

future actions with potentially significant environmental effects.

We have determined that approval of the Plan qualifies as a categorical exclusion under the NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). Therefore, no further NEPA documentation will be prepared.

We will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, the ITP will be issued for the incidental take of the Florida scrub-jay. We will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: March 11, 2004.

J. Mitch King,

Acting Regional Director.

[FR Doc. 04-6667 Filed 3-24-04; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Safe Harbor Agreement for Topminnow and Pupfish in Arizona and Receipt of Application for Incidental Take Permit for the Arizona Game and Fish Department

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and 30-day public comment period.

SUMMARY: The Arizona Game and Fish Department (Applicant) has applied to the Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act (Act). The Applicant has been assigned permit number TE-083686-0. The requested permit, which is for 50 years, would authorize incidental take of the endangered Gila topminnow (*Poeciliopsis o. occidentalis*), endangered Yaqui topminnow (*Poeciliopsis o. sonoriensis*), endangered Quitobaquito pupfish (*Cyprinodon eremus*), and endangered desert pupfish (*Cyprinodon macularius*). The proposed take would occur as a result of conservation measures on non-federal

lands within the historical range of the species in Arizona.

DATES: Written comments on the Safe Harbor Agreement and Environmental Assessment must be received on or before April 26, 2004, to be considered by the Service. The agreement and supporting documentation are available for public review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the address specified below.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the Safe Harbor Agreement and environmental assessment may obtain copies by contacting Doug Duncan, Tucson Suboffice, Arizona Ecological Services Field Office, 201 North Bonita Avenue, Suite 141, Tucson, Arizona 85745 (520-670-6144, extension 236; Fax 520-670-6154). Documents will be available for public inspection by written request, by appointment only, during normal business hours (7:30 to 4:30), at the Tucson Suboffice, or the Phoenix office at 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021, (602-242-0210; Fax 602-242-2513). Written data or comments concerning the application, Safe Harbor Agreement, and Environmental Assessment should be submitted to the Field Supervisor, Ecological Services Field Office, Phoenix, Arizona (see address above). Please refer to permit number TE-083686-0 when submitting comments. All comments received, including names and addresses, will become a part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Doug Duncan at the Tucson Suboffice, Arizona Ecological Services Field Office, 201 North Bonita Avenue, Suite 141, Tucson, Arizona 85745.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of threatened and endangered species such as the Gila topminnow, Yaqui topminnow, Quitobaquito pupfish, and desert pupfish (topminnow and pupfish). However, the Service, under limited circumstances, may issue permits to take threatened or endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The proposed action is issuance of the enhancement of survival permit and implementation of the Safe Harbor Agreement as submitted by the Applicant. The Safe Harbor Agreement provides for actions that promote conservation and recovery of the four species by: Providing additional suitable aquatic habitats that have previously been largely unavailable for reestablishment of topminnow and pupfish populations; increasing public awareness of conservation needs for native fishes; providing opportunities to use native fish for mosquito control while reducing or eliminating the use of the nonnative mosquitofish; and developing new partnerships between Federal, State, and non-federal landowners. The Safe Harbor Agreement is designed to provide a net conservation benefit to the topminnow and pupfish. The Safe Harbor Agreement has stipulations for monitoring of species populations and habitats and functioning of the Safe Harbor Agreement. The Safe Harbor Agreement also provides for funding of the mitigation measures and monitoring.

Non-federal landowners, who commit to implementing conservation measures for the listed species under the proposed Safe Harbor Agreement, will receive assurances from the Service upon signing a Certificate of Inclusion with the Applicant that additional conservation measures will not be required and additional land, water, or resource use restrictions will not be imposed as long as the conservation measures are continuing and consistent with the agreement. The Service has prepared an Environmental Assessment for the enhancement of survival permit application. A determination of jeopardy to the species will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: The Arizona Game and Fish Department intends to enroll appropriate non-federal lands to allow for the reestablishment of Yaqui topminnow, Quitobaquito pupfish, Gila topminnow, and desert pupfish. The incidental take of these fish may occur at the release sites during certain management activities.

Susan MacMullin,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 04-6674 Filed 3-24-04; 8:45 am]

BILLING CODE 4510-55-P