



Billing Code 4310–55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N077; FXES1112080000–145–FF08EVEN00]

**Moreno Low-Effect Habitat Conservation Plan for the Morro Shoulderband Snail;
Community of Los Osos, San Luis Obispo County, California**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Cayetano Moreno (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for “take” of the federally endangered Morro shoulderband snail that may occur incidental to the construction, maintenance, and occupation of a single-family residence and guesthouse and the implementation of a conservation plan. We invite comments from the public on the application package, which includes the Moreno Low-Effect Habitat Conservation Plan for the Morro Shoulderband Snail (HCP). We have determined that

this proposed action is eligible for a categorical exclusion under the National Environmental Policy Act of 1969, as amended (NEPA).

DATES: To ensure consideration, please send your written comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may download a copy of the habitat conservation plan, draft environmental action statement and low-effect screening form, and related documents on the internet at <http://www.fws.gov/ventura/>, or you may request copies of the documents by U.S. mail or phone (see below). Please address written comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may alternatively send comments by facsimile to (805) 644-3958.

FOR FURTHER INFORMATION CONTACT: Julie M. Vanderwier, Senior Fish and Wildlife Biologist, at the above address, or by calling (805) 644-1766.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an application from Cayetano Moreno (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for “take” of the federally endangered Morro shoulderband snail (*Helminthoglypta walkeriana*) that may occur incidental to the construction, maintenance, and occupation of a single-family residence and guesthouse

and the implementation of a conservation strategy on an existing legal parcel in the unincorporated community of Los Osos, San Luis Obispo County, California. The Applicant requests a permit term of 8 years and commits to implement a conservation program to minimize and mitigate project activities that are likely to result in take of the Morro shoulderband snail as described in their plan. We invite comments from the public on the application package, which includes the Moreno Low-Effect Habitat Conservation Plan for the Morro Shoulderband Snail (HCP). We have determined that this proposed action is eligible for a categorical exclusion under NEPA.

Background

The Morro shoulderband snail (= banded dune snail; *Helminthoglypta walkeriana*) was listed by the Service as endangered on December 15, 1994 (59 FR 64613). Section 9 of the Act and its implementing regulations (16 U.S.C. 1531 *et seq.*) prohibit the take of fish or wildlife species listed as endangered or threatened. “Take” is defined under the Act 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); however, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. This section defines “incidental take” as take that is not the purpose of carrying out an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are provided in the Code of Federal Regulations at 50 CFR 17.32 and 17.22. Issuance of an incidental take permit (ITP) must not jeopardize the existence of federally listed fish, wildlife, or plant species.

Applicant's Proposal

The applicant has submitted a low-effect HCP in support of his application for an ITP to address take of Morro shoulderband snail likely to result from impacts associated with the development of a 1.2-acre (52,272 square feet; sf) parcel. Take would be associated with the construction, maintenance, and occupation of a single-family residence and guesthouse, and associated infrastructure and landscaping, on an existing parcel legally described as County of San Luis Obispo Assessor Parcel Number 074-323-020. This parcel is located at the northeastern corner of Chumash Lane and Al Sereno in Los Osos, an unincorporated community of San Luis Obispo County, California. The applicant is requesting an ITP to address incidental take of Morro shoulderband snail that is likely to result from activities identified in the HCP. These “covered” activities include the construction, maintenance, and occupation of a single-family residence and guesthouse, along with associated infrastructure and landscaping, as well as implementation of a conservation strategy. Project implementation would, at a minimum, result in permanent impacts to approximately 0.2 acre (8,712 sf); however, could result in some level of disturbance to an additional 0.425 acre (18,513 sf), attributable to occupation of the residence and guesthouse.

The applicant proposes to minimize and mitigate take of Morro shoulderband snail associated with the covered activities by fully implementing the HCP. Take would be minimized by implementing the following: (1) Development and delivery of an environmental training program to all personnel working onsite throughout all phases of project implementations; (2) conducting pre-construction and construction monitoring

surveys to identify any individuals, of any life stage, that could be in harm's way; (3) fencing of the development area to preclude accidental egress into conserved habitat; and (4) capture and moving of those identified Morro shoulderband snails into on-site habitat to be conserved and enhanced. Unavoidable take would be mitigated through the conservation and enhancement of 0.625 acres of coastal dune scrub and maritime chaparral in the northern portion of the parcel. This area would be dedicated to the County of San Luis Obispo as open space, and all activities, with the exception of those intended to enhance habitat values for Morro shoulderband snail, would be prohibited.

As part of the HCP, the applicant considered two alternatives to the proposed action to construct a residence and guesthouse. Under the "No Action" alternative, an ITP for the proposed project would not be issued. As the property is privately owned, there are ongoing economic considerations associated with retaining the parcel in its undeveloped state (e.g., payment of associated property taxes). The sale of the parcel for purposes other than the identified activity (which is consistent with current zoning) is not considered economically feasible. Additionally, there would be no conservation or enhancement of habitat for Morro shoulderband snail. For these reasons, the "No Action" alternative is rejected.

The intent of the "Alternate Design" alternative would be to avoid or further reduce (minimize) take of Morro shoulderband snail. As the entire parcel contains native habitat that is variously occupied by Morro shoulderband snail, it is not possible to avoid take of the species. The residence and guesthouse are currently sited adjacent to existing residences and in an area of native habitat that is disturbed by the presence

of the nonnative perennial veldt grass (*Ehrharta calycina*). Further reducing the project footprint would not substantially increase conservation of Morro shoulderband snails and would not meet the applicant's needs. As such, the "Alternate Design" alternative has also been rejected.

Preliminary Determination

We are requesting comments on our preliminary determination that the applicant's plan may be processed as a low-effect HCP as defined by our Habitat Conservation Planning Handbook (November 1996) and qualifies for categorical exclusion under NEPA section 42 U.S.C. 4321 *et seq.*, as provided by the Department of the Interior Manual (516 DM 2 Appendix 2 and 516 DM 8). Our determination is based upon the following: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on the federally listed Morro shoulderband snail and its habitat; (2) implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and (3) the HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. Based upon our review of public comments we receive in response to this notice, our preliminary determination may be revised.

Next Steps

We will evaluate the permit application, the HCP, and comments we receive to determine whether the application meets the requirements of section 10(a)(1)(B) of the

Act. We will also evaluate whether issuance of the ITP would comply with section 7(a)(2) of the Act by conducting an intra-Service Section 7 consultation.

Public Review

We are requesting comments on our determination that the applicant's proposal will have a minor or negligible effect on the Morro shoulderband snail and meets the requirements of section 10(a)(1)(B) of the Act. We will use the results of our internal Service consultation, in combination with the above findings and public comments, to determine whether to issue the ITP. If all requirements are met, an ITP will be issued to the Applicant to authorize incidental take of Morro shoulderband snail in association with implementation of the proposed project. We will make our final permit decision no sooner than 30 days after the date of this notice.

Public Comments

If you wish to comment on the permit application, plans, and associated documents, you may submit using any one of the methods in **ADDRESSES**.

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 available to

the public 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.

Authority

We provide this notice under section 10(c) of the Act and the NEPA public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6).

Dated: May 12, 2014

Stephen P. Henry, Field Supervisor

Ventura Fish and Wildlife Office

Ventura, California

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