

Written comments may be sent by facsimile to (760) 918-0638.

**FOR FURTHER INFORMATION CONTACT:** Ms. Karen Goebel, Assistant Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES**); telephone: (760) 431-9440.

**SUPPLEMENTARY INFORMATION:**

**Availability of Documents**

Individuals wishing copies of the application, proposed Plan, and EAS should immediately contact the Service by telephone at (760) 431-9440 or by letter to the Carlsbad Fish and Wildlife Office. Copies of the proposed Plan and EAS also are available for public inspection during regular business hours at the Carlsbad Fish and Wildlife Office (see **ADDRESSES**).

**Background**

Section 9 of the Act and its implementing Federal regulations prohibit the take of animal species listed as endangered or threatened. Take is defined under the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). However, under section 10(a) of the Act, the Service may issue permits to authorize incidental take of listed species. "Incidental take" is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32

The Applicant is seeking a permit for take of the Delhi Sands flower-loving fly during the life of the permit. This species is referred to as the "DSF" in the proposed Plan.

The Applicant proposes to relocate the current Valley Boulevard/Pepper Avenue intersection approximately 76 meters (250 feet) north. Pepper Avenue would be widened to six lanes in the segment between San Bernardino Avenue and Interstate 10. The improvement limits on Valley Boulevard are 246 meters (811 feet) west and 284 meters (938 feet) east of Pepper Avenue. Valley Boulevard would retain two through lanes in each direction with turn lanes at the intersection with Pepper Avenue. A signalized street connection approximately 152 meters (500 feet) west of Pepper Avenue would be developed to include a frontage road and cul-de-sac. An access road would be constructed to permit southbound Pepper Avenue traffic direct access to

local business. We anticipate that all DSF would be lost within approximately 1.84 acres of DSF occupied habitat within the project footprint. The project site does not contain any other rare, threatened or endangered species or habitat. No critical habitat for any listed species occurs on the project site.

The Applicant proposes to mitigate the effects to the DSF associated with the covered activities by fully implementing the Plan. The purpose of the proposed Plan's conservation program is to promote the biological conservation of the DSF. The County proposes to mitigate impacts to the DSF either through acquisition and conservation of a 2.04-acre parcel adjacent to the proposed project or purchase of 5 acres of credit within the Vulcan Materials Inc. Colton Dunes Conservation Bank.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the proposed Plan, which includes measures to mitigate impacts of the project on the DSF. Two alternatives to the taking of the listed species under the Proposed Action are considered in the proposed Plan. Under the No Action Alternative, no permit would be issued, and no construction would occur. Under the Modified Project Alternative, incidental take of DSF would be authorized, but the impacts would be reduced.

The Service has made a preliminary determination that approval of the proposed Plan qualifies as a categorical exclusion under NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1) and as a "low-effect" plan as defined by the Habitat Conservation Planning Handbook (November 1996). Determination of Low-effect Habitat Conservation Plans is based on the following three criteria: (1) Implementation of the proposed Plan would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the proposed Plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the proposed Plan, considered together with the impacts of other past, present and reasonably foreseeable similarly situated projects would not result, over time, in cumulative effects to environmental values or resources which would be considered significant.

Based upon this preliminary determination, we do not intend to prepare further NEPA documentation. We will consider public comments in making the 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 proposed Plan, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If the requirements are met, we will issue a permit to the County of San Bernardino for the incidental take of the Delhi Sands flower-loving fly from realignment of the intersection of Valley and Pepper avenues in the City of Colton, San Bernardino County, California.

Dated: April 17, 2006.

**Jim A. Bartel,**

*Field Supervisor, Carlsbad Fish and Wildlife Office, California/Nevada Operations Carlsbad, California.*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**Notice of Endangered and Threatened Wildlife and Plants; Initiation of a 5-Year Review of Nine Listed Species: the Purple Bean (*Villosa perpurpurea*), Clubshell (*Pleurobema clava*), Northern Red-bellied Cooter (*Pseudemys rubriventris bangsi*), Roanoke Loggerch (*Percina rex*), Swamp Pink (*Helonias bullata*), Northern Riffleshell (*Epioblasma torulosa rangiana*), Flat-spined Three-toothed Land Snail (*Triodopsis platysayoides*), Puritan Tiger Beetle (*Cicindela puritana*), and Dwarf Wedgemussel (*Alasmidonta heterodon*)**

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

**ACTION:** Notice.

**SUMMARY:** Pursuant to section 4(c)(2)(A) of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531 *et seq.*), the U.S. Fish and Wildlife Service (Service) announces a 5-year review of the endangered purple bean (*Villosa perpurpurea*), clubshell (*Pleurobema clava*), northern red-bellied cooter (*Pseudemys rubriventris bangsi*), Roanoke loggerch (*Percina rex*), northern riffleshell (*Epioblasma torulosa rangiana*), and dwarf wedgemussel (*Alasmidonta heterodon*); and the threatened swamp pink (*Helonias bullata*), flat-spined three-toothed land snail (*Triodopsis platysayoides*), and Puritan tiger beetle (*Cicindela puritana*). A 5-year review is

a periodic process conducted to ensure that the listing classification of a species is accurate. A 5-year review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any such information on the purple bean, clubshell, northern red-bellied cooter, Roanoke logperch, northern riffleshell, and dwarf wedgemussel, that has become available since their original listings as endangered species in 1997 (62 FR 1647–1658), 1993 (58 FR 5638–5642), 1980 (45 FR 21828–21833), 1989 (54 FR 34468–34472), 1993 (58 FR 5638–5642), and 1990 (55 FR 9447–9451), respectively. In addition, we are requesting submission of any such information on the swamp pink, flat-spined, three-toothed land snail, and Puritan tiger beetle that has become available since their listing as threatened species in 1988 (53 FR 35076–35080), 1978 (43 FR 28932–28935), and 1998 (55 FR 32088–32094), respectively. Based on the results of these 5-year reviews, we will make the requisite findings under section 4(c)(2)(B) of the ESA.

**DATES:** To allow us adequate time to conduct this review, we must receive your information no later than June 20, 2006. However, we will continue to accept new information about any listed species at any time.

**ADDRESSES:** Submit information to the U.S. Fish and Wildlife Service, Northeast Regional Office, 300 Westgate Center Drive, Hadley, Massachusetts 01035, to the attention of Ms. Mary Parkin. Information received in response to this notice and review will be available for public inspection, by appointment, during normal business hours, at the above address. Information may also be sent to [Mary\\_Parkin@fws.gov](mailto:Mary_Parkin@fws.gov).

**FOR FURTHER INFORMATION CONTACT:** Ms. Mary Parkin at the above address or at 617–876–6173.

**SUPPLEMENTARY INFORMATION:** Under the Act, the Service maintains a list of endangered and threatened wildlife and plant species at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Then, on the basis of such reviews under section 4(c)(2)(B), we determine whether or not any species should be removed from the list (delisted), or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiates that the species is neither

endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the purple bean, clubshell, northern red-bellied cooter, Roanoke logperch, northern riffleshell, and dwarf wedgemussel, currently listed as endangered, and the swamp pink, flat-spined three-toothed land snail, and Puritan tiger beetle, currently listed as threatened.

#### Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best available scientific and commercial information, we are soliciting new information from the public, concerned governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of the purple bean, clubshell, northern red-bellied cooter, Roanoke logperch, swamp pink, northern riffleshell, flat-spined three-toothed land snail, Puritan tiger beetle, and dwarf wedgemussel.

The 5-year review considers the best scientific and commercial data and all new information that has become available since the listing determination or most recent status review. Categories of requested information include (A) Species biology, including but not limited to, population trends, distribution, abundance, demographics, and genetics; (B) habitat conditions, including but not limited to, amount, distribution, and suitability; (C) conservation measures that have been implemented that benefit the species; (D) threat status and trends; and (E) other new information, data, or corrections, including but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the list, and improved analytical methods.

If you wish to provide information for this 5-year review, you may submit your comments and materials to the Ms. Mary Parkin (see **ADDRESSES** section). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that

we withhold their identity, to the extent allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. We will not, however, consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours (see **ADDRESSES** section).

**Author:** The primary author of this notice is Ms. Mary Parkin of the U.S. Fish and Wildlife Service, Northeast Regional Office, 300 Westgate Center Drive, Hadley, Massachusetts 01035.

**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: March 31, 2006.

**Richard O. Bennett,**

*Acting Regional Director, Region 5, U.S. Fish and Wildlife Service.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for Incidental Take of the Houston toad (Blair Warren—Sac-N-Pac)

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

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

**SUMMARY:** Blair Warren (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit (TE–124123–0) pursuant to Section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). The requested permit, which is for a period of five years, would authorize incidental take of the Houston toad. The proposed take would occur as a result of the construction and operation of a convenience store on a 1.43-acre (0.58-hectare) property on Highway 71 in the Tahitian Village Subdivision, Bastrop County, Texas. We invite the public to review and comment on the permit application and associated draft