

petitioner did not include any detailed narrative justification for the delisting or provide information regarding the status of the species over all or a significant portion of its range or include any persuasive supporting documentation for the recommended administrative measure to delist *Tuctoria mucronata*. While we have identified two additional populations since we listed the species, these two populations do not meet the recovery plan criteria for downlisting or delisting; in addition, the original population appears to be extirpated. We have found no evidence or data in our files or in the petition that indicates a data error was committed in listing *T. mucronata* or that otherwise supports the petitioned action.

Threats to *Tuctoria mucronata* include alteration of hydrology, excessive livestock grazing, recreational uses, and competition from non-native plants (California Natural Diversity Database 2002). As of 1999, the status of *T. mucronata* is declining (California Department of Fish and Game 2001). Thus, we do not possess any data that suggest *T. mucronata* was listed in error, and the species has not achieved sufficient recovery objectives to be considered for either downlisting to threatened status or delisting.

Finding

We have reviewed the petition and its supporting documentation, information in our files, and other available information. We find that there is not substantial information indicating that delisting of *Tuctoria mucronata* may be warranted.

Information Solicited

When we find that there is not substantial information indicating that the petitioned action may be warranted, initiation of a status review is not required by the ESA. However, we regularly assess the status of species listed as threatened or endangered and welcome any information concerning the status of *Tuctoria mucronata*. Submit any information at any time to the Field Supervisor, Sacramento Fish and Wildlife Office (see **ADDRESSES**).

References Cited

California Department of Fish and Game. 2001. The Status of Rare, Threatened and Endangered Animals and Plants of California. 226 pp
California Natural Diversity Database. 2002. An electronic database hosted by the California Department of Fish and Game, Habitat Conservation Division, Sacramento California
U.S. Fish and Wildlife Service. 1985. Delta Green Ground Beetle and

Solano Grass Recovery Plan. U.S. Fish and Wildlife Service, Portland, Oregon. 68 pp.

Author

The primary author of this document is Ken Fuller, Botanist, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 5, 2003.

Steve Williams,

Director, Fish and Wildlife Service.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Low Effect Habitat Conservation Plan for the Folsom Professional Centre, Sacramento County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Catlin Folsom Crossing, L.P. (the "applicant") has applied to the Fish and Wildlife Service (Service) for a 3-year incidental take permit for one covered species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for "take" of the threatened valley elderberry longhorn beetle (*Desmoncerus californicus dimorphus*) (beetle) associated with construction of a two-story office condominium building within a 5.59-acre undeveloped parcel located on Blue Ravine Road, in Folsom, Sacramento County, California. This project is known as the Folsom Professional Centre. A conservation program to minimize and mitigate for the project activities would be implemented as described in the Folsom Professional Centre Low Effect Habitat Conservation Plan (Plan), which would be implemented by the applicant.

We are requesting comments on the permit application and on the preliminary determination that the Plan qualifies as a "Low-effect" Habitat Conservation Plan, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. The basis for this determination is discussed in the Environmental Action Statement (EAS),

which is also available for public review.

DATES: Written comments should be received on or before April 21, 2003.

ADDRESSES: Comments should be addressed to the Field Supervisor, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, California 95825. Written comments may be sent by facsimile to (916) 414-6711.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Campbell, Chief, Conservation Planning Division, Sacramento Fish and Wildlife Office; telephone: (916) 414-6600.

SUPPLEMENTARY INFORMATION

Availability of Documents

Individuals wishing copies of the application, Plan, and EAS should immediately contact the Service by telephone at (916) 414-6600 or by letter to the Sacramento Fish and Wildlife Office. Copies of the Plan, and EAS also are available for public inspection, during regular business hours, at the Sacramento Fish and Wildlife Office (see **ADDRESSES**); Catlin Properties, 3620 Fair Oaks Blvd., Suite 150, Sacramento, California 95864; and City of Folsom, Planning, Zoning, and Development Department, 50 Natomas Street, Folsom, California 95630-2696.

Background Information

Section 9 of the Act and its implementing Federal regulations prohibit the take of animal species listed as endangered or threatened. Take is defined under the Act as 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, 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 an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

The applicant is seeking a permit for take of the beetle during the life of the permit. This species is referred to as the "covered species" in the Plan.

The project encompasses construction of a two-story office building and parking lot on the 5.59-acre project site. The building would consist of individual condominium office units. The resident elderberry shrubs would be removed to accommodate the new office building and parking lot. The project

site contains habitat (e.g., elderberry shrubs) for the beetle. Construction of the proposed project would result in the removal of 6 elderberry shrubs, with 24 stems greater than 1-inch diameter at ground level, which have been determined to be habitat for the beetle. One beetle exit hole was found in these six shrubs. The project site does not contain any other rare, threatened, or endangered species or habitat. No critical habitat for any listed species occurs on the project site.

The applicant proposes to minimize and mitigate the effects to the covered species associated with the covered activities by fully implementing their Plan. The purpose of the Plan's conservation program is to promote the biological conservation of the covered species, the beetle. The applicant will minimize and mitigate the impacts of taking the beetle by transplanting the six elderberry shrubs that are currently on the construction site, and purchasing between 6 to 20 credits at a Service approved Conservation Bank. Each credit includes an established ratio of elderberry seedlings and native riparian plant seedlings. The number of credits purchased will be based upon the date that the applicant would transplant the six elderberry shrubs to the Conservation Bank. Transplanting outside of the dormant period for elderberry shrubs, November 16th to February 15th, would increase impacts to the beetle. The adult beetles and larvae have a greater likelihood of being killed or injured as a result of the elderberry shrubs increased risk of mortality due to transplanting during the active growing season. Therefore, if the elderberry shrubs are transplanted during the active growing season, the number of credits purchased by the applicant would be toward the higher end of the 6 to 20 credit range.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the Plan, which includes measures to minimize and mitigate impacts of the project on the beetle. Two alternatives to the taking of listed species under the Proposed Action are considered in the Plan. Under the No Action Alternative, no permit would be issued and the office building and parking lot would not be built. Under the Reduced Take Alternative, the office building and parking lot would be built but the size and scope would be reduced and fewer elderberry shrubs would be transplanted.

We have made a preliminary determination that the Plan qualifies as a "low-effect" plan as defined by the Habitat Conservation Planning

Handbook (November 1996). Determination of Low-effect Habitat Conservation Plans is based on the following three criteria: (1) Implementation of the Plan would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the Plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the 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. As more fully explained in our EAS, the Plan qualifies as a "low-effect" plan for the following reasons:

1. Approval of the Plan will result in minor or negligible effects on the beetle and its habitat. We do not anticipate significant direct or cumulative effects to the beetle resulting from development of the Folsom Professional Centre.

2. Approval of the Plan will not have adverse effects on unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the Plan will not result in any cumulative or growth inducing impacts and, therefore, will not result in significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate any Federal, State, local or tribal laws or requirement imposed for the protection of the environment.

5. Approval of the Plan will not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

We, therefore, have preliminarily determined that approval of the Plan qualifies as a categorical exclusion under the NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). Based upon this preliminary determination, we do not intend to prepare further NEPA documentation. We will consider public comments in making the final determination on whether to prepare such additional documentation.

We are providing this notice pursuant to section 10(c) of the Act. We will evaluate the permit application, the Plan, and comments submitted thereon to determine whether the application

meets the requirements of section 10(a) of the Act. If the requirements are met, we will issue a permit to Catlin Folsom Crossing, L.P. for the incidental take of the beetle from development of the Folsom Professional Centre. We will make the final permit decision no sooner than 30 days from the date of this notice.

Dated: March 14, 2003.

Ken McDermond,

Deputy Manager, Region 1, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 03-6771 Filed 3-20-03; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Intent To Prepare a Comprehensive Conservation Plan and Associated Environmental Document for Kirwin National Wildlife Refuge in North-central Kansas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The U.S. Fish and Wildlife Service intends to gather information necessary to prepare a Comprehensive Conservation Plan and associated environmental document for Kirwin National Wildlife Refuge near Phillipsburg, Kansas. The Service is issuing this notice in compliance with its policy to advise other organizations and the public of its intentions and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: Written comments should be received by August 31, 2003.

ADDRESSES: Comments and requests for more information should be sent to: Toni Griffin, Planning Team Leader, P.O. Box 25486, Denver Federal Center, Denver, CO 80225-0486; Fax (303) 236-4792; e-mail toni_griffin@fws.gov.

FOR FURTHER INFORMATION CONTACT: Toni Griffin, Planning Team Leader, P.O. Box 25486, Denver Federal Center, Denver, CO 80225-0486; Fax (303) 236-4792; e-mail toni_griffin@fws.gov.

SUPPLEMENTARY INFORMATION: The Service has initiated comprehensive conservation planning for Kirwin National Wildlife Refuge for the conservation and enhancement of its natural resource. This Refuge, consisting of 10,778 acres is located in the rolling hills and narrow valley of the North Fork of the Solomon River in Phillips county, Kansas.

Kirwin National Refuge was established in 1954 as an overlay project