

NOAA Fisheries prepare an EIS to address Caspian tern management in the Columbia River estuary and juvenile salmonid predation.

In the April 7, 2003 **Federal Register** (68 FR 16826), the Service published a Notice of Intent (NOI) to prepare an EIS for the proposed project. The NOI informed the public of the proposed scope of the EIS, solicited public participation in the scoping process, and announced public scoping meetings that were held in Washington, Oregon, and California in April and May 2003. The public scoping period closed on May 22, 2003. Comments received during the public scoping process were used in preparing the Draft EIS.

Purpose of and Need for Action

The purpose of the proposed action is to comply with the 2002 Settlement Agreement by identifying a management plan for Caspian terns in the Columbia River estuary that reduces resource management conflicts with ESA-listed salmonids while ensuring the conservation of Caspian terns in the Pacific Coast/Western region.

Alternatives Considered

The four alternatives considered in the Draft EIS are briefly described below, followed by features common to all alternatives.

Alternative A, the "No Action" alternative, assumes no change from the current management program on East Sand Island and is the baseline from which to compare the other alternatives. Under this alternative, six acres of nesting habitat would be prepared annually for Caspian terns on East Sand Island.

Alternative B would provide no management actions on East Sand Island. No habitat would be prepared for Caspian terns, most likely resulting in the elimination of tern nesting habitat on East Sand Island within 3 years.

Alternative C (Preferred Alternative) would reduce tern predation on juvenile salmonids in the Columbia River estuary by redistributing the tern colony on East Sand Island throughout the Pacific Coast/Western region. This would be achieved by reducing the tern nesting site on East Sand Island to approximately 1 to 1.5 acres and managing sites in Washington, Oregon, and California specifically for displaced Caspian terns. Potential management sites considered in this alternative include Dungeness National Wildlife Refuge, Washington; Summer, Crump, and Fern Ridge lakes, Oregon; and San Francisco Bay (three sites), California.

Alternative D would also reduce tern predation on juvenile salmonids by

redistributing the tern colony on East Sand Island as proposed in Alternative C, with the only difference being implementation of a lethal control program if the redistribution efforts described in Alternative C are not successful in reducing the number of nesting terns on East Sand Island.

Action Common to All Alternatives

The following components are proposed to be implemented under all alternatives (A through D): (1) The Corps would continue efforts, such as hazing, to prevent Caspian tern nesting on upper estuary islands (*e.g.*, Rice Island, Miller Sands Spit, Pillar Rock Island) of the Columbia River estuary to prevent high tern predation rates of juvenile salmonids and comply with the 1999 Corps Columbia River Channel Operation and Maintenance Program Biological Opinion; (2) the Service would issue an egg take permit to the Corps for upper estuary islands (not including East Sand Island) if the efforts to prevent tern nesting at these sites fail; and (3) the Corps would resume dredged material (*e.g.*, sand) disposal on the downstream end of Rice Island, on the former Caspian tern nesting site.

Public Comments

Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above address. All comments received from individuals on Environmental Impact Statements become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act, the Council on Environmental Quality's NEPA regulations [40 CFR 1506.6(f)], and other Service and Departmental policies and procedures. When requested, the Service generally provides comment letters with the names and addresses of the individuals who wrote the comments. However, if the commenter requests that his or her telephone number be withheld, we will honor such requests to the extent permissible by law. Additionally, public comment letters are not required to contain the commentator's name, address, or other identifying information. Such comments may be submitted anonymously to the Service.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR 1500-1508), other appropriate Federal laws and regulations, and Service policies and

procedures for compliance with those regulations.

Dated: June 23, 2004.

William F. Shake,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Ranch View Terrace Project, University of California, Santa Cruz County, CA

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Regents of the University of California at Santa Cruz (UCSC) have applied to the U.S. Fish and Wildlife Service (Service or "we") for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). We are considering issuing a 60-year permit to the applicant that would authorize take for the federally listed Ohlone tiger beetle (*Cicendela ohlone*) and the California red-legged frog (*Rana aurora draytonii*) incidental to otherwise lawful activities associated with the proposed Ranch View Terrace faculty housing development and Emergency Response Center. The proposed take would occur within the southwestern portion of the UCSC campus through the construction and occupation/operation of the proposed Ranch View Terrace faculty housing development, a portion of the proposed Emergency Response Center, and implementation of the habitat conservation plan (HCP).

We request comments from the public on the permit application and an Environmental Assessment, both of which are available for review. The permit application includes the proposed HCP and an accompanying Implementing Agreement. The HCP describes the proposed action and the measures that the applicant will undertake to minimize and mitigate take of the red-legged frog and the tiger beetle. To review the permit application or Environmental Assessment, see "Availability of Documents" in the **SUPPLEMENTARY INFORMATION** section. **DATES:** Written comments should be received on or before September 21, 2004.

ADDRESSES: Please address written comments to Diane Noda, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003. You may also send comments by facsimile to (805) 644-3958.

FOR FURTHER INFORMATION CONTACT: Jen Lechuga, HCP Coordinator, (*see ADDRESSES*) telephone: (805) 644-1766.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of the draft documents by contacting the Assistant Field Supervisor (*see ADDRESSES*). Copies of the draft documents are also available for public inspection and review at the following locations: (1) U.S. Fish and Wildlife Service, Ventura Field Office, 2493 Portola Road, Suite B, Ventura, California 93003; (2) City of Santa Cruz Public Library, 224 Church Street, Santa Cruz, California 95060; (3) UCSC McHenry Library, 1156 High Street, Santa Cruz, California 95064; and (4) Ventura Fish and Wildlife Office Internet site: <http://ventura.fws.gov>.

Background

Section 9 of the Act and Federal regulations prohibit the "take" of fish and wildlife species listed as endangered or threatened. Take of federally listed fish and wildlife is defined under the Act as including 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. 1538). 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 are found at 50 CFR 17.32 and 17.22.

In 1989, a long-range development plan (LRDP) was prepared for the UCSC, to provide a plan for anticipated campus growth through the year 2005. The Ranch View Terrace project is consistent with the LRDP and is necessary because the current supply of affordable on-campus housing for faculty is inadequate to meet current and future demands. The proposed Ranch View Terrace development and Emergency Response Center would partially implement the LRDP's program for campus growth to an enrollment of 15,000 students by 2005 by providing additional faculty housing and emergency response services to support

the campus population. The tiger beetle and red-legged frog may be affected by the construction, occupation and operation of the Ranch View Terrace development and a portion of the Emergency Response Center, and the long-term monitoring and management of mitigation lands under the HCP.

The activities that would be covered by the proposed permit include the construction, occupation, and operation of a 13-acre faculty housing development and a 0.2-acre equipment storage site and building to support the Emergency Response Center. In addition, the long-term monitoring and management of mitigation lands under the HCP, developed to fulfill the requirements of the section 10(a)(1)(B) permit, would be covered by the proposed permit.

Our Environmental Assessment considers the environmental consequences of four alternatives, including: (1) The No Action Alternative, which consists of no development and no permit issuance; (2) the Proposed Action Alternative which consists of development of Ranch View Terrace and the Emergency Response Center with the issuance of the ITP and implementation of the HCP and Implementing Agreement; (3) the Off-Campus Housing Alternative, which consists of relocation of the project to an off-campus location known as the Swenson Site; and (4) the Reduced Project on Inclusion Area D Site which would cover a reduced area for the Ranch View Terrace development. Under the third alternative, the 11-acre site is located on Shaffer Road, adjacent to the UCSC Long Marine Laboratory; this alternative would require the development of a separate HCP and issuance of a separate ITP by the Service due to the presence of suitable red-legged frog and tiger beetle habitat. Under the fourth alternative, the housing development would still be located on Inclusion Area D, but would be located on the northwest area of the site and encompass approximately half the number of housing units, reduced landscaping, and fewer community-related amenities; the 0.2-acre equipment storage facility for the Emergency Response Center would still be constructed.

This notice is provided pursuant to section 10(a) of the Act and the regulations of the National Environmental Policy Act (NEPA) of 1969 (40 CFR 1506.6). Pursuant to an order issued on June 10, 2004, by the District Court for the District of Columbia in *Spirit of the Sage Council v. Norton* Civil Action No. 98-1873 (D. D.C.), the Service is enjoined from

issuing new section 10(a)(1)(B) permits or related documents containing "No Surprises" assurances, as defined by the Service's "No Surprises" rule published at 63 FR 8859 (February 23, 1998), until such time as the Service adopts new permit revocation rules specifically applicable to section 10(a)(1)(B) permits in compliance with the public notice and comment requirements of the Administrative Procedures Act. This notice concerns a step in the review and processing of a section 10(a)(1)(B) permit and any subsequent permit issuance will be in accordance with the Court's order. Until such time as the June 10, 2004, order has been rescinded or the Service's authority to issue permits with "No Surprises" assurances has been otherwise reinstated, the Service will not approve any incidental take permits or related documents that contain "No Surprises" assurances.

All comments that we receive, including names and addresses, will become part of the official administrative record and may be made available to the public. We will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If we determine that those requirements are met, we will issue a permit to the applicant for the incidental take of red-legged frog and tiger beetle. We will make our final permit decision no sooner than 60 days from the date of this notice.

Dated: July 19, 2004.

Paul Henson,

Acting Deputy Manager, California/Nevada Operations Office, Sacramento, California.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of Restoration Compensation Determination Plan/ Environmental Assessment for the Grand Calumet River, Indiana Harbor Ship Canal, Indiana Harbor and Associated Lake Michigan Environments

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 60-day comment period.

SUMMARY: Notice is given that the document entitled: "Restoration and Compensation Determination Plan/ Environmental Assessment Grand