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[Notices]
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DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service

Programmatic Safe Harbor Agreement for Nevada Department of
Wildlife, Clark County, NV

AGENCY: Fish and Wildlife Service, Interior.
ACTION: Notice of availability, receipt of application.

SUMMARY: Nevada Department of Wildlife (Applicant) has applied to the Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act). The permit application includes a proposed programmatic Safe Harbor Agreement (SHA) between the Applicant and the Service. The SHA provides for voluntary habitat restoration, maintenance, enhancement, or creation activities to enhance the reintroduction and long-recovery of razorback sucker (*Xyrauchen texanus*) and bonytail chub (*Gila elegans*) within Clark County, Nevada. The proposed duration of both the SHA and permit is 50 years.

The Service has made a preliminary determination that the proposed SHA and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). The basis for this determination is contained in an Environmental

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Action Statement, which also is available for public review.

DATES: Written comments must be received by 5 p.m. on October 30, 2006.

ADDRESSES: Comments should be addressed to Robert D. Williams, Field Supervisor, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, Nevada, facsimile number (775) 861-6301 (see SUPPLEMENTARY INFORMATION, Public Review and Comment).

FOR FURTHER INFORMATION CONTACT: Jody Brown, Fish and Wildlife Biologist, at the above address or (775) 861-6300.

SUPPLEMENTARY INFORMATION:

Background

The primary objective of this SHA is to encourage voluntary habitat

restoration, maintenance, or enhancement activities to benefit the razorback sucker and bonytail chub by relieving participating landowners, who enter into the provisions of a Cooperative Agreement with the Applicant, from any additional Section 9 liability under the Endangered Species Act beyond that which exists at the time the Cooperative Agreement is signed ('`regulatory baseline'). A SHA encourages landowners to conduct voluntary conservation activities and assures them that they will not be subjected to increased listed species restrictions should their beneficial stewardship efforts result in increased listed species populations. Application requirements and issuance criteria for enhancement of survival permits through SHAs are found in 50 CFR 17.22 and 17.32(c). As long as enrolled landowners allow the agreed upon conservation measures to be completed on their property and maintain their baseline responsibilities, they may make any other lawful use of the property during the permit term, even if such use results in the take of individual razorback sucker or bonytail chub or harm to their habitat.

Landowners within Clark County, Nevada, that have suitable aquatic habitat for the rearing and long-term adult maintenance of razorback sucker and bonytail chub may be enrolled with the Applicant under the SHA. The landowner will receive a Certificate of Inclusion when they sign a Cooperative Agreement. The Cooperative Agreement will include: (1) A map of the property and its legal location; (2) a description of the existing biological community including nonnative aquatic species and sensitive or protected species if any; (3) the portion of the property to be enrolled and its acreage; (4) a description of the habitat types that occur on the portion of the property to be enrolled including an accurate description of ponds or other aquatic habitats and their characteristics; and (5) current land-use practices and existing development, and the characteristics of water supplies to aquatic habitats.

The Applicant, as the Permittee, will be responsible for annual monitoring and reporting related to implementation of the SHA and Cooperative Agreements and fulfillment of their provisions. As specified in the SHA, the Applicant will issue yearly reports to the Service related to implementation of the program.

Each Cooperative Agreement will cover conservation activities to create, maintain, restore, or enhance habitat for razorback sucker and bonytail chub and achieve species' recovery goals. Management activities that are undertaken through Cooperative Agreements will result in additional areas being available for the rearing of razorback sucker and bonytail chub in protected habitats, which will provide additional razorback sucker and bonytail chub of a suitable size for release into the wild, and for the maintenance of adult refuge populations. The overall goal of the Cooperative Agreements entered into under this SHA is to produce conservation measures that are mutually beneficial to the Cooperator and the long-term existence of razorback sucker and bonytail chub.

The Service estimates it will take 2 years of implementing the SHA to fully reach a net conservation benefit, given the probable species response time for razorback sucker and bonytail chub to the planned conservation measures. However, some level of benefits will likely occur within a shorter time period. Each Cooperative Agreement will stipulate that the conservation measures be implemented to provide good

habitat and positive stewardship for sites to be used for adult refuges and for the rearing of subadult razorback sucker and bonytail chub prior to their release to the wild.

After maintenance of the restored/created/enhanced razorback sucker and bonytail chub habitat on the property for the agreed-upon term, Cooperators may then conduct otherwise lawful activities on their property that result in the partial or total elimination of the habitat improvements and the incidental taking of Razorback sucker and bonytail chub. However, the restrictions on returning a property to its original baseline condition include: (1) The Cooperator must demonstrate that baseline conditions were maintained and the conservation measures necessary for achieving a net conservation benefit were carried out; (2) the Applicant and the Service will be notified a minimum of 30 days prior to the activity and given the opportunity to capture, rescue, and/or relocate any Razorback sucker and bonytail chub; and (3) return to baseline conditions must be completed within the 50-year term of the permit issued to the Applicant. Cooperative Agreements may be extended if the Applicant's permit is renewed and that renewal allows for such an extension.

The Service has made a preliminary determination that approval of this SHA qualifies as a categorical exclusion under the NEPA, as provided by the Department of Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1) based on the following criteria: (1) Implementation of the SHA would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the SHA would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the SHA, 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. This is more fully explained in our Environmental Action Statement.

Based upon this preliminary determination, we do not intend to prepare further NEPA documentation. The Service will consider public comments in making its final determination on whether to prepare such additional documentation.

Public Review and Comments

Individuals wishing copies of the permit application, the Environmental Action Statement, or copies of the full text of the SHA, including a map of the proposed permit area, references, and legal descriptions of the proposed permit area, should contact the office and personnel listed in the ADDRESSES section or obtain copies from the Web site at (<http://www.fws.gov/nevada>). Documents also will be available for public inspection, by appointment, during normal business hours at this office (see ADDRESSES).

The Service provides this notice pursuant to section 10(c) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6). Our practice is to make comments, including names, home addresses, home phone numbers, and e-mail addresses of respondents,

available for public review. Individual respondents may request that we withhold their names and /or homes addresses, etc., but if you wish us to consider withholding this information you must state this prominently at the beginning of your comments. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organization or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Decision

We will evaluate the permit application, the SHA, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act and NEPA regulations. If the requirements are met, the Service will sign the proposed SHA and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the Applicant for take of the razorback sucker and bonytail chub incidental to otherwise lawful activities of the project. The Service will not make a final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

Robert D. Williams,
Field Supervisor, Nevada Fish and Wildlife Office, Reno, Nevada.
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