

and facsimile numbers, e-mail, and sponsoring organization, if any).

### Background Information on the CERHR

The NTP established the NTP CERHR in June 1998 (**Federal Register**, December 14, 1998 (volume 63, number 239, page 68782)). The CERHR is a publicly accessible resource for information about adverse reproductive and/or developmental health effects associated with exposure to environmental and/or occupational exposures. Expert panels conduct scientific evaluations of agents selected by the CERHR in public forums.

The CERHR invites the nomination of agents for review or scientists for its expert registry. Information about CERHR and the nomination process can be obtained from its home page (<http://cerhr.niehs.nih.gov>) or by contacting Dr. Shelby (*see FOR FURTHER INFORMATION CONTACT* above). The CERHR selects chemicals for evaluation based upon several factors including production volume, extent of human exposure, public concern, and published evidence of reproductive or developmental toxicity.

CERHR follows a formal, multi-step process for review and evaluation of selected chemicals. The formal evaluation process was published in the **Federal Register** notice July 16, 2001 (volume 66, number 136, pages 37047–37048), and is available on the CERHR Web site under “About CERHR” or in printed copy from the CERHR. NTP–CERHR monographs are available on the CERHR Web site or in hard copy or CD from the CERHR.

Dated: March 7, 2005.

**Samuel H. Wilson,**

*Deputy Director, National Institute of Environmental Health Sciences.*

[FR Doc. 05–5083 Filed 3–14–05; 8:45 am]

BILLING CODE 4140–01–P

---

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[FEMA–1582–DR]

#### American Samoa; Amendment No. 2 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the

Territory of American Samoa (FEMA–1582–DR), dated February 18, 2005, and related determinations.

**EFFECTIVE DATE:** March 3, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the Territory of American Samoa is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 18, 2005:

Manu'a Islands for Individual Assistance and Categories C through G under the Public Assistance program (already designated for debris removal (Category A) and emergency protective measures (Category B), including direct Federal assistance under the Public Assistance program.)

The Territory of American Samoa for Crisis Counseling under the Individual Assistance program (already designated for debris removal (Category A) and emergency protective measures (Category B), including direct Federal assistance under the Public Assistance program.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.*

[FR Doc. 05–5050 Filed 3–14–05; 8:45 am]

BILLING CODE 9110–10–P

---

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[FEMA–1578–DR]

#### Kentucky; Amendment No. 1 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky (FEMA–1578–DR), dated February 8, 2005, and related determinations.

**EFFECTIVE DATE:** March 7, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 8, 2005:

Marshall County for Public Assistance.

Marshall County for emergency protective measures (Category B) under the Public Assistance program for a period of 48 hours.

Lyon County for emergency protective measures (Category B) under the Public Assistance program for a period of 48 hours (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.*

[FR Doc. 05–5051 Filed 3–14–05; 8:45 am]

BILLING CODE 9110–10–P

---

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Proposed Low-Effect Habitat Conservation Plan for Southern California Edison Etiwanda-Miraloma Transmission Line Reconductor Project, Riverside and San Bernardino Counties, CA

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

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

**SUMMARY:** Southern California Edison (applicant) has applied to the U.S. Fish and Wildlife Service (Service) for a 5-year incidental take permit for two

species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for "take" of the Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*), listed as endangered under the Act. It also addresses impacts to the burrowing owl (*Athene cucularia hypugea*), a California State designated Species of Special Concern. Impacts to both species would occur from proposed upgrading of the existing Etiwanda-Miraloma Transmission Line in Riverside and San Bernardino counties, California. A conservation program to mitigate for the project activities would be implemented by the applicant as described in the proposed Southern California Edison (SCE) Low-Effect Habitat Conservation Plan (proposed plan), which is available for public review.

We are requesting comments on the proposed Plan and on the preliminary determination that the proposed Plan qualifies as a "Low-effect" Habitat Conservation Plan, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. The basis for this determination is discussed in an Environmental Action Statement and the associated Low-Effect Screening Form (EAS/screening form), which are also available for public review.

**DATES:** Written comments should be received on or before April 14, 2005.

**ADDRESSES:** Comments should be addressed to Jim Bartel, Field Supervisor, Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California 92008. 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.

#### Availability of Documents

Individuals wishing copies of the application, proposed plan, and EAS/screening form should immediately contact the Service by telephone (see **FOR FURTHER INFORMATION CONTACT**) or by letter to the Carlsbad Fish and Wildlife Office (see **ADDRESSES**). Copies of the proposed plan and EAS/screening form 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. The definition of take under the Act is to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or to 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 animal 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 at 50 CFR 17.22 and 50 CFR 17.32.

The applicant is seeking a permit for take of the endangered Delhi Sands flower-loving fly (DSF), and for the burrowing owl should it become listed as threatened or endangered under the Act during the life of the proposed 5-year permit. DSF were observed on the proposed project site. No critical habitat for any listed species occurs on the project site. The project site does not contain any threatened or endangered species or habitat.

The proposed transmission line upgrade project would involve the one-time removal of existing transmission lines, replacing these lines with new, higher capacity lines, and replacing existing ground wire with fiber line. A structural modification of the existing support system (*i.e.*, the replacement of seven existing towers with taller towers) would be necessary to maintain adequate ground clearance.

Project implementation may result in take of the DSF. Although the project area covers 126 acres, total construction impacts that would result in habitat disturbance for the DSF and burrowing owl are limited to 4.17 acres. Within these 4.17 acres, a total of 0.88 acres of temporary and/or permanent disturbance of habitat for the DSF would occur.

The Applicant proposes to minimize and 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 avoid and minimize impacts to the DSF during project construction and to mitigate unavoidable impacts from temporary habitat disturbance and permanent habitat loss. Unavoidable effects to the DSF would be mitigated either through the restoration of 1.25 acres of DSF

habitat within Applicant-owned property or by the purchase of one acre of high-quality DSF habitat at the Colton Dunes Mitigation Bank, operated by the Vulcan Materials Company, in Colton, California.

Project implementation also may result in adverse effects to the burrowing owl. The Applicant proposes to minimize and mitigate the effects to the burrowing owl associated with covered activities by fully implementing the Plan. Unavoidable effects to the burrowing owl would be mitigated by relocating any nesting owls within the construction area in accordance with the guidelines and measures outlined in the proposed Plan. No critical habitat has been proposed or designated for the burrowing owl.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the proposed Plan, which includes measures to minimize and mitigate impacts of the project on the DSF and burrowing owl. Alternatives to the taking of the DSF and burrowing owl are considered in the proposed Plan. Under the No Action Alternative, no permit would be issued, and no construction would occur. Under the Reduced Project Alternative, incidental take of DSF and burrowing owl would be authorized, but the applicant would reduce the area of impact. Under the "Participate in Regional Planning" Alternative, the Applicant could eventually receive incidental take authorization but the proposed project would be delayed until completion of a regional habitat conservation plan in San Bernardino County.

The Service has made a preliminary determination that approval of the proposed Plan qualifies for 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 that 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 Applicant for the incidental take of the DSF, and the burrowing owl should it be listed during the permit term. The permit would be contingent upon implementation of the Applicant's proposed Plan in Riverside and San Bernardino counties, California.

Dated: March 9, 2005.

**Tom McCabe,**

*Acting Deputy Manager, California/Nevada Operations Office, Sacramento, California.*

[FR Doc. 05-5017 Filed 3-14-05; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Final List of Bird Species to Which the Migratory Bird Treaty Act Does Not Apply

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

**ACTION:** Notice of availability.

**SUMMARY:** We are publishing a final list of the nonnative bird species that have been introduced by humans into the United States or its territories and to which the Migratory Bird Treaty Act (MBTA) does not apply. This action is required by the Migratory Bird Treaty Reform Act (MBTRA) of 2004. The MBTRA amends the MBTA by stating that it applies only to migratory bird species that are native to the United States or its territories, and that a native migratory bird is one that is present as a result of natural biological or ecological processes. This notice identifies those species that are not protected by the MBTA, even though they belong to biological families referred to in treaties that the MBTA implements, as their presence in the United States and its territories is solely the result of intentional or unintentional human-assisted introductions.

**ADDRESSES:** The complete file for this notice is available for inspection, by appointment (contact John L. Trapp, (703) 358-1714), during normal business hours at U.S. Fish and Wildlife Service, 4501 North Fairfax Drive, Room 4107, Arlington, Virginia.

#### SUPPLEMENTARY INFORMATION:

##### What Is the Authority for This Notice?

Migratory Bird Treaty Reform Act of 2004 (Division E, Title I, Sec. 143 of the Consolidated Appropriations Act, 2005, Pub. L. 108-447).

##### What Is the Purpose of This Notice?

The purpose of this notice is to make the public aware of the final list of "all nonnative, human-introduced bird species to which the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) does not apply," as required by the MBTRA of 2004.

This notice is strictly informational. It merely lists some of the bird species to which the MBTA does not apply. The presence or absence of a species on this list has no legal effect. This list does not change the protections that any of these species might receive under such agreements as CITES—the Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 275), or the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901-4916, 106 Stat. 2224). Regulations implementing the MBTA are found in parts 10, 20, and 21 of 50 CFR. The list of migratory birds covered by the MBTA is located at 50 CFR 10.13.

##### What Was the Response of the Public to the Draft List?

A notice announcing a draft list of the nonnative human-introduced bird species to which the MBTA does not apply was published on January 4, 2005 (70 FR 372), with a request for public comments. The notice generated approximately 826 nonduplicated comments from the public. The draft list was supported by 21 State wildlife agencies (Arizona Game and Fish Department; Connecticut Bureau of Natural Resources; Delaware Division of Fish and Wildlife; Florida Fish and Wildlife Conservation Commission; Maryland Department of Natural Resources; Massachusetts Division of Fisheries and Wildlife; Michigan Department of Natural Resources; Montana Fish, Wildlife, and Parks; New Hampshire Fish and Game Department; New Jersey Division of Fish and Wildlife; New York State Division of Fish, Wildlife, and Marine Resources; North Carolina Wildlife Resources

Commission; North Dakota Game and Fish Department; Oklahoma Department of Wildlife Conservation; Pennsylvania Game Commission; Rhode Island Division of Fish and Wildlife; South Dakota Department of Game, Fish, and Parks; Vermont Department of Fish and Wildlife; Virginia Department of Game and Inland Fisheries; Wisconsin Department of Natural Resources; and Wyoming Game and Fish Department), 11 nonprofit organizations representing bird conservation and science interests (American Bird Conservancy—submitted on behalf of 10 constituent organizations; Atlantic Flyway Council—representing 17 States, 7 Provinces, Puerto Rico, and the U.S. Virgin Islands; California Partners in Flight; Environmental Studies at Airlie-Swan Research Program; Friends of Iroquois National Wildlife Refuge; National Audubon Society; National Wildlife Federation; Ornithological Council—representing 11 scientific societies of ornithology; Point Reyes Bird Observatory; Tennessee Ornithological Society; and The Nature Conservancy), 1 organization representing an extractive industry (National Mining Association), and 18 private citizens.

Opposition to the draft list came from 4 animal-rights organizations (Ecology Center of Southern California, Friends of Animals, Friends of Montgomery Village Wildlife, and Humane Society of the United States), 2 law firms (representing the Humane Society of the United States and MBTA Advocates—the litigant in an outstanding lawsuit involving the mute swan), and some 770 private citizens. The vast majority of the latter comments are directly traceable to a posting made on January 13 to a free, weekly e-mail subscription service maintained jointly by the Fund for Animals and the Humane Society of the United States to notify their members of "hot issues in animal protection" and encourage them to write to public officials. Nearly all of these comments repeat the four "talking points" included in the alert and exhibit other similarities indicative of a common origin. The "talking points" are addressed in the Service's responses to Issues 1, 2, 3, and 10.

*Issue 1:* One reviewer argued at length (and numerous others suggested) that the Service must prepare an Environmental Impact Statement (EIS) before publishing the final list of bird species to which the Migratory Bird Treaty Act does not apply.

*Service Response:* In requiring (a) that the Secretary "provide adequate time for public comment" on a draft list and (b) that a final list be published "not later