

Section A. Authority Delegated

The Secretary delegates to the Assistant Secretary for Policy Development and Research, concurrent with the Secretary's authority, the authority to designate qualified census tracts and difficult development areas for the low-income housing tax credit as authorized by Section 42(d)(5)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 42(d)(5)(C)), as well as such other statutory authority, duties, and responsibilities related to the designation of these tracts and areas.

Section B. Redelegation

The authority delegated to the Assistant Secretary for Policy Development and Research in Section A may not be redelegated.

Authority: Section 42(d)(5)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 42(d)(5)(C)), and Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 25, 2004.

Alphonso Jackson,

Secretary.

[FR Doc. E4-3593 Filed 12-8-04; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Decision and Availability of the Record of Decision for the Final Comprehensive Conservation Plan and Environmental Impact Statement for Nisqually National Wildlife Refuge, Thurston and Pierce Counties, Washington

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of decision and availability of the record of decision.

SUMMARY: This is a notice of decision and availability of the Record of Decision (ROD) for the Nisqually National Wildlife Refuge Final Comprehensive Conservation Plan and Environmental Impact Statement (Final CCP/EIS). The Refuge is located in Thurston and Pierce Counties, Washington. A thorough analysis of the environmental, social, and economic considerations was completed and presented in the Final CCP/EIS. The Final CCP/EIS was released to the public and a Notice of Availability was published in the **Federal Register** on August 31, 2004 (69 FR 53084). The ROD documents the selection of Alternative D, the Preferred Alternative in the Final CCP/EIS, as the CCP for

Nisqually Refuge. The ROD was signed by the Regional Director, U.S. Fish and Wildlife Service, Pacific Region, on November 1, 2004.

ADDRESSES: A copy of the ROD or Final CCP/EIS may be obtained from the Refuge Manager, Nisqually National Wildlife Refuge Complex, 100 Brown Farm Road, Olympia, Washington 98516, Phone (360) 753-9467, or from the following Web site: <http://pacific.fws.gov/planning>.

FOR FURTHER INFORMATION CONTACT:

Contact the Refuge Manager, Nisqually National Wildlife Refuge Complex, 100 Brown Farm Road, Olympia, Washington 98516, Phone (360) 753-9467.

SUPPLEMENTARY INFORMATION: The Nisqually Refuge's CCP will provide management guidance for conservation of Refuge resources and public use activities during the next 15 years. The following is a summary of the Nisqually Refuge's Final CCP/EIS ROD.

The Service has selected Alternative D, the Preferred Alternative, as the CCP for Nisqually Refuge. Alternative D addresses the key issues and conflicts identified during the planning process and will best achieve the purposes and goals of the Refuge as well as the mission of the National Wildlife Refuge System. This decision includes adoption of stipulations and mitigation measures identified in Alternative D, Appendix G Compatibility Determinations, and Appendix I Goals, Objectives and Strategies, of the Final CCP/EIS. Implementation of the CCP will occur over the next 15 years, depending on future staffing levels, funding, and willing sellers.

Factors Considered in Making the Decision

The decision was based on a thorough analysis of the environmental, social, and economic considerations presented in the Final CCP/EIS. During the decision making phase of the CCP process, the Service reviewed and considered: the impacts identified in Chapter 4 of the Draft and Final CCP/EIS; the results of various studies and surveys conducted in conjunction with the Draft and Final CCP/EIS; relevant issues, concerns, and opportunities; comments on the Draft and Final CCP/EIS; and other relevant factors, including the purposes for which the Refuge was established, and statutory and regulatory guidance. Alternative D incorporates several components addressing a variety of needs including fish and wildlife sanctuary, habitat restoration and protection, Refuge expansion, and the National Wildlife

Refuge System's six priority public uses. It is, however, the unique combination of these components that contributes the most to achieving the Refuge's purposes and goals. Alternative D strengthens the monitoring of fish, wildlife, habitat, and public uses on the Refuge which will provide the means to better respond to rapidly changing conditions within the surrounding, growing urban environment. Alternative D was selected for implementation because it provides the greatest number of opportunities for the Refuge to contribute to the fish, wildlife, and habitat needs of the Nisqually River watershed and the greater Puget Sound region.

David J. Wesley,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 04-27023 Filed 12-8-04; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Low Effect Habitat Conservation Plan for Shaw Mira Loma LLC, Riverside County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Shaw Mira Loma LLC (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for a 1-year incidental take permit for one covered 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 endangered Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) associated with construction of commercial and industrial facilities within a 5.02-acre parcel located in the unincorporated City of Mira Loma, Riverside County, California. A conservation program to mitigate for the project activities would be implemented as described in the proposed Shaw Mira Loma LLC Low Effect Habitat Conservation Plan (proposed Plan), which would be implemented by the Applicant.

We are requesting comments on the permit application 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 the Environmental Action Statement (EAS) and the associated Low Effect

Screening Form, which are also available for public review.

DATES: Written comments should be received on or before January 10, 2005.

ADDRESSES: Comments should be addressed to the 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.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the application, proposed Plan, and EAS should immediately contact the Service by telephone at (760) 431-9440 or by letter to the Carlsbad Fish and Wildlife Office (see **ADDRESSES**). Copies of the proposed Plan and EAS 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 includes the following activities: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or 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 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 in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

The Applicant is seeking a permit for take of the Delhi Sands flower-loving fly during the life of the permit. The project encompasses construction of commercial and industrial facilities within the 5.02-acre project site. The Delhi Sands flower-loving fly has been observed on the proposed project site; however, the Service believes that the site has limited long-term conservation value for the fly because the site is surrounded on all sides by development, which effectively isolates the site from other locations of the

species. Construction of the proposed project would result in the death or injury of any Delhi Sands flower-loving flies that may remain on the site. The project site does not contain any other rare, threatened, or endangered species or habitat. No critical habitat for any listed species occurs on the project site.

The Applicant proposes to mitigate the effects to the Delhi Sands flower-loving fly associated with the covered activities by fully implementing the Plan. The purpose of the proposed Plan's conservation program is to promote the biological conservation of the Delhi Sands flower-loving fly. The Applicant proposes to mitigate the impacts of the taking of the Delhi Sands flower-loving fly by purchasing two credits of occupied, high quality habitat at a Service-approved conservation bank.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the proposed Plan, which includes measures to mitigate impacts of the project on the Delhi Sands flower-loving fly. Three alternatives to the taking of the listed species under the Proposed Action 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 the Delhi Sands flower-loving fly would be authorized, but the applicant would reduce the area of impact and maintain a small Delhi Sands flower-loving fly preserve on site. Under the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP) Alternative, incidental take would be authorized under the permit issued for this regional plan, and Delhi Sands flower-loving fly conservation would be consistent with the MSHCP.

The Service has made a preliminary determination that approval of the proposed Plan qualifies as a 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 which 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 Shaw Mira Loma LLC for the incidental take of the Delhi Sands flower-loving fly from development of the Applicant's parcel on Philadelphia Avenue in Riverside County, California.

Pursuant to an order issued on June 10, 2004, by the District Court for the District of Columbia in *Spirit of the Sage Council v. Norton* Civil Action No. 98-1873 (D. D.C.), the Service is enjoined from issuing new section 10(a)(1)(B) permits or related documents containing "No Surprises" assurances, as defined by the Service's "No Surprises" rule published at 63 FR 8859 (February 23, 1998), 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 Procedures Act. This notice concerns a step in the review and processing of a section 10(a)(1)(B) permit and any subsequent permit issuance will be in accordance with the Court's order. Until such time as the June 10, 2004, order has been rescinded or the Service's authority to issue permits with "No Surprises" assurances has been otherwise reinstated, the Service will not approve any incidental take permits or related documents that contain "No Surprises" assurances.

Dated: December 2, 2004.

Ken McDermond,

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