

arise. Additional members or replacements for any individual selected to serve on the Commission, may only be made by HUD after a review by HUD of the qualifications of the individuals.

Dated: June 21, 2000.

Susan Wachter,

Assistant Secretary for Policy Development and Research.

[FR Doc. 00-16164 Filed 6-22-00; 12:57 pm]

BILLING CODE 4210-62-P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Review of Interior Board of Indian Appeals Decisions

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior has decided to review *Hopi Indian Tribe v. Director, Office of Trust and Economic Development, Bureau of Indian Affairs*, 22 IBIA 10 (1992), and *Hopi Tribe v. Director, Office of Trust Responsibilities, Bureau of Indian Affairs*, 24 IBIA 65 (1993). These decisions concern the method for reimbursing Indian Tribes for legal fees from the United States Treasury. To allow for full airing of all issues in this review, we are inviting interested parties in addition to the three Tribes most directly affected by these decisions to submit briefs on the issues set forth in the **SUPPLEMENTARY INFORMATION** section according to the schedule and instructions in that section of this Notice.

DATES: See the **SUPPLEMENTARY INFORMATION** section for the brief submission schedule.

ADDRESSES: Three copies of all briefs and motions should be sent to the Office of the Solicitor, U. S. Department of the Interior, Attn: Stephen Simpson, 1849 C Street, NW, MS 6352-MIB, Washington, DC 20240. You should also provide copies of all documents filed in this case to the participants listed in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Stephen Simpson, 202-219-1659.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior has decided to review two decisions of the Interior Board of Indian Appeals (IBIA), *Hopi Indian Tribe v. Director, Office of Trust and Economic Development, Bureau of Indian Affairs*, 22 IBIA 10 (1992) (Hopi I), and *Hopi Tribe v. Director, Office of Trust Responsibilities, Bureau of Indian*

Affairs, 24 IBIA 65 (1993) (Hopi II). Both Hopi I and Hopi II concern the payment of Tribal legal fees for litigation under the Navajo-Hopi Settlement Act from the United States Treasury. Under the Settlement Act (25 U.S.C. 640d-7(e)), the Secretary "is authorized to pay any or all appropriate legal fees, court costs, and other related expenses arising out of, or in connection with, the commencing of, or defending against, any action brought by the Navajo, San Juan Southern Paiute, or Hopi Tribe" concerning boundaries of a reservation established under the Settlement Act.

In 1989, the Hopi Tribe submitted a request to the Bureau of Indian Affairs for reimbursement of legal fees under this provision. The Director of the Bureau's Office of Trust and Economic Development requested that the Tribe submit further information under 25 CFR 89.40-89.43, the general regulations for reimbursement of legal fees. He noted that any requests for legal fees by the Tribe, unless mandated by Congress, should be applied for using the same process as other Tribes. He stated that 25 U.S.C. 640d-7(e) is discretionary and puts the Hopi Tribe in the same position as other Indian Tribes competing for reimbursement from the legal fees account in the Treasury. In Hopi I, the IBIA vacated the Director's decision and remanded it for further consideration because he had not explained how he reached that conclusion, or why the prior administrative practice of not requiring such applications was incorrect. On remand, the Director of the Office of Trust Responsibilities (the same office with a different name) ruled again that the Hopi Tribe had to file an application under 25 CFR 89.40-89.43 to provide a rational basis for the exercise of the BIA's discretion under 25 U.S.C. 640d-7(e). The Tribe again appealed, and, in Hopi II, the IBIA found that 25 CFR 89.40-89.43 applies when a Tribe determines to undertake litigation to protect its rights. The IBIA found, that in the case of the Hopi Tribe, the determination that the reservation litigation was necessary was made by Congress, not the Tribe. The IBIA therefore ruled that the BIA was required to reimburse all appropriate legal fees for the three Tribes and could not subject them to the same process and competition for funds as other Tribes.

Recognizing the importance of the IBIA decisions to the disbursement of federal funds for Tribal legal fees, the Secretary has decided to review the IBIA decisions in Hopi I and Hopi II under regulations which provide that:

The authority reserved to the Secretary includes, but is not limited to:

* * * * *

(2) The authority to review any decision of any employee or employees of the Department, including any administrative law judge or board of the Office [of Hearings and Appeals], or to direct any such employee or employees to reconsider a decision. 43 CFR 4.5 (Bracketed material added.)

To assist him in rendering a decision on this matter, the Secretary will accept briefs from the BIA, the three Tribes named in the Settlement Act (the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute Tribe), and other interested parties. Briefs should only address the Department's interpretation of 25 U.S.C. 640d-7(e) as evidenced in the IBIA decisions. The Secretary will not re-adjudicate the Hopi Tribe's appeal of the decisions. Further, the Secretary's review will not affect the pending settlement between the Hopi Tribe and the BIA of 1990 fees at issue in the decisions. Briefs must be submitted according to the following schedule:

1. Briefs opposed to the Board's decisions must be received by July 14, 2000;
2. Response briefs supporting the Board's decisions must be received by August 18, 2000; and
3. Reply briefs opposing the Board's decisions must be received by September 8, 2000.

Briefs are not to exceed fifty pages (except the reply briefs, which are not to exceed twenty-five pages), double spaced, with all margins not less than one inch. No oral argument will be heard on these issues.

Three copies of all motions and briefs being submitted are to be sent to the following address: Office of the Solicitor, U. S. Department of the Interior, Attn: Stephen Simpson, 1849 C Street, N.W., MS 6352-MIB, Washington, D. C. 20240.

Please also provide copies of all documents filed in this case to the participants listed below.

The Honorable Wayne Taylor, Jr.,
Chairman, Hopi Tribal Council, P.O.
Box 123, Kykotsmovi, AZ 86039
Terrance Virden, Director, Office of
Trust Responsibility, Bureau of Indian
Affairs, 1849 C Street, N.W., MS 4513,
Washington, DC 20240.
The Honorable Kelsey A. Begaye,
President, Navajo Nation, P.O. Box
9000, Window Rock, AZ 86515.
The Honorable Johnny Lehi, President,
San Juan Southern Paiute Council,
P.O. Box 2656, Tuba City, AZ 86045
BIA, as a party in this matter, will be
represented by the Division of Indian

Affairs of the Office of the Solicitor. The Immediate Office of the Solicitor will provide legal advice to the Secretary. Therefore, ex parte communication on this matter with the Office of the Secretary or the Immediate Office of the Solicitor is prohibited. Any communication with the Office of the Secretary or the attorneys in the Immediate Office of the Solicitor regarding this review must be in writing and a copy of the communication must be served on all participants in the review as noted above.

Dated: June 19, 2000.

John D. Leshy,
Solicitor.

[FR Doc. 00-16093 Filed 6-23-00; 8:45 am]

BILLING CODE 4310-10-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10 (a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Permit No. TE-028876

Applicant: The Nature Conservancy, Portland, Oregon.

The applicant requests a permit to take (capture, handle, and release) the Lost River sucker (*Deltistes luxatus*) and shortnose sucker (*Chasmistes brevirostris*) in conjunction with restoration actions in the Williamson River and Agency Lake, Oregon, for the purpose of enhancing their survival.

Permit No. TE-026227

Applicant: Joseph Silveira, Willows, California.

The applicant requests a permit to take (harass by survey, collect and sacrifice) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool tadpole shrimp (*Lepidurus packardii*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the Riverside fairy shrimp (*Streptocephalus woottoni*), and remove and reduce to possession specimens of *Cordylanthus palmatus*, *Cordylanthus mollis* ssp. *mollis*,

Orcuttia californica, *Orcuttia pilosa*, *Orcuttia viscida*, *Tuctoria greenei*, and *Tuctoria mucronata* in conjunction with surveys and the collection of voucher specimens throughout each species' range in California for the purpose of enhancing their survival.

Permit No. TE-002716

Applicant: Kenneth J. Halama, Riverside, California.

The applicant requests a permit to take (capture and handle) the arroyo southwestern toad (*Bufo microscaphus californicus*) in conjunction with conducting natural history research throughout the species' range for the purpose of enhancing its survival.

Permit No. TE-839213

Applicant: David Philip Muth, Jr., Martinez, California.

The permittee requests an amendment to take (harass by survey, collect and sacrifice) the San Diego fairy shrimp (*Brachinecta sandiegonensis*) and the Riverside fairy shrimp (*Streptocephalus woottoni*) in conjunction with surveys throughout each species' range in California for the purpose of enhancing their survival.

Permit No. TE-839480

Applicant: Richard Zembal, Laguna Hills, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) and take (monitor nests, capture, mark, band, and release) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with scientific research throughout each species range in California for the purpose of enhancing their survival.

Permit No. TE-028810

Applicant: Althouse and Meade, Inc., Paso Robles, California.

The applicant requests a permit to take (capture and handle) the California tiger salamander (*Ambystoma californiense*) in conjunction with presence or absence surveys in Santa Barbara County, California for the purpose of enhancing its survival.

DATES: Written comments on these permit applications must be received on or before July 26, 2000.

ADDRESSES: Written data or comments should be submitted to the Chief—Endangered Species, Ecological Services, Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232-4181; Fax: (503) 231-6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and

addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT:

Documents and other information submitted with these applications are available for 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 within 20 days of the date of publication of this notice to the address above; telephone: (503) 231-2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: June 19, 2000.

Don Weathers,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 00-16033 Filed 6-23-00; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a "Lost Pines" Environmental Assessment/Habitat Conservation Plan for Assigned Permit Number TE-025997-0. For Issuance of an Endangered Species Act Section 10(a)(1)(B) Permit for the Incidental Take of the Endangered Houston Toad (*Bufo houstonensis*). During the Construction and Occupation of Single Family Residences (each on home-sites of 0.5 acres or less) in 45 subdivisions in Bastrop County, TX

SUMMARY: The U.S. Fish and Wildlife Service Office has prepared an Environmental Assessment/Habitat Conservation Plan for assigned permit number TE-025997-0 for issuance of an Endangered Species Act Section 10(a)(1)(B) permit for the incidental take of the Endangered Houston Toad. The Service proposes issuing endangered species permits to individual lot owners under an EA/HCP, where each permit would authorize the incidental take of the endangered Houston toad, directly or indirectly, from the construction and occupation of a single-family residence on an undeveloped lot in the 45 subdivisions covered under this EA/HCP. This alternative was selected as the Preferred Alternative as it will allow for responsible development of the lots while minimizing and offsetting impacts to the Houston toad by providing for on-site and off-site conservation measures that will be used to promote the long-term survival of the species. It is also considered to provide the most simplified, expeditious, and effective