

Written comments may be submitted to Mr. Adam Zerrenner (see above). We will also accept written and oral comments at any of the nine public meetings (see **DATES**).

#### Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

**Authority:** We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

**Joy E. Nicholopoulos,**

*Acting Regional Director, Southwest Region, Albuquerque, New Mexico.*

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**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R8-ES-2011-N147; 1112-0000-81440-F2]

#### Francis Proposed Low-Effect Habitat Conservation Plan for the Morro Shoulderband Snail, Los Osos, San Luis Obispo County, CA

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

**ACTION:** Notice of availability; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received an application from Catherine M. and Ronald L. Francis (applicants) for a 5-year incidental take permit under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for “take” of the Federally endangered Morro shoulderband snail (*Helminthoglypta walkeriana*) incidental to the

construction and occupation of a single-family residence on a legal single-family-zoned parcel in the unincorporated community of Los Osos, San Luis Obispo County, California. The applicants would implement a conservation program to minimize and mitigate project activities as described in their low-effect habitat conservation plan. We invite comments from the public on the application, which includes the Francis Low-Effect Habitat Conservation Plan for the Morro Shoulderband Snail (HCP) that has been determined to be eligible for a Categorical Exclusion under the National Environmental Policy Act of 1969, as amended (NEPA).

**DATES:** To ensure consideration, please send your written comments by August 15, 2011.

**ADDRESSES:** You may download a copy of the HCP, draft Environmental Action Statement, Low-Effect Screening Form, and related documents on the Internet at <http://www.fws.gov/ventura/>, or you may request documents by U.S. mail or phone (see below). Please address written comments to Diane K. Noda, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may alternatively send comments by facsimile to (805) 644-3958.

**FOR FURTHER INFORMATION CONTACT:** Julie M. Vanderwier, Fish and Wildlife Biologist, at the above address or by calling (805) 644-1766.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Morro shoulderband (= banded dune) snail was listed by the U.S. Fish and Wildlife Service as endangered on December 15, 1994 (59 FR 64613). Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations prohibit the “take” of fish or wildlife species listed as endangered or threatened. “Take” is defined under the Act to include the following activities: “[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed 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 incidental take permits for threatened and endangered species are, respectively, in the Code of Federal Regulations at 50 CFR 17.32 and 17.22. Issuance of an incidental take permit

also must not jeopardize the existence of Federally listed fish, wildlife, or plant species.

However, take of listed plants is not prohibited under the Act unless such take would violate State law. As such, take of plants cannot be authorized under an incidental take permit. Plant species may be included on a permit in recognition of the conservation benefits provided them under a habitat conservation plan. All species included in the incidental take permit would receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(55) and 17.32(b)(5)). In addition to meeting other criteria, actions undertaken through implementation of the HCP must not jeopardize the continued existence of Federally listed plant or animal species.

The applicants seek an incidental take permit for direct impacts to up to 0.57 acres (24,829 square feet) of highly disturbed coastal dune scrub and maritime chaparral occupied by Morro shoulderband snail in association with the construction and occupation of a single-family residence on an existing legal parcel. The project is proposed for a parcel legally described as Assessor Parcel Number 074-323-031 and located on the corner of Via Vistosa Drive and Bayview Heights Road in the southwestern portion of Los Osos, San Luis Obispo County, California. The applicants are requesting a permit for take of Morro shoulderband snail that would result from “Covered Activities” that include the construction and occupation of a single-family residence and associated landscaping/infrastructure.

The applicants propose to minimize and mitigate take of Morro shoulderband snail associated with the covered activities by fully implementing the plan. The following measures will be implemented to minimize the effects of the taking: (1) Pre-construction and concurrent construction monitoring surveys for Morro shoulderband snail will be conducted within the 0.57-acre parcel; (2) all identified individuals of Morro shoulderband snail will be relocated by an individual in possession of a current valid recovery permit for the species to a receptor site out of harm’s way; (3) installation of protective fencing; and (4) development and presentation of a contractor and employee training program for Morro shoulderband snail. To mitigate for unavoidable take, the applicants will contribute \$9,300 to an Impact-Directed Environmental Account held and administered by the National Fish and Wildlife Foundation. These funds will be used to implement recovery tasks

identified in the *Recovery Plan for the Morro Shoulderband Snail and Four Plants from Western San Luis Obispo County, California* (USFWS 1998). A total of \$13,685 will be available to ensure that adequate funding is available to implement all of the minimization measures identified in the plan.

In the proposed HCP, the applicants consider two alternatives to the proposed action: "No Project" and "Project Re-design." Under the "No Project" alternative, current conditions would be maintained, the HCP for Morro shoulderband snail would not be implemented and the Service would not issue an ITP. Under the "Project Re-design" alternative, a small area where vegetation is not as degraded would be conserved and placed in an open space easement intended to protect resource values. While this alternative could reduce take of the Morro shoulderband snail, it was not selected because the parcel is small, is located in a residential neighborhood, and contains only degraded, fragmented native habitat. The likely location for the conservation easement would be in the northern portion of the parcel; however, this area would likely serve as a sink for Morro shoulderband snails rather than contribute to their recovery.

We are requesting comments on our preliminary determination that the applicants' proposal will have a minor or negligible effect on the Morro shoulderband snail and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook (November 1996). We base our determinations on three criteria: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on Federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. In our analysis of these criteria, we have made a preliminary determination that the approval of the HCP and issuance of an ITP qualify for categorical exclusions under the NEPA (42 U.S.C. 4321 *et seq.*), as provided by the Department of Interior Manual (516 DM 2 Appendix 2 and 516 DM 8); however, based upon our review of public comments that we receive in response to this notice, this preliminary determination may be revised.

### Next Steps

We will evaluate the permit application, including the plan and comments we receive, to determine whether the application meets the requirements of Section 10(a) of the Act. We will also evaluate whether issuance of the ITP would comply with Section 7 of the Act by conducting an intra-Service Section 7 consultation for the plan. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue the ITP. If the requirements are met, we will issue an ITP to the applicants for the incidental take of Morro shoulderband snail. We will make the final permit decision no sooner than 30 days after the date of this notice.

### Public Review

We provide this notice under section 10(c) of the Act and the NEPA public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We are requesting comments on our determination that the applicants' proposal will have a minor or negligible effect on the Morro shoulderband snail and that the plan qualifies as a "low-effect" HCP as defined by our 1996 Habitat Conservation Planning Handbook. We will evaluate the permit application, including the plan and comments we receive, to determine whether the application meets the requirements of section 10(a) of the Act. We will also evaluate whether issuance of the section 10(a)(1)(B) permit would comply with section 7 of the Act by conducting intra-Service section 7 consultation for the plan. We will use the results of these consultations, in combination with the above findings, in our final analysis to determine whether or not to issue the permits. If the requirements are met, we will issue a permit to the applicants for the incidental take of Morro shoulderband snail. We will make the final permit decision no sooner than 30 days after the date of this notice.

### Public Comments

If you wish to comment on the permit applications, plans, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

### Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time.

While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

**Authority:** We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: July 11, 2011.

**Diane K. Noda,**

*Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R8-ES-2011-N146; 1112-0000-81440-F2]

### Kellaway Proposed Low-Effect Habitat Conservation Plan for the Morro Shoulderband Snail, San Luis Obispo County, CA

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

**ACTION:** Notice of availability; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received an application from Thomas R. Kellaway and Doris J. Redmon (applicants) for a 5-year incidental take permit under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for "take" of the Federally endangered Morro shoulderband snail (*Helminthoglypta walkeriana*) incidental to the construction and occupation of two single-family residences, one on each of two legal parcels occupied by the species in the community of Los Osos, San Luis Obispo County, California. The applicants would implement a conservation program to minimize and mitigate project activities as described in their low-effect habitat conservation plan (plan). We invite comments from the public on the application, which includes the Kellaway Low-Effect Habitat Conservation Plan for the Morro Shoulderband Snail (HCP), which has been determined to be eligible for a Categorical Exclusion under the National Environmental Policy Act of 1969, as amended (NEPA).

**DATES:** To ensure consideration, please send your written comments by August 15, 2011.

**ADDRESSES:** You may download a copy of the HCP, draft Environmental Action Statement, Low-Effect Screening Form,