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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Intent To Prepare an Environmental Impact Statement/Environmental Impact Report for the Habitat Conservation Plan for the Occidental of Elk Hills, Inc., Elk Hills Oil and Gas Field, Kern County, CA

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

**ACTION:** Notice of intent.

**SUMMARY:** Pursuant to the National Environmental Policy Act (NEPA), we, the Fish and Wildlife Service (Service), are issuing this notice to advise the public that we intend to gather information necessary to prepare, in coordination with the California Department of Fish and Game (DFG) and Occidental of Elk Hills, Inc. (OEHI), a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the Habitat Conservation Plan for the Elk Hills Oil and Gas field (Plan).

OEHI intends to apply for a 50-year Endangered Species Act (ESA) Section 10 incidental take permit from the Service. The permit is needed to authorize the incidental take of threatened and endangered species that could occur as a result of future operations of the Elk Hills Oil and Gas Field.

The Service provides this notice to (1) describe the proposed action and possible alternatives; (2) advise other Federal and State agencies, affected Tribes, and the public of our intent to prepare an EIS/EIR; (3) announce the initiation of a public scoping period; and (4) obtain suggestions and information on the scope of issues to be included in the EIS/EIR.

**DATES:** Written comments should be received on or before December 28, 2006.

**ADDRESSES:** Written comments should be submitted to Lori Rinek, Chief, Conservation Planning and Recovery Division, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, California 95825. Comments may also be sent by facsimile to 916-414-6713.

**FOR FURTHER INFORMATION CONTACT:** Joseph Terry, Fish and Wildlife Biologist, or Lori Rinek, Chief, Conservation Planning and Recovery Division, Sacramento Fish and Wildlife

Office, at 916-414-6600 [see **ADDRESSES**].

#### SUPPLEMENTARY INFORMATION:

##### Reasonable Accommodation

Persons needing reasonable accommodations in order to attend and participate in the public meeting should contact Lori Rinek at 916-414-6600 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

##### Background

Section 9 of the ESA and Federal regulations prohibit the "take" of wildlife species listed as endangered or threatened (16 U.S.C. 1538). The ESA defines the term "take" as: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in such conduct (16 U.S.C. 1532). Harm includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Pursuant to section 10(a)(1)(B) of the ESA, the Service may issue an "incidental take permit" to take listed species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened species and endangered species, respectively, area at 50 CFR 17.32 and 50 CFR 17.22.

Although take of listed plant species is not prohibited under the ESA, and therefore cannot be authorized under an incidental take permit, plant species may be included on a permit in recognition of the conservation benefits provided to them under a habitat conservation plan. All species included on an incidental take permit would receive assurances under the FWS' "No Surprises" regulation [50 CFR 17.22(b)(5) and 17.32(b)(5)].

Species proposed for coverage in the HCP are species that are currently listed as federally threatened or endangered or have the potential to become listed during the life of this HCP and have some likelihood to occur within the project area. Should unlisted covered wildlife species become listed under the ESA during the term of the permit, take authorization for those species would become effective upon listing. The specific federally listed endangered species proposed for coverage in this HCP are: the giant kangaroo rat (*Dipodomys ingens*), San Joaquin kit fox

(*Vulpes macrotis mutica*), Tipon kangaroo rat (*Dipodomys nitratoides nitratoides*), Buena Vista shrew (*Sorex ornatus relictus*), blunt-nosed leopard lizard (*Gambelia sila*), Kern mallow (*Eremalche kernensis*), and San Joaquin woolly-threads (*Lembertia congdonii*). The specific unlisted species proposed for coverage in the HCP are: the San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), short-nosed kangaroo rat (*Dipodomys nitratoides brevinasus*), San Joaquin LeConte's thrasher (*Toxostoma lecontei macmillanoura*), western burrowing owl (*Athene cucularia hypugea*), Tejon poppy (*Eschscholzia lemmonii* ssp. *kernensis*), oil nestraw (*Stylocline citroleum*, and heartscale (*Atriplex cordulata*). Species may be added or deleted during the course of the development of the Plan based on further analysis, new information, agency consultation, and public comment.

The Federal government established the Elk Hills Oil and Gas Field in 1912 for national defense purposes as part of the Naval Petroleum Reserves (NPR). It was then referred to as "NPR-1" and operated by the U.S. Department of Energy (DOE). Given the potential effects of operating NPR-1 on listed species, DOE engaged in several formal consultations with the Service under section 7 of the ESA, resulting in the issuance by the Service of several Biological Opinions (the most recent opinion was completed in 1995). Congress directed DOE to sell NPR-1 in the National Defense Authorization Act for Fiscal year 1996 and authorized DOE to transfer the Incidental Take Statement contained in the 1995 Biological Opinion to the purchase of NPR-1. OEHI (the purchaser) is approaching the limit to take authorized in the 1995 Biological Opinion and therefore has applied for authorization for additional incidental take through this HCP.

The Plan area is located in the Elk Hills, 26 miles southwest of Bakersfield, California, and includes oil and gas reserves on the 47,729-acre Elk Hills Oil and Gas Field and a contiguous 2-mile-wide HCP Permit Area around the perimeter of the oil and gas field. The HCP would result in the permanent disturbance of up to 4,000 acres and the temporary disturbance of up to 3,000 acres of presently undisturbed land in the Elk Hills. The proposed duration of the HCP and the incidental take permit would be 50 years. The HCP would establish a 7,801-acre conservation area and habitat management program located on the northern and southern edges of the Elk Hills.

Implementation activities that may be covered under the Plan include all activities associated with ongoing and new oil and gas production operations, including but not limited to: (1) Construction, operation, and maintenance of production facilities; (2) surface excavations; (3) activities required by the California Division of Oil, Gas and Geothermal Resources; (4) construction and operation of related facilities; (5) installation, maintenance, and repair of perimeter and interior fencing; (6) transmission lines; (7) emergency response and environmental remediation; (8) livestock grazing; (9) regulatory agency requirements; (10) recreational and educational activities; (11) scientific research; (12) implementation of conservation program; (13) maintenance of off-site facilities; and (14) construction of off-site facilities.

The effects of the covered activities on the covered species are proposed to be minimized and mitigated through implementation of a detailed conservation program that will be fully described in the HCP. Components of the proposed conservation program may include: avoidance and minimization measures, monitoring, adaptive management, and mitigation measures consisting of preservation, restoration, and enhancement of habitat.

#### **Environmental Impact Statement/ Report**

The EIS/EIR will consider the proposed action, the issuance of an ESA incidental take permit, no action (no permit), and a reasonable range of alternatives. A detailed description of the proposed action and alternatives will be included in the EIS/EIR. The alternatives to be considered for analysis in the EIS/EIR may include: modified lists of covered species, land coverage areas, and intensity of future development. The EIS/EIR will also identify potentially significant impacts on biological resources, land use, air quality, water quality, water resources, economics, and other environmental resource issues that could occur directly or indirectly with implementation of the proposed action and alternatives. Different strategies for minimizing and mitigating the impacts of incidental take may also be considered.

Environmental review of the EIS/EIR will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*), its implementing regulations (40 CFR parts 1500–1508), other applicable regulations, and Service procedures for compliance with those regulations. This notice is being furnished in accordance with 40 CFR

1501.7 and 1508.22 to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS/EIR. The primary purpose of the scoping process is to identify important issues raised by the public related to the proposed action. Written comments from interested parties are invited to ensure that the full range of issues related to the permit application is identified. Comments will only be accepted in written form. You may submit written comments by mail, facsimile transmission, or in person (see **ADDRESSES**). All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

Our practice is to make comments, including names, home addresses, home phone numbers, and e-mail addresses of respondents, available for public review. Individual respondents may request that we withhold their names and/or home addresses, etc., but if you wish us to consider withholding this information you must state this prominently at the beginning of your comments. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organization or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Dated: November 17, 2006.

**Ken McDermond,**

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

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## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Indian Affairs**

#### **Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Extension of the Absaloka Coal Mine on the Crow Indian Reservation, Big Horn County, MT**

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

**ACTION:** Notice.

**SUMMARY:** This notice advises the public that the Bureau of Indian Affairs (BIA) and the Montana Department of Environmental Quality (MDEQ) as joint Lead Agencies, with the Crow Tribe of Indians, the Office of Surface Mining Reclamation and Enforcement (OSMRE), the Environmental Protection Agency (EPA), and the Bureau of Land Management (BLM), as Cooperating Agencies, intend to gather information necessary for preparing an Environmental Impact Statement (EIS) for the proposed Extension of the Absaloka Coal Mine on the Crow Indian Reservation, Montana. The proposed BIA action, taken under the Indian Mineral Development Act, is the approval of a coal lease by the Crow Tribe to Westmoreland Resources Inc. (WRI) and associated approval of allotted Indian and Crow tribal surface estate use agreements. In addition, the OSMRE will use this EIS to support a decision on the application for a surface mining permit to be filed by WRI involving the same acreage, commonly known as the Absaloka Mine “South Extension;” the MDEQ will use it in considering approval of permit revisions to facilitate mining of coal adjacent to the South Extension that is presently under the Absaloka Mine, which MDEQ administers; and the EPA may use the EIS in considering issuance of National Pollutant Discharge Elimination System permits for any point source water discharges on the Reservation. The purpose of this project is to extend the operating life of the Absaloka Mine and continue to provide an economic base for the Crow Tribe, while providing an energy source for the generation of electricity at distant power plants. This notice also announces a public scoping meeting to identify potential issues and alternatives to be considered in the EIS.

**DATES:** Written comments concerning the scope and implementation of the proposed action must arrive by December 26, 2006. The public scoping meeting will be held Thursday, December 14, 2006, from 7 p.m. to 9 p.m., or until all those who wish to make statements have been heard.

**ADDRESSES:** You may mail, hand carry or telefax written comments to either (1) Rick Stefanic, Supervisory Environmental Specialist, Bureau of Indian Affairs, Rocky Mountain Regional Office, 316 N. 26th St., Billings, Montana 59101, telefax (406) 247–7976; or (2) Edward Lone Fight, Superintendent, Crow Agency, P.O. Box 69, Crow Agency, Montana 59022, telefax (406) 638–2380.

The public scoping meeting will be held in room 301 of the Big Horn