DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Public Meeting, Eastern Washington Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from the Otay Water District (OWD) for a 5-year incidental take permit for one covered species under the Endangered Species Act of 1973 (Act), as amended. The application addresses the potential for “take” of the federally threatened coastal California gnatcatcher (Polioptila californica californica) associated with the construction of a 36-inch pipeline (OWD CIP P2009) along Jamacha Road in the City of El Cajon and unincorporated community of Rancho San Diego in the County of San Diego, California. A habitat conservation program (HCP) to mitigate for the project activities would be implemented by OWD. We are requesting comments on the HCP and our 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 Screening Form.

Availability of Documents

Individuals wishing copies of the proposed HCP and Screening Form, which includes the Environmental Action Statement, should immediately contact us by telephone at (760) 431–9440 or by letter to the Carlsbad Fish and Wildlife Office (see ADDRESSES). Copies of the proposed HCP and Screening Form also are available for public inspection during regular business hours at the same office.

Background

Section 9 of the Act (16 U.S.C. 1531 et seq.) and its implementing Federal regulations prohibit the take of animal species listed as endangered or threatened. Take is defined under the Act as follows: 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. 1531 et seq.). However, under section 10(a) of the Act, we 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 (October 1, 2006, 50 CFR 17.22) and (October 1, 2001, 50 CFR 17.32).

OWD is seeking a permit for take of the gnatcatcher. The current known range of the gnatcatcher extends from the coastal slopes in southern California, from southern Ventura southward through Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties into Baja California, Mexico, to approximately 30 degrees north latitude near El Rosario.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service


Proposed Habitat Conservation Plan for the Federally Threatened Coastal California Gnatcatcher in Connection with the Jamacha Road 36-Inch Pipeline Construction Project (CIP P2009) in San Diego County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from the Otay Water District (OWD) for a 5-year incidental take permit for one covered species under the Endangered Species Act of 1973 (Act), as amended. The application addresses the potential for “take” of the federally threatened coastal California gnatcatcher (Polioptila californica californica) associated with the construction of a 36-inch pipeline (OWD CIP P2009) along Jamacha Road in the City of El Cajon and unincorporated community of Rancho San Diego in the County of San Diego, California. A habitat conservation program (HCP) to mitigate for the project activities would be implemented by OWD. We are requesting comments on the HCP and our 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 Screening Form.

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OWD is seeking a permit for take of the gnatcatcher. The current known range of the gnatcatcher extends from the coastal slopes in southern California, from southern Ventura southward through Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties into Baja California, Mexico, to approximately 30 degrees north latitude near El Rosario.
OWD proposes to construct approximately 5 miles of 36-inch cement mortar lined and coated steel pipeline to transfer potable water from a flow control facility in the City of El Cajon to two OWD reservoirs in the unincorporated community of Rancho San Diego. The pipeline will provide 12 million gallons (mgd) of potable water per day of on-peak capacity and 16 mgd of off-peak capacity. The proposed pipeline will be constructed in existing roadways for approximately 22,600 feet (4.2 miles) from the northwest corner of Lexington Avenue and Third Street in the City of El Cajon, to Fury Lane in Rancho San Diego. The proposed pipeline would then continue for approximately 4,300 feet (0.8 miles) as it passes through both disturbed and vegetated areas along the southern boundary of Cuyamaca Community College before terminating at OWD’s Regulatory Site, where it would connect to the reservoirs. Maintenance activities in subsequent years will be limited to annual visual inspections of the valves and blow-offs located along the pipeline, all of which occur within or immediately adjacent to (and would be accessible via) existing developed or disturbed areas. Up to 0.95 acre (ac) of coastal California gnatcatcher habitat may be temporarily lost through implementation of the HCP over 5 years.

OWD proposes to mitigate the effects to the gnatcatcher by fully implementing the HCP. The HCP emphasizes protection of habitat through impact avoidance and use of operational protocols designed to avoid or minimize impacts to the gnatcatcher. OWD will supplement these operational protocols, or avoidance and minimization measures, with onsite habitat restoration, by re-seeding the 0.95-ac impact site with a Diegan coastal sage scrub (DCSS) mixture approved by the Service. Additionally, OWD will permanently conserve and manage high-quality gnatcatcher habitat by deducting credits from the San Miguel Habitat Management Area (HMA).

The Proposed Action consists of the issuance of an incidental take permit and implementation of the proposed HCP. Three alternatives to the proposed action are considered in the HCP. Under the no-project alternative, a permit would not be issued, and OWD would avoid take of the coastal California gnatcatcher. However, this alternative would not allow for the necessary transfer of water from the Otay 14 Flow Control Facility to OWD’s 640–1 and 640–2 reservoirs. In addition, the no-project alternative would not be in compliance with the agreement between the San Diego County Water Authority and OWD for design, construction, operation, and maintenance of modifications to the Otay 14 Flow Control Facility, executed on January 24, 2007, which requires the construction of the 36-inch pipeline to transfer the necessary amount of water; OWD’s existing 24-inch line is not sufficient to transfer the amount of water specified in the agreement. The second alternative would be to defer the project until a larger, multi-agency multiple species habitat conservation plan could be developed. This alternative was rejected because delays in the construction of the 36-inch pipeline would not allow OWD to meet the aforementioned contractual water transfer requirements. The third alternative entails a different route for the southern portion of the alignment that would continue on Campo Road to the entrance of OWD’s Regulatory Site and then head north along the Regulatory Site driveway, concluding at the reservoirs. This alternative would result in impacts to approximately 0.75 ac of coastal sage scrub located along the existing driveway to the Regulatory Site. This alternative was rejected because of excessively higher costs, negative traffic impacts, and negative effects to OWD operations at the Regulatory Site. Additionally, this alternative would not significantly reduce impacts to gnatcatcher-occupied coastal sage scrub from those associated with the proposed project (i.e., 0.75 ac versus 0.95 ac). The proposed project would be more cost-effective, efficient, and timely.

We have made a preliminary determination that approval of the proposed HCP 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 (516 DM 2, Appendix 1) and as a “low-effect” plan

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.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice pursuant to section 10(c) of the Act.

Next Steps

We will evaluate the permit application, the proposed HCP, 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 OWD for the incidental take of the coastal California gnatcatcher associated with the construction, operation, and maintenance of the Jamacha Road 36-inch Pipeline (CIP P2009) in San Diego County, California.


Jim A. Bartel,
Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.

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INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–683]

In the Matter of Certain MLC Flash Memory Devices and Products Containing Same; Notice of Investigation


ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 27, 2009, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of BTG International