

ACTION: Notice of availability and receipt of application.

SUMMARY: Pacific Communities Builders, Inc. (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended. The Service is considering issuing a 15-year permit to the Applicant that would authorize take of the threatened coastal California gnatcatcher (*Polioptila californica californica*, "gnatcatcher") incidental to otherwise lawful activities associated with the construction of a residential development on a 278-acre site in the unincorporated community of Menifee, Riverside County, California. The project would result in the incidental take of three pairs of gnatcatchers on the project site through permanent removal of approximately 106.9 acres of habitat.

We request comments from the public on the permit application and an 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 will undertake to minimize and mitigate take of the gnatcatcher. To review the permit application or Environmental Assessment, see "Availability of Documents" in the **SUPPLEMENTARY INFORMATION** section.

DATES: We must receive your written comments on or before September 5, 2003.

ADDRESSES: Please address written comments to Mr. Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, California 92009. You also may send comments by facsimile to (760) 918-0638.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Goebel, Assistant Field Supervisor, at the above address or call (760) 431-9440.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of these documents for review by contacting the Assistant Field Supervisor (**FOR FURTHER INFORMATION CONTACT**). Documents also will be available for public inspection, by appointment, during normal business hours at the above address (see **ADDRESSES**) and at the following libraries in Riverside County:

(1) 26982 Cherry Hills Boulevard, Sun City, California 92586; (2) 31516 Rail

Road Canyon Road, Canyon Lake, California 92587; (3) 600 West Graham, Lake Elsinore, California 92530; and (4) 3581 Mission Inn Avenue, Riverside, California 92501.

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 as including 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 threatened species are found in 50 CFR 17.32.

The Applicant proposes to develop housing containing up to 856 residential units on 278 acres. The project site is located between Newport Road and Holland Road, about 1.3 miles west of Interstate 215 and 6 miles east of Interstate 15 in the community of Menifee, Riverside County, California. The project site is surrounded by a combination of agriculture, residential development, and open space with native vegetation. The property is subject to occasional disturbance by human activity, including off-highway vehicle use and fuel modification activities. The proposed project site is not directly connected to habitat being considered by the Service and local agencies for the long-term conservation of the gnatcatcher and does not occur within designated gnatcatcher critical habitat.

A protocol survey for gnatcatchers from December 1998 to February 1999 documented up to three pairs of gnatcatchers onsite. Based on these survey results, the Service concluded that implementation of the proposed project would likely result in take of up to three pairs of gnatcatchers through the permanent removal of 106.9 acres of Riversidean sage scrub habitat on the 278-acre site.

Federally endangered Quino checkerspot butterfly (*Euphydryas editha quino*) was not detected on the project site during 3 years of surveys, 1999–2001. The federally endangered Stephens' kangaroo rat (*Dipodomys stephensi*) may occupy portions of the proposed project site; however, no Stephens' kangaroo rat surveys have been conducted at the project site. Because the proposed project site occurs within the plan area boundary of the

approved Habitat Conservation Plan for the Stephens' Kangaroo Rat in Western Riverside County, California (March 1996), compliance with this Plan and its associated implementation agreement will be required prior to any ground-disturbing activities, including vegetation removal.

To mitigate take of gnatcatchers on the project site, the Applicant proposes to purchase credits towards conservation in-perpetuity of 320 acres of Riversidean sage scrub vegetation and three pairs of gnatcatchers from the Joe A. Gonzalez Wilson Creek Conservation Bank in western Riverside County. The conservation bank collects fees that fund a management endowment to ensure the permanent management and monitoring of sensitive species and habitats, including the gnatcatcher.

The Service's Environmental Assessment considers the environmental consequences of four alternatives, including: (1) The Proposed Project Alternative, which consists of issuance of the incidental take permit and implementation of the Plan and Implementing Agreement; (2) the No Action Alternative, which consists of no permit issuance and no development at this time; (3) the Reduced Project Alternative, which consists of issuing a permit for a smaller development, which would impact 69.6 acres of Riversidean sage scrub vegetation instead of 106.9 acres; and (4) the Increased Density Alternative, which would impact all 129.6 acres of Riversidean sage scrub vegetation onsite. The No Action Alternative and Reduced Project Alternative would result in less long-term conservation for the gnatcatcher within western Riverside County, as they would not contribute as much, or at all, to conservation of areas within or directly connected to habitat being considered by the Service and local agencies for long-term conservation of the species. The Increased Density Alternative would leave no habitat remaining onsite, eliminating the possibility that the site could ever be used for gnatcatcher breeding or dispersal.

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