

seasonally. Such complexes may predominantly occur as isolated wetlands distributed in a forested upland matrix, floodplain wetlands fed by seasonal flooding, or a combination of both. Fishless wetlands, suitable for high anuran (frog and toad) productivity, are required to provide habitat and a suitable prey base.

The principal limiting factor for copperbellies appears to be sufficient extent of suitable habitat. Individuals move hundreds of meters or more between wetlands and routinely use multiple wetlands over the course of an active season. They also spend substantial periods of time in upland habitat aestivating, foraging, and shedding. Populations may require many hundreds of hectares of contiguous habitat in order to persist.

#### Delisting Criteria

The objective of the recovery plan is to provide a framework for the recovery of the Copperbelly Water Snake so that protection by the Act is no longer necessary. Copperbelly Water Snake will be considered for delisting when the likelihood of the species becoming extinct in the foreseeable future has been reduced or eliminated by the achievement of the following criteria. The population sizes and metapopulation numbers and sizes needed for delisting and reclassification may be updated based on further research (e.g., population viability analysis) on viable population sizes of Copperbelly Water Snake or surrogate species.

(1) Multiple population viability is assured through the following:

(a) At least 1 population of Copperbelly Water Snake must exceed a population size of 1000 adults;

(b) Either 5 geographically distinct populations have population sizes of more than 500 individuals or 3 metapopulations must have a total population size of 3000, with none less than 500; and

(c) Populations described in (a) and (b) above must persist at these levels for at least 10 years.

(2) Sufficient habitat is conserved and managed such that for each population described in Criterion 1:

(a) Wetland/upland habitat complexes sufficient to support each population are permanently conserved, and

(b) Two suitable hibernation sites are permanently conserved within one kilometer of all suitable summer habitat.

(3) Significant threats due to lack of suitable management, adverse land features and uses, collection, and persecution have been reduced or

eliminated through the following means:

(a) Habitat management and protection guidelines will be developed, distributed, and maintained;

(b) Adverse land features and uses such as row crops and roads and accompanying traffic are removed, minimized, or managed within occupied Criterion-1 landscape complexes to the extent possible; and

(c) A comprehensive education and outreach program that addresses persecution and collection deterrence will be developed and implemented.

These criteria will be met through the following actions: (1) Identify and protect habitat landscape sufficient for recovery; (2) Monitor known Copperbelly Water Snake populations and their habitat; (3) Improve baseline understanding of Copperbelly Water Snake ecology; (4) Develop recovery approaches to enhance recruitment and population size; (5) Develop and implement public education and outreach efforts; (6) Review and track recovery progress; and (7) Develop a plan to monitor Copperbelly Water Snake after it is delisted.

#### Reclassification Criteria

Copperbelly Water Snake will be considered for reclassification from Threatened to Endangered if surveys indicate either of the following criteria have occurred:

(1) There are no metapopulations of more than 500 adults.

(2) The cumulative population size is less than 1000.

If classified as Endangered, the species may be reclassified as Threatened when the reclassification criteria are no longer occurring. Additional detail on delisting and reclassification criteria is available in the draft recovery plan.

#### Public Comments Solicited

The Service solicits written comments on the draft recovery plan. All comments received by the date specified will be considered prior to approval of the plan. Written comments and materials regarding the plan should be addressed to the Field Supervisor (see **ADDRESSES**). Comments and materials received will be available for public inspection by appointment during normal business hours at the above address.

**Authority:** The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 25, 2007.

**Wendi Weber,**

*Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.*  
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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Proposed Low Effect Habitat Conservation Plan for the Bellota Landslide Repair and Shorecliffs Mobile Home Neighborhood Expansion, City of San Clemente, County of Orange, CA

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

**ACTION:** Notice of availability.

**SUMMARY:** Seaview Repair LLC (applicant) has applied to the U.S. Fish and Wildlife Service (Service) for a 10-year incidental take permit for one covered species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for "take" of the threatened coastal California gnatcatcher (*Poliioptila californica californica*, "gnatcatcher") associated with the proposed landslide remediation project in the City of San Clemente, Orange County, California. A conservation program to minimize and mitigate for the project activities would be implemented as described in the proposed Bellota Landslide Repair and Shorecliffs Mobile Home Neighborhood Expansion Low Effect Habitat Conservation Plan (proposed HCP), which would be implemented by the applicant.

We are requesting comments on the permit application and on the preliminary determination that the proposed HCP qualifies as a "Low-effect" Habitat Conservation Plan, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. The basis for this determination is discussed in the Environmental Action Statement (EAS) and the associated Low Effect Screening Form, which are also available for public review.

**DATES:** Written comments should be received on or before October 9, 2007.

**ADDRESSES:** Comments should be addressed to the Field Supervisor, Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California 92011. Written comments may be sent by facsimile to (760) 918-0638.

**FOR FURTHER INFORMATION CONTACT:** Ms. Karen Goebel, Assistant Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES**); telephone: (760) 431-9440.

**SUPPLEMENTARY INFORMATION:**

**Availability of Documents**

Individuals wishing copies of the application, proposed HCP, and EAS should immediately contact the Service by telephone at (760) 431-9440 or by letter to the Carlsbad Fish and Wildlife Office. Copies of the proposed HCP and EAS also are available for public inspection during regular business hours at the Carlsbad Fish and Wildlife Office [see **ADDRESSES**].

**Background**

Section 9 of the Act and its implementing Federal regulations prohibit the take of animal species listed as endangered or threatened. Take is defined under the Act as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). However, under section 10(a) of the Act, the Service 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, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

The applicant is seeking a permit for take of the coastal California gnatcatcher during the life of the permit.

The applicant proposes to repair a landslide within a 16.33-acre project site that occurred on a slope adjacent to Via Bellota in the City of San Clemente, California. The proposed landslide remediation would involve remedial grading and construction of a landslide buttress at the westerly end of the canyon to stabilize the slide area. The slope would be graded and stabilized with shear pins every 10 feet. A collapsed underground stormdrain pipe that currently extends through the canyon bottom would be replaced to minimize the risk of pipe failures that could result in soil saturation and additional slope instability. An additional slope failure at the southwest end of the proposed landslide repair would be graded, excavated, filled, compacted and have hydroaugers (horizontal drains) installed which would outlet to the stormdrain being constructed for the landslide repair. Construction of a guniting terrace and

down drains, which would outlet at the bottom of the slope, would occur on the surface of the finished slope. The repair of this slope failure would be concurrent with the stabilization of the landslide. Additionally, the proposed project would include the construction and sale of 20 graded lots within the Shorecliffs Mobile Home Park.

The applicant proposes to minimize and mitigate the effects to the gnatcatcher associated with the covered activities by fully implementing the HCP. The purpose of the proposed HCP's conservation program is to promote the biological conservation of the gnatcatcher. The HCP includes measures to minimize impacts to gnatcatcher by scheduling vegetation removal outside of the breeding season (February 15 to August 15). The project may result in take of one (1) pair of gnatcatchers and will permanently impact 5.36 acres of coastal sage scrub (CSS) and temporarily impact 6.71 acres of CSS. The applicant proposes to mitigate impacts to the gnatcatcher by revegetating 8.01 acres of the disturbed CSS onsite and restoring 9.42 acres of CSS offsite.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the proposed HCP, which includes measures to minimize and mitigate impacts of the project on the gnatcatcher. Three alternatives to the taking of the listed species under the Proposed Action are considered in the proposed HCP. Under the No Action Alternative, no permit would be issued, and no construction or conservation would occur. This alternative would not comply with the settlement agreement to repair the landslide. The Offsite Alternative is not feasible because the proposed project involves an existing landslide which occurs within the proposed project site. A Reduce Project Alternative is also not feasible because the proposed project represents the minimum grading and construction footprint necessary to reconstruct the slope and permanently stabilize the slide.

The Service has made a preliminary determination that approval of the proposed HCP qualifies as a categorical exclusion under NEPA, as provided by the Department of the Interior Manual (516 DM8) and as a "low-effect" plan as defined by the Habitat Conservation Planning Handbook (November 1996). Determination of Low-effect Habitat Conservation Plans is based on the following three criteria: (1) Implementation of the proposed HCP would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2)

Implementation of the proposed HCP would result in minor or negligible effects on other environmental values or resources; and (3) Impacts of the proposed HCP, considered together with the impacts of other past, present and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources which would be considered significant.

Based upon this preliminary determination, we do not intend to prepare further NEPA documentation. We will consider public comments in making the final determination on whether to prepare such additional documentation.

Before including your address, phone number, e-mail 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 review, we cannot guarantee that we will be able to do so.

This notice is provided pursuant to section 10(c) of the Act. We will evaluate the permit application, the proposed HCP, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If the requirements are met, we will issue a permit to Seaview Repair LLC for the incidental take of the coastal California gnatcatcher from landslide remediation in the City of San Clemente, Orange County, California.

Dated: August 30, 2007.

**Jim A. Bartel,**

*Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**Restoration of Habitat for Utah Prairie Dogs on Private Land in Utah**

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

**ACTION:** Notice of availability: Safe harbor agreement and receipt of application for an enhancement of survival permit.

**SUMMARY:** The Panoramaland Resources Conservation and Development Council (applicant) has applied to the Fish and Wildlife Service (Service, us) for an