

**ACTION:** Notice of availability.

**SUMMARY:** This notice is to announce the availability of a Final Environmental Assessment and a Finding of No Significant Impact of take of nestling American Peregrine Falcons (*Falco peregrinus anatum*) for falconry. We published the Draft Environmental Assessment in July 2000. We considered 352 comments in revising the assessment. After completion of the Final Environmental Assessment, we also produced a Finding of No Significant Impact for the action.

**ADDRESSES:** The documents are available from the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 634, Arlington, Virginia 22203-1610. They also are available on the Division of Migratory Bird Management web pages at <http://migratorybirds.fws.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. George T. Allen, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, at 703/358-1714.

**SUPPLEMENTARY INFORMATION:** In the draft Environmental Assessment, we considered six alternatives for take of nestling American peregrine falcons (*Falco peregrinus anatum*) in the western United States and Alaska. We received 352 electronic or written comment letters on the draft Environmental Assessment. Seventeen were from State or Federal agencies; 335 were from individuals and organizations. Fifteen agency responses favored allowing take of nestlings, and 2 responses were neutral. Of the individual and organization comments received, 21 opposed take of nestlings and 314 supported allowing take. We modified the Environmental Assessment to respond to concerns expressed by agencies, organizations, and individuals.

Having reviewed the comments on the draft, our preferred alternative is to allow take of up to 5% of the American peregrine falcon nestlings produced in the States west of 100° longitude, at the discretion of each State. These States include Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. We believe that a conservative level of take is appropriate for a species recently removed from the List of Endangered and Threatened Wildlife and Plants, and will have no discernible effect on the American peregrine falcon population in the western United States.

Dated: May 1, 2001.

**Marshall P. Jones, Jr.,**

*Acting Director, Fish and Wildlife Service.*

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**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Availability of a Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for Deer Canyon Park Preserve in the City of Anaheim, Orange County, CA

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

**ACTION:** Notice of availability.

**SUMMARY:** This notice advises the public that the City of Anaheim (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10 (a) 1 (B) of the Endangered Species Act of 1973, as amended. The proposed permit would authorize the incidental take of the federally threatened coastal California gnatcatcher (*Poliophtila californica californica*) in Deer Canyon Park Preserve, in the City of Anaheim, Orange County, California. Take would occur through the permanent loss of 1.39 acres of coastal sage scrub habitat during facility development and fuel management. The Applicant seeks a permit for a period of 30 years.

We request comments from the public on the permit application, which is available for review. The application also includes a Habitat Conservation Plan (HCP). The HCP describes the proposed project and the measures that the Applicant would undertake to minimize and mitigate take of coastal California gnatcatcher. We also request comments on our preliminary determination that the HCP qualifies as a "low-effect" habitat conservation HCP, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA).

**DATES:** Written comments should be received on or before June 11, 2001.

**ADDRESSES:** Written comments should be addressed to the Field Supervisor, Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Comments may be sent by facsimile to telephone (760) 431-9624.

**FOR FURTHER INFORMATION CONTACT:** Karen Evans, Division Chief, Los Angeles and Orange Counties, at the above address or call (760) 431-9440.

**SUPPLEMENTARY INFORMATION:**

### Availability of Documents

You may obtain copies of the documents for review by calling the Service's Carlsbad Fish and Wildlife Office at the above referenced telephone number. Documents also are available for public inspection, by appointment, during normal business hours at the above address.

### Background

Section 9 of the Endangered Species Act, and its implementing regulations, prohibit the "take" of fish or wildlife species listed as endangered or threatened species. Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). Harm may include significant habitat modification where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. The Service may, under certain circumstances, issue permits to authorize take of endangered or threatened wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered or threatened species are found at 50 CFR 17.22 and 17.32.

Under the proposed action, improvement of park facilities and fire management activities would directly impact the coastal California gnatcatcher by removing 1.39 acres of coastal sage scrub vegetation utilized by coastal California gnatcatchers. The Deer Canyon Park Preserve totals approximately 130 acres. The Applicant's HCP describes consideration of alternatives to the action and provisions for minimization and mitigation of impacts.

The HCP is further designed to assure that this action does not reduce the potential for survival and recovery of the coastal California gnatcatcher in the wild, as mandated by requirements of 50 CFR Part 17.22(b)(1)(iii).

The HCP proposes the following measures to minimize the impacts of the project on coastal California gnatcatchers: (1) Fuel modification and clearing of coastal sage scrub will be conducted outside the gnatcatcher breeding season. If it is necessary to clear coastal sage scrub during the breeding season, surveys by a qualified biologist must demonstrate that gnatcatchers are not nesting or rearing chicks in the affected area; (2) a project monitor will be present during all clearing activities to make sure no birds or nests are directly harmed or

destroyed; (3) construction limits will be fenced or flagged prior to construction activities to avoid inadvertent disturbance of areas outside the construction zone; (4) the proper use and disposal of oil and gasoline will be enforced; and (5) all trash associated with construction activities will be properly contained and disposed.

To mitigate for the permanent loss of occupied habitat due to the proposed activities, the Applicant proposes to revegetate 6.0 acres of non-native grassland in Deer Canyon Park Preserve with coastal sage scrub vegetation. The revegetated area would connect patches of fragmented coastal sage scrub that lie to the north and south. A restoration HCP will be developed that includes performance criteria, such as percent cover by native and non-native plants, native plant diversity, and evidence of natural reproduction, which must be met. The restoration plan must be reviewed and approved by the U.S. Fish and Wildlife Service.

The HCP considered the following alternatives: (1) The proposed project; (2) use of a mitigation fee; (3) redesign of the project; and (4) no project or no action alternative.

The proposed project involves the issuance of a permit under section 10(a)(1)(B) of the Act to authorize the incidental take of the threatened coastal California gnatcatcher during facilities improvement and fire management activity. The project impacts 1.39 acres of coastal sage scrub occupied by the coastal California gnatcatcher. Mitigation for the project is the revegetation of 6.0 acres of non-native grassland with coastal sage scrub vegetation.

The use of a mitigation fee to compensate for the loss of coastal sage scrub, as outlined in the Central and Coastal Orange County Natural Community Conservation Plan (NCCP), is not authorized for this project because Deer Canyon Park Preserve is designated as an Existing Use Area, and the in-lieu fee mitigation program is not available to mitigate for take of gnatcatchers within Existing Use Areas unless specifically authorized by the U.S. Fish and Wildlife Service and California Department of Fish and Game.

Under the redesign alternative, the applicant would redesign the project to further reduce impacts to coastal sage scrub vegetation. The applicant states that it is not possible to further redesign the project and meet project goals.

Under the No Project alternative the project would not occur. Therefore an incidental take permit would not be required and the Applicant would abandon the proposed project.

The Service has determined that the HCP qualifies as a "Low Effect" Habitat Conservation Plan as defined by the Fish and Wildlife Service's Habitat Conservation Planning Handbook (November 1996). Our determination that a habitat conservation plan qualifies as a low-effect plan is based on the following three criteria: (1) Implementation of a plan would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of a plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of a plan, 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.

The Service therefore has made a preliminary determination that approval of the HCP qualifies as a categorical exclusion under NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). Based on this preliminary determination, we do 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.

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

Dated: April 23, 2001.

**Jill Parker,**

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

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[NV-030-1990-EX]

#### Notice of Availability for the Oil-Dri Corporation of Nevada's Reno Clay Plant Project Draft Environmental Impact Statement

**AGENCY:** Bureau of Land Management, Department of the Interior.

**COOPERATING AGENCIES:** U.S. Bureau of Indian Affairs, Reno-Sparks Indian Colony, and Washoe County, Nevada.

**ACTION:** Notice of availability of a draft environmental impact statement (EIS) for the Oil-Dri Corporation of Nevada Reno Clay Plant Project, notice of public meeting, and initiation of a 60-day public comment period.

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) and 40 CFR 1500-1508 Council on Environmental Quality Regulations (CEQ), and 43 CFR 3809 Surface Management Regulations, notice is given that the Bureau of Land Management (BLM) Carson City Field Office has prepared, with the assistance of a third-party consultant, a Draft EIS on the proposed Reno Clay Plant Project, and has made the document available for public and agency review.

**DATES:** Written comments on the Draft EIS must be submitted or postmarked to the BLM no later than July 10, 2001. Written comments may also be presented at a public open house that is scheduled for May 30, 2001, from 5 pm to 7 pm, at the BLM Nevada State Office, 1340 Financial Boulevard, Reno, NV.

**ADDRESSES:** Written comments on the Draft EIS should be addressed to: Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701, Attn: Terri Knutson, Oil-Dri EIS Project Manager. Comments may also be sent via electronic mail to the following address: [tknutson@nv.blm.gov](mailto:tknutson@nv.blm.gov) or via fax: (775) 885-6147. A limited number of copies of the Draft EIS may be obtained at the above BLM Field Office in Carson City, NV. In addition, the Draft EIS is available on the internet via the Carson City Field Office Home Page at: [www.nv.blm.gov/carson](http://www.nv.blm.gov/carson).

Comments, including names and addresses of respondents, will be available for public review at the above address during regular business hours (7:30 a.m.-5 p.m.), Monday through Friday, except holidays, and may be published as part of the EIS. Individual respondents may request