

(4) Baseline environmental conditions within the range of the northern spotted owl;

(5) Other plans or projects that might be relevant to this project;

(6) Measures that would minimize and mitigate potentially adverse effects of the proposed project;

(7) Considerations for the ethical and humane treatment of barred owls removed during the experiments; and

(8) Any other information pertinent to evaluating the effects of this project on the human environment.

The environmental review will analyze and document the effects the considered alternatives would have on barred owls and northern spotted owls, as well as other components of the human environment, including but not limited to cultural resources, social resources (including public safety), economic resources, and environmental justice.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (*see ADDRESSES*). Please submit e-mail comments to [BarredOwlEIS@fws.gov](mailto:BarredOwlEIS@fws.gov). Please also include "Attn: Barred Owl EIS" in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Oregon Fish and Wildlife Office at phone number 503-231-6179. Please note that the e-mail address will be closed at the end of the public comment period.

#### Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your 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. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the Oregon Fish and Wildlife Office (*see ADDRESSES*).

#### References Cited

A complete list of all references cited herein is available upon request from our Oregon Fish and Wildlife Office (*see FOR FURTHER INFORMATION CONTACT*).

Dated: December 3, 2009.

**David Wesley,**

*Deputy Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.*  
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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS-R8-ES-2009-N255; 81420-1113-0000-F3]**

#### **Proposed Pacific Gas and Electric Safe Harbor Agreement for Interior Dune Species Located in Antioch Dunes in Contra Costa County, CA**

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

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

**SUMMARY:** This notice advises the public that Pacific Gas and Electric (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an Enhancement of Survival permit under the Endangered Species Act of 1973, as amended (Act). The permit application includes a proposed Safe Harbor Agreement (Agreement) between the Applicant and the Service for the federally endangered Lange's metalmark butterfly (*Apodemia mormo langei*), Antioch Dunes evening primrose (*Oenothera deltoids* ssp. *howellii*), and the Contra Costa wallflower (*Erysimum capitatum* var. *angustatum*) (collectively referred to as the Covered Species). The Agreement is available for public comment.

**DATES:** To ensure consideration, please send your written comments by January 11, 2010.

**ADDRESSES:** Send comments to Mr. Rick Kuyper, via U.S. mail at U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, California 95825, or via facsimile to (916) 414-6713.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Kuyper, Sacramento Fish and Wildlife Office (*see ADDRESSES*); telephone: (916) 414-6600.

#### **SUPPLEMENTARY INFORMATION:**

##### **Availability of Documents**

You may obtain copies of the document for review by contacting the individual named above. You may also make an appointment to view the document at the above address during normal business hours.

##### **Background**

Under a Safe Harbor Agreement, participating landowners voluntarily

undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Act (16 U.S.C. 1531 *et seq.*). Safe Harbor Agreements, and the subsequent enhancement of survival permits that are issued pursuant to Section 10(a)(1)(A) of the Act, encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased property use restrictions as a result of their efforts to attract listed species to their property, or to increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22(c) and 17.32(c). These permits allow any necessary future incidental take of covered species above the mutually agreed upon baseline conditions for those species in accordance with the terms and conditions of the permits and accompanying agreements.

The Agreement would cover two 6-acre parcels (Enrolled Property) that are located along the south shore of the San Joaquin River in Contra Costa County, California, in an area that was once part of an expanse of riverine sand dunes. The two parcels are located adjacent to, and on either side of, the 14-acre Sardis Unit of the Antioch Dunes National Wildlife Refuge ("Refuge"). Two transmission towers are located on the Enrolled Property—one 115 kV tower on the west parcel and one 230 kV tower on the east parcel. The Applicant relies on graveled and dirt access roads to reach all of its facilities on the Enrolled Property. Each tower has an established work area that is utilized for maintenance and operation activities.

The purpose of this Agreement is for the Service and the Applicant to collaborate and implement conservation measures for the Covered Species. This will be accomplished by restoring and maintaining suitable habitat within the Enrolled Property within the Antioch Dunes system. Restoration actions will primarily involve controlling invasive plant species. Such eradication techniques employed by the Applicant may involve the use of herbicides to be applied around host plants for the Lange's metalmark butterfly, as well as Antioch Dunes evening primrose and Contra Costa wallflower. The Service will provide the Applicant with a list of chemicals that are safe to use around host plants and that are not harmful to Lange's metalmark butterflies. Other weed eradication techniques may

include manual removal. Once nonnative plants are removed by the Applicant, the Service will be responsible for restoration of endangered and native plants to the Enrolled Parcels. The Service will enhance areas located away from the transmission towers by planting or seeding appropriate native plants, including Contra Costa wallflower, Antioch Dunes evening primrose, and host plants for the Lange's metalmark butterfly. Other natives may be planted or seeded into the sites as well. The majority of native plant restoration activities will occur in areas away from the two transmission towers such that when it is necessary for the Applicant to conduct maintenance on the towers, the overall damage to the habitat and probable take of endangered species will be minimized.

The Service expects that the proposed restoration activities will result in an increase in host plants for the Lange's metalmark butterfly throughout the Enrolled Property thus resulting in a net conservation benefit for this species. Additionally, the restoration activities will decrease threats to the Contra Costa wallflower and the Antioch Dunes evening primrose by reducing the amount of invasive, nonnative plants that outcompete the federally endangered plants.

The proposed duration of the Enhancement of Survival permit would be for 5 years, and would authorize the incidental taking of the Covered Species associated with: The restoration, enhancement, and maintenance of suitable habitat for the Covered Species; routine activities associated with maintenance and operation of the two transmission towers; and the potential future return of the Enrolled Property to baseline conditions. The Agreement also contains a monitoring component that will provide information on the success of weed eradication and will also assist the Refuge in early detection of new invasive plant species. Results of these monitoring efforts will be provided to the Service by the Applicant in an annual report.

Upon approval of this Agreement, and consistent with the Service's Safe Harbor Policy (64 FR 32717), the Service would issue an Enhancement of Survival permit to the Applicant. This permit will authorize the Applicant to take the Covered Species incidental to the implementation of the management activities specified in the Agreement, incidental to other lawful uses of the property including normal, routine land management activities, and incidental to return to baseline conditions if desired. Although take of listed plant species is

not prohibited under the Act, and therefore cannot be authorized under an enhancement of survival permit, plant species may be included on a permit in recognition of the net conservation benefit provided to them under a safe harbor agreement. An applicant would receive assurances under our "No Surprises" regulations (50 CFR 17.22(c)(5) and 17.32(c)(5)) for all species included in the Enhancement of Survival permit. In addition to meeting other criteria, actions to be performed under an Enhancement of Survival permit must not jeopardize the existence of federally listed fish, wildlife, or plants.

#### Public Review and Comments

The Service has 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 that is also available for public review.

Individuals wishing copies of our Environmental Action Statement, and/or copies of the full text of the Agreement, including a map of the proposed permit area, should contact the office and personnel listed in the ADDRESSES section above.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your 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.

The Service will evaluate this permit application, associated documents, and comments submitted thereon to determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations. If the Service determines that the requirements are met, we will sign the proposed Agreement and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the Applicant for take of the Covered Species incidental to otherwise lawful activities in accordance with the terms of the Agreement. The Service 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.

The Service provides this notice pursuant to section 10(c) of the Act and

pursuant to implementing regulations for NEPA (40 CFR 1506.6).

Dated: December 3, 2009.

**Susan K. Moore,**

*Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California.*

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## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701-TA-459 and 731-TA-1155 (Final)]**

### Commodity Matchbooks From India

#### Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from India of commodity matchbooks, provided for in subheading 3605.00.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be subsidized by the Government of India and to be sold in the United States at less than fair value (LTFV).

#### Background

The Commission instituted these investigations effective October 29, 2008, following receipt of a petition filed with the Commission and Commerce by D.D. Bean & Sons, Co., Jaffrey, NH. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of commodity matchbooks from India were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and that imports of commodity matchbooks from India were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 17, 2009 (74 FR 34783). The hearing was

<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).