



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R8-ES-2024-0001; FXES11140800000-234-FF08EVEN00]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Morro Shoulderband Snail, San Luis Obispo County, CA; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Ken Carlson (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed Morro shoulderband snail (*Helminthoglypta walkeriana*) incidental to construction of a single-family residence at 2045 Pine Avenue, San Luis Obispo County, California. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations, the Department of the Interior's (DOI) NEPA regulations, and the DOI Departmental Manual. To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review. We invite comment from the public and local, State, Tribal, and Federal agencies.

DATES: We must receive 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-2024-0001 at <https://www.regulations.gov>.

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

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R8-ES-2024-0001.
- *U.S. mail:* Public Comments Processing; Attn: FWS-R8-ES-2024-0001; U.S. Fish and Wildlife Service; MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Joseph Brandt, Fish and Wildlife Biologist, by email at fw8venturaitp@fws.gov, via phone at 805-644-1766, or by U.S. mail at 2493 Portola Road, Suite B, Ventura, CA 93003. 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 Fish and Wildlife Service (Service), announce receipt of an application from Ken Carlson (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed Morro shoulderband snail (*Helminthoglypta walkeriana*) incidental to construction of a single-family residence at 2045 Pine Avenue, San Luis Obispo County, California. We request public comment on the application, which includes the applicant’s proposed habitat conservation plan (HCP), and on the Service’s preliminary determination that this proposed ITP qualifies as “low effect,” and may qualify for a categorical exclusion pursuant to the Council on Environmental Quality’s National Environmental Policy Act

(NEPA) regulations (40 CFR 1501.4), the Department of the Interior's (DOI) NEPA regulations (43 CFR 46), and the DOI's Departmental Manual (516 DM 8.5(C)(2)). To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review.

Background

On December 15, 1994 (59 FR 64613), the Service listed the *Arctostaphylos morroensis* (Morro manzanita) as threatened and the Morro shoulderband snail as endangered. The Service subsequently 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, which includes exceptions to incidental take associated with native habitat enhancement and fire reduction activities (February 3, 2022, 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. The permittee would receive assurances under our "No Surprises" regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

Applicant's Proposed Activities

The applicant has applied for a permit for incidental take of the Morro shoulderband snail. The take would occur in association with activities necessary for the construction of a single-family home, installation of a driveway, and installation of a septic system and utilities on 0.41 acres of low-quality Morro shoulderband snail habitat. A Fire Hazard Reduction Plan has been approved by the Service for the parcel. As a result, fire hazard reduction activities on the remaining 1.59 acres will be exempt from section 9 take prohibitions under the 4d Rule exemption.

The HCP includes avoidance and minimization measures for the Morro shoulderband snail, and mitigation for unavoidable loss of occupied habitat. The applicant will commensurately offset impacts through a Service-approved mechanism such as an in-lieu program, conservation bank, or species account, which would go toward accomplishing the recovery goals for 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.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's proposed project would individually and cumulatively have a minor effect on the Morro shoulderband snail and the human environment. Therefore, we have preliminarily determined that the proposed ESA section 10(a)(1)(B) permit would be a "low-effect" ITP that individually or cumulatively would have a minor effect on the species and may

qualify for application of a categorical exclusion pursuant to the Council on Environmental Quality's NEPA regulations, DOI's NEPA regulations, and the DOI Departmental Manual. A "low-effect" ITP is one that would result in (1) minor or nonsignificant effects on species covered in the HCP; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonable foreseeable actions, would not result in significant cumulative effects to the human environment.

Next Steps

The Service will evaluate the application and the comments received to determine whether to issue the requested ITP. 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 preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue an ITP to the applicant.

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 the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500-1508 and 43 CFR 46).

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Ventura, California.

