

and Plants (50 CFR part 17). The Pitcher's thistle will be considered for delisting when: (1) The essential habitat associated with a total of 115 priority occurrences representing each biogeographic region and dune type is protected and managed under a management plan for each management unit; (2) regular field surveys to verify occurrences and record new occurrences have been established; (3) landowner contacts have been initiated and protection has been investigated for the remaining (rank<BC) public and private occurrences; (4) monitoring of known sites shows a stable or increasing trend toward recovery, and that protective plans are being implemented; (5) restoration of two occurrences from among historical sites where sufficient habitat remains in Illinois, Indiana, Wisconsin, and southern Lower Michigan has been completed; and (6) research necessary to protect, manage and restore Pitcher's thistle has been conducted.

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

Dated: September 19, 2002.

**Lynn M. Lewis,**

*Acting Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.*  
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**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Gosnell Habitat Conservation Plan, San Luis Obispo County, California

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

**ACTION:** Notice of Availability.

**SUMMARY:** Robert C. and Holly R. Gosnell (Applicants), have applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The proposed permit would authorize take of the federally endangered Morro shoulderband snail (*Helminthoglypta walkeriana*) incidental to otherwise lawful activities. Such take would occur as a result of development of one single-family residence within a 27,273-square-foot parcel owned by the Applicants and located in Los Osos, San Luis Obispo County, California. Development will result in the loss of 12,245 square feet of degraded coastal sage scrub habitat. The parcel is known to support the Morro shoulderband snail.

We request comments from the public on the permit application, which is available for review. The application includes a Low-Effect Habitat Conservation Plan (HCP). The HCP describes the proposed project and the measures that the Applicants would undertake to minimize and mitigate take of the Morro shoulderband snail, as required in section 10 (a)(2)(B) of the Act.

We also request comments on our preliminary determination that the HCP qualifies as a "low-effect" Habitat Conservation Plan, eligible for a categorical exclusion under the National Environmental Policy Act. The basis for this determination is discussed in an Environmental Action Statement, which is also available for public review.

**DATES:** Written comments should be received on or before November 12, 2002.

**ADDRESSES:** Send written comments to Ms. Diane Noda, Field Supervisor, U.S. Fish and Wildlife Service, 2493 Portola Road Suite B, Ventura, California 93003. Comments may be sent by facsimile to (805) 644-3958.

**FOR FURTHER INFORMATION CONTACT:** Mr. Steve Kirkland, Fish and Wildlife Biologist, at the above address or call (805) 644-1766.

#### SUPPLEMENTARY INFORMATION:

##### Document Availability

Please contact the above office if you would like copies of the application, HCP, and Environmental Action Statement. Documents also will be available for review by appointment, during normal business hours at the above address.

##### Background

Section 9 of the Act and Federal regulation prohibit the "take" of fish or wildlife species listed as endangered or threatened, respectively. Take of listed fish or wildlife is defined under the Act to include kill, harm, or harass. The Service may, under limited circumstances, issue permits to authorize incidental take; *i.e.*, take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively.

The Gosnell single-family residence project site is located at 1194 Al Sereno Lane (APN 74-323-057), Los Osos, San Luis Obispo County. The Applicants are requesting a 25-year incidental take permit for the Morro shoulderband snail.

The proposed project is development of a single-family residence on a 27,273-square-foot parcel. The project would disturb a 12,245-square-foot area (development area) (44.9 percent of the lot) dominated by non-native veldt grass (*Ehrharta calycina*). The Applicants have submitted an HCP to minimize and mitigate for impacts to the Morro shoulderband snail. The project site also contains the federally threatened Morro Manzanita (*Arctostaphylos morroensis*). However, no Morro Manzanita plants will be impacted by the proposed project. No critical habitat for any listed species occurs on the project site. Approximately 15,022 square feet of the 27,273-square-foot parcel is characterized by the coastal sage scrub plant community, which is habitat for the Morro shoulderband snail.

Under the HCP, the Applicants propose to implement measures to minimize and mitigate for the removal of habitat for the Morro shoulderband snail. Specifically, they propose to (1) dedicate a conservation easement for the 15,022 square feet of coastal sage scrub habitat (55.1 percent of the lot) to the County of San Luis Obispo; and (2) enhance and maintain the coastal sage scrub habitat by removing at least 95 percent of the veldt grass prior to any ground disturbing activities and by maintaining the plant cover at no more than 5 percent veldt grass. Furthermore, the Applicants propose to donate \$15,325 (equal to 17,820 square feet) toward the purchase of the 40-acre Powell II property, which contains Morro shoulderband snail habitat and is adjacent to protected lands within the Northeast Los Osos conservation planning area identified in the Recovery Plan for the snail.

The Service's Proposed Action consists of the issuance of an incidental take permit and implementation of the HCP, which includes measures to minimize and mitigate impacts of the project on the Morro shoulderband snail. Two alternatives to the taking of a listed species under the Proposed Action are considered in the HCP. Under the No-Action Alternative, the project site would not be developed and no permit would be issued. Without the HCP, conservation measures for the Morro shoulderband snail, such as exotic weed eradication, would not be implemented, resulting in further degradation of habitat on the site for the snail. This alternative would also result in unnecessary economic burden on the Gosnell family.

Under the Redesigned Project alternative, the development footprint for the project would be reduced or located to another portion of the parcel.

However, the configuration and location of the development area was selected to minimize impacts to the portion of the property that is dominated by native species and which offers the best habitat for Morro shoulderband snails. Relocation of the development area would result in a greater disturbance to intact, coastal sage scrub habitat resulting in greater impacts to Morro shoulderband snails. A reduction in the size of the development area is not economically feasible because the proposed project has already been designed to meet the minimum needs of the Applicants. The Applicants also consider the proposed development area more desirable than elsewhere on the property.

The Service has made a preliminary determination that the HCP qualifies as a "low-effect" plan as defined by its Habitat Conservation Planning Handbook (November 1996). Our determination that a habitat conservation plan qualifies as a low-effect plan is based on the following three criteria: (1) Implementation of the plan would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the plan, 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. As more fully explained in our Environmental Action Statement, the Habitat Conservation Plan for the Gosnell Project Site qualifies as a "low-effect" plan for the following reasons:

1. Approval of the HCP would result in minor or negligible effects on the Morro shoulderband snail and its habitat. The Service does not anticipate significant direct or cumulative effects to the Morro shoulderband snail resulting from development of the Gosnell single-family residence project.
2. Approval of the HCP would not have adverse effects on unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.
3. Approval of the HCP would not result in any cumulative or growth inducing impacts and, therefore, would not result in significant adverse effects on public health or safety.
4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act,

nor does it threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

5. Approval of the HCP would not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.

The Service therefore has made a preliminary determination that approval of the HCP qualifies as a categorical exclusion under the National Environmental Policy Act, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). Based upon this preliminary determination, we do not intend to prepare further National Environmental Policy Act documentation. The Service will consider public comments in making its final determination on whether to prepare such additional documentation.

The Service provides this notice pursuant to section 10(c) of the Act. We will evaluate the permit application, the 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, the Service will issue a permit to the Applicants for the incidental take of the Morro shoulderband snail from development of the Gosnell Project site. We will make the final permit decision no sooner than 30 days from the date of this notice.

Dated: October 4, 2002.

**Miel R. Corbett,**

*Acting Deputy Manager, California/Nevada Operations Office, Sacramento, California.*

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**BILLING CODE 4130-55-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### **Notice of Availability of the Final Environmental Impact Statement for the Truckee River Water Quality Settlement Agreement, Federal Water Rights Acquisition Program for Washoe, Storey, and Lyon Counties, NV**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice advises the public that the Bureau of Indian Affairs (BIA) intends to file with the U.S. Environmental Protection Agency a Final Environmental Impact Statement (FEIS) for a proposed water rights acquisition program to fulfill federal

obligations identified in the Truckee River Water Quality Settlement Agreement, and that the FEIS is available for final public review. Details of the proposed action, alternatives and areas of environmental concern addressed in the FEIS are provided in the **SUPPLEMENTARY INFORMATION** section.

**DATES:** Written comments must arrive by November 8, 2002. The Record of Decision will be issued on or after November 12, 2002.

**ADDRESSES:** You may mail, hand carry or telefax comments to Tom Strekal, Bureau of Indian Affairs, Western Nevada Agency, 1677 Hot Springs Road, Carson City, Nevada 89706, telefax (775) 887-3531.

Copies of the FEIS have been mailed to interested agencies, to local libraries, to individuals who participated in the scoping process and public hearings and to parties who requested a copy of the document. To obtain a copy of the FEIS, contact Tom Strekal at (775) 887-3500. Please specify whether you wish a paper or CD-ROM version of the document.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tom Strekal at (775) 887-3500.

**SUPPLEMENTARY INFORMATION:** The BIA has completed a FEIS for a proposal to initiate a federal water rights acquisition program to acquire Truckee River water rights. The Truckee River Water Quality Settlement Agreement (WQSA), signed on October 10, 1996, establishes a joint program to improve Truckee River water quality by increasing flows in the river through the purchase and dedication of Truckee River water rights for instream flow. The acquisition program would fulfill federal obligations identified in the WQSA.

The FEIS evaluates the proposed action, two action alternatives, and a no action alternative. It describes the existing environment and potential environmental consequences of a water rights acquisition program. The FEIS considers the following issues: air quality, groundwater and surface water supply, river flow, water quality, biological resources including desert vegetation, riparian vegetation, fish, threatened and endangered species, and socio-economic resources including cultural resources, recreation, and land use.

The BIA's proposed action is the preferred alternative. This is an acquisition strategy that would allow water rights to be acquired from willing sellers located in any portion of the study area. The proposed action presumes most water rights would be acquired from the Truckee Division of the Newlands Project, due to the greater potential availability of water rights and