

contaminated soils at the Rail Yard include excavation, containment, treatment, recycling, and disposal technologies. These remediation activities will require the removal of all vegetation at the Rail Yard, including the elderberry (*Sambucus mexicana*) food plant of the valley elderberry longhorn beetle.

In 1998 and 1999, biologists surveyed the project area for special-status wildlife and plant species that could be affected by the project. Based upon those surveys, the Service concluded the project may result in take of one federally listed species, the threatened valley elderberry longhorn beetle.

Union Pacific has agreed to mitigate take of the valley elderberry longhorn beetle by the purchase of 146 habitat units for the beetle from a mitigation bank approved by the Service for such mitigation. One valley elderberry longhorn beetle mitigation unit may consist of as many as 5 elderberry seedlings and 5 additional associated native species, which are planted within an 1,800 square foot area. We determined that a total of 728 seedlings would be required to mitigate for the 261 elderberry stems greater than 1 inch that would be taken. Thus, the number of mitigation credits that Union Pacific would need to purchase is 146, which is determined by dividing the total number of required replacement elderberries by the number of elderberries in one unit. The 146 habitat units have been purchased from Wildlands, Inc., located in Placer County, California.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the Plan to mitigate impacts of the project on the valley elderberry longhorn beetle. Two alternatives to the taking of listed species under the Proposed Action are considered in the Plan.

Under the No Action Alternative, no permit would be issued. However, while this alternative would avoid impacts to the elderberry plants at the Rail Yard, the No Action Alternative is unacceptable as it does not comply with the state of California's Health and Safety Code as well as the directive from the Department to remediate the contaminated soils.

Under the Reduced Take Alternative the proposed remediation efforts would be reduced or limited to certain portions of the Rail Yard, thereby allowing some undetermined number of elderberry plants to remain. Even though this alternative might avoid impacts to some of the elderberry plants on site, the likelihood of valley elderberry longhorn beetle occupancy in the remaining

elderberries would be reduced as the area becomes more urbanized. Furthermore, this alternative does not comply with the laws of the state of California, which require a state-recognized Superfund site, such as the Rail Yard, to be remediated.

The Service has made a preliminary determination that the Plan qualifies as a "low-effect" plan as defined by its Habitat Conservation Planning Handbook (November 1996). Determination of low-effect habitat conservation plans 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 the Service's Environmental Action Statement, the Union Pacific Sacramento Rail Yard Plan qualifies as a "low-effect" plan for the following reasons:

1. Approval of the Plan would result in minor or negligible effects on the valley elderberry longhorn beetle and its habitat. The Service does not anticipate significant direct or cumulative effects to the valley elderberry longhorn beetle resulting from the soil remediation project at the Rail Yard.

2. Approval of the Plan would not have adverse effects on unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the Plan 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 Plan would not establish a precedent for future action 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 Plan 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 Plan, 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 Union Pacific Rail Road Company for incidental take of the valley elderberry longhorn beetle during soil remediation of the Rail Yard. We will make the final permit decision no sooner than 30 days from the date of this notice.

Dated: February 18, 2000.

Elizabeth H. Stevens,

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

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for the Tributary Point Parcel 9 Development Project, Sacramento County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: The Weyerhaeuser Venture Company has 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 Service proposes to issue a 2-year permit to the Weyerhaeuser Venture Company that would authorize take of the threatened valley elderberry longhorn beetle (*Desmoceris californicus dimorphus*) incidental to otherwise lawful activities. Such take would occur as a result of development on the Tributary Point Parcel 9 Project area in Sacramento County, California. Development would result in the loss of up to 2 elderberry plants with 6 stems that provide habitat for the valley elderberry longhorn beetle.

We request comments from the public on the permit application, which is available for review. The application includes a Habitat Conservation Plan (Plan). The Plan describes the proposed project and the measures that the Weyerhaeuser Venture Company would undertake to minimize and mitigate take of the valley elderberry longhorn beetle.

We also request comments on our preliminary determination that the Plan 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 March 29, 2000.

ADDRESSES: Send written comments to Mr. Wayne White, Field Supervisor, Fish and Wildlife Service, 2800 Cottage Way, Suite W-2605, Sacramento, California 95825-1846. Comments may be sent by facsimile to 916-414-6714.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Campbell, Chief of Conservation Planning Division, at the above address or call (916) 414-6600.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Please contact the above office if you would like copies of the application, Plan, 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 proposed project area is Parcel 9 of the Tributary Point development, which corresponds to an unsectioned portion of Township 9 North, Range 7 East of the "Folsom, California" topographic quadrangle (United States Geological Survey, Photorevised 1980). The Tributary Point Parcel 9 development is located west of Hazel Avenue, south of Folsom South Canal, and north of U.S. Highway 50 in the

unincorporated area of Rancho Cordova in Sacramento County, California.

Weyerhaeuser Venture Company, the owner of Parcel 9, is requesting an incidental take permit to authorize take for 2 years.

Parcel 9 is a 1.39-acre vacant lot which has been graded and supports utilities. The entire Tributary Point development consists of 14 improved lots. The applicant has sold all but two lots, and construction of retail, residential and office uses has occurred on eight lots. Current uses include a 216-unit apartment village, a 70,000 square foot, 3-story office building, 2 furniture stores, 2 fast-food restaurants and 2 gas station/convenience marts. Two additional lots have been sold to an extended stay hotel operator. A furniture store operator has expressed interest in Parcel 9.

Two elderberry shrubs, containing six stems greater than 1 inch in diameter at ground level, occur on the project site within the impact area as potential habitat for the federally-threatened valley elderberry longhorn beetle. The project site does not contain any other rare, threatened, or endangered species or habitat. No critical habitat for any listed species occurs on the project site. Construction of the proposed project would result in the removal of the two elderberry shrubs on site. No beetle exit holes were found in these two shrubs.

Under the Plan, mitigation for impacts to the valley elderberry longhorn beetle would conform to the Service's 1999 Mitigation Guidelines. The two elderberry shrubs affected by the proposed project would be transplanted to the Conservation Resources Laguna Creek Mitigation Bank, a Service-approved mitigation site, prior to or on March 31, 2000. Typically, a 1:1 ratio would be required as mitigation if transplantation occurs by February 15th, but because transplantation would occur past this deadline, a 2:1 ratio (or 12 elderberry plants to mitigate for impacts to six stems) is required. To fully comply with the Service's mitigation guidelines for the transplantation of elderberry shrubs past the typical February 15th deadline, the applicant has purchased 3 valley elderberry longhorn beetle mitigation units at the Laguna Creek Mitigation Bank. Purchase of these units will result in the planting of 15 elderberry plants to mitigate for impacts to six stems. The purchase of these mitigation units has been consummated with an agreement for sale of valley elderberry longhorn beetle units dated February 9, 2000, between Weyerhaeuser Venture Company and Conservation Resources, LLC.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the Plan, which includes measures to minimize and mitigate impacts of the project on the valley elderberry longhorn beetle. Two alternatives to the Proposed Action were considered in the Plan. Under the No Action Alternative, no permit would be issued. However, the No Action Alternative is inconsistent with local development goals and would result in the undisturbed elderberry shrubs being left on the site in an isolated patch of open space with little habitat value. Another alternative would result in the development of another site instead of the described project site. The proposed project is an infill project and has minor or negligible environmental effects. The development of the present site is considered more desirable than the construction of the project on an open site in a less-developed area because the use of an alternative site may result in greater environmental effects.

The Service has made a preliminary determination that the Plan qualifies as a "low-effect" plan as defined by its Habitat Conservation Planning Handbook (November 1996). Determination of low-effect for a habitat conservation 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 the Service's Environmental Action Statement, the Tributary Point Parcel 9 Project Plan qualifies as a "low-effect" plan for the following reasons:

1. Approval of the Plan would result in minor or negligible effects on the valley elderberry longhorn beetle and its habitat. The Service does not anticipate significant direct or cumulative effects to the valley elderberry longhorn beetle resulting from development of the Parcel 9 Project area.

2. Approval of the Plan would not have adverse effects on unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.

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

The Service therefore has preliminarily determined that approval of the Plan 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 Plan, 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 Weyerhaeuser Venture Company for the incidental take of the valley elderberry

longhorn beetle from development of the Parcel 9 Project area. We will make the final permit decision no sooner than 30 days from the date of this notice.

Dated: February 18, 2000.

Elizabeth H. Stevens,

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

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-930-1320-AC-KYES-34711]

Lease Modification Application for Coal Lease KYES 34711

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Public Hearing and Availability of Environmental Assessment.

SUMMARY: Eastern States hereby gives notice that a public hearing will be held for comments on the environmental assessment, maximum economic recovery, and the fair market value of the coal resources covered by an application for modification of Coal Lease KYES 3471. Appolo Fuels Incorporated filed the lease modification application in accordance with 43 CFR 3432. The potentially bypass coal resource to be mined by UNDERGROUND mining methods from the Poplar Lick and Stray "C" coal seams in the Kentucky Ridge State

Forest (KY-LU-1, Tract 1101a) Bell County, Kentucky. This lease modification application is to add 160 acres to Federal lease KYES 34711 and State lease CLR-795. The tract would be accessed from underground and is north of private reserves leased to Appolo Fuels, Inc. The eastern and northern boundary extends to the outcrop of the coal seam and the western boundary is contiguous to Federal lease KYES 34711 and State lease CLR795. The 160-acre modification to the Federal lease KYES 34711 was delineated as a result an application by the lessee. The BLM geologic report estimates 737,300 Federal and 245,800 State tons in the coal reserve base of the lease modification area. Due to the thinness of the seam, the coal reserve base (as defined in 43 CFR 3480.0.5(a)(5)) does not include the Buckeye Springs seam. Mining on the existing lease tract and on adjoining private land will proceed with or without the Federal lease modification tract. The proposed action will protect the Federal and State interest by preventing the underground bypass of 307,200 tons of recoverable reserves, the loss of \$607,000 royalty to the general funds, and by providing an overall \$4,366,500 positive economic impact. Of the 307,200 tons, 259,200 tons are in the lease modification tract and 48,000 tons are in the existing lease. The 48,000 tons can only be mined from proposed portals.

We have found the quality range of the coal beds is as follows:

COAL QUALITY—DRY BASIS

Seam	DH#	ASH	Volatile	Fixed carbon	B.T.U.	Sulfur
Stray "C"	AF-10	5.31	41.71	52.98	14,145	1.45
Poplar Lick	AF-10	40.18	26.22	33.60	9,025	0.70
	AF-11	8.17	37.09	54.74	13,714	1.28

Note: Percentages sum to more than 100 due to rounding. Dry basis calculated by mathematically removing water.

The purpose of the hearing is to obtain comments on the Environmental Assessment prepared on the following items:

1. The method of mining to be employed to obtain maximum economic recovery of the coal;

2. The impact that mining the coal in the proposed lease modification area may have on the surrounding area including, but not limited to, impacts on the environment; and

3. Factors affecting, and methods of determining, the fair market value of the coal to be mined.

The environmental assessment will be available for review on February 24, 2000, the Bureau of Land Management, Jackson Field Office, 411 Briarwood Drive, Suite 404, Jackson, Mississippi 39206. Copies of the environmental assessment will also be available at the public hearing.

SUPPLEMENTARY INFORMATION: Written requests to testify orally at the March 24, 2000, public hearing should be received at Jackson Field Office, Eastern States, Bureau of Land Management, address set out above, prior to the close of business at 4:00 p.m., on March 21, 2000.

Both oral and written comments will be received at the public hearing, but speakers will be limited to a maximum of 10 minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. In addition, the public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management. Public comments will be utilized in establishing fair market value