



This document is scheduled to be published in the Federal Register on 03/17/2014 and available online at <http://federalregister.gov/a/2014-05763>, and on FDsys.gov

Billing Code 4310–55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N027; FXES11120000–134–FF08ECAR00]

Endangered and Threatened Wildlife and Plants; Incidental Take Permit Application; Proposed Low-Effect Habitat Conservation Plan for the Sweetwater Riding and Hiking Trail, County of San Diego, California

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 an application from Sweetwater Authority (applicant) for a 5-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 endangered San Diego fairy shrimp associated with the proposed use of an established hiking, biking, and equestrian trail near the Sweetwater Reservoir in unincorporated San Diego County, California. A conservation program to avoid, minimize, and mitigate for

the project activities would be implemented as described in the proposed Sweetwater Riding and Hiking Trail 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 **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments should be addressed to the Field Supervisor, Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008. Written comments may also be sent by facsimile to 760-431-9624.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Goebel, Assistant Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES**); telephone: 760-431-9440. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing for copies of the application, proposed HCP, and EAS should contact the Service immediately, 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 to 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.

In December 2013, the applicant closed a segment of a San Diego County regional recreational trail system due to the discovery of the San Diego fairy shrimp (*Branchinecta sandiegonensis*) within ponded areas that had formed within the existing trail alignment. The applicant is seeking a 5-year permit for the take of San Diego fairy shrimp in the interim period of time while the applicant works to find a long-term

solution to maintaining a trail connection. The applicant proposes to re-open the existing hiking, biking, and equestrian trail segment where there are currently four seasonally ponded pools covering a total of 291 square feet that are considered occupied by San Diego fairy shrimp. Re-opening the trail to recreational uses may impact San Diego fairy shrimp occurring in these pools. The applicant proposes to install temporary bridges and fencing to minimize impacts to the occupied pools and re-open the trail segment.

The trail segment provides an important connection within a popular regional trail system, and continued closure of the trail will likely result in creation of unsanctioned alternate trails with unpredictable impacts to natural resources. We anticipate minor impacts to San Diego fairy shrimp within up to 145 square feet of the pools due to the effects of shading from the bridges and possible loss of individual San Diego fairy shrimp cysts due to trail maintenance. Although the project site is surrounded by occupied habitat for several federally threatened and endangered species, there are no other listed species specifically within the project alignment. Critical habitat for Otay tarplant (*Deinandra conjugens*) and spreading navarretia (*Navarretia fossalis*) occurs on the project site.

Proposed Action and Alternatives

The Sweetwater Authority proposes to mitigate impacts to the San Diego fairy shrimp through efforts that have resulted in the restoration of 290 square feet of vernal pool habitat occupied by San Diego fairy shrimp and are permanently protected and managed.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the proposed HCP, which includes measures to avoid, minimize, and mitigate impacts to the San Diego fairy shrimp. Four alternatives to the taking of the listed species under the Proposed Action are considered in the proposed HCP. Under the Permanent Trail Closure (No Action) Alternative, no authorized incidental take of San Diego fairy shrimp would occur; however, it is likely that unsanctioned alternate trail use would occur that would result in more impacts than under the Proposed Action, and recreational opportunities would be substantially reduced. Under the Minor Trail Deviation Alternative, immediate impacts to San Diego fairy shrimp would be avoided by moving the trail away from existing pools, but trail use would likely result in new depressions that could eventually be colonized by San Diego fairy shrimp and subsequently be impacted. Under the Different Location Alternative, the trail would be routed elsewhere to prevent additional impacts; however, planning and permitting this alternative will take up to 5 years, during which time recreational opportunities would be substantially reduced and alternative unsanctioned trail use would likely occur. Under the Reconstruction of the Existing Trail Segment Alternative, existing pools within the trail segment would be recontoured and/or filled to prevent San Diego fairy shrimp from developing within the pools, thereby reducing ongoing incidental take. However, this alternative would result in greater impacts to the species and require additional regulatory permitting.

Our Preliminary Determination

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 DM 2 Appendix 1 and 516 DM 6 Appendix 1) and as a “low-effect” plan as defined by the *Habitat Conservation Planning Handbook* (November 1996).

We base our determination that a HCP qualifies as a low-effect plan on the following three criteria:

- (1) Implementation of the HCP would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats;
- (2) Implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and
- (3) Impacts of the 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 that 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.

Public Availability of Comments

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.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 et seq.) and NEPA regulations (40 CFR 1506.6).

Karen A. Goebel,
Acting Field Supervisor,
Carlsbad Fish and Wildlife Office,
Carlsbad, California.

**[FR Doc. 2014-05763 Filed 03/14/2014 at 8:45 am; Publication Date:
03/17/2014]**