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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R8–ES–2015–N107; FXES11120800000–156–FF08EVEN00]**

**Habitat Conservation Plan for the Morro Shoulderband Snail; Kroll Parcel, 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 for a 10-year incidental take permit under the Endangered Species Act of 1973, as amended. The application addresses the potential for “take” of the federally endangered Morro shoulderband snail likely to result incidental to the construction of a single-family residence, barn, septic system, and improved residential access; management of an existing open space area; and implementation of a conservation strategy. We invite comments from the public on the

application package, which includes a habitat conservation plan (HCP) for the Morro shoulderband snail.

**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 draft HCP and draft low-effect screening form and environmental action statement 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 phone at (805) 644-1766.

**SUPPLEMENTARY INFORMATION:** We have received an application from James and Sharon Kroll for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act; 16 U.S.C. 1531 *et seq.*). The application addresses take of the federally endangered Morro shoulderband snail (*Helminthoglypta walkeriana*) likely to occur incidental to the construction and maintenance of a single-family residence, barn, septic system, and improved road access; management of an existing open space area; and implementation of a conservation strategy on 3.09 acres within an existing legal 5.08-acre parcel located in western

San Luis Obispo County, California. The requested permit term is 10 years. We invite comments from the public on the application package. Issuance of an ITP pursuant to this HCP has been determined to be eligible for a categorical exclusion under National Environmental Policy Act (NEPA).

## **Background**

The Morro shoulderband snail was listed 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. Under the Act, “take” is defined 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). Under section 10(a)(1)(B) of the Act, we may issue permits to authorize take of listed species if it is incidental to other lawful activities and not the purpose of carrying out that activity. The Code of Federal Regulations provides those regulations governing incidental take permits for threatened and endangered species at 50 CFR 17.32 and 17.22. Issuance of an incidental take permit must not jeopardize the existence of any federally listed fish, wildlife or plant species.

## **The Applicants’ Proposed Project**

James and Sharon Kroll (hereafter, the applicants) own a 5.08-acre residential suburbanized parcel legally described as County of San Luis Obispo Assessor Parcel Number 074–022-041 and located at 302/304 Madera Street in the western portion of Los Osos, an unincorporated community of San Luis Obispo County, California. The applicants have submitted a HCP in

support of their application for an ITP to address take of Morro shoulderband snail likely to occur as the result of project activities that would occur within a 3.09-acre permit area within the larger parcel area. Proposed covered activities include direct impacts to up to 0.63 acre of predominantly nonnative grassland habitat associated with the construction and maintenance of a single-family residence, barn, septic system, and improved residential access; maintenance of a 0.93-acre open space area; and the restoration, monitoring, and management of 1.1 acres of habitat for Morro shoulderband snail.

The applicants propose to minimize and mitigate take of Morro shoulderband snail associated with the covered activities by fully implementing the HCP. The following minimization measures would be implemented: (1) development and delivery of an environmental training program for Morro shoulderband snail to all personnel working onsite, (2) pre-construction and concurrent construction monitoring surveys for Morro shoulderband snail, (3) capture and moving out of harm's way all identified individuals of any life stage of Morro shoulderband snail to a Service-approved receptor site by an individual in possession of a current valid recovery permit for the species, (4) use of temporary construction fencing to prevent accidental egress into mitigation areas; and (5) installation of permanent fencing to separate use areas from conservation areas. To mitigate for unavoidable take of Morro shoulderband snail, the applicants would conserve and manage 1.1 acres of habitat for Morro shoulderband snail. This 1.1-acre area would be recorded under a conservation easement with the County of San Luis Obispo and restored to native coastal dune scrub following control of non-native grasses and removal of orchard plantings. The applicants have committed to fund up to \$33,368 to ensure implementation of all minimization, mitigation, and reporting requirements identified in the HCP.

In the proposed HCP, the applicants consider two alternatives to the proposed action: “No Action” and “Alternate Project Design.” Under the “No Action” alternative, the Service would not issue an ITP, and the legal construction of a single-family residence and barn would not occur. Absent the ITP, there would be no conservation and restoration of habitat for the Morro shoulderband snail that would, in concert with nearby habitat, provide a benefit to the species. Since the property is privately owned, there are ongoing economic considerations associated with continued ownership absent its ability to realize its intended use upon purchase (e.g., payment of associated taxes). The sale of this property for other than the currently zoned and identified purpose is not considered biologically meaningful or economically feasible. Because of economic considerations and because the proposed action results in a net benefit for the Morro shoulderband snail, the No Action Alternative has been rejected.

Under the “Alternate Project Design” alternative, the residence and barn would be located elsewhere within the parcel. No other configuration would result in a substantial increase in the net benefit to the species or better achieve the applicants’ needs. As such, the Alternate Project Design alternative is also rejected.

### **Our Preliminary Determination**

We have determined the applicants’ proposal will have a minor or negligible effect on the Morro shoulderband snail, and the HCP qualifies for processing as a low-effect plan consistent with our Habitat Conservation Planning Handbook (November 1996). Three criteria form the basis for our determination: (1) the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their

habitats; (2) implementation of the HCP would result in minor negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. It is our preliminary determination that HCP approval and ITP issuance qualify for categorical exclusion under the NEPA (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); however, we may revise our determination based upon review of public comments received in response to this notice.

### **Next Steps**

We will evaluate the permit application, including the HCP and comments we receive, to determine whether it 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 consultation pursuant to section 7(a)(2) of the Act.

### **Public Review**

We request comments from the public regarding our preliminary determination that the applicants' proposal will have a minor or negligible effect on the Morro shoulderband snail and that the plan qualifies as a low-effect HCP. We will evaluate the comments we receive and make a final determination regarding whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will incorporate the results of our intra-Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the ITP.

If all of our requirements are met, we will issue the ITP to the applicants. Permit issuance would not occur less than 30 days from the date of this notice.

### **Public Comments**

If you wish to comment on the permit application, HCP, and associated documents, you may submit comments by any one of the methods provided 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 publicly available 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 21, 2015.**

**Stephen P. Henry, Field Supervisor,**

**Ventura Fish and Wildlife Office,**

**Ventura, California.**

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