



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R1–ES–2015–N191; FXES1112010000–156–FF01E00000]**

**Draft Habitat Conservation Plan and Draft Environmental Assessment, Meier Group LLC, Thurston County, Washington**

**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 The Meier Group, LLC (applicant) for an incidental take permit (permit) under the Endangered Species Act of 1973, as amended (ESA). The applicant requests a permit with a 5-year term that would authorize “take” of the threatened Olympia pocket gopher incidental to otherwise lawful land development in Thurston County, Washington. The application includes the applicant’s draft habitat conservation plan (HCP), which describes the actions the applicant will implement to minimize and mitigate the impacts of incidental take caused by covered activities. The Service also announces the availability of a draft environmental assessment (EA) that has been prepared in response to the permit application in accordance with requirements of the National Environmental

Policy Act (NEPA). We are making the permit application, including the draft HCP and the draft EA, available for public review and comment.

**DATES:** To ensure consideration, please submit written comments by [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

**ADDRESSES:** To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the “Meier HCP/EA”:

- *Internet:* You may view or download copies of the draft HCP and draft EA and obtain additional information on the Internet at <http://www.fws.gov/wafwo/>.
- *Email:* [www.wfwocomments@fws.gov](mailto:www.wfwocomments@fws.gov). Include “Meier HCP/EA” in the subject line of the message.
- *U.S. Mail:* Tim Romanski, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503.
- *In-Person Drop-off, Viewing, or Pickup:* Call 360–753–5823 to make an appointment (necessary for viewing or picking up documents only) during normal business hours at the U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503. Written comments can be dropped off during regular business hours at the above address on or before the closing date of the public comment period (see **DATES**).

**FOR FURTHER INFORMATION CONTACT:** Tim Romanski, Conservation Planning and Hydropower Branch Chief, Washington Fish and Wildlife Office (see

**ADDRESSES**), telephone: 360–753–5823. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 9 of the ESA prohibits “take” of fish and wildlife species listed as endangered or threatened. Under the ESA, the term “take” means 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(19)). The term “harm,” as defined in our regulations, includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term “harass” is defined in our regulations as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3).

Under specified circumstances, the Service may issue permits that authorize take of federally listed species, provided the take is incidental to, but not the purpose of, an otherwise lawful activity. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. Section 10(a)(1)(B) of the Act contains provisions that authorize the Service to issue permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

- (1) The taking will be incidental;

- (2) The applicant will prepare a conservation plan that, to the maximum extent practicable, minimize and mitigate the impact of such taking;
- (3) The applicant will ensure that adequate funding for the plan will be provided;
- (4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
- (5) The applicant will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the plan.

We have received an application from the Meier Group, LLC (applicant) for an incidental take permit pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA). The applicant requests a permit with a 5-year term that would authorize “take” of the threatened Olympia pocket gopher (*Thomomys mazama pugetensis*) incidental to otherwise lawful land development and habitat conservation activities on land they own in Thurston County, Washington. The application includes a draft HCP, which describes the actions the applicant will take to minimize and mitigate the impacts of the take on the covered species. The Service also announces the availability of a draft environmental assessment (EA) addressing the draft HCP and proposed permit. We invite comments from all interested parties regarding the permit application, including the draft HCP and the draft EA.

### **Proposed Action**

The applicant proposes to develop an approximately 6.4-acre property in the City of Tumwater, Thurston County, Washington, over the course of the next 5 years. The proposed project would entail clearing most of the 6.4-acre property of trees and other

vegetation, including the invasive non-native Scot's broom (*Cytisus scoparius*), in preparation for construction of a two-story commercial office building and associated facilities. The proposed office building, paved surfaces, and parking areas would cover all of the property except an approximately 0.7-acre area that would be avoided to prevent impacts to guy-wires associated with overhead electric transmission lines.

Approximately 2.7 acres of the 6.4-acre property is occupied by and provides habitat for the Olympia pocket gopher. Periodic mowing of the transmission line right-of-way keeps invasive vegetation controlled, which likely maintains habitat suitability for the pocket gopher. About 2.0 acres of the approximately 2.7 acres of potential pocket gopher habitat on the project site would be lost due to site preparation and construction activities under the proposed project. Olympia pocket gophers and their habitat would not be expected to persist in this area upon completion of the proposed project.

Approximately 0.7 acre of the degraded grassland area beneath the transmission lines would remain undisturbed. Any pocket gophers in the remnant habitat patch may be able to survive for some period of time after project completion; however, the fragmentation, loss of foraging habitat, and reproductive isolation of remaining individuals makes long-term persistence of a viable population in this area unlikely.

The applicant's draft HCP identifies measures intended to minimize and mitigate for the incidental take of the covered species. The draft HCP's mitigation measures consist of a conservation program that includes dedication of an off-site 2.5-acre permanent conservation land area at a location known as Bush Prairie Farm, that would be managed for the benefit of the Olympia pocket gopher. The proposed HCP would establish a conservation easement on Bush Prairie Farm that removes the threat of future

development on the conservation site, and provide funding to ensure that the conservation site is managed to maintain long-term habitat suitability for the covered species. The Bush Prairie Farm 2.5-acre conservation site is approximately 1,000 feet away from the only designated critical habitat for the Olympia pocket gopher. The conservation site is separated by a highway from the 676 acres of designated critical habitat that is located on the Olympia Regional Airport property. The conservation site is also adjacent to other sites proposed for long-term management for the listed species. Securing long-term protection and management of the proposed conservation site could expand priority conservation areas that may contribute to recovery of this species.

The Service proposes to issue the requested permit with a 5-year term based on the applicant's commitment to implement the draft HCP, if permit issuance criteria are met. Covered activities include construction, land development, and conservation of covered species. The area covered under the draft HCP consists of a project development site totaling 6.4 acres and a conservation site totaling 2.5 acres. Take would occur primarily on the already fragmented project development site and be mitigated for by managing a higher quality block of habitat for the covered species on the conservation site. A conservation easement with associated funding assurances would be executed by the applicant to ensure ongoing management of the conservation site.

### **National Environmental Policy Act Compliance**

The proposed issuance of a permit is a Federal action that triggers the need for compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*; NEPA). Pursuant to NEPA, we have prepared a draft EA to analyze the

environmental impacts of three alternatives related to the issuance of the requested permit and implementation of the conservation program under the proposed HCP. The three alternatives analyzed in the EA are a no-action alternative, the proposed action, and an avoidance alternative.

*No-action alternative:* Under the no-action alternative, no construction or development would occur on the proposed project site. Because no impacts to listed species are expected under this alternative, no HCP would be needed and no permit would be issued.

*Proposed action alternative:* The proposed action alternative is the implementation of the proposed HCP and issuance of the requested 5-year permit as described above.

*Avoidance alternative:* The avoidance alternative would limit construction and development on the project site to areas where impacts to listed species could be avoided. Because no impacts to listed species are expected under this alternative, no HCP would be needed and no permit would be issued.

## **Public Comments**

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We specifically request information, views, and recommendations from interested parties regarding our proposed Federal action, including identification of any other aspects of the human environment not already identified in the draft EA pursuant to NEPA regulations at 40 CFR 1506.6. Further, we

specifically solicit information regarding the adequacy of the applicant's draft HCP pursuant to the requirements for permits at 50 CFR parts 13 and 17.

### **Public Availability of Comments**

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personally identifiable information in your comments, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive, as well as supporting documentation we use in preparing the EA, will be available for public inspection by appointment, during normal business hours, at our Washington Fish and Wildlife Office (see **ADDRESSES**).

### **Next Steps**

We will evaluate the permit application, associated documents, and any comments we receive, to determine whether the permit application meets the requirements of section 10(a)(1)(B) of the ESA. We will also evaluate whether issuance of the requested section 10(a)(1)(B) permit would comply with section 7 of the Act by conducting an intra-Service section 7 consultation on anticipated permit actions. After completion of

the EA based on consideration of public comments, we will determine whether the proposed action warrants a finding of no significant impact or whether an environmental impact statement should be prepared. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all comments received during the comment period. If we determine that all requirements are met, we will issue an incidental take permit under section 10(a)(1)(B) of the ESA to the applicants for the take of covered species, incidental to otherwise lawful covered activities.

**Authority**

We provide this notice in accordance with the requirements of section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA (42 U.S.C. 4321 *et seq.*) and their implementing regulations (50 CFR 17.22 and 40 CFR 1506.6, respectively).

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