

intensive habitat restoration and wetland creation in the atoll. Subsequently, the duck population at Midway Atoll has grown rapidly and currently comprises 200 to 300 individuals despite mortality from an outbreak of avian botulism in 2008.

This revised recovery plan replaces the original recovery plan for the Laysan duck, which was published in 1982. The strategy presented in this revised recovery plan includes (1) management to address threats to the species where it occurs now (Laysan Island and Midway Atoll) and (2) improvement of the species' distribution and total population size through protection and enhancement of suitable habitat in the Northwestern and Main Hawaiian Islands and reduction or elimination of threats to allow reestablishment of additional wild populations. The recovery actions are designed to assess and address threats to the Laysan duck; create, monitor, and manage new self-sustaining populations; and fill critical gaps in our scientific knowledge of the species. The recovery goal is to downlist the Laysan duck to threatened status and eventually delist the species (remove it from the List of Endangered and Threatened Wildlife and Plants).

**Authority:** The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 7, 2009.

**David J. Wesley,**

*Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R2-ES-2009-N159; 20124-1112-0000-F2]

#### **Environmental Impact Statement and Habitat Conservation Plan; Oncor Electric Delivery Company; Routine Maintenance and Repair of Facilities and Installation and Operation of New Facilities**

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

**ACTION:** Notice of intent to prepare a draft environmental impact statement and draft habitat conservation plan; announcement of meetings; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), advise the public that we intend to prepare a draft Environmental Impact Statement (EIS) to evaluate the impacts of, and

alternatives to, the proposed issuance of an Endangered Species Act permit to Oncor Electric Delivery Company (Oncor; Applicant) for incidental take of 10 federally listed species from activities associated with maintenance and repair of existing facilities and installation and operation of new facilities within Oncor's service area. We also announce plans for a series of public scoping meetings located throughout Oncor's service area and a public comment period.

**DATES:** Written comments on alternatives and issues to be addressed in the draft EIS must be received by close of business on December 1, 2009. Public scoping meetings will be held at nine locations throughout Oncor's proposed 103-county permit area. Public meetings will be held between September 28, 2009, and October 28, 2009. Exact meeting locations and times will be noticed in local newspapers and at the Austin Ecological Services Office Web site, <http://www.fws.gov/southwest/es/AustinTexas/>, at least 2 weeks prior to each event.

**ADDRESSES:** Send written comments or requests for information by mail to the Field Supervisor, Austin Ecological Services Field Office, 10711 Burnett Road, Suite 200, Austin, TX 78758-4460; telephone 512/490-0057; facsimile 512/490-0974; or e-mail [luela\\_roberts@fws.gov](mailto:luela_roberts@fws.gov). Note that your information request or comments concern the Oncor draft EIS/HCP.

**SUPPLEMENTARY INFORMATION:** This notice is published in compliance with the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*), and its implementing regulations (40 CFR 1506.6), and section 10(c) of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). The Service intends to gather the information necessary to determine impacts and alternatives to support a decision regarding the potential issuance of an incidental take permit to the Applicant, and the implementation of the supporting draft HCP.

The Service intends to prepare a draft EIS to evaluate the impacts of, and alternatives to, the proposed issuance of an incidental take permit under the Act to the Applicant. The Applicant proposes to apply for an incidental take permit through development and implementation of an HCP. The proposed HCP will include measures necessary to minimize and mitigate the impacts to the maximum extent practicable of potential proposed taking of federally listed species and the habitats upon which they depend during routine maintenance and repair

of existing Oncor facilities and installation and operation of new Oncor facilities within Oncor's service area.

### Background

Section 9 of the Act prohibits "taking" of fish and wildlife species listed as endangered or threatened under section 4 of the Act. Under the Act, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. The term "harm" is defined in the regulations as significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term "harass" is defined in the regulations as actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). However, the Service may, under specified circumstances, issue permits that allow the take of federally listed species, provided that the take incidental to, but not the purpose of, otherwise lawful activity. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively.

Section 10(a)(1)(B) of the Act contains provisions for issuing such incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met: (1) The taking will be incidental; (2) The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking; (3) The applicant will develop a draft HCP and ensure that adequate funding for the plan will be provided; (4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) The applicant will carry out any other measures that we may require as being necessary or appropriate for the purposes of the habitat conservation plan.

Thus, the purpose of issuing a permit is to allow Oncor to maintain the efficiency of its projects and operations, while preserving protected species and their habitat. Adoption of a multispecies habitat conservation approach, rather than a species-by-species/project-by-project approach, will reduce the costs of implementing species minimization and mitigation measures, and eliminate cost and time-consuming efforts associated with processing individual incidental take permits for each project

within Oncor's 106-county service area. In addition, the multispecies habitat conservation plan approach provides a program of minimization, including avoidance, and mitigation for each species that is coordinated on a landscape level and provides increased benefits to the covered species. The Service expects that the Applicant will request permit coverage for a period of 30 years.

### Scoping Meetings

The purpose of the scoping meetings is to provide the public with a general understanding of the background of the proposed HCP and activities that would be covered by the draft HCP, alternative proposals under consideration for the draft EIS, and the Service's role and steps to be taken to develop the draft EIS for the draft HCP. The meeting format will consist of a 1-hour open house prior to the formal scoping meeting that will provide an opportunity to learn about the proposed action, permit area, and species covered. The open house will be followed by a formal presentation of the proposed action, summary of the NEPA process, and presentation of oral comments from meeting participants. A court reporter will be present at each meeting and an interpreter will be present when deemed necessary. The primary purpose of these meetings and public comment period is to solicit suggestions and information on the scope of issues and alternatives to consider when drafting the EIS. Oral and written comments will be accepted at the meetings. Comments can also be submitted to persons listed in the **ADDRESSES** section. Once the draft EIS and draft HCP are completed and noticed for review, there will be additional opportunity for public comment on the content of these documents through an additional public hearing and comment period.

### Alternatives

The proposed action presented in the draft EIS will be compared to the No-Action alternative. The No-Action alternative represents estimated future conditions to which the proposed action's estimated future conditions can be compared.

#### No-Action Alternative

Because the proposed covered activities (operation and maintenance of existing lines and construction and operation of new lines) are vital in providing services to accommodate future population growth and energy demand, these activities would continue regardless of whether a 10(a)(1)(B) permit is sought or issued. The

Applicant would continue to avoid and minimize impacts to protected species habitat. Where potential impacts could not be avoided, and where a Federal nexus exists, they would be minimized and mitigated for through individual formal or informal consultation with the Service. Thus, the Applicant would potentially need an individual section 10(a)(1)(B) incidental take permit on a project-by-project basis if activities might result in the incidental take of a federally protected species within the proposed permit area. Although future activities by the Applicant would be similar to those covered by the HCP, not all activities would necessitate an incidental take permit or even informal consultation with the Service. Thus, under this alternative, numerous individual section 10(a)(1)(B) permit applications would likely be filed over the 30-year project period. This project-by-project approach would be more time-consuming, less efficient, and could result in an isolated independent mitigation approach.

#### Proposed Alternative

The proposed action is the issuance of an incidental take permit for the covered species during construction, operation, and/or maintenance of the Applicant's transmission and distribution electrical facilities within the proposed permit area for a period of 30 years. The proposed HCP, which must meet the requirements in section 10(a)(2)(A) of the Act by providing measures to minimize and mitigate the effects of the potential incidental take of covered species to the maximum extent practicable, would be developed and implemented by the Applicant. This alternative could allow for a comprehensive mitigation approach for unavoidable impacts and reduce the permit processing effort for the Service.

Actions covered under the requested incidental take permit may include general activities associated with new construction, maintenance, and emergency response and restoration, including stormwater discharges from construction sites, equipment access, and surveying. Construction activities covered for new facilities would include new overhead transmission and distribution lines, new support facilities such as substations and switching stations, adding a second circuit on an existing structure, and underground electric installation. Typical maintenance activities would include vegetation management within a right-of-way, expansion of existing support facilities, line upgrades, insulator replacement, and maintenance of underground electric facilities.

The Applicant expects to apply for an incidental take permit for ten species listed as endangered or threatened within the Oncor service area. These species include four plants (large-fruited sand verbena, Texas poppy-mallow, Navasota ladies'-tresses, and Pecos sunflower), one invertebrate (American burying beetle), one amphibian (Houston toad), three birds (golden-cheeked warbler, black-capped vireo, and red-cockaded woodpecker), and one mammal (Louisiana black bear).

Counties included in the proposed permit area are those counties within the 105-county Oncor service area, excluding Travis and Williamson counties. These two counties are excluded because species in them are covered under the Balcones Canyonland Plan and the Williamson County Regional HCP.

Species not covered by the proposed incidental take permit will also be addressed in the draft HCP. These species include candidate species and federally listed species not likely to be affected by the covered activities. The purpose of addressing the additional species is to explain why the Applicant believes these species will not be impacted by the covered activities.

Other alternatives considered will also be addressed in the draft EIS, including impacts associated with each alternative evaluated will be discussed in the draft EIS.

### Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that the entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### Environmental Review

The Service will conduct an environmental review to analyze the proposed action, as well as other alternatives evaluated and the associated impacts of each. The draft EIS will be the basis for the impact evaluation for each species covered and the range of alternatives to be addressed. The draft EIS is expected to provide biological descriptions of the affected species and habitats, as well as the effects of the alternatives on other resources such as vegetation, wetlands,

wildlife, geology and soils, air quality, water resources, water quality, cultural resources, land use, recreation, water use, local economy, and environmental justice.

Following completion of the environmental review, the Service will publish a notice of availability and a request for comment on the draft EIS and the Applicant's permit application, which will include the draft HCP. The draft EIS and draft HCP are expected to be completed and available to the public in early 2010.

**Thomas L. Bauer,**

*Acting Regional Director, Region 2,  
Albuquerque, New Mexico.*

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## DEPARTMENT OF THE INTERIOR

### National Park Service

#### **Notice of Intent to Repatriate a Cultural Item: Paul H. Karshner Memorial Museum, Puyallup, WA**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of the Paul H. Karshner Memorial Museum, Puyallup, WA, that meets the definition of "sacred object" under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural item. The National Park Service is not responsible for the determinations in this notice.

Prior to 1935, one cultural item was removed from Lummi Island, Whatcom County, WA. It was purchased from Charles L. Judd by Dr. Warner Karshner, who donated the cultural item to the Paul H. Karshner Memorial Museum in 1935 (Accession #1935.01). Museum records describe the object as a "spirit stick" (Catalog #1-453). The object has been identified by Lummi Tribal representatives as a *sqwedilic* board. The object is used in ceremonial dances to invoke "tamanus" or "healing power." The board is made of unpainted wood that has been carved in a circular shape with two handles. The shape is consistent with photographs of other *sqwedilic* boards collected in the early

1900s (Suttles and Lane 1990:498, fig. 10).

Published ethnographic documentation indicates that *sqwedilic* boards were used in winter ceremonies among some Central and Southern Coast Salish groups (Suttles and Lane 1990:498). *Sqwedilic* was translated by one source to mean "guarding power" (Collins 1949). *Sqwedilic* boards are used for purification and finding lost articles (Suttles and Lane 1990:498).

The museum consulted with the Lummi Tribe of the Lummi Reservation, Washington; Samish Indian Tribe, Washington; and Swinomish Indians of the Swinomish Reservation, Washington. During consultation with the Lummi Tribe, tribal representatives stated that Lummi Island is considered to be within their traditional territory. During consultation with the Samish Indian Tribe, representatives stated they did not consider Lummi Island to be within the exclusive territory of the Samish and did not consider the board to be affiliated with the Samish Indian Tribe. During consultation with the Swinomish Indians, representatives did not include Lummi Island within their list of traditional places. Based on provenience, consultation evidence and ethnographic evidence, the *sqwedilic* board is reasonably believed to be a sacred object that is culturally affiliated to the Lummi Tribe of the Lummi Reservation, Washington.

Officials of the Paul H. Karshner Memorial Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Paul H. Karshner Memorial Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the sacred object and the Lummi Tribe of the Lummi Reservation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred object should contact Dr. Jay Reifel, Assistant Superintendent, telephone (253) 840-8971 or Ms. Beth Bestrom, Museum Curator, Paul H. Karshner Memorial Museum, 309 4th St. NE, Puyallup, WA 98372, telephone (253) 841-8748, before October 22, 2009. Repatriation of the sacred object to the Lummi Tribe of the Lummi Reservation, Washington may proceed after that date if no additional claimants come forward.

The Paul H. Karshner Memorial Museum is responsible for notifying the

Lummi Tribe of the Lummi Reservation, Washington; Samish Indian Tribe, Washington; and Swinomish Indians of the Swinomish Reservation, Washington that this notice has been published.

Dated: September 8, 2009

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

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## DEPARTMENT OF THE INTERIOR

### National Park Service

#### **Notice of Intent to Repatriate a Cultural Item: Illinois State Museum, Springfield, IL**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of the Illinois State Museum, Springfield, IL, that meets the definition of a "sacred object" under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determination in this notice is the sole responsibility of the museum, institution, or Federal agency that has control of the cultural item. The National Park Service is not responsible for the determination in this notice.

In 1955, the Logan Museum of Anthropology, Beloit College, Beloit, WI, acquired a large collection of objects from the estate of Albert Green Heath (1888-1953). In 1956, the Illinois State Museum purchased some cultural objects, including a wooden bowl, from the Heath Collection at the Logan Museum. Heath had lived in Chicago, but also had a second home in Harbor Springs, Emmett County, MI, near the Odawa community of Cross Village. Heath was well-known to members of the Odawa community, and he purchased a number of objects from various members of the Odawa community in the early 20th century.

The wooden bowl (ISM catalog number 1956-0001-804982) is round and relatively shallow, with a flattened base, rounded sides, and a flat rim or lip. It measures 20.2 cm in diameter, 5.5 cm high, and its rim is 8 mm thick. The base, rim, and inner walls are smooth, but the outer walls are marked with numerous vertical grooved lines that extend from the rim to the base. These