

Endangered Species Act of 1973, as amended, to the City of Sacramento, California, for the Natomas Basin Habitat Conservation Plan (Plan). The assigned permit number is PRT-823773. Prior to issuance of the incidental take permit, the Service had agreed, in settlement of pending court litigation *Spirit of the Sage Council v. Babbitt* (D.D.C.), to request public comment on the appropriateness of including the Department of the Interior's and Department of Commerce's joint Habitat Conservation Plan Assurances ("No Surprises Assurances") in all incidental take permit applications noticed for public comment in the **Federal Register** after March 18, 1997, pending a final determination by the agencies regarding the policy. In the **Federal Register** notice of June 18, 1997 (62 FR 33400), the Service specifically requested public comment on the No Surprises assurances in the Plan. In a subsequent stipulation in the litigation, the Service agreed not to issue any incidental take permits after December 29, 1997, that contained No Surprises Assurances until making a final determination on the proposed No Surprises rule. Because the Plan had been completed and the permit applicant wished to proceed with activities under the Plan, the Service issued the permit on December 31, 1997, without the "No Surprises" assurances that otherwise would have accompanied the permit. This was accomplished by adding term and condition K. to the permit which rendered inoperative the No Surprises assurances contained in the Plan and Implementing Agreement. On February 23, 1998, the Department of the Interior (Fish and Wildlife Service) and Department of Commerce (National Marine Fisheries Service) published the Habitat Conservation Plan Assurances ("No Surprises") final rule (63 FR 35), thus fulfilling the final condition of the court settlement.

The purpose of the proposed permit amendment is to reinstate the "No Surprises" assurances into the City of Sacramento's incidental take permit for the Natomas Basin Plan, as described in condition K. of the permit and as outlined in sections 6.9.2-6.9.4 of the Plan's Implementing Agreement. This permit amendment would result in no substantive changes to the Natomas Basin Plan or any of its supporting documents.

DATES: Written comments on the addition of No Surprises Assurances to the incidental take permit should be received on or before June 26, 1998.

ADDRESSES: Comments should be addressed to the Fish and Wildlife

Service, Sacramento Fish and Wildlife Office, 3310 El Camino, Suite 130, Sacramento, California 95821-6340. Please refer to permit number PRT-823773 when submitting comments on this provision. Individuals wishing copies of the Plan or Implementing Agreement for review should immediately contact the above office. Documents also will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. William Lehman, Sacramento Fish and Wildlife Office, telephone (916) 979-2129.

Dated: May 18, 1998.

Thomas J. Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Quail Hollow Quarry, Santa Cruz County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Graniterock Company of Watsonville, California, has applied to the Fish and Wildlife Service for an amendment to an incidental take permit pursuant to the Endangered Species Act of 1973, as amended (Act). The Service proposes to issue an amendment to Graniterock's incidental take permit (PRT-830417) for the federally listed endangered Mount Hermon June beetle (*Polyphylla barbata*), Zayante band-winged grasshopper (*Trimerotropis infantilis*), Ben Lomond wallflower (*Erysimum teretifolium*), and Ben Lomond spineflower (*Chorizanthe pungens* var. *hartwegiana*) in the future mining area at the Quail Hollow Quarry, located in Santa Cruz County, California. This notice announces the availability of the permit application and the Environmental Assessment for public review and comment. The permit application includes the Habitat Conservation Plan for the Quail Hollow Quarry and an Implementation Agreement. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

DATES: Written comments should be received on or before June 26, 1998.

ADDRESSES: Comments should be addressed to Diane K. Noda, Field Supervisor, Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003. Written comments may also be sent by facsimile to (805) 644-3958.

FOR FURTHER INFORMATION CONTACT: David Pereksta, Fish and Wildlife Biologist, at the above address (telephone: 805-644-1766).

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the documents should immediately contact the Service's Ventura Fish and Wildlife Office at the above referenced address or telephone. Documents will also be available for public inspection, by appointment, during normal business hours at the above address.

Background Information

Graniterock Company (Applicant) currently has authorization from the County of Santa Cruz to mine sand in areas A, B, and C of the Quail Hollow Quarry (known as the current mining area). Mining would be conducted in two phases. The Applicant has completed mining in area A and presently is mining in areas B and C of the current mining area (phase one) where populations of the endangered Mount Hermon June beetle, Zayante band-winged grasshopper, Ben Lomond wallflower, and Ben Lomond spineflower occur. The Applicant received an incidental take permit from the Service for phase one on August 1, 1997. The sand source in the current mining area is expected to last for only a few years. During phase two, the Applicant intends to expand mining into an area known as the future mining area. The Applicant has applied to the Service to amend the initial 3-year incidental take permit to a 100-year permit. For context, the Habitat Conservation Plan covers both the current and future mining areas.

The Applicant needs an incidental take permit from the Service because listed wildlife species are protected against "take" pursuant to section 9 of the Act. That is, no one may 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). The Service, however, may issue permits to take listed animal species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations

governing permits for endangered species are at 50 CFR 17.22.

Section 9 of the Act generally does not prohibit take of federally listed plants on private lands unless the take or action resulting in take would violate State law. The Applicants have requested a permit for plants to the extent that their take would be a violation of the Act. Impacts to listed plants also must be addressed in the intra-Service consultation required pursuant to section 7(a) of the Act.

The Service proposes to issue a 100-year permit to the Applicant for incidental take of four listed species during phase two of proposed mining activities in the future mining area of Quail Hollow Quarry. The proposed action would result in the loss of habitat for, and individuals of, the Mount Hermon June beetle, Zayante band-winged grasshopper, Ben Lomond wallflower, and Ben Lomond spineflower in the future mining area as the natural vegetation communities in which they are found are removed during mining operations. This action could directly and indirectly affect the species described above (the Plan Species).

The proposed action would authorize the incidental take of all Mount Hermon June beetles and Zayante band-winged grasshoppers in the future mining area on approximately 83 acres of the 220-acre quarry site. The future mining area contains approximately 27 acres of suitable habitat for these listed wildlife species. In addition, 5 acres of habitat occupied by the Ben Lomond wallflower and 5.5 acres of habitat occupied by the Ben Lomond spineflower would be lost from the future mining area.

The Applicant developed a Habitat Conservation Plan as part of a settlement agreement for litigation it had filed seeking a vested right to mine the entire quarry. This agreement set out to resolve all of the endangered species and habitat protection issues on the property. Under this agreement, the Applicant, Santa Cruz County, Sierra Club, California Native Plant Society, and the South Ridge Watershed Association established the minimum mitigation requirements under which continued sand mining in Quail Hollow Quarry would be allowed. The agreement is in the form of a stipulation for entry of judgment (Stipulation Agreement).

Consistent with this Stipulation Agreement, the Habitat Conservation Plan proposes the following minimization and mitigation measures for phase two mining. At the time the Applicant receives authorization to

commence mining in the future mining area, and prior to habitat disturbance within the future mining area, it will: (1) grant a conservation easement in perpetuity to Santa Cruz County for the 20.6-acre West Ridge Habitat Set Aside and provide for protection and long-term management of the area; (2) provide funding for and carry-out long-term management of the 32.6-acre South Ridge Habitat Set Aside which the County of Santa Cruz is legally entitled and committed to purchase at the agreed upon fair market value; (3) implement all provisions of the Habitat Conservation Plan in order to avoid disturbing Plan Species in all areas of the quarry property except for areas within the current and future mining areas, overburden and stockpile areas, and existing access road, as shown in Map 2 of the Habitat Conservation Plan; (4) provide written agreement to protect in perpetuity from any and all disturbance all areas of the project site (except for areas within the current and future mining areas, overburden and stockpile areas, and existing access road as shown in Map 2) containing the Plan Species, State listed species, and County-defined rare, endangered, or threatened species and sensitive habitats; (5) enhance 3 acres of disturbed sand parkland and 5.2 acres of disturbed maritime chaparral on the project site in a location satisfactory to the County of Santa Cruz, the Service and the California Department of Fish and Game; (6) protect and provide long term management of the on-site restoration areas, along with the 32.2-acre North and West Ridge habitat set asides; and (7) revegetate slopes within the future mining area with the goal of reestablishing habitat for the Plan Species.

Environmental Assessment

The Environmental Assessment considers the environmental consequences of the proposed action and no action alternatives. A no take alternative was not feasible due to the widespread distribution of the Plan Species on-site. Under the proposed action, the Applicant would implement phase two of their Habitat Conservation Plan consistent with the Stipulation Agreement (see Background for a description of the proposed action).

Under the no action alternative, the Service would not issue an incidental take permit to the Applicant and a Habitat Conservation Plan would not be implemented. The Applicant would continue to mine areas B and C until the sand supply was exhausted. The Applicant would then reclaim all previously disturbed areas of the quarry

consistent with their reclamation plan as required by the Surface Mining and Reclamation Act. The Applicant would be prevented from legally carrying out mining in other areas of the quarry due to the presence of listed animal species in the area. The no action alternative would negate the terms of the Stipulation Agreement and could result in continued and lengthy litigation. In the meantime, the absence of the Habitat Conservation Plan would effectively preclude the sale of the South Ridge property to Santa Cruz County and the establishment of the West Ridge conservation easement.

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 application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of law. If the Service determines that the requirements are met, a permit will be issued for the incidental take of the listed species. A final decision on permit issuance will be made no sooner than 30 days from the date of this notice.

Dated: May 19, 1998.

David L. McMullen,

Acting Regional Director, Region 1, Portland, Oregon.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Bureau of Indian Affairs (BIA) has submitted the proposed renewal of the information collection request for the Housing Assistance Application, codified at 25 CFR Part 256.5, to the Office of Management and Budget (OMB) for approval under the paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On February 19, 1997, BIA published a notice in the **Federal Register** (62 FR 7469-7470) requesting comments on the proposed information collection. The regulations for the Housing Improvement Program (HIP)