

However, many areas are experiencing marsh growth as sediment introduced from the Mississippi River through a natural crevasse is causing infilling of open water areas. The preferred alternative is to construct earthen terraces and artificial crevasses to enhance the natural processes of marsh building now occurring in the project area.

#### Public Comments Solicited

We solicit written comments on the draft EA described. All comments received by the date specified above will be considered in our decision-making process.

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 administrative record. We will honor such requests to the extent allowable by law. There may also be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

#### Author

The primary author of this document is Kevin Roy (*see ADDRESSES* Section).

#### Authority

The authority for this action is the National Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*) and CEQ Regulations 40 CFR 1506.6.

Dated: May 6, 2002.

**Cynthia K. Dohner,**

*Acting Regional Director.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Availability of a Low-Effect Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for Construction of a Single-Family Residential Home Site on the Dahle Property, Colorado Springs, Colorado

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

**ACTION:** Notice of availability and receipt of application.

**SUMMARY:** This notice advises the public that Lee J. Dahle has applied to the Fish and Wildlife Service for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended. The proposed permit would authorize the incidental take of the Preble's meadow jumping mouse (*Zapus hudsonius preblei*), federally listed as threatened, through loss and modification of its habitat associated with construction and occupation of a residential home site at the Dahle Property, Colorado Springs, Colorado. The duration of the permit would be 5 years from the date of issuance.

We announce the receipt of the applicant's incidental take permit application that includes a proposed Low-Effect Habitat Conservation Plan (HCP) for the Preble's meadow jumping mouse for the Dahle Property. The proposed HCP is available for public comment. It fully describes the proposed project and the measures the applicant would undertake to minimize and mitigate project impacts to the Preble's meadow jumping mouse. All comments on the HCP and permit application will become part of the administrative record and will be available to the public.

**DATES:** Written comments on the permit application, and Habitat Conservation Plan should be received on or before June 24, 2002.

**ADDRESSES:** Comments regarding the permit application and HCP should be addressed to LeRoy Carlson, Field Supervisor, U.S. Fish and Wildlife Service, Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathleen Linder, Fish and Wildlife Biologist, Colorado Field Office, telephone (303) 275-2370.

**SUPPLEMENTARY INFORMATION:**

### Document Availability

Individuals wishing copies of the HCP and associated documents 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.

### Background

Section 9 of the Act and Federal regulation prohibit the "take" of a species listed as endangered or threatened. Take is defined under the Act, in part, as to kill, harm, or harass a federally listed species. However, the Service may issue permits to authorize "incidental take" of listed species under limited circumstances. Incidental Take is defined under the Act as take of a listed species that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity under limited circumstances. Regulations governing permits for threatened species are promulgated in 50 CFR 17.32.

The Dahle Property is located at 17 El Dorado Lane, Lot 5, Block 4 in Thunderbird Estates Subdivision, along Monument Creek, in the Section 6, Township 13 South, Range 66 West, Southwest ¼ in the Pikeview quadrangle, in the Town of Colorado Springs, El Paso County, State of Colorado. The project will involve 0.65 acres, but will directly impact a maximum of 0.15 acres that may result in incidental take of the Preble's meadow jumping mouse. The site will impact upland areas only.

Alternatives considered in addition to the Proposed Action were awaiting approval of the El Paso County Regional Habitat Conservation Plan, and no action. The last alternative eliminated potential take of Preble's. The onsite, offsite, and cumulative impacts of the proposed Project and all associated development and construction activities and mitigation activities proposed by the HCP will have no significant impact on other threatened or endangered species, vegetation, wildlife, wetlands, geology/soils, land use, water resources, air and water quality, or cultural resources. None of the proposed impacts occur within the riparian corridor. All of the proposed impacts are in upland areas inside the 100-year floodplain. Utilizing the mouse protection habitat definition, the proposed development could impact up to 0.15 acre of potential mouse habitat for the residential lot. The mitigation will likely provide a net benefit to the Preble's mouse and other wildlife by improving or creating new riparian areas, planting of native grasses, and protecting existing habitat

along Monument Creek from any future development.

Only one federally listed species, the threatened Preble's meadow jumping mouse, occurs onsite and has the potential to be adversely affected by the project. To mitigate impacts that may result from incidental take, the HCP provides mitigation for the residential site by protection of the Monument Creek corridor onsite and its associated riparian areas from all future development through the enhancement of 0.5 acre through native grass planting, shrub planting, weed control, preservation in a native and unmowed condition, and the placement of the proposed building site closer to the road and farther away from mouse habitat. Measures will be taken during construction to minimize impact to the habitat including limited site access and the placement of spoils piles only at the front end of the lot, away from the creek. All of the proposed mitigation area is within the boundaries of the Dahle property, all of which is included in the drainage basin of Monument Creek.

This notice is provided pursuant to section 10(c) of the Act. We will evaluate the permit application, the Plan, and comments submitted therein to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, a permit will be issued for the incidental take of the Preble's meadow jumping mouse in conjunction with the construction and occupation of a single-family residential lot on the Dahle Property. The final permit decision will be made no sooner than 30 days from the date of this notice.

Dated: May 8, 2002.

**David E. Heffernan,**

*Acting Regional Director, Region 6.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Notice of Availability, Assessment Plan for Natural Resources Injured by Releases of Hazardous Substances From the Leviathan Mine

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Indian Affairs, on behalf of the Washoe Tribe of Nevada and California, the U.S. Fish and Wildlife Service, the U.S. Forest

Service, the California Department of Fish and Game, and the Nevada Division of Environmental Protection, announces the release for public review of the Leviathan Mine Natural Resource Damage Assessment Plan—Public Release Draft (Assessment Plan). The Plan was developed by the Leviathan Mine Council Natural Resource Trustees, consisting of representatives of the Tribe and agencies listed above, to assess injuries to natural resources resulting from releases of hazardous substances from the Leviathan Mine in Alpine County, California. The Assessment Plan describes the proposed approach for determining and quantifying natural resource injuries and calculating damages associated with these injuries.

**DATES:** Comments on the Assessment Plan must arrive by June 24, 2002.

**ADDRESSES:** You may mail or hand deliver written comments to Mr. Wayne Nordwall, Regional Director, Bureau of Indian Affairs, Western Regional Office, P.O. Box 10, Phoenix, AZ 85001; or 400 N. Fifth Street, Phoenix, AZ 85004; or by facsimile (602) 379-4413.

The Assessment Plan is available for review, by appointment and during normal business hours, at the office locations of the following officials: (1) Curtis Milsap, Bureau of Indian Affairs, Western Nevada Agency, 1677 Hot Springs Road, Carson City, Nevada 89706, telephone (775) 887-3570; (2) John Krause, Bureau of Indian Affairs, Western Regional Office, 400 N. Fifth Street, Phoenix, Arizona 85004, telephone (602) 379-3723; (3) Robert Greenbaum, Washoe Tribe of Nevada and California, 919 U.S. Hwy. 395 South, Gardnerville, Nevada 89410, telephone (775) 265-4191 ext. 155; (4) Stan Wiemeyer, U.S. Fish & Wildlife Service, Nevada Fish & Wildlife Office, 1340 Financial Blvd., Suite 234, Reno, Nevada 89502, telephone (775) 861-6300; and (5) Melanie Markin, U.S. Fish & Wildlife Service, 2800 Cottage Way, W-2605, Sacramento, California 95825, telephone (916) 414-6638. In addition, the Assessment Plan is available for review at the Alpine County Library, 270 Laramie Street, Markleeville, California 96120, telephone (530) 694-2120; and on the Nevada Division of Environmental Protection Web site at <http://ndep.state.nv.us/admin/leviathan.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Robert Greenbaum, (775) 265-4191 ext. 155.

**SUPPLEMENTARY INFORMATION:** In 1951, the Anaconda Copper Mining Company purchased the Leviathan Mine property, the former site of small copper sulfate

and sulfur underground mining operations, in Alpine County, California. Anaconda developed the former underground mine into an open pit sulfur mine and operated the Mine through 1962. Anaconda sold the Mine in early 1963, but no further mining operations took place thereafter.

Releases of hazardous substances from the Mine began in the 1950s and continue today. Infiltration of precipitation into and through the adits (tunnels from the former underground mine), open pit, and overburden piles, along with direct contact of mine wastes with surface waters, has created acid mine drainage (AMD), which has been released, and continues to be released into the environment. AMD, which contains arsenic, copper, sulfuric acid, and other hazardous substances, has continued to be released into groundwater and into the surface waters and sediments in Aspen and Leviathan Creeks, and from there into Bryant Creek and the East Fork Carson River. Bryant Creek begins in California and crosses into Nevada, passing through several Indian Trust Allotments. Bryant Creek then flows into the East Fork Carson River. Releases of AMD from the Mine have resulted in fish kills in Leviathan and Bryant Creeks and the East Fork Carson River.

From the early 1980s, when the State of California acquired ownership of the Mine, through the late 1990s, the Lahontan Regional Water Quality Control Board (LRWQCB) constructed and operated the Leviathan Mine Pollution Abatement Project. However, this project did not eliminate the releases of hazardous substances, and it redirected several sources of AMD to new discharge points. Despite additional efforts by the LRWQCB, the U.S. Environmental Protection Agency (EPA), and the Atlantic Richfield Company (ARC), the successor in interest to its wholly owned subsidiary, Anaconda, to reduce the release of hazardous substances from the Mine, releases of AMD continued to have deleterious effects on natural resources at the Mine and downstream.

In May 2000, EPA added the Leviathan Mine Superfund Site to the National Priorities List [65 FR 30482]. Also in 2000, EPA issued separate orders to the LRWQCB and ARC pursuant to section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA) [42 U.S.C. 9606(a)] to engage in hazardous waste removal actions. EPA's order to ARC also requires ARC to develop long-term response plans, including a