws.gov](mailto:Mike_Martinez@fws.gov).

**SUPPLEMENTARY INFORMATION:** The Applicant has applied to the Service for an enhancement of survival permit pursuant to Section 10(a)(1)(A) of the Endangered Species Act (Act), as amended.

The Applicant plans to conduct operation and maintenance activities associated with the Rio Salado Project, including maintenance of habitat vegetation; reintroduction of non-listed species into created habitat; maintenance and operation of urban park and landscaping; maintenance of trails, paths, and service roads; maintenance of water quality and flood control capability within the Salt River, Indian Bend Wash, and Tempe Town Lake; the planning, development, and operation of urban (public and private) development adjacent to the Tempe Town Lake; and operation of events on Tempe Town Lake and within the linear park adjacent to Tempe Town Lake. The Rio Salado Project is a cooperative project between the Applicant and the U.S. Army Corps of Engineers to restore, enhance, and maintain 182 acres of native riparian and wetland vegetation along the Salt River from McClintock Drive to Priest Drive (excluding Tempe Town Lake) and Indian Bend Wash from McKellips Road to the confluence with the Salt River.

A final rule to delist the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) was published in the **Federal Register** on April 14, 2006 (71 FR 19452). As a non-listed species, the cactus ferruginous pygmy-owl cannot be a covered species in the SHA. However, the Applicant intended that the species be covered in the SHA and will continue to provide the same conservation measures originally described in the agreement.

Section 9 of the Act prohibits take of threatened or endangered species. However, the Service, under limited circumstances, may issue permits to take threatened and endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities.

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22), and the National Environmental Policy Act (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6).

**Christopher Todd Jones,**

Acting Regional Director, Region 2, Albuquerque, New Mexico.

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