



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R1–ES–2020–N047; FXES1114010000–201–FF01E00000]**

**DeChaux Habitat Conservation Plan for the Yelm Subspecies of the Mazama Pocket Gopher, Thurston County, Washington; Categorical Exclusion**

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, received an application from Duane DeChaux (applicant) for an incidental take permit (ITP) pursuant to the Endangered Species Act of 1973, as amended (ESA). The ITP would authorize the applicant’s take of the Yelm pocket gopher, incidental to otherwise lawful activities during construction of their single-family home and agricultural shop in Thurston County, Washington. The application includes a habitat conservation plan (HCP) with measures to minimize and mitigate the impacts of the taking on the covered species. We have also prepared a draft environmental action statement for our preliminary determination that the HCP and permit decision may be eligible for categorical exclusion under the National Environmental Policy Act. We provide this notice to open a public comment period and invite comments from all interested parties regarding the documents.

**DATES:** Please submit written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** To request further information or submit written comments, please use one of the following methods:

- *Internet:* You may view or download the habitat conservation plan, draft environmental action statement, and additional information on the internet at <http://www.fws.gov/wafwo/>.
- *Email:* [wfwocomments@fws.gov](mailto:wfwocomments@fws.gov). Include “DeChaux HCP” in the subject line of the message.
- *U.S. Mail:* Public Comments Processing, Attn: FWS–R1–ES–2020–N047; U.S. Fish and Wildlife Service; Washington Fish and Wildlife Office; 510 Desmond Drive SE, Suite 102; Lacey, WA 98503.
- *In-Person Drop-off, Viewing, or Pickup:* Call 360–753–5823 to make an appointment (necessary for viewing or picking up documents only) during regular business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Tim Romanski, Conservation Planning and Hydropower Branch Manager, Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service (see **ADDRESSES**), telephone: 360–753–5823. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

We, the U.S. Fish and Wildlife Service (Service), received an application for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531). The ITP would authorize the applicant’s “take” of the Yelm pocket gopher (*Thomomys mazama yelmensis*) incidental to otherwise lawful activities during construction of their single-family home and agricultural shop in Thurston County, Washington. The application includes a habitat

conservation plan (HCP) with measures to minimize and mitigate the impacts of the taking on the covered species. We have also prepared a draft environmental action statement (EAS) for our preliminary determination that the HCP and permit decision may be eligible for categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We provide this notice to open a public comment period and invite comments from all interested parties regarding the documents.

### **Background**

Section 9 of the ESA prohibits “take” of fish and wildlife species listed as endangered or threatened. Under the ESA, the term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). The term “harm,” as defined in our regulations, includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term “harass” is defined in our regulations as to carry out intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3).

Section 10(a)(1)(B) of the ESA contains provisions that authorize the Service to issue permits to non-Federal entities for the take of endangered and threatened species caused by otherwise lawful activities, provided the following criteria are met: (1) The taking will be incidental; (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking; (3) the applicant will ensure that adequate funding for the plan will be provided; (4) the taking will not appreciably reduce

the likelihood of the survival and recovery of the species in the wild; and (5) the applicant will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the plan. Regulations governing permits for endangered and threatened species are found in 50 CFR 17.22 and 17.32, respectively.

### **Proposed Action**

The applicant proposes to construct a single-family residence, including a home, driveway, landscaping areas, underground utilities, and an agricultural building on 5 acres in Thurston County, Washington. All construction and landscaping activity will be confined to an area encompassing 1.28 acres. The applicant will continue to implement agricultural activities as conditioned by commitments in the HCP on the remaining acreage.

The property is currently occupied by the Yelm pocket gopher. The applicant proposes to offset adverse effects to the species by executing a conservation easement with Thurston County for a 2.58-acre conservation site within the 5-acre property. The conservation site will be managed for successful Yelm pocket gopher feeding, breeding, and sheltering. The Service proposes to issue the requested 10-year ITP based on the applicant's commitment to implement the HCP, if permit issuance criteria are met.

### **Public Comments**

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. We specifically request information, views, and suggestions from interested parties regarding our proposed Federal action, including adequacy of the HCP pursuant to the requirements for permits at 50 CFR parts 13 and 17 and adequacy of the EAS pursuant to the requirements of NEPA.

## **Public Availability of Comments**

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personally identifiable information in your comments, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive will be available for public inspection by appointment, during normal business hours, at our Washington Fish and Wildlife Office (see **ADDRESSES**).

## **Next Steps**

After public review, we will assess the comments received and finalize the EAS. We will evaluate the permit application, associated documents, and any comments received, to determine whether the permit application meets the requirements of section 10(a)(1)(B) of the ESA. We will also evaluate whether issuance of the requested section 10(a)(1)(B) permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation under section 7(a)(2) of the ESA on the proposed ITP action. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period, and will fully consider all comments received during the comment period. If we determine that all requirements are met, we will issue an ITP

under section 10(a)(1)(B) of the ESA to the applicant for the take of the covered species, incidental to otherwise lawful covered activities.

**Authority**

We provide this notice in accordance with the requirements of section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA (42 U.S.C. 4321 *et seq.*), and their implementing regulations (at 50 CFR 17.32 and 40 CFR 1506.6, respectively).

**Mary M. Abrams,**

*Deputy Regional Director,*

*U.S. Fish and Wildlife Service.*

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