



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-ES-2023-0124; FXES1114080000-234-FF08EVEN00]

Endangered and Threatened Wildlife and Plants; Three Draft Habitat Conservation Plans and Associated Draft Categorical Exclusions for Development of Single-Family Residences; Los Osos, San Luis Obispo County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received three applications for incidental take permits (ITPs) for the federally threatened Morro shoulderband snail under the Endangered Species Act of 1973, as amended. Each of three applicants submitted a permit application which, if issued, would authorize take of the Morro shoulderband snail incidental to activities associated with development of a single-family residence in Los Osos, San Luis Obispo County, California. As part of the application for an ITP, each applicant submitted a draft habitat conservation plan for their respective project. For each project, The Service prepared a draft low-effect screening form and environmental action statement in accordance with the National Environmental Policy Act to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to each applicant for their project. We invite the public and local, State, Tribal, and Federal agencies to comment on these documents.

DATES: Written comments should be received 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-2023-0124 at <https://www.regulations.gov>. ***Submitting***

Written Comments: Please send us your written comments using one of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R8-ES-2023-0124.
- *U.S. mail:* Public Comments Processing; Attn: FWS-R8-ES-2023-0124; U.S. Fish and Wildlife Service; MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Rachel Henry, Fish and Wildlife Biologist, by email at rachel_henry@fws.gov or via phone at (805) 448–7484.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received three applications for incidental take permits (ITPs) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicants have developed draft habitat conservation plans (HCPs) for the respective projects that include measures to mitigate and avoid/minimize impacts to the federally threatened Morro shoulderband snail (*Helminthoglypta walkeriana*). Each of the permits, if granted, would authorize take of the Morro shoulderband snail incidental to otherwise lawful activities associated with construction of single-family residences within the community of Los Osos in San Luis Obispo County, California. In addition, two of the HCPs anticipate impacts to the federally threatened Morro manzanita (*Arctostaphylos morroensis*). The Service prepared three draft screening forms in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) to evaluate

the potential effects to the natural and human environment resulting from issuing the ITPs and implementing the draft HCPs, in order to determine if the actions fit within the criteria for categorical exclusions under NEPA. We invite public comment on all of these documents.

Background

The Service listed the Morro manzanita as threatened on December 15, 1994 (59 FR 64613), and listed the Morro shoulderband snail as endangered on December 15, 1994 (65 FR 64613), and reclassified the Morro shoulderband snail from endangered to threatened on February 3, 2022 (87 FR 6063). Section 9 of the ESA prohibits “take” of fish and wildlife species listed as endangered (16 U.S.C. 1538), where take is defined to include the following activities: “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). The take prohibitions of section 9 are extended to species listed as threatened at the discretion of the Secretary of the Department of the Interior, and were extended to Morro shoulderband snail with exceptions. The Service published a 4(d) rule that includes exceptions to incidental take associated with native habitat enhancement and fire reduction activities (87 FR 6063).

Under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), we may issue permits to authorize take of listed fish and wildlife species that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened species are in the Code of Federal Regulations (CFR) at 50 CFR 17.22 and 17.32, respectively. Issuance of an ITP also must not jeopardize the existence of federally listed fish, wildlife, or plant species, pursuant to section 7 of the ESA and 50 CFR 402.02. The permittee would receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

Proposed Activities

Each applicant has applied for a permit for incidental take of the Morro shoulderband snail. The take would occur in association with activities associated with development of single-family residences and ancillary features on lots zoned for residential use within the community of Los Osos in San Luis Obispo County, California.

The respective HCPs include avoidance and minimization measures for the Morro shoulderband snail and mitigation for unavoidable loss of habitat that is occupied by the species. As mitigation for the loss of suitable habitat, the applicants propose mitigation that will support the recovery goals of the species such as restoration and protection of habitat.

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 can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32) and National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

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