

implemented as described in the Natomas Basin Habitat Conservation Plan (Plan), which would be jointly implemented by the applicants.

This notice is provided pursuant to section 10 of the Act and National Environmental Policy Act Regulation (40 CFR 1506.6).

DATES: A Record of Decision and permit decision will occur no sooner than 30 days from the date of publication of the Environmental Protection Agency's notice of the Final EIS in the **Federal Register**.

Availability of Documents: Copies of the Plan, Implementing Agreement and Final EIR/EIS are available for public inspection during regular business hours at the Sacramento Fish and Wildlife Office (*see FOR FURTHER INFORMATION CONTACT*), the City of Sacramento Planning and Building Department, 1231 I Street, Room 300, Sacramento, California; State Library, 914 Capitol Mall, Sacramento, California; Central Library, 828 I Street, Sacramento, California; South Natomas Library, 2901 Truxel Road, Sacramento, California; and Sutter County Library, 750 Forbes Avenue, Yuba City, California.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Campbell, Chief, Division of Conservation Planning and Recovery, at the Sacramento Fish and Wildlife Office; 2800 Cottage Way; Sacramento, California; telephone (916) 414-6600.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Act and Federal regulation prohibit the "take" of animal species listed as endangered or threatened. Take is defined under the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). However, under limited circumstances, the Service may issue permits to authorize "incidental take" of listed animal species. "Incidental take" is defined by the Act as take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing permits for threatened species and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22.

The applicants are seeking permits for take of the following Federally listed species: the threatened giant garter snake (*Thamnophis gigas*), threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), threatened vernal pool fairy shrimp (*Branchinecta lynchi*), and the endangered vernal pool tadpole shrimp

(*Lepidurus packardii*). The proposed permits would also authorize future incidental take of the currently unlisted Swainson's hawk (*Buteo swainsoni*), Aleutian Canada goose (*Branta canadensis leucopareia*), bank swallow (*Riparia riparia*), tricolored blackbird (*Agelaius tricolor*), northwestern pond turtle (*Clemmys marmorata marmorata*), white-faced ibis (*Plegadis chihi*), loggerhead shrike (*Lanius ludovicianus*), burrowing owl (*Athene cunicularia*), California tiger salamander (*Ambystoma californiense*), western spadefoot toad (*Scaphiopus hammondi*), and midvalley fairy shrimp (*Branchinecta mesoacalis*). Several listed and unlisted plant species are also included on the permits. Take of listed plant species is not prohibited under the Act and cannot be authorized under a section 10 permit. The following plant species are proposed to be included on the permits in recognition of the conservation benefits provided for them under the plan. These species would also receive no surprise assurances under the Service's "No Surprises" regulation (63 FR 8859). The listed plant species proposed to be included on the permits are the threatened Colusa grass (*Neostapfia colusana*), endangered Sacramento Orcutt grass (*Orcuttia viscida*), and threatened slender Orcutt grass (*Orcuttia tenuis*). The following unlisted species are also proposed to be included on the permits: Boggs Lake hedgehyssop (*Gratiola heterosepala*), legener (*Legenere limosa*), delta tule pea (*Lathyrus jepsonii* ssp. *jepsonii*) and Sanford's arrowhead (*Sagittaria sanfordii*), should any of these species become listed under the Act during the life of the permit. Collectively, the 22 listed and unlisted species are referred to as the "covered species" in the Plan.

The applicants propose to minimize and mitigate the effects to covered species associated with the covered activities by participating in the Plan. The purpose of this basin-wide conservation program is to promote biological conservation in conjunction with compatible economic and urban development within the Natomas Basin. Through the payment of development fees, one-half acre of mitigation land would be established for every acre of land developed within the various permit areas (a total of 7,759 acres of mitigation land to be acquired based on 15,517 acres of urban development). The mitigation land would be acquired and managed by the Natomas Basin Conservancy. In addition to the requirement to pay mitigation fees, the

Plan also includes take avoidance and minimization measures.

On August 26, 2002, a notice was published in the **Federal Register** (67 FR 54819) announcing that the Service had received an application for an incidental take permit from the applicants based on the Plan and the availability of a Draft EIR/EIS for the application. The Draft EIR/EIS analyzed the potential environmental impacts that may result from the Federal action of authorizing incidental take anticipated to occur as a result of urban development within the permit areas of the plan and as a result of the Plan's conservation program. The EIR/EIS also identified various alternatives to the Plan. Twenty-four comment letters were received on the Draft EIR/EIS. A response to each comment received has been included in the Final EIR/EIS.

The Draft EIR/EIS considers four alternatives in addition to the Proposed Action and the No Action Alternative. Under the No Action Alternative, no section 10(a)(1)(B) permits would be issued for take of listed species associated with the covered activities; the applicants would address the potential for take of listed species on a case-by-case basis. The Increased Mitigation Ratio Alternative would double the extent of required mitigation land relative to the Plan. The Habitat-Based Mitigation Alternative would prescribe mitigation based on the value of habitat to be disturbed, rather than on a general ratio applied to all lands to be disturbed. The Reserve Zone Alternative would prioritize specific areas within the Natomas Basin for acquisition, in contrast to the general acquisition strategy described in the Plan. The Reduced Potential for Incidental Take Alternative would result in reduced urban development covered by the permits, and would therefore reduce the potential for incidental take associated with urban development.

The analysis provided in the Final EIR/EIS is intended to accomplish the following: inform the public of the proposed action and alternatives; address public comments received on the Draft EIR/EIS; disclose the direct, indirect and cumulative environmental effects of the proposed action and each of the alternatives; and indicate any irreversible commitment of resources that would result from implementation of the proposed action.

Dated: April 22, 2003.

Ken McDermond,

Deputy Manager, Region 1, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 03-10359 Filed 4-25-03; 8:45 am]

BILLING CODE 4310-55-P