

also result in an unnecessary economic burden on the Mayer family.

The Service has made a preliminary determination that the HCP qualifies as a "low-effect" plan as defined by its 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 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 Environmental Action Statement, the Applicants' proposal to construct a single-family residence qualifies as a "low-effect" plan for the following reasons:

1. Approval of the HCP would result in minor or negligible effects on the Ben Lomond spineflower and Mount Hermon June beetle and its habitat. The Service does not anticipate significant direct or cumulative effects to the Mount Hermon June beetle or Ben Lomond spineflower resulting from development of the project site.

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

3. Approval of the HCP would not result in any cumulative or growth inducing impacts and, therefore, would 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 a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

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

The Service therefore has made a preliminary determination that approval of the HCP qualifies as a categorical exclusion under the National Environmental Policy Act, 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 National Environmental Policy Act documentation. The Service will consider public comments in making its final determination on whether to prepare such additional documentation.

The Service provides this notice pursuant to section 10(c) of the Endangered Species Act. We will evaluate the permit application, 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 the Mayers. We will make the final permit decision no sooner than 30 days from the date of this notice.

Dated: March 15, 2002.

D. Kenneth McDermond,
Deputy Manager, California/Nevada Operations Office, Sacramento, California.
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Safe Harbor Agreement for Bull Trout in Falls Creek, Lemhi County, ID

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that John Folsom and Ben O'Neal (Applicants) have each applied to the Fish and Wildlife Service (Service) for enhancement of survival permits pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended. The permit applications include a proposed Safe Harbor Agreement (Agreement) for bull trout (*Salvelinus confluentus*) between the Applicants and the Service. The proposed permits and Agreement would remain in effect for 20 years. Three alternatives, including the proposed alternative, are described within the Environmental Assessment (EA), which is also available for public review and comment.

We (the Service) announce the opening of a 30-day comment period and request comments from the public on the Applicants' enhancement of survival permit applications, the accompanying proposed Agreement, and Environmental Assessment. All comments we receive, including names and addresses, will become part of the administrative record and may be

released to the public. For further information and instructions on reviewing and commenting on this document, see the Public Comment and Document Availability section, below.

DATES: Written comments should be received on or before April 22, 2002.

ADDRESSES: Comments should be addressed to Ted Koch, Project Biologist, Fish and Wildlife Service, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709 (telephone: 208/378-5243; facsimile: 208/378-5262).

FOR FURTHER INFORMATION CONTACT: Ted Koch, (208) 378-5243.

SUPPLEMENTARY INFORMATION:

Background

Under the Services' Safe Harbor Agreement and Landowner Incentive Fund programs, participating property owners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Endangered Species Act. Safe Harbor Agreements encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners they will not be subjected to additional property use restrictions in the future. Safe Harbor Agreements provide assurances to the property owner that allow alterations or modifications to property enrolled under the Agreement, even if such action results in the incidental take of a listed species or, in the future, returns the species or habitat to an originally agreed-upon baseline condition. The Landowner Incentive Fund contributes funding for these efforts. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22 and 17.32.

The Falls Creek Aquatic and Riparian Restoration Project and Bull Trout Safe Harbor Agreement in the Pahsimeroi River basin in Central Idaho are proposed to enhance the conservation of bull trout, and other aquatic and riparian species, and continue agricultural irrigation near the mouth of Falls Creek. Bull trout, a species federally listed as threatened, are negatively affected by impacts to habitat from many sources, including agricultural irrigation activities. Specific impacts include dewatering bull trout streams and entraining bull trout in unscreened agricultural irrigation ditches.

This project is expected to: (1) Restore 6 miles of stream habitat that has been dewatered for agricultural irrigation purposes for the last 80 to 100 years; (2)

reconnect a population of bull trout long isolated in the headwaters of Falls Creek with reduced populations downstream in the Pahsimeroi River; (3) open new migration, spawning, and rearing habitat for this and other resident fish species; (4) restore 6 miles of riparian habitat, connecting similar existing habitats in the mountains and the valley floor; and (5) allow additional recharge of the underground aquifer in the area.

Roughly 2 miles of riparian habitat adjacent to existing surface water irrigation ditches would be lost when use of the ditches for conveying water is abandoned. Irrigation of agricultural fields near the mouth of Falls Creek would continue through pumping of groundwater, while currently diverted surface water flows would be returned to the historic Falls Creek stream channel. The Bureau of Land Management (BLM) would implement stream habitat restoration actions on lands under their management to facilitate aquatic and riparian habitat restoration, and may provide technical assistance to neighboring private landowners. Due to the experimental nature of the project, the Service, BLM and others will monitor effects on bull trout, aquatic and riparian habitats, ground water resources, and adapt management as necessary.

The proposed Agreement would seek to eliminate or minimize impacts to bull trout and other aquatic and riparian dependent species from agricultural irrigation activities by facilitating the following actions: (1) Restore, as a baseline condition, 8.0 cubic feet per second (cfs) of stream flow in the 6-mile long dewatered portion of Falls Creek by transferring surface irrigation flow rights to ground water wells drilled near the mouth of Falls Creek; (2) Reconstruct the existing head box, or irrigation diversion facility, to improve flow control, ensuring appropriate surface flows are provided in the stream channel; (3) Reestablish the currently dewatered, natural Falls Creek stream channel and riparian habitat so water can flow in a defined channel to the Pahsimeroi River via Big Springs Creek; (4) Enhance ground-water recharge in the local hydrologic system; (5) Develop a new irrigation system to improve efficiency of water use; (6) Determine pre-project fisheries and riparian status in specific locations, and implement monitoring, evaluation, and adaptive management programs; and (7) Monitor effects of the new ground water wells on other wells in the valley, and the relationship between Falls Creek surface water flows and ground water pumping.

Consistent with our Safe Harbor policy, we would issue enhancement of

survival permits to the Applicants authorizing incidental take of bull trout as a result of agricultural irrigation activities on their property. Additionally, as a condition of the Agreement and issuance of a 10(a)(1)(A) enhancement of survival permits, the Applicants are assured that we will not require additional conservation measures nor impose additional land, water, or resource use restrictions beyond those voluntarily agreed to. We expect that the incidental take authorized under the proposed Agreement may never occur. Any incidental take that might occur from the proposed action would result from the effects of ground water pumping on surface water flows in Falls Creek, which is expected to be minimal or non-existent. In accordance with this Agreement, the minimum baseline condition will be the Applicants' provision of 8.0 cfs of surface water flow rights to the natural stream channel in Falls Creek. Take of bull trout as a result of diverting any of the 8.0 cfs of stream flow rights will not be authorized.

In addition to the proposed Surface Water Restoration alternative described above, other alternatives considered in more detail include: A No Action Alternative that would continue to dewater Falls Creek with no habitat restoration, isolate a bull trout population in the stream's headwaters, and risk entrainment and mortality of bull trout in unscreened irrigation ditches; an Irrigator Buy-Out Alternative that would terminate irrigation in the Falls Creek area and completely restore aquatic and riparian habitat in Falls Creek; and an Increased Irrigation Efficiency alternative that would include all four irrigators on Falls Creek as permittees of the Service, and restore some stream flow and habitat to Falls Creek.

Public Comment and Document Availability

We provide this notice pursuant to section 10(c) of the Endangered Species Act and pursuant to implementing regulations for the National Environmental Policy Act (40 CFR 1506.6). We will evaluate the permit application, associated documents, and comments submitted to determine whether the permit application meets the requirements of section 10(a) of the Endangered Species Act and National Environmental Policy Act regulations. If we determine that the requirements are met, we will sign the proposed Agreement and issue enhancement of survival permits under section 10(a)(1)(A) of the Endangered Species Act to the Applicants for take of bull

trout in accordance with the terms of the Agreement. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

You may obtain copies of the documents for review by contacting the individual named above (see **ADDRESSES**). You also may make an appointment to view the documents at the above address during normal business hours (see **ADDRESSES**).

Dated: March 1, 2002.

Rowan W. Gould,

Deputy Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Safe Harbor Agreement for Forster-Gill, Inc., Blue Lake Properties, Humboldt County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: This notice advises the public that Forster-Gill, Inc., has applied to the Fish and Wildlife Service (we, the Service) for an enhancement of survival permit pursuant to section 10 (a)(1)(A) of the Endangered Species Act of 1973, as amended (Act) for northern spotted owl (*Strix occidentalis caurina*). The permit application includes a Safe Harbor Agreement between Forster-Gill, Inc., and the Service. The proposed Agreement and permit would become effective upon signature of the Agreement and would remain in effect 80 and 90 years, respectively. We have made a preliminary determination that the proposed Agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). We explain the basis for this determination in an Environmental Action Statement, which is also available for public review.

We announce the opening of a 30-day comment period to receive comments from the public on the Applicant's enhancement of survival permit application, the accompanying proposed Agreement, and Environmental Action Statement. For further information and instruction on the reviewing and comment process, see Public Review and Comment section below.