

Action Statement, which also is available for public review.

DATES: Written comments must be received by 5 p.m. on September 15, 2003.

ADDRESSES: Comments should be addressed to Robert Williams, Field Supervisor, Nevada Fish and Wildlife Office, 1340 Financial Blvd., Suite 234, Reno, Nevada 89502, facsimile number (775) 861-6300 (*see* **SUPPLEMENTARY INFORMATION**, Public Review and Comment).

FOR FURTHER INFORMATION CONTACT: Laurie Sada, Assistant Field Supervisor, at the above address or by calling (775) 861-6300.

SUPPLEMENTARY INFORMATION:

Background

The primary objective of the proposed SHA is to introduce a refugia population of White River spinedace and to protect and maintain desert spring and stream habitat at Indian Spring to benefit White River spinedace by relieving the landowner, who enters into the provisions of the proposed SHA, from any additional section 9 liability under the Endangered Species Act beyond that which exists at the time a final SHA is signed ("regulatory baseline"). SHAs encourage landowners to conduct voluntary conservation activities and assures them that they will not be subjected to increased endangered species restrictions should their beneficial stewardship efforts result in increased endangered species populations. Application requirements and issuance criteria for enhancement of survival permits through SHAs are found in 50 CFR 17.22(c). As long as the enrolled landowner maintains their baseline responsibilities, they may make any other lawful use of the property during the permit term, even if such use results in the take of individual White River spinedace or harm to their habitat.

The proposed SHA includes (but is not limited to) the following actions: (1) NDOW and the Service introduce White River spinedace at Indian Spring (approximately 100 spinedace over the course of several introductions between the fall of 2003 and spring of 2005); (2) the Applicant allows NDOW and the Service access to private property for monitoring and maintenance of the White River spinedace at Indian Spring; and (3) the Applicant allows habitat maintenance activities to ensure White River spinedace survival at Indian Spring.

The proposed SHA stipulates that the introduced population of White River spinedace is secure from various land management activities for a period of 5

years, which include: (1) Grazing of livestock upslope of or within 91.5 m (300 ft) of Indian Spring sources and the stream, or within 7.6 m (25 ft) of the pond; (2) interruption, reduction, or elimination of water flow from the spring sources to the pond; (3) stocking of exotic fish or amphibian species at Indian Spring sources and the stream or pond; (4) removal of vegetation within 91.5 m (300 ft) of Indian Spring sources and the stream, or within 7.6 m (25 ft) of the pond; (5) earthmoving activities within 91.5 m (300 ft) of Indian Spring sources and the stream, or within 7.6 m (25 ft) of the pond; (6) implementing controlled burning activities within 91.5 m (300 ft) of Indian Spring sources and the stream, or within 7.6 m (25 ft) of the pond; and (7) draining the pond of more than 25 percent of its capacity.

After protecting the spring, stream, and pond habitat at Indian Spring for the 5-year term, the Applicant may then conduct otherwise lawful activities on their property that result in the partial elimination of the spring, stream, or pond habitat and the incidental taking of White River spinedace as a result of such habitat elimination. However, the restrictions on returning the White River spinedace to its original baseline condition include: (1) White River spinedace may not be captured, killed, or otherwise directly "taken"; (2) the NDOW and the Service will be notified a minimum of 3 months prior to the activity and given the opportunity to capture, rescue, and/or translocate any White River spinedace, if necessary and appropriate; and (3) return to baseline conditions must be completed within the 30-year term of the permit issued to the Applicant.

The Service has made a preliminary determination that approval of the proposed SHA qualifies as a categorical exclusion under the NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1) based on the following criteria: (1) Implementation of the proposed SHA would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the proposed SHA would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the proposed SHA, 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. This is more fully explained in our Environmental Action Statement.

Based upon this preliminary determination, the Service does not intend to prepare further NEPA documentation. The Service will consider public comments in making its final determination on whether to prepare such additional documentation.

Public Review and Comments

Individuals wishing copies of the permit application, the Environmental Action Statement, or copies of the full text of the proposed SHA, including a map of the enrolled land area, legal descriptions, and references should contact the office and personnel listed in the **ADDRESSES** section. Documents also will be available for public inspection, by appointment, during normal business hours at this office (*see* **ADDRESSES**).

The Service provides this notice pursuant to section 10(c) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6). All comments received on the permit application and proposed SHA, including names and addresses, will become part of the administrative record and may be released to the public. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, are available for public inspection in their entirety.

Decision

We will evaluate the permit application, the proposed SHA, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act and NEPA regulations. If the requirements are met, the Service will sign the proposed SHA and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the Applicant for take of the White River spinedace incidental to otherwise lawful activities of the project. The Service will not make a final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

Dated: August 8, 2003.

Catrina M. Martin,

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

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