



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2019–0104; FXES11140800000–201]

**Endangered and Threatened Species; Receipt of an Incidental Take Permit
Application and Low-Effect Habitat Conservation Plan for the Coastal California
Gnatcatcher; Sunrise Project, City of San Marcos, San Diego County, California**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application for an incidental permit to take the federally listed coastal California gnatcatcher, a bird species, under the Endangered Species Act. The permit application includes a proposed low-effect habitat conservation plan (HCP). In accordance with the requirements of the National Environmental Policy Act (NEPA), we have prepared a draft low-effect screening form and environmental action statement supporting our preliminary determination that the proposed action qualifies as a categorical exclusion under NEPA.

We are accepting comments on the permit application, proposed low-effect HCP, and draft NEPA compliance documentation.

DATES: To ensure consideration, please send your written comments on or before

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Obtaining Documents: The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS–R8–ES–2019–0104 at <http://www.regulations.gov>

Submitting Comments: You may submit comments by one of the following methods:

- *Online:* <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS–R8–ES–2019–0104.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2019–0104; U.S. Fish and Wildlife Service, 2177 Salk Ave, Carlsbad, CA 92008.

We request that you send comments by only one of the methods described above.

FOR FURTHER INFORMATION CONTACT: Mr. David Zoutendyk, Division Chief, Carlsbad Fish and Wildlife Office, 760–431–9440. If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service (FRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), received an application from Sunrise Gardens Project Owner LLC (applicant) for an incidental take permit under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permit would authorize take of the federally threatened coastal California gnatcatcher (*Polioptila californica californica*), incidental to grading, subdividing, and developing approximately 192 multi-family dwelling units, and open space, active recreational areas, bio-retention areas, circulation improvements, and a public services and facilities plan on approximately 15.51 acres in San Diego County, California.

The proposed project will impact an estimated 6.52 acres of coastal sage scrub habitat occupied by up to one pair of gnatcatchers. Although not likely to support breeding of the species, 5.90 acres of non-native wild oat grassland and 2.94 acres of disturbed habitat will also be permanently impacted and may support gnatcatcher feeding and sheltering.

We are requesting comments on the permit application and on our preliminary determination that the proposed HCP qualifies as a low-effect HCP, eligible for a categorical exclusion under the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*). The basis for this determination is discussed in our draft low-effect screening form and environmental action statement, which is also available for public review.

Project

The project is located on a 15.51-acre site in the City of San Marcos (Assessor's

Parcel Number [APN] 228–312–9–00, approximately 3.6 acres), County of San Diego (APN 228312–0–00, approximately 10.8 acres), and City of Escondido (APN 228–312–04, approximately 1.07 acres) in San Diego County, California; however, the entire project site is within the General Plan Sphere of Influence for the City of San Marcos. The applicant requests a 5-year incidental take permit for permanent impacts to 15.36 acres of occupied gnatcatcher habitat. The applicant proposes to mitigate impacts through the purchase of mitigation credits to conserve 20.03 acres of gnatcatcher-occupied coastal sage scrub habitat (17.13 acres) and southern mixed chaparral habitat (2.90 acres) off site at the Onyx Ridge property in an unincorporated portion of northern San Diego County. The off-site mitigation area provides higher quality habitat than that found on the project site and will be conserved, managed, and monitored in perpetuity. In addition, a portion of the off-site mitigation area is within designated gnatcatcher critical habitat.

The applicant’s proposed HCP also contains measures to minimize the effects of construction activities on the gnatcatcher, including the following:

- Fencing the project limits;
- Not clearing gnatcatcher habitat during the nesting season;
- Providing a staff biologist on site to ensure that gnatcatchers are not in the vegetation to be cleared; and
- Monitoring and reporting to the Service upon project completion.

Our Preliminary Determination

The Service has made a preliminary determination that the project, including grading, subdividing, construction, and the proposed mitigation, would individually and

cumulatively have a minor or negligible effect on the gnatcatcher and the environment. Therefore, we have preliminarily concluded that the incidental take permit for this project would qualify for categorical exclusion as provided by our NEPA regulations at 43 CFR 46.205, 46.210, and 46.215, and that the HCP qualifies as a low-effect plan.

A low-effect HCP is one that would result in:

- Minor or negligible effects on federally listed, proposed, and candidate species and their habitats;
- Minor or negligible effects on other environmental values or resources; and
- Impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not over time result in significant cumulative effects to environmental values or resources.

Next Steps

We will evaluate the proposed HCP and any comments received to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, we will issue the permit to the applicant for incidental take of the gnatcatcher.

Public Availability of Comments

Before including your address, phone number, email 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 may 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 under section 10(c) (16 U.S.C. 1539 *et seq.*) of the ESA and NEPA regulations at 40 CFR 1506.6.

**Jane Hendron,
Acting Field Supervisor,
Carlsbad Fish and Wildlife Office,
Carlsbad, California.**

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