

tribal sovereignty in American Indian education and how to improve educational outcomes for students at BIE-funded schools. Overall, the Study Group met with nearly 400 individuals and received nearly 200 comments that helped it prepare the draft framework for educational reform that became the subject of four tribal consultation sessions held in April and May of 2014. The Study Group incorporated feedback it received from tribal leaders and other BIE stakeholders into the final *Blueprint for Reform*, released on June 13, 2014.

Acting on the recommendations in the *Blueprint*, BIE will award competitive grants to tribes and their tribal education agencies to promote tribal control and operation of BIE-funded schools on their Indian reservations. The purpose of the grants is to support the tribe's capacity to manage and operate tribally controlled schools as defined in the Tribally Controlled Schools Act of 1988 (Pub. L. 100-297). These funds will (a) support development of a school-reform plan to improve educational outcomes for students and (b) improve efficiencies and effectiveness in the operation of BIE-funded schools within a reservation.

Grant awards will range from \$100,000 to \$200,000 per fiscal year depending on the number of schools involved, number of students, complexity of creating new tribally managed school system and the tribe's technical approach. The grants will provide funds for the tribe to:

- Develop an implementation plan that will reform a tribe's current organizational structure towards an expert and independent tribal education agency that will support schools and students; and
- Cover the execution of the implementation plan with identified staffing, projected timelines, proposed budgets, and activities.

BIE is seeking proposals from tribes that support efforts to take control and operate BIE-funded schools located on the tribe's reservation. Each proposal must include a project narrative, a budget narrative, a work plan outline, and a Project Director to manage the execution of the grant. The Project Directors will participate in monthly collaboration meetings, submit quarterly budget updates, ensure an annual report is submitted at the end of each project year, and ultimately ensure that the tribal education agency fulfills the obligations of the grant. Complete details on requirements for proposals and the evaluation and selection process can be found on the BIE Web site at the

address in the **ADDRESSES** section of this notice.

The grant proposal is due *September 12, 2014, at 4:00 p.m. Eastern Time*. The proposal should be packaged for delivery to permit timely arrival. The proposal package should be sent or hand delivered to the address in the **ADDRESSES** section of this notice.

Fax applications will NOT be accepted. Email submissions will be accepted at the address in the **ADDRESSES** section of this notice. Email submissions are limited to attachments compatible with Microsoft Office Word 2007 or later or files with a .pdf file extension. Emailed submissions must not exceed 3MB total in size.

Proposals submitted by Federal Express or Express Mail should be sent two or more days before the closing date. The proposal package should be sent to the address shown in the **ADDRESSES** section of this notice. The tribe is solely responsible for ensuring that its proposal arrives in a timely manner.

Dated: July 16, 2014.

**Kevin K. Washburn,**

*Assistant Secretary, Indian Affairs.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS-R8-ES-2014-N151; FXES11120000-145-FF08ECAR00]**

#### **Endangered and Threatened Wildlife and Plants; NewMark Merrill Companies Incidental Take Permit Application and Proposed Low-Effect Habitat Conservation Plan and Associated Documents; San Bernardino County, CA**

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

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

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received an application from NewMark Merrill Companies (applicant) for a 5-year incidental take permit (permit). The application includes the applicant's proposed habitat conservation plan (HCP), as required by the Endangered Species Act of 1973, as amended (Act). If approved, the permit would authorize incidental take of the endangered Delhi Sands flower-loving fly in the course of routine construction activities associated with the construction of a commercial retail development bounded by West San Bernardino Avenue,

Riverside Avenue, and Willow Avenue in the City of Rialto, California. We invite public comment on the permit application and proposed HCP, and on our preliminary determination that the HCP qualifies as "low-effect" for a categorical exclusion under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, which are also available for review.

**DATES:** To ensure consideration, please send your written comments by August 25, 2014.

**ADDRESSES:** *Obtaining Documents:* You may request a copy of the incidental take permit application, proposed HCP, and associated documents by email, telephone, fax, or U.S. mail (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Please send your requests or comments by any one of the following methods, and specify "Walmart Commercial Retail HCP" in your request or comment.

*Submitting Comments:* You may submit comments or requests for more information by any of the following methods:

*Email:* [ken\\_corey@fws.gov](mailto:ken_corey@fws.gov). Include "Walmart Commercial Retail HCP" in the subject line of your message.

*Telephone:* Kennon A. Corey, Palm Springs Fish and Wildlife Office, 760-322-2070.

*Fax:* Kennon A. Corey, Palm Springs Fish and Wildlife Office, 760-322-4648, Attn.: Walmart Commercial Retail HCP.

*U.S. Mail:* Kennon A. Corey, Palm Springs Fish and Wildlife Office, Attn.: Walmart Commercial Retail HCP, U.S. Fish and Wildlife Service, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262.

*In-Person Viewing or Pickup of Documents, or Delivery of Comments:* Call 760-322-2070 to make an appointment during regular business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Kennon A. Corey, Assistant Field Supervisor, Palm Springs Fish and Wildlife Office; telephone 760-322-2070. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **Introduction**

The applicant, NewMark Merrill Companies, requests an incidental take permit under section 10(a)(1)(B) of the Act. If we approve the permit, the applicant anticipates taking Delhi Sands

flower-loving fly (*Rhaphiomidas terminatus abdominalis*) as a result of minor disturbances to habitat the subspecies uses for breeding, feeding, and sheltering. Take of Delhi Sands flower-loving fly would be incidental to the applicant's routine activities associated with the construction of a commercial retail facility in the City of Rialto, San Bernardino County, California. We published a final rule to list the Delhi Sands flower-loving fly as endangered on September 23, 1993 (58 FR 49881). A 5-year review of the species was published in March 2008.

### Background

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and our implementing Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR 17 prohibit the "take" of wildlife species listed as endangered or threatened. Take of listed wildlife is defined under the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in any such conduct" (16 U.S.C. 1538). "Harm" includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns such as breeding, feeding, or sheltering (50 CFR 17.3). Under limited circumstances, we may issue permits to authorize incidental take of listed wildlife species, which the Act defines as take that is incidental to, and not the purpose of, the carrying out of otherwise lawful activities.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. In addition to meeting other criteria, activities covered by an incidental take permit must not jeopardize the continued existence in the wild of federally listed wildlife or plants.

### Applicant's Proposal

The applicant requests a 5-year permit under section 10(a)(1)(B) of the Act. If we approve the permit, the applicant anticipates taking Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) as a result of the building of a commercial retail facility which would permanently impact 2.4 acres of low-quality habitat for the subspecies. The take would be incidental to the applicant's routine construction activities associated with the construction of the commercial retail facility, south of West San Bernardino Avenue, east of South Willow Avenue, and west of South Riverside Avenue, in the City of Rialto, San Bernardino County, California.

A portion of the commercial retail facility project is on Delhi Sands soils. This soil type, which consists of fine wind-blown sand deposits, along with sparse native shrubs and annual plants, defines the Delhi Sands flower-loving fly habitat. A single male Delhi Sands flower-loving fly was detected on the site during pre-project surveys. Less than 5 percent of the species' historic range is left, found in a few disjunct locations in southwestern San Bernardino and northwestern Riverside Counties. Development and exclusion by invasive plant species continue to be threats to this species. Conservation banks, like the Colton Dunes Conservation Bank, are this species' best chance at recovery.

To mitigate for take of the Delhi Sands flower-loving fly at the proposed project site, the applicant proposes to mitigate for the permanent take of 2.4 acres of low quality habitat by preserving 2 acres of habitat occupied by the subspecies. The applicant's proposed HCP also contains the following proposed measures to minimize the impact to the habitat adjacent to the street improvements:

- Fence work areas to exclude personnel from areas where habitat may be impacted.
- Require environmental awareness training for all workers.
- Confine construction activities to the project site and existing developed areas.
- Require that all construction activities be completed during the time period October through June only (i.e., outside of the Delhi Sands flower-loving fly flight season, with a 2-week buffer on either side).

### Proposed Habitat Conservation Plan Alternatives

In the proposed HCP, the applicant considers alternatives to the taking of Delhi Sands flower-loving fly under the proposed action. Our proposed action under the National Environmental Policy Act (NEPA) of 1969 is to issue an incidental take permit to the applicant, who would implement the HCP. If we approve the permit, take of Delhi Sands flower-loving fly would be authorized for the applicant's routine construction activities associated with the development. The applicant's proposed HCP identifies a no-action alternative that would not result in incidental take of Delhi Sands flower-loving fly. However, the no-action alternative would not contribute to the applicant's plans for expanding Walmart's retail opportunities in the Rialto area. In addition, we consider that conserving lands in the Colton Dunes Conservation

Bank is of higher conservation value than simply avoiding impacts at the proposed project site. The habitat at the proposed project site is degraded and fragmented from other habitat by roads. By contrast, the Conservation Bank is a 150-acre area of high-quality habitat occupied by the Delhi Sands flower-loving fly which is actively managed for the subspecies and is contiguous to other conservation lands.

### Our Preliminary Determination

We invite comments on our preliminary determination that our proposed action, based on the applicant's proposed activities, including the proposed minimization and mitigation measures, would have a minor or negligible effect on Delhi Sands flower-loving fly, and that the HCP qualifies as "low effect" as defined by our *Habitat Conservation Planning Handbook* (November 1996).

We base our determination that a HCP qualifies as a low-effect plan on the following three criteria:

- (1) Implementation of the HCP would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats;
- (2) Implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and
- (3) Impacts of the HCP, 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 that would be considered significant.

As more fully explained in our environmental action statement and associated low-effect screening form, the applicant's proposed HCP qualifies as a low-effect HCP for the following reasons:

- The project would have minor or negligible effects on the Delhi Sands flower-loving fly because the low-quality impacted area would be small in size, would be mitigated by the purchase of conservation credits in the Colton Dunes Conservation Bank, and would not affect the continued viability of the Delhi Sands flower-loving fly in the Colton Recovery Unit.
- The project would have minor or negligible effects on other environmental resources or values because it is a highly disturbed site with no other known sensitive species or resources.
- Impacts of the HCP would not result, over time, in cumulative effects to other significant environmental values or resources, because it is a relatively small infill project and

mitigation measures were developed and will be implemented as part of project approval by the City of Rialto to address the identified environmental effects. The mitigation measures include preservation of 2 acres of occupied Delhi Sands flower-loving fly habitat within the Colton Dunes Conservation Bank to offset impacts to the subspecies.

Therefore, our proposed issuance of the requested incidental take permit qualifies as a categorical exclusion under NEPA, as provided by the Department of the Interior Manual (516 DM 2 Appendix 1, 516 DM 6 Appendix 1, and 516 DM 8.5(C)(2)). Based on our review of public comments that we receive in response to this notice, we may revise this preliminary determination.

#### Next Steps

We will evaluate the proposed HCP and comments we receive to determine whether the permit application meets the requirements and issuance criteria under section 10(a) of the Act. We will also evaluate whether issuance of a section 10(a)(1)(B) incidental take permit would comply with section 7 of the Act by conducting an internal Service consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue a permit. If the requirements and issuance criteria under section 10(a) are met, we will issue the permit to the applicant for incidental take of Delhi Sands flower-loving fly.

#### Public Comments

If you wish to comment on the permit application, proposed HCP, and associated documents, you may submit comments by any of the methods noted in the **ADDRESSES** section.

#### Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

#### G. Mendel Stewart,

Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.

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### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

[FWS-R8-ES-2014-N144;  
FXES11130800000-145-FF08E00000]

#### Endangered Species Recovery Permit Applications

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

**ACTION:** Notice of receipt of permit applications; request for comment.

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

**DATES:** Comments on these permit applications must be received on or before August 25, 2014.

**ADDRESSES:** Written data or comments should be submitted to the Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W-2606, Sacramento, CA 95825 (telephone: 916-414-6464; fax: 916-414-6486). Please refer to the respective permit number for each application when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Daniel Marquez, Fish and Wildlife Biologist; see **ADDRESSES** (telephone: 760-431-9440; fax: 760-431-9624).

**SUPPLEMENTARY INFORMATION:** The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests.

#### Applicants

Permit No. TE-837448

Applicant: Douglas W. Allen, San Diego, California

The applicant requests an amendment to a permit to take (capture, collect, transport, hatch, identify, and rear) the Riverside fairy shrimp (*Streptocephalus woottoni*) and San Diego fairy shrimp (*Branchinecta sandiegoensis*), in conjunction with fairy shrimp cyst identification activities throughout the range of each species in California for the purpose of enhancing the species' survival.

Permit No. TE-034101

Applicant: Naval Facilities Engineering Command, Southwest, San Diego, California

The applicant requests a permit renewal to take (harass by survey, locate and monitor nests, capture, band, color-band, measure, and release) the coastal California gnatcatcher (*Polioptila californica californica*), western snowy plover (Pacific Coast population Distinct Population Segment (DPS)) (*Charadrius nivosus nivosus*), and California least tern (*Sterna antillarum browni*) (*Sterna a. browni*); take (harass by survey and locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*); take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*); take (capture, collect, and collect vouchers) the Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegoensis*), and vernal pool tadpole shrimp (*Lepidurus packardii*); and take (harass by survey) the Quino checkerspot butterfly (*Euphydryas editha quino*), in conjunction with surveys and population monitoring activities throughout the range of each species in California for the purpose of enhancing the species' survival.

Permit No. TE-33292B

Applicant: Tehama Environmental Solutions, Inc., Tehama, California

The applicant requests a permit to take (capture, collect, and collect vouchers) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegoensis*), and vernal pool tadpole shrimp (*Lepidurus packardii*) in conjunction with survey activities throughout the range of each species in California for the purpose of enhancing the species' survival.