

Dated: July 15, 2005.

**Jacquelyn Parrish,**

*Acting Regional Director.*

[FR Doc. 05-14372 Filed 7-20-05; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Hillcrest Travel Plaza in Fresno County, CA

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

**ACTION:** Notice of availability and receipt of application.

**SUMMARY:** The Hillcrest Travel Plaza (applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Service is considering the issuance of a 10-year permit to the applicant that would authorize take of the endangered San Joaquin kit fox (*Vulpes macrotis mutica*) incidental to otherwise lawful activities. Such take would occur during the construction and operation of the applicant's proposed travel plaza in Fresno County, California. Construction of the proposed travel plaza would result in the loss of up to 9.27 acres of foraging and migration habitat for the San Joaquin kit fox.

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 Habitat Conservation Plan (Plan) and an accompanying Implementing Agreement. The Plan describes the proposed project and the measures that the applicant would undertake to minimize and mitigate take of the San Joaquin kit fox.

**DATES:** We must receive your written comments on or before September 19, 2005.

**ADDRESSES:** Please address written comments to Lori Rinek, Chief, Conservation Planning and Recovery Division, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, California 95825. You also may send comments by facsimile to (916) 414-6713.

**FOR FURTHER INFORMATION CONTACT:** Jesse Wild, Fish and Wildlife Biologist, or Lori Rinek, Chief, Conservation Planning and Recovery Division,

Sacramento Fish and Wildlife Office, at (916) 414-6600.

#### SUPPLEMENTARY INFORMATION:

##### Availability of Documents

You may obtain copies of these documents for review by contacting the individuals named above [see **FOR FURTHER INFORMATION CONTACT.**] Documents also will be available for public inspection, by appointment, during normal business hours at the Sacramento Fish and Wildlife Office [see **ADDRESSES.**]

##### Background

Section 9 of the Act and Federal regulations prohibit the take of fish and wildlife species listed as endangered or threatened (16 U.S.C. 1538). Take of federally listed fish and wildlife is defined under the Act to include the following activities: 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 Service may, under limited circumstances, issue permits to authorize incidental take (*i.e.*, take that is incidental to, and not for the purpose of, the carrying out of an otherwise lawful activity). Regulations governing incidental take permits for endangered species are found in 50 CFR 17.22.

The applicant proposes to construct and operate a travel plaza and freeway rest stop on a portion of a 38-acre parcel on the southwest side of the intersection of State Route 269 and Interstate 5 near the town of Avenal in Fresno County, California. The construction of the proposed plaza would result in the loss of 9.27 acres of suitable foraging and migration habitat for the San Joaquin kit fox.

Although no San Joaquin kit foxes were observed, or evidence found of their denning, at the time of biological surveys, they may range through and periodically use the site for foraging and/or denning. The construction and operation of the facilities is unlikely to result in direct mortality or injury of San Joaquin kit foxes, but may result in take in the form of harassment.

The applicant proposes to implement specific on-site measures to avoid and minimize take and associated adverse project impacts to San Joaquin kit fox. The applicant also proposes to mitigate for take by purchasing 9.27 acres of compensation credits at the Wildlands, Inc., Kreyenhagen Hills Conservation Bank, in Fresno County. These lands are occupied by the San Joaquin kit fox. The compensation includes funds supporting a management endowment to ensure the permanent management and monitoring of sensitive species and

habitats within the area protected by the Conservation Bank.

The Service's Environmental Assessment considers the environmental consequences of three alternatives. The Proposed Project Alternative (described above) consists of the issuance of the incidental take permit and implementation of the Plan and Implementing Agreement for the applicant's proposed project. The No Action Alternative consists of no permit issuance and no construction of the travel plaza at this time. Compared to the proposed project, the No Action Alternative would result in no take in an important migration corridor area, but less long-term conservation for the San Joaquin kit fox within Fresno County, and the applicant would not be able to develop the property. Under the 38-Acre Development Alternative, the entire project site would be developed with permanent structures, parking and access areas, and appurtenances. The project would result in the loss of 38 acres of San Joaquin kit fox foraging and migration habitat, and the applicant would purchase 38 acres of off-site preservation habitat in a conservation bank. Compared to the proposed project, the 38-Acre Development Alternative would result in greater loss of habitat in an important migration corridor area, but more long-term conservation for the San Joaquin kit fox. This alternative would be more costly to the applicant than the proposed project.

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). 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 the San Joaquin kit fox. We will make our final permit decision no sooner than 60 days from the date of this notice.

Dated: July 15, 2005.

**Ken McDermond,**

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

[FR Doc. 05-14373 Filed 7-20-05; 8:45 am]

BILLING CODE 4310-55-P