

Dated: January 19, 2000.

**Daniel S. Walsworth,**

*Acting Manager, California/Nevada  
Operations Office, Fish and Wildlife Service,  
Sacramento, California.*

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## 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 Railroad Canyon-Lake Elsinore Partnership Tract 20704 in the City of Lake Elsinore, Riverside County, California**

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

**ACTION:** Notice of Availability.

**SUMMARY:** The partnership of Railroad Canyon-Lake Elsinore (the Applicant) has applied to the Fish and Wildlife Service (Service) for an Incidental Take Permit (Permit) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The proposed permit would authorize take of the coastal California gnatcatcher (*Poliophtila californica californica*) incidental to otherwise lawful activities in the City of Lake Elsinore, Riverside County, California. The proposed permit duration is 10 years.

The application includes: (1) The proposed Habitat Conservation Plan (Plan), which fully describes the proposed project and the measures that the Applicant would undertake to minimize and mitigate anticipated take of the California gnatcatcher, as required in Section 10(a)(2)(B) of the Act; and (2) the proposed Implementing Agreement. Activities covered by the requested Permit and addressed by the proposed Plan include the development of 120 undeveloped lots with Riverside coastal sage scrub for residential use. This project would permanently eliminate 9.2 acres of suitable habitat for the California gnatcatcher. The Service also announces the availability of an Environmental Assessment for the permit application.

This notice is provided pursuant to section 10(a) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6). The Plan, Implementing Agreement, and the Environmental Assessment are available for review and comment by other agencies and the public. All comments received, including names and addresses, will become part of the public record and will be available for

review pursuant to section 10(c) of the Act.

**DATES:** Written comments must be received no later than March 1, 2000.

**ADDRESSES:** Written comments should be addressed to Mr. Jim Bartel, Assistant Field Supervisor, Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Comments may also be sent by facsimile to (760) 431-5902.

**FOR FURTHER INFORMATION CONTACT:** Ms. Karin Cleary-Rose, Fish and Wildlife Biologist, at the above address or call (760) 431-9440.

#### **SUPPLEMENTARY INFORMATION:**

##### **Document Availability**

You may obtain copies of these documents by contacting the Carlsbad Fish and Wildlife Office at the above address and telephone number. Documents also will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office and at the Lake Elsinore City Library located at 600 W Graham Street, Lake Elsinore.

##### **Background**

Section 9 of the Act and Federal regulation prohibit the "take" of fish or wildlife species listed as endangered or threatened, respectively. Take of listed fish or wildlife is defined under the Act to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. However, the Service, under limited circumstances, may 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 and endangered species are found at 50 CFR 17.32 and 17.22, respectively.

The Applicant has proposed one tract for development within the Canyon Creek Specific Plan Area. The project site is located between Interstate 15 and Canyon Lake, at the mouth of Railroad Canyon in the City of Lake Elsinore, Riverside County, California. Typical land uses in the area surrounding the project site include several residential developments, one commercial center, and undeveloped coastal sage scrub areas. The San Jacinto River is south of the project site and a 40-acre Bureau of Land Management parcel is adjacent to the north side of the project site. The Applicant proposes residential development of 120 homes on the project site.

Biologists surveyed the project site for special-status plants and wildlife in

1998. Based on these surveys and previous knowledge of the area, the Service concluded that the project may result in the take of one federally listed species, the threatened California gnatcatcher.

The Applicant proposes to implement the following measures to minimize and mitigate take of the California gnatcatcher: (1) Constructing a masonry wall between the proposed residential lots and adjacent Bureau of Land Management property with an additional barrier placed between the edge of the subdivision and the main road to minimize effects to adjacent California gnatcatcher populations; (2) placing restrictions pertaining to pets and lighting in the lot titles and using signs to educate the public and encourage protection of the adjacent biological resources; (3) attaching an information packet describing the biological values of adjacent coastal sage scrub areas as part of the recorded deed for the proposed homes; (4) revegetating 5.79 acres onsite; and (5) mitigating the loss of 9.2 acres of successional Riverside coastal sage scrub habitat by purchasing 13.8 acres of good quality Riverside coastal sage scrub in the Sedco Hills Mitigation Bank within the Lake Mathews/Lake Skinner gnatcatcher corridor in western Riverside County. The Applicant would endow the management of the off-site mitigation area at a cost of \$2,500/acre. The mitigation site would be managed by The Environmental Trust.

The Environmental Assessment considers the environmental consequences of two alternatives in addition to the Proposed Project Alternative. The Proposed Project Alternative consists of the issuance of an incidental take permit and implementation of the Plan and its Implementing Agreement, which include measures to minimize and mitigate impacts of the project to the California gnatcatcher. Under the Reduced Project Alternative, 18 lots would be dedicated as open space to form a buffer between the subdivision and the Bureau of Land Management parcel. As there would no longer be a potential for take by excluding these lots from development, no mitigation or minimization measures would be necessary. Under the No Action Alternative, the Service would not issue a permit and the project area would continue to remain as slowly recovering Riverside coastal sage scrub habitat fragmented by intrusions of existing paved streets. The two alternatives would result in less habitat value for the California gnatcatcher than the off-site

mitigation proposed under the Proposed Project Alternative.

This notice is provided pursuant to section 10(a) of the Act and the National Environmental Policy Act of 1969 regulations (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the National Environmental Policy Act regulations and section 10(a) of the Act. If it is determined that the requirements are met, a permit will be issued to the Applicant for the incidental take of the California gnatcatcher. The final permit decision will be made no sooner than 30 days from the date of this notice.

Dated: January 19, 2000.

**Daniel S. Walsworth,**

*Acting Deputy Manager, California/Nevada Operations Office, Fish and Wildlife Service, Sacramento, California.*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**Notice of Issuance of Six Permits for Incidental Take of Threatened and Endangered Species**

**SUMMARY:** Between April 1, 1999, and September 30, 1999, Region 2 of the Fish and Wildlife Service issued six permits for the incidental take of threatened and endangered species, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. Of the six permits issued, four are associated with the Balcones Canyonlands Preserve and two are associated with other areas. The other two permits issued are outside of The City of Austin and Travis County, but are within the Southwest Region of the U.S. Fish and Wildlife Service. Copies of the six permits and associated decision documents are available upon request.

**ADDRESSES:** If you would like copies of any of the above documents, please contact the U.S. Fish and Wildlife Service, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico.

**FOR FURTHER INFORMATION CONTACT:**

Leslie Dierauf, Regional Habitat Conservation Plan Coordinator, at the above address, 505-248-6651.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act and Federal Regulation prohibits the "take" of wildlife species listed as threatened or endangered species. Under the Act, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed wildlife, or to attempt to engage in any such conduct. The Service may, under limited circumstances, issue permits to authorize incidental take, *i.e.*, that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing permits for endangered species are at 50 CFR 17.22.

| Permittee  | Permit No.  | Date of issuance |
|--|-------------|------------------|
| <b>Four Incidental Take Permits Issued Associated With the Balcones Canyonlands Preserve</b> |             |                  |
| Tomen Park/Grandview Hills (TX) .....  | PRT-815447  | 08/27/99         |
| Balfour Tract (TX) .....   | TE-003593-0 | 03/31/99         |
| John C. Hunt (TX) .....  | TE-010556-0 | 07/21/99         |
| John M. Caster (TX) .....  | TE-012423-0 | 09/24/99         |
| <b>Four Incidental Take Permits Issued in Other Areas of Region Permittee</b>                |             |                  |
| Lumbermans Investment Corp. (TX) .....   | PRT-836384  | 09/30/99         |
| Fred P. Stein (TX) .....   | TE-007891-0 | 06/03/99         |

**Thomas L. Bauer,**

*Regional Director, Region 2, Albuquerque, New Mexico.*

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**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**Education Facilities Replacement Construction Priorities List as of FY 2000**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Indian Affairs is publishing the Education Facilities Replacement Construction Priority List as of FY 2000 in the **Federal Register** as required by statute. Construction funding is not yet currently available for all projects on the list. The Bureau will use this list to determine the order in which Congressional appropriations are

requested for funding education facilities replacement construction projects.

**FOR FURTHER INFORMATION CONTACT:**

Questions regarding the Education Facilities Construction Priority List may be addressed to Dr. Kenneth G. Ross, Assistant Director, Office of Indian Education Programs, 201 Third St. NW, Suite 510, Albuquerque, New Mexico 87102, (505) 346-6544/5/6, Fax (505) 346-6553.

**SUPPLEMENTARY INFORMATION:**

Publication of the Education Facilities Replacement Construction Priority List (Priority List) in the **Federal Register** is required by 25 U.S.C. 2005(c) at the time any budget request for school construction is presented. In a Senate Report accompanying an early version of the FY 2000 Interior and Related Agencies Appropriations Act, S. Rept. No. 106-99, p. 55 (1999), the Committee on Appropriations stated that it anticipates the release of a new replacement list during the FY 2001

appropriations process. In 1998, the Bureau of Indian Affairs (BIA or Bureau) had begun preparations for developing a new Priority List, including the acceptance of applications from tribes who wished to have schools placed on the Priority List.

Schools placed on the "Education Facilities Construction Priority List as of FY 1993" that are not yet fully funded for construction, project Nos. 13, 15 and 16, did not have to submit applications for ranking on the new Priority List and are retained, in order, at the top of the FY 2000 list as project Nos. 1 through 3. The FY 1993 Priority List was published in the **Federal Register** on January 6, 1993 (58 FR 579). Education Facilities Replacement Construction projects will be funded for construction in the order in which they are ranked as appropriations become available, unless a school is not ready for the next phase of funding. In accordance with Congressional directives, the projects do not provide for new school starts nor grade level expansions.