

designing specific features to avoid and minimize the incidental take of covered species for some planned facilities and programs that support various modes of transportation. The EIR/EIS will analyze these potential impacts.

Indirect Impacts (Growth Inducement)

Authorization of take with the implementation of the MSHCP could remove an impediment to development. This potential impact will be analyzed in the EIR/EIS.

Scoping

We invite the public to participate in the scoping process, review the draft EIR/EIS, and attend public meetings. The location and time of the scoping meetings to be scheduled during the month of September 2001 will be announced in the local news media. We invite comments from all interested parties to ensure that the full range of issues related to the permit requests are addressed and that all significant issues are identified.

We expect a draft EIR/EIS for the MSHCP to be available for public review in Winter 2002. Release of the draft EIR/EIS for public comment and the public meetings will be announced in the local news media, as these dates are established.

Regulatory Authority

We will conduct environmental review of the permit applications in accordance with the requirements of the National Environmental Policy Act of 1969 as amended (42 U.S.C. 4321 et seq.), its implementing regulations (40 CFR parts 1500 through 1508), and with other appropriate Federal laws and regulations, policies, and procedures of the Service for compliance with those regulations.

Dated: August 23, 2001.

Mary Ellen Mueller,

Acting Deputy Manager, California/Nevada Operations Office, Fish and Wildlife Service, Sacramento, California.

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DEPARTMENT OF JUSTICE

Notice of Lodging of Second Modification to Consent Decree Under the Clean Water Act

Under 28 CFR 50.7 notice is hereby given that on August 20, 2001, a proposed Second Modification To Consent Decree ("Second Modification") in *United States and State of Indiana v. City of Boonville*, Civil Act No. EV 84-187-C-Y/H was

lodged with the United States District Court for the Southern District of Indiana.

In this action, the United States sought injunctive relief and civil penalties for violations of the Clean Water Act ("CWA"), 33 U.S.C. 1251 et seq., and terms and conditions of an National Pollutant Discharge Elimination System ("NPDES") permit governing discharges of pollutants from a publicly owned treatment works ("POTW") operated by the City of Boonville, Indiana ("City"). Following entry of a Consent Decree in 1987 and entry of a Joint Stipulation and Order ("JSO") modifying the Consent Decree in 1991, the United States sought additional relief and stipulated penalties as a result of the City's failure to complete construction of required POTW improvements in accordance with schedules set forth in the Consent Decree as modified by the JSO.

The proposed Second Amendment provides a modified schedule for the completion of some of the other remaining remedial work necessary for the City to obtain compliance with its NPDES permit and the Consent Decree, as modified by the JSO. Also, under the Second Modification the City will pay \$61,000.00 as stipulated penalties to the United States of America and the State of Indiana.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Second Modification. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States and State of Indiana v. City of Boonville*, Civil Action No. EV 84-187-C-Y/H, D.J. Ref. 90-5-1-1-2071B.

The Second Modification may be examined at the Office of the United States Attorney, 10 West Market Street, Suite 2100, Indianapolis, Indiana, 46204-3048, and at U.S. EPA Region V, 77 W. Jackson Blvd., (C-14), Chicago, Illinois, 60604-3590. A copy of the Second Modification may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. In requesting a copy, please enclose a check in the amount of \$6.00 (.25 cents per page reproduction

cost) payable to the Consent Decree Library.

William D. Brighton,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States v. Robert Desmond*, Civ. No. 01-CV-11425-RGS (D. Mass.), was lodged with the United States District Court for the District of Massachusetts on August 20, 2001. This proposed Consent Decree concerns a complaint filed by the United States of America against Robert Desmond, Esq., of Chestnut Hill, Massachusetts, pursuant to section 309 (b), (d) and (g), of the Clean Water Act, 33 U.S.C. 1319 (b), (d) and (g), to obtain injunctive relief and impose civil penalties against the Defendant for unlawfully discharging dredged or fill materials into waters of the United States in Taunton, Bristol County, Massachusetts, for failing to comply with the terms of a March 30, 1998 administrative order, issued in accordance with Clean Water Act section 309(a), 33 U.S.C. 1319(a), requiring the completion of a restoration plan; and for failing to comply with the terms of a June 21, 1998

"Administrative Consent Agreement and Final Order," under Clean Water Act section 309(g), 33 U.S.C. 1319(g), which directed the Defendant to pay a penalty of \$12,500 by July 31, 1998.

The proposed Consent Decree requires the Defendant to pay a civil penalty in the amount of \$10,000, for its several alleged violations of the Clean Water Act. The Defendant is required to pay an additional penalty of \$48,478.47, reflecting payments owed to the United States under the CAFO, unless the Defendant proves to the satisfaction of the United States, within 90 days of entry of the Consent Decree, that he paid \$12,500 to the United States on or before July 31, 1998. Finally, the proposed Consent Decree enjoins the Defendant and his agents from discharging any pollutant into waters of the United States unless such discharge complies with the provisions of the Clean Water Act and its implementing regulations.

The Department of Justice will receive written comments relating to this