

such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires public notice and opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into consideration in the course of implementing approved recovery plans.

Running buffalo clover was listed as endangered on July 6, 1987. The recovery plan was approved on July 8, 1989. This is the first recovery plan revision. Running buffalo clover formerly occurred from West Virginia to Kansas. It is currently extant in limited portions of Indiana, Kentucky, Ohio, Missouri, and West Virginia. Running buffalo clover occurs in mesic habitats of partial to filtered sunlight, where there is a prolonged pattern of moderate periodic disturbance, such as mowing, trampling, or grazing. It is most often found in regions underlain with limestone or other calcareous bedrock.

The primary threat to running buffalo clover is habitat alteration. Factors that contribute to this threat include forest succession and subsequent canopy closure, competition by invasive plant species, and catastrophic disturbance such as development or road construction. The elimination of bison and other large herbivores may also be a threat to this species because of the decrease in disturbance, soil enrichment, seed dispersal, and seed scarification that has resulted from their absence. In addition to these threats, inherent biological vulnerabilities of running buffalo clover include its reliance on pollinators, seed scarification, and dispersal mechanisms, as well as a dependence on disturbance.

Given the known threats and constraints, the recovery effort for running buffalo clover focuses primarily on increasing the number of protected and managed populations, determining the viability of existing populations, and research on the species' ecological requirements. Key to this strategy is the protection and management of various-sized populations of running buffalo clover throughout the species' geographic range. The recovery criteria and actions rely heavily on retaining and managing suitable habitat. A greater understanding of the biotic and abiotic needs of running buffalo clover is also key to the species' recovery.

Running buffalo clover will be considered for downlisting to

threatened status when the likelihood of the species becoming extinct in the foreseeable future has been eliminated by the achievement of the following criteria:

1. Seventeen populations, in total, are distributed as follows: 1 A-ranked, 3 B-ranked, 3 C-ranked, and 10 D-ranked populations across at least 2 of the 3 regions in which running buffalo clover currently occurs (Appalachian, Bluegrass, and Ozark). Ranks are defined by both numbers of individuals present and habitat suitability. The number of populations required in each rank category is based on what would be necessary to achieve a 95% probability of persistence based on population viability analysis.

2. For each A-ranked and B-ranked population described in #1, population viability analysis indicates greater than 95% persistence within the next 20 years, or for any population that does not meet the 95% persistence standard, the population meets the definition of viable. For downlisting purposes, viability is defined as follows: A) flower production is occurring; B) the population is stable or increasing, based on at least 5 years of censusing and data analysis that reveals no significant decline in number of plants; and C) appropriate management techniques are in place.

3. The land on which each of the populations described in #1 occurs is owned by a government agency or private conservation organization that identifies maintenance of the species as one of the primary conservation objectives for the site and has demonstrated natural area management capabilities, or the site is protected by a permanent conservation easement or deed restriction that commits the landowner to habitat management for the species. Natural Resource Management Plans on Federal lands may be suitable for this criterion.

Running buffalo clover will be considered for delisting when the likelihood of the species becoming threatened in the foreseeable future has been eliminated by the achievement of the following criteria:

1. Thirty-four populations, in total, are distributed as follows: 2 A-ranked, 6 B-ranked, 6 C-ranked, and 20 D-ranked populations across at least 2 of the 3 regions in which running buffalo clover occurs (Appalachian, Bluegrass, and Ozark). The number of populations in each rank is based on twice the amount that would be required to achieve a 95% or greater probability of persistence; this number was doubled to ensure biological redundancy across the range of the species.

2. For each A-ranked and B-ranked population described in #1, population viability analysis indicates greater than 95% persistence within the next 20 years, or for any population that does not meet the 95% persistence standard, the population meets the definition of viable. For delisting purposes, viability is defined as follows: (A) flower production is occurring; (B) the population is stable or increasing, based on at least 10 years of censusing and data analysis that reveals no significant decline in number of plants; and (C) appropriate management techniques are in place.

3. Downlisting criterion #3 is met for all populations described in delisting criterion #1.

Additional detail on downlisting and delisting criteria is available in the draft recovery plan.

These criteria will be met through the following actions: conserve and manage running buffalo clover populations and the habitat on which they depend, define population regulation factors, conserve germplasm and genetic diversity, promote public understanding, and review and track recovery progress.

#### Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified will be considered prior to approval of the plan. Written comments and materials regarding the plan should be addressed to the Field Supervisor (see **ADDRESSES**). Comments and materials received will be available by appointment for public inspection during normal business hours at the above address.

**Authority:** The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 12, 2005.

**Wendi Weber,**

*Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.*  
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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Availability of a Draft Environmental Assessment/Habitat Conservation Plan Related to Application for an Incidental Take Permit for the Predevelopment LTD Development

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

**ACTION:** Notice of availability.

**SUMMARY:** This notice advises the public and other agencies of the availability of a draft Environmental Assessment (EA)/Habitat Conservation Plan (HCP) and Incidental Take Permit (ITP) application for review and comment. The draft EA/HCP and ITP application were submitted to the U.S. Fish and Wildlife Service (Service) by Predevelopment LTD proposing residential development of a 6.45-acre property on Long Point, Kelleys Island, Erie County, Ohio. Federally threatened Lake Erie watersnakes (*Nerodia sipedon insularum*) occupy the project area, and it has been determined that the proposed actions will result in incidental take of this species. Predevelopment LTD submitted an ITP application to the Service for incidental take pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended (Act, 16 U.S.C. 1531, *et seq.*). The submission of the ITP application requires the development of an HCP by the applicant detailing measures to be taken to avoid, minimize, and mitigate impacts to Lake Erie Watersnakes. This notice is provided pursuant to section 10(a) of the Act and National Environmental Policy Act (NEPA) regulations (40 CFR 1506.6).

**DATES:** Written data or comments must be received on or before October 11, 2005.

**ADDRESSES:** Send written data or comments to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056.

**FOR FURTHER INFORMATION CONTACT:** Mr. Peter Fasbender, (612) 713-5343.

**SUPPLEMENTARY INFORMATION:**

**Availability of Documents**

Individuals requesting copies of the applications and proposed Plan should contact the Service by telephone at (612) 713-5343 or by letter (see **ADDRESSES**). Copies of the proposed Plan also are available for public inspection during regular business hours at the U.S. Fish and Wildlife Service, Ecological Services office located at 6950 Americana Parkway, Suite H, Reynoldsburg, Ohio, or at the Service's Regional Web site at: <http://www.fws.gov/midwest/NEPA>. All comments received from individuals become part of the official public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's NEPA regulations [40 CFR 1506.6(f)].

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the comment.

**Background**

Section 9 of the Act and its implementing Federal regulations prohibit the take of animal species listed as endangered or threatened. The definition of take under the Act includes the following activities: 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). However, under section 10(a) of the Act, the Service 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 an otherwise lawful activity. Regulations governing incidental take permits for threatened species are found in the Code of Federal Regulations at 50 CFR 17.32.

Predevelopment LTD proposes to develop the 6.45-acre property on Long Point, Kelleys Island, Erie County, Ohio. The Lake Erie watersnake and its habitat occur on the 6.45-acre tract. Within the HCP boundary, 2.5 acres would be cleared and 2.0 acres of these permanently maintained for the proposed development of one seasonal residence. Incidental take of Lake Erie watersnakes is expected to occur through loss and degradation of habitat and increased human activity in the project area. Loss of suitable habitat would likely reduce overwinter survival due to hibernacula loss and increased predation due to the loss of shelter. More human activity on the 6.45-acre property would increase human-related disturbance and disruption of snakes, vehicular strikes, harassment and/or predation of snakes by pets, and mortality of snakes caused by mowing.

The purpose of the HCP is to ensure incidental take will be minimized and mitigated to the maximum extent practicable and will not appreciably reduce the likelihood of the survival and recovery of this species in the wild. Predevelopment LTD designed the HCP in consultation with the Service to ensure the project area will continue to support suitable habitat for the species, while allowing for incidental take of

Lake Erie watersnakes from the proposed activities. Measures in the HCP designed to avoid, minimize, and mitigate the impacts of the proposed action on Lake Erie Watersnakes include: (1) Seasonal and temperature restrictions on ground disturbing activities including construction and mowing; (2) establishment of a 3.95-acre conservation area; (3) restrictions on pesticide and fertilizer use; (4) restrictions on size and placement of structures including the residence, garage, decks, driveway, and septic system; and (5) monitoring the Lake Erie Watersnake population response to the proposed construction and mitigation for 15 years.

The Proposed Action consists of issuing an ITP and implementing the HCP. The draft EA considers two action alternatives and the No Action alternative. The NEPA process will be completed after the comment period, at which time the Service will evaluate the permit application (if appropriate to the selected alternative), the HCP, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If the requirements are met, the Service will issue a permit to Predevelopment LTD for take of Lake Erie watersnakes associated with the proposed activities on Kelleys Island, Erie County, Ohio. The final permit decision will be made no sooner than 60 days after the date of this notice.

The area encompassed by the HCP may contain facilities eligible to be listed on the National Register of Historic Places and other historical or archeological resources may be present. The National Historic Preservation Act and other laws require that these properties and resources be identified and considered in project planning. The public is requested to inform the Service of concerns about archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns.

Dated: July 19, 2005.

**Robert Krska,**

*Acting Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.*

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