

We are of the opinion that the rationale of the court in the *Data General* case may be applied in the present case to support the principle that the essence of an integrated circuit memory storage device is established by programming. . . . [W]e are of the opinion that the programming (or reprogramming) of an EPROM results in a new and different article of commerce which would be considered to be a product of the country where the programming or reprogramming takes place.

Accordingly, the programming of a device that changes or defines its use generally constitutes substantial transformation. See also Headquarters Ruling Letter (“HQ”) 558868, dated February 23, 1995 (programming of SecureID Card substantially transforms the card because it gives the card its character and use as part of a security system and the programming is a permanent change that cannot be undone); HQ 735027, dated September 7, 1993 (programming blank media (EEPROM) with instructions that allow it to perform certain functions that prevent piracy of software constitute substantial transformation); and, HQ 733085, dated July 13, 1990; but see HQ 732870, dated March 19, 1990 (formatting a blank diskette does not constitute substantial transformation because it does not add value, does not involve complex or highly technical operations and did not create a new or different product); HQ 734518, dated June 28, 1993, (motherboards are not substantially transformed by the implanting of the central processing unit on the board because, whereas in *Data General* use was being assigned to the PROM, the use of the motherboard had already been determined when the importer imports it).

You argue that the country of origin is [TAA country] because you believe that it is the country where the final substantial transformation takes place. You state that without the firmware with embedded software hooks loaded onto the fully assembled headsets in [TAA country], the headsets can only receive signals but cannot answer or end calls, operate by voice recognition, be turned on and off based on their positioning, direct signals to paired devices, or otherwise interact with a VoIP softphone or other Bluetooth devices. Accordingly, you believe that the firmware makes the headsets into new and different articles. In support of your position you cite *Data General supra* and HQ H170315, dated July 28, 2011.

HQ H170315 concerned the country of origin of satellite telephones. CBP was asked to consider six scenarios involving the manufacture of PCBs in one country and the programming of the PCBs with second country software either in the first country or in a third country where the phones were assembled. In the relevant scenarios (I and II), CBP found that when the PCBs were manufactured and programmed with second country software in one country and then incorporated into the phones in a third country, that the country of origin was the country in which the PCBs, which were the essence of the phones, were manufactured and programmed because the assembly operations in the third country were not

sufficiently complex or meaningful to transform the PCBs into new and different articles. The third country operations consisted of assembling the imported, programmed PCBs with covers, a housing, antennas and cables by means of inserting, stacking, screwing and fitting together with clips.

In this case, the headset is fully assembled in [non-TAA country] from [non-TAA country and TAA country] components. The dongle is also made in [non-TAA country]. The headset and the dongle, both loaded with [TAA country]—origin Bluetooth firmware, are shipped to [TAA country]. Although in its imported condition the headset can send and receive signals, it cannot interface with other devices. The dongle is fully functional when imported and is able to transmit and receive data signals. In [TAA country], [TAA country]—origin firmware with embedded [TAA country]—origin software hooks is downloaded onto the headset, enabling it to communicate with corresponding software in a paired device such as a computer via the dongle. The firmware loaded in [TAA country] also enables the headset to process digital signals by filtering, measuring and compressing analog radio signals, transfer audio between a paired phone and headset during an active call, and to operate using voice recognition/commands, among other functions.

In HQ 241177, dated December 3, 2013, switches were assembled to completion in Malaysia and then shipped to Singapore, where software developed in the United States at a significant cost and over many years was downloaded onto them. The U.S.-origin software enabled the imported switches to interact with other network switches through network switching and routing, and allowed for the management of functions such as network performance monitoring and security and access control; without this software, the imported devices could not function as Ethernet switches. CBP found that the software downloading performed in Singapore did not amount to programming because programming consisted of writing, testing and implementing code necessary to make a computer function in a certain way.

Likewise, in this case the software downloading performed in [TAA country] does not amount to programming because the [TAA country] operations do not involve writing, testing or implementing the code necessary to make the headsets function in a certain way. See *Data General supra*. See also “computer program”, *Encyclopædia Britannica* (2013), (9/19/2013) <http://www.britannica.com/EBchecked/topic/130654/computer-program>, which explains, in part, that “a program is prepared by first formulating a task and then expressing it in an appropriate computer language, presumably one suited to the application.”

While the programming occurs in [TAA country], the downloading occurs in [TAA country]. Given these facts, we find that the country where the last substantial transformation of the headsets occurs is [non-TAA country], that is, where the major assembly processes are performed. The country of origin for purposes of U.S.

Government procurement is [non-TAA country]. Likewise, we find that the country of origin of the dongles is [non-TAA country], where they were assembled.

HOLDING:

Based on the facts provided, the last substantial transformation occurs in [non-TAA country]. As such, the headsets and dongles will be considered products of [non-TAA country] for purposes of U.S. Government procurement.

Notice of this final determination will be given in the **Federal Register**, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,
Sandra L. Bell,
Executive Director Regulations and Rulings
Office of International Trade.

[FR Doc. 2014–03029 Filed 2–11–14; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2013–N0008;
FXES1113030000F3–145–FF03E00000]

Endangered and Threatened Species; Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service, have issued the following permits to conduct certain activities with endangered species under the authority of the Endangered Species Act, as amended (Act).

FOR FURTHER INFORMATION CONTACT: Mr. Karl Tinsley, U.S. Fish and Wildlife Service, Ecological Services-Endangered Species, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458; (612) 713–5343 (phone) or karl_tinsley@fws.gov (email).

SUPPLEMENTARY INFORMATION: We have issued the following permits in response to recovery permit applications we received under the authority of section 10 of the Act (16 U.S.C. 1531 *et seq.*). Each permit listed below was issued only after we determined that it was applied for in good faith, that granting the permit would not be to the disadvantage of the listed species, and that the terms and conditions of the permit were consistent with purposes and policy set forth in the Act.

Applicant name	Permit No.	Date issued	Date expired
ENBRIDGE PIPELINES (LAKEHEAD), L.L.C	03689B	12/12/13	12/31/15
BUCKEYE WIND LLC	66315A	07/18/13	07/17/43
CUTHBERT, FRANCESCA J	43541A	05/02/13	12/31/15
REDWING ECOLOGICAL SERVICES, INC	07730A	02/07/13	02/07/15
U.S. GEOLOGICAL SURVEY	207526	06/25/13	03/31/14
MYERS-KINZIE, MELODY LYNN	82665A	06/14/13	12/31/14
HELMS, DON R	839777	05/09/13	12/31/15
O'NEILL, BRIAN J	94321A	06/12/13	12/31/15
BHE ENVIRONMENTAL, INC	38789A	08/01/13	12/31/15
OHIO DEPARTMENT OF TRANSPORTATION	98111A	06/27/13	12/31/18
OHIO ENVIRONMENTAL PROTECTION AGENCY	98298A	09/20/13	12/31/18
ENVIRONMENTAL SOLUTIONS AND INNOVATIONS, INC	02373A	07/01/13	12/31/14
CALL, DANIEL J	07293B	08/07/13	12/31/13
CIVIL AND ENVIRONMENTAL CONSULTANTS, INC	07358A	06/27/13	12/31/13
U.S. GEOLOGICAL SURVEY	10887A	05/23/13	12/31/13
LEWIS ENVIRONMENTAL CONSULTING, LLC	181256	06/20/13	12/31/13
ENVIROSCIENCE, INC	130900	04/22/13	12/31/13
MILLER, LEVI D	60999A	03/29/13	12/31/13
WESTERN ECOSYSTEMS TECHNOLOGY, INC	234121	06/20/13	12/31/13
BISHOP HILL ENERGY LLC	71464A	08/01/13	03/01/14
BLUE CREEK WIND FARM, LLC	07295B	09/30/13	12/01/14
ILLINOIS STATE MUSEUM	10891A	06/25/13	12/31/14
BERNARDIN—LOCHMUELLER & ASSOCIATES	06845A	08/08/13	12/31/14
GARVON, JASON MICHAEL	38860A	05/24/13	12/31/14
UPPER PENINSULA LAND CONSERVANCY	06822A	05/17/13	12/31/14
VANDE KOPPLE, ROBERT J	11035A	07/03/13	12/31/14
TOMASI, THOMAS E	195082	02/27/13	12/31/14
USDA FOREST SERVICE	06809A	03/11/13	12/31/14
MISSISSIPPI ENTOMOLOGICAL MUSEUM	03501B	07/03/13	12/31/14
KAPUSINSKI, DOUGLAS J	77530A	09/30/13	12/31/14
URS CORPORATION	89559A	05/07/13	12/31/14
SANDERS ENVIRONMENTAL INC	38842A	05/22/13	12/31/14
ROE, KEVIN J	98039A	06/20/13	08/31/15
CALIFORNIA RIDGE WIND ENERGY LLC	03502B	07/18/13	12/31/15
HALSALL, AMY L	207178	06/27/13	12/31/15
ILLINOIS NATURAL HISTORY SURVEY	182436	04/24/13	12/31/15
SOUTHERN ILLINOIS UNIVERSITY	042946	03/12/13	12/31/15
BASIGER, ERIN LYNN	03450B	07/19/13	12/31/15
CARDNO JFNEW	38837A	05/13/13	12/31/15
WALTERS, BRIANNE LORRAINE	106220	03/11/13	12/31/15
WHITAKER, JOHN O	839763	03/11/13	12/31/15
GAI CONSULTANTS, INC	03494B	06/11/13	12/31/15
STANTEC CONSULTING SERVICES	38821A	05/02/13	12/31/15
THIRD ROCK CONSULTANTS, LLC	049738	03/11/13	12/31/15
APPLIED SCIENCE & TECHNOLOGY, INC	48835A	08/12/13	12/31/15
ECOLOGICAL SURVEY AND DESIGN, LLC	03499B	08/12/13	12/31/15
LAND CONSERVANCY OF WEST MICHIGAN	38835A	04/29/13	12/31/15
THE NATURE CONSERVANCY—MICHIGAN CHAPTER	207523	05/08/13	12/31/15
MINNESOTA POLLUTION CONTROL AGENCY	31310A	02/06/13	12/31/15
BRADLEY, SARAH A	38769A	06/25/13	12/31/15
ECOLOGICAL SPECIALISTS, INC	206781	02/06/13	12/31/15
GARDNER, JAMES E	98032A	06/17/13	12/31/15
MILLS, LYNDA M	98057A	07/08/13	12/31/15
ROBBINS, LYNN W	02365A	05/17/13	12/31/15
ST. LOUIS ZOO	135297	05/29/13	12/31/15
WOMACK, KATHRYN M	98063A	07/02/13	12/31/15
CUNNINGHAM, GEORGE R	38862A	05/08/13	12/31/15
ROMELING, SHANNON ELIZABETH	89558A	02/14/13	12/31/15
ECOLOGY & ENVIRONMENT, INC	212427	07/08/13	12/31/15
KREBS, ROBERT ANTHONY	94330A	06/13/13	12/31/15
PERDICAS, MARLO MARIE	206783	02/14/13	12/31/15
STANTEC CONSULTING SERVICES, INC	15027A	06/17/13	12/31/15
TAWSE, MERRILL BERNARD	38785A	02/14/13	12/31/15
TRAGUS ENVIRONMENTAL CONSULTING, INC	105320	02/06/13	12/31/15
URS CORPORATION	89557A	02/05/13	12/31/15
WATTERS, GEORGE THOMAS	088720	05/07/13	12/31/15
BAT CONSERVATION AND MANAGEMENT, INC	212440	06/27/13	12/31/15
NORMANDEAU ASSOCIATES	98294A	06/11/13	12/31/15
SKELLY AND LOY, INC	38856A	02/05/13	12/31/15
AHLSTEDT, STEVEN A	113009	07/03/13	12/31/15
SETTLE, DALLAS SCOTT	98295A	07/09/13	12/31/15
MIERZWA, KENNETH S	38793A	05/20/13	12/31/16
CARSON, ANDREW	06873B	12/23/13	12/31/16
METROPOLITAN PARK DISTRICT OF THE TOLEDO AREA	174388	04/29/13	12/31/16

Applicant name	Permit No.	Date issued	Date expired
TOLEDO ZOOLOGICAL SOCIETY	106217	08/08/13	12/31/16
MISSOURI DEPARTMENT OF CONSERVATION	73587A	01/30/13	12/31/17
MISSOURI DEPARTMENT OF CONSERVATION	96187A	01/30/13	12/31/17
OHIO DIVISION OF WILDLIFE	151109	05/29/13	12/31/17
GENOA NATIONAL FISH HATCHERY	01720B	04/24/13	12/31/18
TEXAS TECH UNIVERSITY	93717A	05/14/13	12/31/14

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to Karl Tinsley (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this notice is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 27, 2014.

Lynn Lewis,

Assistant Regional Director, Ecological Services, Midwest Region.

[FR Doc. 2014-03025 Filed 2-11-14; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R6-ES-2014-N020;
FXES1113060000D2-145-FF06E00000]

Endangered and Threatened Wildlife and Plants; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. With some exceptions, the Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, please send your written comments by March 14, 2014.

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. Alternatively, you may use one of the following methods to request

hard copies or a CD-ROM of the documents. Please specify the permit you are interested in by number (e.g., Permit No. TE-XXXXXX).

• *Email:* permitsR6ES@fws.gov.

Please refer to the respective permit number (e.g., Permit No. TE-XXXXXX) in the subject line of the message.

• *U.S. Mail:* Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486-DFC, Denver, CO 80225.

• *In-Person Drop-off, Viewing, or Pickup:* Call (303) 236-4212 to make an appointment during regular business hours at 134 Union Blvd., Suite 645, Lakewood, CO 80228.

FOR FURTHER INFORMATION CONTACT:

Kathy Konishi, Permit Coordinator, Ecological Services, (303) 236-4212 (phone); permitsR6ES@fws.gov (email).

SUPPLEMENTARY INFORMATION:

Background

The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17, the Act provides for permits and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes the permittees to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of propagation or survival, or interstate commerce (the latter only in the event that it facilitates scientific purposes or enhancement of propagation or survival). Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, and Federal agencies and the public to comment on the following applications. Documents and other information the applicants have submitted with their applications are available for review, subject to the

requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit Application Number TE27485B

Applicant: Dixie State University, 225 South 700 East, Department of Biology, Saint George, UT.

The applicant requests a permit to remove and reduce to possession *Arctomecon humilis* (dwarf bearclaw poppy) in populations on Federal lands within Washington County, Utah, in conjunction with surveys and population monitoring for the purpose of enhancing the species' survival.

Permit Application Number TE09941B

Applicant: Felsburg, Holt & Ullevig, Inc., 6300 South Syracuse Way, Suite 600, Centennial, CO.

The applicant requests an amendment to their existing permit to expand the geographic location of their presence/absence surveys for the American burying beetle (*Nicrophorus americanus*) to localities in Oklahoma, Texas, Missouri, and Arkansas to determine range, distribution, and abundance for the purpose of enhancing the species' survival.

Permit Application Number TE064680

Applicant: Cindy Lawrence, 175 Metz Lane #203, Durango, CO.

The applicant requests a permit to conduct presence/absence surveys for the southwestern willow flycatcher (*Empidonax traillii extimus*) in Utah to determine range, distribution, and abundance for the purpose of enhancing the species' survival.

Permit Application Number TE25496B

Applicant: Brandon Marette, 8162 Cody Court, Arvada, CO.

The applicant requests a permit to conduct presence/absence surveys for the black-footed ferret (*Mustela nigripes*) throughout its range and the southwestern willow flycatcher (*Empidonax traillii extimus*) throughout its range, to determine distribution and abundance for the purpose of enhancing the species' survival.

Permit Application Number TE27491B

Applicant: PG Environmental, LLC, 607 10th Street, Suite 307, Golden, CO.