

Dated: December 9, 2004.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Bureau of Reclamation

[INT-FES-04-47]

Final Environmental Impact Statement/ Environmental Impact Report for Proposed Adoption of the Lower Colorado River Multi-Species Conservation Program, Final Lower Colorado River Multi-Species Habitat Conservation Plan, Final Biological Assessment, Incidental Take Permit Application, Draft Implementing Agreement, and Draft Funding and Management Agreement

AGENCIES: Fish and Wildlife Service, Bureau of Reclamation, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), the Fish and Wildlife Service (Service) and the Bureau of Reclamation (Reclamation) published a **Federal Register** notice on June 18, 2004 (69 FR 34185) that informed the public of the availability of the Draft Environmental Impact Statement/Draft Environmental Impact Report (DEIS/DEIR) for the Lower Colorado River Multi-Species Conservation Program (LCR MSCP), Application for Section 10 Incidental Take Permit (ITP), Draft Lower Colorado River Multi-Species Habitat Conservation Plan (HCP), Draft Biological Assessment (BA), and Draft Implementing Agreement (IA).

The notice provided for a 60-day comment period; comments were accepted pursuant to the notice through August 18, 2004. The notice also advised the public that the Service received an ITP application for the LCR MSCP pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The ITP would authorize the LCR MSCP permittees' incidental take of the following federally listed and candidate species: southwestern willow flycatcher (*Empidonax traillii extimus*) (flycatcher), Yuma clapper rail (*Rallus longirostris yumanensis*) (clapper rail), desert tortoise (*Gopherus agassizii*) (tortoise), bonytail (*Gila elegans*) (bonytail), humpback chub (*Gila cypha*) (humpback), razorback sucker

(*Xyrauchen texanus*) (razorback), yellow-billed cuckoo (*Coccyzus americanus*) (cuckoo), and relict leopard frog (*Rana onca*) (frog). The ITP would also address incidental take for 19 other species of animals and plants that are not federally listed or candidate species at this time. The proposed take would occur in Mohave, La Paz, and Yuma counties, Arizona; San Bernardino, Riverside, and Imperial counties, California; and Clark County, Nevada, as a result of water storage and delivery, power generation, and other associated federal and non-federal water management actions and activities on the lower Colorado River from the full pool elevation of Lake Mead to the Southerly International Boundary with Mexico.

A Final HCP, which makes revisions to the Draft HCP submitted as part of the application package (Application), has been submitted to the Service as required by the Act for consideration of issuance of an ITP, pursuant to section 10(a)(1)(B). The HCP provides measures to minimize and mitigate the effects of the proposed incidental take of listed, candidate, and other species.

Reclamation, the Service, Bureau of Land Management (BLM), Bureau of Indian Affairs (BIA), National Park Service (NPS), and Western Area Power Administration (Western), have completed a Final BA, which includes an evaluation of the effects of specific ongoing and potential future federal actions, including Reclamation's discretionary LCR operations and maintenance activities. In addition, the BA addresses Reclamation's proposed implementation of the conservation plan and conservation measures described in the BA and in the HCP for the listed, candidate, and other covered species.

The Service, Reclamation, and The Metropolitan Water District of Southern California, as joint lead agencies, have issued a Final Environmental Impact Statement/Final Environmental Impact Report (FEIS/FEIR) to evaluate the impacts of, and alternatives for, the possible issuance of an ITP and the implementation by Reclamation of conservation measures described in the BA and the HCP.

As of the June 18, 2004, **Federal Register** Notice, a Draft IA that represented the positions of the federal and non-federal entities that are anticipated to participate in the LCR MSCP had not yet been completed. Subsequent to the publication of the June 18, 2004, **Federal Register** notice, letters of financial commitment from representatives of the States of Arizona, California and Nevada were received by

the Secretary of the Interior on August 17, 2004, during the public comment period on the Draft LCR MSCP program documents. These letters provide a commitment to "share in the agreed upon LCR MSCP costs equally with the United States on a 50/50 federal/non-federal basis."

A number of other public comments received pursuant to the June 18, 2004, **Federal Register** notice sought information regarding the financial assurances necessary to implement the LCR MSCP. The commitments contained in the August 17, 2004, letters from Arizona, California, and Nevada have now been incorporated into a Draft Funding and Management Agreement (FMA), which was developed during negotiations between the federal and non-federal parties to the LCR MSCP and is published as Exhibit A to the Final HCP. In addition, the parties have also developed a Draft IA, which is published as Exhibit B to the Final HCP.

Subsequent to publication of this **Federal Register** Notice and the FEIS/FEIR and other program documents, the Draft IA and Draft FMA will be presented to the relevant approving officials and respective boards. No final decisions have been made by the federal or non-federal parties with respect to the financial commitments or other provisions set forth in the August 17th letters and the Draft FMA, or with respect to the provisions in the Draft IA. Appropriate revisions, if any, will be included in any Final FMA and Final IA. Appropriate information regarding the issues addressed in the Draft FMA and the Draft IA will also be included in any Record of Decision (ROD) issued by the Secretary with respect to the LCR MSCP.

DATES: No decision will be made on the proposed action until at least 30 days after the United States Environmental Protection Agency's (EPA) Notice of Availability for the LCR MSCP FEIS/FEIR has been published in the **Federal Register**. At this time, it is anticipated the Secretary of the Interior will complete a ROD in January 2005.

ADDRESSES: Copies of the LCR MSCP FEIS/FEIR, Final HCP, Final BA, Draft IA, and Draft FMA are available for public inspection and review at the locations listed in the **SUPPLEMENTARY INFORMATION** section. An internet version of the documents is available on the LCR MSCP Web site, <http://www.lcrmscp.org>. In addition, copies are available upon request from Mr. Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ, 85021; or Mr. Glen Gould, Bureau

of Reclamation, P.O. Box 61470, LC-2011, Boulder City, NV, 89006-1470.

FOR FURTHER INFORMATION, CONTACT: Mr. Steve Spangle, Field Supervisor, Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ, 85021 or (602) 242-0210; or Mr. Glen Gould, Bureau of Reclamation, P.O. Box 61470, LC-2011, Boulder City, NV, 89006-1470 or (702) 293-8702.

SUPPLEMENTARY INFORMATION: This notice advises the public that the Service and Reclamation, with the participation of other federal and non-federal agencies, have gathered the information necessary to: (1) Formulate alternatives and determine impacts for the FEIS/FEIR related to the issuance of an ITP for the LCR MSCP; and (2) develop and implement the HCP, which provides measures to minimize and mitigate the effects of incidental take of federally listed species to the maximum extent practicable.

Section 9 of the Act prohibits the "taking" of threatened and endangered species. However, the Service, under limited circumstances, may issue ITPs to take threatened or endangered wildlife species when such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing issuance of ITPs pursuant to the Act are published at 50 CFR Parts 13 and 17. This notice is provided pursuant to Section 10(c) of the Act and applicable NEPA regulations (40 CFR 1506.6).

The LCR MSCP, the conservation program described in the HCP, and the BA were developed over the past seven years in a public process involving participants and stakeholders from potentially affected or interested groups on the LCR. These groups include federal agencies, *i.e.*, the Service, Reclamation, BLM, BIA, NPS, and Western; six Tribes; the Lower Basin States of Arizona, California, and Nevada; and other interested LCR stakeholders. The groups were organized into a Steering Committee and various subject matter subcommittees to oversee the development of the LCR MSCP. Meetings of the Steering Committee were open to the public and time for public comment was included at each meeting. The LCR MSCP website contains information on meetings and documents. Three sets of public meetings were held from 1999 through 2003 to explain the need for the LCR MSCP, request information on important issues for the NEPA process, receive input on the conservation program, and present alternatives. Three public hearings were held in July 2004

to receive public comment on the DEIS/DEIR.

Proposed Action: The proposed action has two components. The first is the issuance of an ITP by the Service for covered activities on the LCR undertaken by the HCP applicants, pursuant to section 10(a)(1)(B) of the Act. The activities that would be covered by the ITP are water- and power-related actions, and other specific identified non-federal activities involving the LCR. The area covered by the ITP (and the LCR MSCP) includes Lake Mead up to its full pool elevation of 1,229 feet, Lake Mohave up to its full pool elevation of 647 feet, Lake Havasu up to its full pool elevation of 450 feet, and the LCR and its historical floodplain from the highest elevation of Lake Mead to the Southerly International Boundary with the Republic of Mexico. The requested term of the permit is 50 years. To meet the requirements of a section 10(a)(1)(B) ITP, the LCR MSCP participants have developed and, with the cooperation of Reclamation, will implement the conservation plan described in the BA and in the HCP, which provides measures to minimize and mitigate incidental take of flycatchers, clapper rails, tortoises, bonytails, humpbacks, and razorbacks to the maximum extent practicable, and which ensures that the incidental take will not appreciably reduce the likelihood of the survival and recovery of these species in the wild. The conservation plan identified in the BA and the HCP also addresses potential impacts on the cuckoo and frog (candidate species) and 19 other species of animals and plants.

The second component is the completion of consultation under section 7(a)(2) with Federal action agencies for their covered actions (identified in Chapter 2 of the BA), including implementation of the conservation plan by Reclamation as part of its proposed action (along with its identified continued and future operations and maintenance activities on the LCR).

Alternatives: Three other alternatives are being considered as part of this process, as follows:

1. No ITP—No issuance of an ITP. This alternative would require the LCR MSCP participants to pursue individual ESA compliance activities to address incidental take resulting from their actions or activities on the LCR or avoid taking actions that would result in incidental take. This approach would require the federal action agencies to consult separately on any proposed discretionary actions on the LCR.

2. Listed Species Only—Issuance of an ITP authorizing the same covered actions by the LCR MSCP participants but only requesting incidental take coverage for the six species currently listed as endangered or threatened pursuant to the Act. This alternative includes measures to minimize and mitigate for the potential take of federally listed species.

3. Off-Site Conservation—Issuance of an ITP authorizing the same covered actions by the LCR MSCP participants and the same list of 27 species. Habitat restoration activities would occur outside of the LCR MSCP planning area in adjacent river basins. This alternative includes measures to minimize and mitigate for the potential take of federally listed species, candidate species, and other covered species.

Pursuant to the June 10, 2004, order in *Spirit of the Sage Council v. Norton*, Civil Action No. 98-1873 (D.D.C.), the Service is enjoined from approving new section 10(a)(1)(B) permits or related documents containing "No Surprises" assurances until such time as the Service adopts new permit revocation rules specifically applicable to section 10(a)(1)(B) permits in compliance with the public notice and comment requirements of the Administrative Procedure Act. This **Federal Register** notice provides notice of a step in the review and processing for the potential issuance of a section 10(a)(1)(B) permit; any subsequent permit issuance will be in accordance with the Court's order. Until such time as the Service's authority to issue permits with "No Surprises" assurances has been reinstated, the Service will not approve any incidental take permits or related documents that contain "No Surprises" assurances, consistent with the Court's order.

Copies of the FEIS/FEIR, Final HCP, Final BA, ITP Application, Draft IA, and Draft FMA are available for public inspection and review at the following locations (by appointment at government offices):

- Department of the Interior, Natural Resources Library, 1849 C. St. NW., Washington, DC, 20240.
- Fish and Wildlife Service, 500 Gold Avenue SW., Room 4012, Albuquerque, NM, 87102.
- Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ, 85021.
- Bureau of Reclamation, Lower Colorado Region, 500 Date Street, Boulder City, NV, 86009-1470.
- Bureau of Reclamation, Upper Colorado Region, 125 South State Street, Room 6107, Salt Lake City, UT, 84138-1102.

- Bureau of Reclamation Library, Denver Federal Center, 6th Avenue and Kipling, Building 67, Room 167, Denver, CO, 80225.

- Bureau of Reclamation, Phoenix Area Office, 2222 W. Dunlap Ave., Suite 100, Phoenix, AZ, 85021.

- Metropolitan Water District of Southern California, 700 N. Alameda St., Los Angeles, CA, 90017.

- Government Document Service, Arizona State University, Tempe, AZ, 85287.

- Yuma County Library, 350 S. 3rd Ave., Yuma, AZ, 85384.

- Palo Verde Valley Library, 125 W. Chanslor Way, Blythe, CA, 92225.

- Mohave County Library, 1170 Hancock Rd., Bullhead City, AZ, 86442.

- Laughlin Library, 2840 South Needles Hwy., Laughlin, NV, 89029.

- Clark County Library, 1401 East Flamingo Road, Las Vegas, NV, 89119.

- James I. Gibson Library, 280 Water Street, Henderson, NV, 89015.

Dated: December 14, 2004.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 04-27677 Filed 12-16-04; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-920-1320-EL, WYW154595]

Notice of Competitive Coal Lease Sale, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of competitive coal lease sale.

SUMMARY: Notice is hereby given that certain coal resources in the Ten Mile Rim Tract described below in Sweetwater County, WY, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*).

DATES: The lease sale will be held at 10 a.m., on Wednesday, January 19, 2005. Sealed bids must be submitted on or before 4 p.m., on Tuesday, January 18, 2005.

ADDRESSES: The lease sale will be held in the First Floor Conference Room (Room 107) of the BLM Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003. Sealed bids must be submitted to the Cashier, BLM Wyoming State Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Julie Weaver, Land Law Examiner, or Robert

Janssen, Coal Coordinator, at 307-775-6260, and 307-775-6206, respectively.

SUPPLEMENTARY INFORMATION: This coal lease sale is being held in response to a lease by application (LBA) filed by Bridger Coal Company. The Federal coal tract being considered for sale is adjacent to the Jim Bridger Mine operated by Bridger Coal Company. The coal resources to be offered consist of all reserves recoverable by underground mining methods in the following-described lands located in Sweetwater County north of Point of Rocks, Wyoming. It is approximately 10 miles north of Interstate 80 and is immediately adjacent to the northwestern boundary of the existing Jim Bridger surface mine.

T. 21 N., R. 100 W., 6th PM, Wyoming. Sec. 6: Lots 8-14, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

T. 22 N., R. 100 W., 6th PM, Wyoming. Sec. 30: Lots 5-8, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$;

T. 22 N., R. 101 W., 6th PM, Wyoming. Sec. 26: Lots 1-16; Sec. 34: Lots 1, 2, 6-8, 13, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$.

Containing 2,242.18 acres, more or less.

The tract is adjacent to sections within an existing federal coal lease to the south, to alternating sections under a private coal lease, and to an imbedded section under a State of Wyoming lease, all controlled by the Jim Bridger Mine. It is also adjacent to additional unleased federal and private coal to the east, north, and west.

All of the acreage offered has been determined to be suitable for underground mining. There are no existing surface facilities or structures that will be impacted by the proposed underground mine. There are no producing oil and/or gas wells on the tract. All of the surface estate is controlled by the Jim Bridger Mine.

The tract contains underground mineable coal reserves in the Deadman zone of the Fort Union formation currently being recovered in the adjacent, existing surface mine. In this area, the Deadman occurs in numerous seams, but only the D-41 seam is considered to be recoverable in the proposed mine area. This seam ranges from about 7-16 feet thick and occurs over the entire LBA. The depth from the surface ranges from about 250-1050 feet from the shallow southwest corner to the deep northeast corner.

The tract contains an estimated 32,145,000 tons of recoverable coal based on a longwall recovery method. This method assumes 7-8.5 foot recovery for continuous miner sections and 7-11 foot recovery for longwall panels. The estimate of recoverable reserves includes only the D-41 seam.

The Ten Mile Rim LBA coal is ranked as subbituminous B. The overall average quality is approximately 9,900 BTU/lb. with about 10.25% ash, 0.59% sulfur, and 3.21% sodium in the ash. These quality averages are generally higher than the reserves currently being mined in the adjacent surface mine.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid equals the fair market value of the tract. The minimum bid for the tract is \$100 per acre or fraction thereof. No bid that is less than \$100 per acre, or fraction thereof, will be considered. The bids should be sent by certified mail, return receipt requested, or be hand delivered. The Cashier will issue a receipt for each hand-delivered bid. Bids received after 4 p.m., on Tuesday, January 18, 2005, will not be considered. The minimum bid is not intended to represent fair market value. The fair market value of the tract will be determined by the Authorized Officer after the sale. The lease issued as a result of this offering will provide for payment of an annual rental of \$3.00 per acre, or fraction thereof, and of a royalty payment to the United States of 12.5 percent of the value of coal produced by strip or auger mining methods and 8 percent of the value of the coal produced by underground mining methods. The value of the coal will be determined in accordance with 30 CFR 206.250.

Bidding instructions for the tract offered and the terms and conditions of the proposed coal lease are available from the BLM Wyoming State Office at the addresses above. Case file documents, WYW154595, are available for inspection at the BLM Wyoming State Office.

Alan Rabinoff,

Deputy State Director, Minerals and Lands.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-030-1610-DS]

Notice of Availability of the Draft Environmental Impact Statement for the Rawlins Resource Management Plan Revision

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of a Draft Environmental Impact Statement (DEIS) for the Rawlins Resource Management Plan (RMP), Wyoming.