

ACTION: Notice of availability, receipt of application.

SUMMARY: The Urban Wildlands Group, Inc. (Applicant) has applied to the Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (Act). The permit application includes a proposed Safe Harbor Agreement (SHA) between the Applicant and the Service. The SHA provides for habitat enhancement and creation for the El Segundo blue butterfly (*Euphilotes bernardino allyni*) on approximately 2 acres of bluff habitat on private property in Los Angeles County, California. The proposed duration of both the SHA and permit is 30 years.

The Service has made a preliminary determination that the proposed SHA and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). The basis for this determination is contained in an Environmental Action Statement, which also is available for public review.

DATES: Written comments must be received by 5 p.m. on March 17, 2003.

ADDRESSES: Comments should be addressed to Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California 92009, facsimile number (760) 918-0638 (see **SUPPLEMENTARY INFORMATION**, Public Review and Comment).

FOR FURTHER INFORMATION CONTACT: Karen A. Evans, Assistant Field Supervisor, at the above address or by calling (760) 431-9440.

SUPPLEMENTARY INFORMATION:

Background

The primary objective of this SHA is to encourage voluntary habitat restoration or enhancement activities to benefit El Segundo blue butterfly by relieving a landowner, who enters into the provisions of a Cooperative Agreement with the Applicant, from any additional Section 9 liability under the Endangered Species Act beyond that which exists at the time the Cooperative Agreement is signed ("regulatory baseline"). A SHA encourages 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 enrolled landowners allow the agreed upon habitat improvements to be completed on their property and maintain 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 El Segundo blue butterflies or harm to their habitat.

Landowners within the Torrance Recovery Unit identified by the El Segundo Blue Butterfly Recovery Plan may be enrolled with the Applicant under the SHA. They will receive a Certificate of Inclusion when they sign a Cooperative Agreement. The Cooperative Agreement will include: (1) A map of the property; (2) delineation of the portion of the property to be enrolled and its acreage; (3) a description of the vegetation of the enrolled area of the property; (4) a description of the habitat improvements that will be completed, and; (5) the responsibilities of the Cooperator and the Applicant.

The Applicant will provide draft copies of Cooperative Agreements to the Service for an opportunity to review and concur with the recommended habitat management activities. The Service will have a period of 30 days in which to make comments. If no comments are received within 30 days, the Applicant may proceed to finalize the Cooperative Agreement. The Applicant, as the permittee, will be responsible for annual monitoring and reporting related to implementation of the SHA and Cooperative Agreements and fulfillment of their provisions. Upon request by the Service, the Applicant will make available records and materials related to implementation of the program.

Each Cooperative Agreement will cover restoration activities to create or enhance habitat for El Segundo blue butterfly and achieve species' recovery goals. These actions, where appropriate, could include (but are not limited to): (1) Removal of exotic vegetation to allow for native plant revegetation or to reduce the adverse effect on existing habitat; (2) revegetation with food plant for El Segundo blue butterfly as part of a native dune scrub or bluff scrub community; (3) repair or installation of fences to protect existing or created habitat from human disturbance; and (4) facilitation of the implementation of other objectives recommended by the El Segundo Blue Butterfly Recovery Plan. None of the Cooperative Agreements entered into under this SHA will allow conversion of native habitat into another habitat type.

Each Cooperative Agreement will stipulate that the habitat improvement measures be maintained for a period that is expected to result in the maturation of plants used in revegetation and for a period of 5 years beyond. Most Cooperative Agreements are expected to last at least 13 years. Based on experience elsewhere, this term is more than adequate to allow native plant revegetation to mature to a point usable by the butterflies for nectaring and egg-laying, as well as multiple seasons for dispersal to and from adjacent occupied habitat patches.

After maintenance of the restored/created/enhanced El Segundo blue butterfly habitat on the property for the agreed-upon term, Cooperators may then conduct otherwise lawful activities on their property that result in the partial or total elimination of the restored habitat and the incidental taking of El Segundo blue butterfly as a result of such habitat elimination. However, the restrictions on returning a property to its original baseline condition include: (1) El Segundo blue butterflies may not be captured, killed, or otherwise directly "taken"; (2) the Applicant and the Service will be notified a minimum of 60 days prior to the activity and given the opportunity to capture, rescue, and/or translocate any El Segundo blue butterflies, 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. Cooperative Agreements may be extended if the Applicant's permit is renewed and that renewal allows for such extension.

In emergency situations, such as storm-related geological instability, the Service may authorize a Cooperator to carry out an action likely to result in incidental taking of El Segundo blue butterfly before the end of the agreed-upon duration of habitat maintenance, as identified in the Cooperative Agreement, provided the landowner notifies the parties to the Agreement in writing at least 14 days prior to the action, with the nature of the emergency, and an explanation of the extenuating circumstances.

The Service has made a preliminary determination that approval of the SHA qualifies as a categorical exclusion under the NEPA, as provided by the Department of Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1) based on the following criteria: (1) Implementation of the SHA would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the SHA would result in minor or negligible effects on