

5:30 p.m. Adjourn.

David Valenzuela,  
President.

[FR Doc. 05-1381 Filed 1-21-05; 11:33 am]

BILLING CODE 7025-01-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Availability of a Draft Environmental Assessment/Habitat Conservation Plan and Receipt of a Permit Application (Becker) for Incidental Take of the Houston Toad

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

**ACTION:** Notice of availability.

**SUMMARY:** Robert Becker (Applicant) has applied for an incidental take permit (TE-098535-0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single family residence and associated structures on 0.5 acres (0.2 hectare) of a 6.58-acre (2.66 hectare) property located on Barras Road, Bastrop County, Texas.

**DATES:** To ensure consideration, written comments must be received on or before March 28, 2005.

**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 Environmental Assessment/Habitat Conservation Plan (EA/HCP) may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512-490-0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 a.m. to 4:30 p.m.) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas, at the above address. Please refer to permit number TE-098535-0 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Clayton Napier at the U.S. Fish and Wildlife Service, Austin Office, 10711 Burnet Road, Suite 200, (512-490-0057).

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the "taking" of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take 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 Service has prepared the EA/HCP for the incidental take application. A determination of jeopardy or non-jeopardy to the species and a decision pursuant to the National Environmental Policy Act (NEPA) will not be made until at least 60 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:** Robert Becker plans to construct a single family residence and associated structures on 0.5 acres of a 6.58-acre property located on Barras Road, Bastrop County, Texas. This action will eliminate 0.5-acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing \$2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region.

[FR Doc. 05-1296 Filed 1-24-05; 8:45 am]

BILLING CODE 4510-55-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Lamont Public Utility District in Kern County, CA

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

**ACTION:** Notice of availability and receipt of application.

**SUMMARY:** The Lamont Public Utilities District (Applicant) 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 is considering the issuance of a 50-year permit to the Applicant that would authorize take of the endangered Tipton kangaroo rat (*Dipodomys*

*nitratoides nitratoides*), the endangered San Joaquin kit fox (*Vulpes macrotis mutica*), and the western burrowing owl (*Athene cunicularia*), a species of special concern, incidental to otherwise lawful activities. Such take would occur during the proposed construction and operation of the Applicant's effluent disposal site expansion on a 160-acre site south of Lamont, Kern County, California. The proposed expansion includes the construction of two ponds, a series of leaching terraces, and access roads. The proposed project would affect suitable habitat for the San Joaquin kit fox and western burrowing owl, and permanently affect about 19 acres of occupied habitat of the Tipton kangaroo rat.

We request comments from the public on the permit application and Environmental Assessment, both of which are available for review. The permit application includes the proposed Habitat Conservation Plan (Plan) and an accompanying Implementing Agreement. The Plan describes the proposed action and the measures that the Applicant would undertake to minimize and mitigate take of the covered species.

**DATES:** We must receive your written comments on or before March 28, 2005.

**ADDRESSES:** Please address written comments to Lori Rinek, Chief, Conservation Planning and Recovery Division, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, California 95825. You also may send comments by facsimile to (916) 414-6713.

**FOR FURTHER INFORMATION CONTACT:** Jesse Wild, Fish and Wildlife Biologist, or Lori Rinek, Chief, Conservation Planning and Recovery Division at the Sacramento Fish and Wildlife Office at (916) 414-6600.

#### SUPPLEMENTARY INFORMATION:

##### Availability of Documents

You may obtain copies of these documents for review by contacting Jesse Wild or Lori Rinek [see **FOR FURTHER INFORMATION CONTACT**]. Documents also will be available for public inspection, by appointment, during normal business hours at the Sacramento Fish and Wildlife Office [see **ADDRESSES**].

##### Background

Section 9 of the Act and Federal regulations prohibit the "take" of fish and wildlife species listed as endangered or threatened. Take of federally listed fish and wildlife is defined under the Act to include the

following activities: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. 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 endangered species are found in 50 CFR 17.22.

In response to California Regional Water Quality Board requirements, the Applicant proposes to expand their current sewage effluent disposal facility to the southeast onto an adjacent 160-acre parcel located about 2.5 miles directly south of the town of Lamont (0.5 mile south of Bear Mountain Boulevard, State Route 223), immediately to the west of Wheeler Ridge Road (State Route 184) in Kern County, California.

On the northwest corner of the site, the Applicant proposes to construct two treatment ponds on approximately 21 acres. This pond construction would be located in unoccupied and previously disturbed areas as reported by completed survey and trapping records. Activities presently occurring in this area include composting and agriculture. The remaining 139 acres of the property would be graded for access roads, leveled, and planted in corn, alfalfa, or other forage crops for non-human consumption that can be irrigated and harvested periodically through standard cultivating and harvesting techniques.

A series of terraced benches may be constructed on the east side of the site, which is designated for agricultural use. Effluent would be spread aerielly onto the benches, which would be about 600 feet wide, with a 4-foot gently-sloped drop between each bench. The terraced leaching benches would be used sequentially, allowing evaporation and infiltration of the effluent into the soil while water is being spread on other benches. The effluent would be spread on each pad as needed. Following the completion of infiltration and drying, each bench would be disked several times each year to maintain the highest levels of permeability and percolation. Winter wheat, corn, alfalfa, or another forage crop may be planted on the benches and harvested periodically.

The project site contained about 19 acres of habitat occupied by the Tipton kangaroo rat, according to survey trapping and mapping efforts concluded in 1995. The Service has concluded that implementation of the proposed project will likely result in take of Tipton kangaroo rats through the removal or

repeated disturbance of habitat on the site.

Although no San Joaquin kit foxes were observed nor evidence found of their denning at the time of biological surveys, they may range through and periodically use the site for foraging and/or denning. The expansion and operation of the facilities is unlikely to result in direct mortality or injury of San Joaquin kit foxes, but may result in take in the form of harassment.

The western burrowing owl may occupy California ground squirrel (*Spermophilus beecheyi*) burrows adjacent to agricultural fields or along canal road ditches and berms, and may inhabit pipes and culverts on the project site. The owls may be displaced, killed, or disturbed by the construction of the project. Owls that occupy the site following the completion of construction may be affected by grading, blading, or disking.

The Applicant proposes to implement specific measures to minimize take and associated adverse project impacts to covered species. The Applicant also proposes to mitigate for take by purchase of 57 acres of compensation credits at the California Department of Fish and Game's Coles Levee Preserve in Kern County which supports all of the covered species. The compensation includes funds supporting a management endowment to ensure the permanent management and monitoring of sensitive species and habitats within the area protected by the Coles Levee Preserve.

The Service's Environmental Assessment considers the environmental consequences of the following alternatives. Alternative A consists of no permit issuance and no expansion of the Applicant's effluent disposal site at this time. Compared to the Preferred Alternative, Alternative A would result in less long-term conservation for the covered species within Kern County, and the Applicant would be in continued violation of California Regional Water Quality Board regulations. Alternative B (or the Preferred Alternative) consists of the issuance of the incidental take permit and implementation of the Plan and Implementing Agreement.

In addition, two additional alternatives were considered but eliminated from analysis. Alternative C discusses the option of constructing a sewage recycling plant with zero discharge. This type of plant is technologically feasible and would occupy much less land than one requiring an effluent spreading ground in accordance with State and Federal regulations. This alternative would

result in less take of covered species habitat than the Preferred Alternative. However, it is extremely costly and, therefore, not an economically feasible alternative for the small town of Lamont. Alternative D discusses the purchase of a site for effluent disposal other than the one proposed in the Preferred Alternative. Surrounding sites have not been surveyed for covered species, so it has not been determined that there would be more or less take at any alternative site. Additionally, no sites are available for purchase within close proximity to the existing ponds that are not already in dairy or agriculture. Conserving prime agricultural land is also a concern, therefore, the use of the site in Alternative B is preferable since it has been degraded in various ways and would require modification prior to conventional agricultural activities.

Pursuant to an order issued on June 10, 2004, by the District Court for the District of Columbia in *Spirit of the Sage Council v. Norton* Civil Action No. 98-1873 (D.D.C.), the Service was enjoined from issuing new section 10(a)(1)(B) permits or related documents containing "No Surprises" assurances, as defined by the Service's "No Surprises" rule published at 63 FR 8859 (February 23, 1998), until such time as the Service adopts new permit revocation rules specifically applicable to section 10(a)(1)(B) permits in compliance with the public notice and comment requirements of the Administrative Procedures Act. In compliance with the court order, the Service published a final permit revocation rule (69 FR 71723) on December 10, 2004. This new permit revocation rule becomes effective on January 10, 2005. Until such time as the June 10, 2004, order has been rescinded by the court or the Service's authority to issue permits with "No Surprises" assurances has been otherwise reinstated, the Service will not approve any incidental take permits or related documents that contain "No Surprises" assurances.

This notice is provided pursuant to section 10(a) of the Act and the regulations of the National Environmental Policy Act (NEPA) of 1969 (40 CFR 1506.6). All comments that we receive, including names and addresses, will become part of the official administrative record and may be made available to the public. We will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If we determine that those requirements are met, we will issue a

permit to the Applicant for the incidental take of the covered species. We will make our final permit decision no sooner than 60 days from the date of this notice.

Dated: January 6, 2005.

**Nicole Alt,**

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

[FR Doc. 05-1287 Filed 1-24-05; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### **Notice of Availability of the Draft Barton Springs Salamander Recovery Plan; Notice of Initiation of a 5-Year Status Review for the Barton Springs Salamander (*Eurycea sosorum*)**

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

**ACTION:** Notice of document availability and notice of review.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces the availability for public review of the Draft Barton Springs Salamander Recovery Plan (Draft Recovery Plan). The Barton Springs salamander (*Eurycea sosorum*) is known to occur near four springs outlets that collectively make up Barton Springs in Austin, Texas. The Service solicits review and comment from the public on this Draft Recovery Plan. The Service also announces a 5-year status review of the Barton Springs salamander under section 4(c)(2)(A) of the Endangered Species Act of 1973 (Act) (16 U.S.C. 1531 *et seq.*). The purpose of reviews conducted under this section of the Act is to ensure that the classification of the species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants (List) is accurate. A 5-year review is based on the best scientific and commercial data available at the time of the review. Therefore, we are requesting submission of any such information on the Barton Springs salamander that has become available since its original listing as an endangered species in 1997. If the present classification of this species is not consistent with the best scientific and commercial information available, the Service will recommend whether or not a change is warranted in the Federal classification of Barton Springs salamander. Any change in Federal classification would require a separate rule-making process.

**DATES:** Comments on the Draft Recovery Plan are due by March 28, 2005 to

assure consideration. Information and materials for consideration in this 5-year review of the Barton Springs salamander must be received no later than March 28, 2005. However, we will continue to accept new information about any listed species at any time.

**ADDRESSES:** Persons wishing to review the Draft Recovery Plan may obtain it from the Internet at <http://endangered.fws.gov/recovery/>. You may also request a copy from the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas, 78758. Comments and materials concerning this Draft Recovery Plan and/or the 5-year status review may be mailed to "Field Supervisor" at the address above. Information received in response to this notice and review will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Robert Pine, Austin Ecological Services Field Office, at the above address; telephone (512) 490-0057, facsimile (512) 490-0974.

#### **SUPPLEMENTARY INFORMATION:**

##### **Draft Recovery Plan**

The Barton Springs salamander was listed as endangered on May 30, 1997, under authority of the Endangered Species Act of 1973, as amended (62 FR 23377). The water that discharges from Barton Springs is essential to the survival of the salamander. Barton Springs is a segment of the Edwards Aquifer, a karst limestone aquifer containing a complex system of caves, sinkholes, fractures, and faults. The Edwards Aquifer is particularly vulnerable to contamination and land use changes that degrade the quality of stormwater runoff. The primary threat facing the survival and recovery of this species is the degradation of water quality and quantity of water that feeds Barton Springs. This degradation has resulted from urbanization over the Barton Springs watershed (including roadway, residential, commercial, and industrial development). The Draft Recovery Plan includes information about the species, provides recovery objectives and criteria, and describes the actions needed to recover the species such that it no longer warrants listing as endangered or threatened.

The Draft Recovery Plan proposes reclassification of the Barton Springs salamander from endangered to threatened when the following criteria have been met: (1) Mechanisms (such as laws, rules, regulations, and cooperative agreements) are in place to ensure

nondegradation of water quality in the Barton Springs watershed; (2) a plan to avoid, respond to, and remediate hazardous materials spills within the Barton Springs watershed is in place with high priority measures implemented to minimize risks to the Barton Springs salamander; (3) measures to ensure that continuous, natural springflows are maintained at all four spring outlets are in place and effective; (4) a healthy, self-sustaining natural population of Barton Springs salamanders is maintained within its historical range; (5) measures to remove local threats to the Barton Springs ecosystem have been implemented; (6) at least two genetically representative captive populations of Barton Springs salamanders have been established in secure locations with the completion of a captive propagation and contingency plan.

The Draft Recovery Plan proposes the delisting of the Barton Springs salamander when the downlisting criteria have been achieved and the following additional criteria have been met: (1) Water quality protection mechanisms are shown to be effective and commitments are in place to continue protection; (2) measures to implement the catastrophic spill avoidance, response and remediation plans are ensured; (3) measures to maintain adequate springflows are shown to be effective; (4) the Barton Springs salamander population is shown to be viable and stable or increasing; (5) measures to remove local threats to the Barton Springs ecosystem are shown to be effective and a commitment is in place to continue the appropriate management of the surface habitat; and (6) captive breeding is shown to be effective and reliable and commitments are in place to maintain adequate captive populations for any needed restoration work.

Because the Barton Springs salamander relies on continuous flow of clean spring water, many of the high-priority recovery tasks outlined in the Draft Recovery Plan include actions to ensure adequate water quality and quantity within the Barton Springs watershed such as: (1) Developing and implementing catastrophic spill avoidance, response, and remediation plans; (2) implementing programs to protect sensitive environmental features important to salamander habitat or the effective recharge of clean water such as caves, sinkholes, fissures, springs, and riparian zones; (3) developing and implementing programs to identify and correct problems from point and non-point source pollution discharges; and (4) creating a regional management