

also notify community groups and other interested members of the public. The purpose of this notification will be to solicit public comment on the Community Support records of the FHLBank members pending review.

Any person wishing to submit written comments on the Community Support performance of a FHLBank member under review in this quarter should send those comments to the member's FHLBank by the due date indicated in order to be considered in the review process.

Dated: January 5, 1996.

By the Federal Housing Finance Board.

Rita I. Fair,

Managing Director.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notices of Availability and Intent to Issue Permit.

Notice of Availability of the Final Environmental Impact Statement (EIS) on Proposed Issuance of an Incidental Take Permit for Desert Tortoise in Washington County, Utah and Notice of Intent to Issue an Incidental Take Permit for Desert Tortoise to Washington County, Utah.

SUMMARY: This notice advises the public that the Final Environmental Impact Statement (EIS) on the proposed issuance of an incidental take permit for desert tortoises in Washington County, Utah is available. Publication of the Record of Decision and issuance of the permit will occur no sooner than 30 days from this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Regulations (40 CFR 1506.6).

ADDRESSES: Requests for this final EIS should be sent to the Assistant Field Supervisor, United States Fish and Wildlife Service, 145 East 1300 South Street, Suite 404, Salt Lake City, Utah 84115. The document will also be available for public inspection by appointment during business hours at the above address. A letter announcing availability of the Final EIS has been sent to all agencies and parties who previously received notice of availability of the Draft EIS, and/or who requested a copy of the Draft EIS.

FOR FURTHER INFORMATION CONTACT: Robert D. Williams, Assistant Field Supervisor (see ADDRESSES above) (telephone (801) 524-5001, facsimile (801) 524-5021).

SUPPLEMENTARY INFORMATION:

Background

On April 2, 1990, the U.S. Fish and Wildlife Service (Service) issued a final rule (55 FR 12178) determining the desert tortoise (*Gopherus agassizii*) a threatened species under the Endangered Species Act of 1973, as amended (Act). Because of its listing as a threatened species, the desert tortoise is protected by the Act's prohibition against "taking." The Act defines "take" to mean: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in such conduct. "Harm" is further defined by regulation as any act that kills or injures wildlife, including significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

The Service, however, may issue permits to carry out otherwise lawful activities involving take of endangered and threatened wildlife under certain circumstances. Regulations governing permits are in 50 CFR 17.22, 17.23, and 17.32. For threatened species, such permits are available for scientific purposes, enhancing the propagation or survival of the species, economic hardship, zoological exhibition or educational purposes, incidental taking, or special purposes consistent with the purposes of the Act.

Washington County, Utah (Applicant) submitted an application to the Service for a permit to incidentally take desert tortoise, pursuant to section 10(a)(1)(B) of the Act, in association with various private projects upcoming in Washington County, Utah. The proposed permit would allow incidental take of desert tortoise for a period of 20 years, resulting from development on up to 12,264 acres of private lands within desert tortoise habitat within Washington County, Utah. The permit application was received June 15, 1995, and is accompanied by the Washington County Habitat Conservation Plan (HCP), which serves as the Applicant's habitat conservation plan and details their proposed measures to minimize, monitor, and mitigate impacts of the proposed take on desert tortoise.

Under the Proposed Action, a section 10(a) permit would be issued subject to terms and conditions of the HCP developed and proposed by the

Applicant. The incidental take estimated for this alternative is within 12,264 acres of desert tortoise habitat and for desert tortoise within 11,832 acres of potential habitat. Primary mitigation for take of desert tortoise habitat would be acquisition and management of lands that would be consolidated into a reserve primarily for desert tortoise conservation. The reserve would encompass 61,022 acres, over half of which would be desert tortoise habitat. The remaining acreage within the reserve would provide habitat for other wildlife and plant species. The reserve lands would be acquired through land purchases and exchanges. Management of the reserve would include fencing reserve boundaries; prohibiting specific activities in areas of high sensitivity; acquiring all grazing permits in zones; managing all free-roaming dogs and feral animals within the reserve; and enforcing all Federal, State and local regulations within the reserve.

Also under the Proposed Action, the Applicant would be responsible for conducting desert tortoise surveys in take areas prior to development. If desert tortoises were found in these areas, a number of them would be translocated by the Service during the first five years of permit and HCP implementation. In addition, an environmental education center would be created to help inform people about the function and value of ecosystems found within Washington County.

Sources of permanent funding for the HCP would include a county-wide fee assessed when building permits are issued. The fee would be equal to 0.2 percent of total construction costs. A second county-wide fee of \$250.00 per acre would be assessed to developers of subdivisions, condominiums, town homes, or planned unit developments. It is estimated that over the 20-year period of the section 10(a) permit, revenues from these fees would exceed \$9 million. Of this total, approximately \$7 million would be expended on implementing measures for desert tortoise preservation. The balance would be expended on other threatened, endangered, and sensitive species within Washington County. The Applicant is pursuing possible cost-sharing agreements with the Utah Department of Transportation, Utah Division of Wildlife Resources, and Service for additional funding for HCP implementation. It is estimated that total cost of implementation of the HCP would be \$11,555,000.

To minimize impacts of take, the largest, contiguous reserve practicable for desert tortoise conservation within

the Upper Virgin River Recovery Unit has been proposed. The reserve has been designed to minimize take and to allow for implementation of measures outlined in the Desert Tortoise Recovery Plan. Other methods proposed by the Applicant to minimize incidental take include fencing, law enforcement, environmental education, and desert tortoise translocation.

Development of the Final EIS

The Final EIS has been developed by the Service. In the development of the Final EIS, the Service initiated action to assure compliance with the purpose and intent of the National Environmental Policy Act of a 1969, as amended. Scoping activities were undertaken preparatory to developing a Draft EIS with a variety of local, State, and Federal entities. A Notice of Intent to prepare a Draft EIS was published December 2, 1991 (56 FR 61259); a public Scoping meeting was held in December 1991 with a public update meeting held on February 22, 1995; and a Notice of Availability of a Draft EIS and Receipt of an Application for an Incidental Take Permit for Desert Tortoise in Washington County, Utah was published July 14, 1995 (60 FR 36305).

Potential consequences, in terms of adverse impacts and benefits associated with the implementation of each alternative selected for detailed analysis, were described in the Draft EIS. The Service received 18 letters of comment on the Draft EIS which focused on impacts on: (1) Desert tortoise due to proposed mitigation and minimization measures, (2) threatened, endangered, and sensitive species, (3) Virgin River flows, (4) multiple-use activities in areas proposed as reserve, (5) private landowners, and (6) livestock grazing. Appendix A of the Final EIS contains copies of all comments

received and responses to all comments received. The Final EIS was revised where appropriate based on public comment and review. Issues and potential consequences have remained identical from the Draft to the Final EIS.

Alternatives Analyzed in the Final EIS

Three alternatives have been developed for analysis in this EIS. These alternatives include the NEPA-required No Action Alternative and two action alternatives based on issuance of a section 10(a) permit. Five other alternatives were eliminated from further analysis due to their lack of feasibility.

Under the No Action Alternative (Alternative A), no HCP would be prepared, and the Applicant would not pursue a section 10(a) permit. Current project-by-project enforcement of the Act would continue, resulting in individual section 7 and 10(a) permits and section 9 enforcement. No privately funded, large-scale implementation of the Desert Tortoise Recovery Plan would be undertaken, and State and Federal agencies would be responsible for implementing the proposed Upper Virgin River Desert Wildlife Management Area.

Under the Proposed Action Alternative (Alternative B), a section 10(a) permit would be issued subject to terms and conditions of the HCP that has been developed by the Applicant. See **BACKGROUND** for a discussion of the Proposed Action.

Alternative C is similar to the Proposed Action; however, the expected incidental take of desert tortoise habitat would be greater and size of the reserve would be reduced. The area of incidental take of desert tortoise habitat would be 15,094 acres, and size of the reserve would be 44,504 acres. This smaller reserve does not meet requirements outline in the Desert

Tortoise Recovery Plan for the Upper Virgin River Desert Wildlife Management Area. As stated in the Desert Tortoise Recovery Plan, the proposed Desert Wildlife Management Area is considered to be “* * * too small to ensure adequate probability of population persistence without careful management.” The reserve would be managed following guidelines of the Desert Tortoise Recovery Plan; however, more intensive management would be required to allow probability of desert tortoise population persistence within the reserve.

The underlying goal of the proposed action is to develop and implement a program designed to ensure the continued existence of desert tortoise in the Upper Virgin River Recovery Unit/Desert Wildlife Management Area/habitat reserve, while resolving potential conflicts that may arise from otherwise lawful private projects. The Washington County HCP creates an ongoing administration for the purposes of minimizing, mitigating, and monitoring impacts on the desert tortoise, as well as a framework for providing protection for candidate and sensitive species. The Service intends to issue a section 10 incidental take permit for desert tortoise to Washington County, Utah, as outlined in their permit applicant and HCP.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. *et seq.*) and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Dated: December 15, 1995.
Ralph O. Margenweck,
Regional Director, Denver, Colorado.
[FR Doc. 96-71 Filed 1-11-96; 8:45 am]

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