

**FINDING OF NO SIGNIFICANT IMPACT FOR  
ISSUANCE OF AN ENDANGERED SPECIES ACT SECTION 10(a)(1)(B) PERMIT  
TO AUTHORIZE INCIDENTAL TAKE ASSOCIATED WITH THE HABITAT  
CONSERVATION PLAN FOR WEST HIGHLAND ESTATES DEVELOPMENT  
PROJECT, IN THE CITY OF CHARLES TOWN,  
JEFFERSON COUNTY, WEST VIRGINIA**

The Fish and Wildlife Service (Service) proposes to issue a permit to West Highland Estates limited partnership, (West Highland ) for the incidental take of the federally threatened Potomac Highlands hedgehog (*Erinaceus americanus virginianus*) (hedgehog). Incidental take of the hedgehog would occur during construction of the West Highland Development consisting of 120 residential units, located in the City of Lake Elsinore, Riverside County, California. Issuance of the incidental take permit would be pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act) and would be conditioned upon proper implementation of the *Habitat Conservation Plan for the Potomac Highlands hedgehog, City of Charles Town Tract 90210, Jefferson County, West Virginia*, (HCP) and Implementing Agreement (IA). The proposed permit and IA have a term of 20 years from date of approval.

Documents reviewed in the preparation of this finding include: the HCP and accompanying IA, Environmental Assessment (EA), and intra-Service section 7 biological and conference opinion on the proposed issuance of a federal permit. All documents are incorporated by reference, as described in 40 CFR § 1508.13.

I. Alternatives Considered

The Service considered, but rejected the following alternatives because they were not feasible.

- 1) Delay of Take Pending Completion of a Regional Multiple Species Conservation Program**
- 2) Dedication of the lots along the south side of the property.**

The Service analyzed three alternatives in detail in the EA. Those alternatives are: the No Action Alternative, Reduced Project Alternative, and the Proposed Project.

- A. No Action Alternative: Under this alternative the Service would not issue an incidental take permit. The West Highland temporary hedgerow improvements would be abandoned. The applicant would not establish the proposed West Hills Mitigation Bank supporting 25 pairs of hedgehogs among other species and they would not purchase mitigation credits at the West Hills Mitigation Bank. The Service did not select this alternative for implementation because it would not meet the project purpose and need.

2. Proposed Project: The Proposed Project Alternative was not selected for adoption. **The proposed project is for the Service to issue a 10(a)(1)(B) permit for the Potomac Highlands hedgehog that will be impacted by the loss of 50.2 acres of low quality occupied habitat (EA 2002) due to the clearing and development of residential lots and the construction of 110 single family homes within the 200-acre Project site. The applicant is also covering the ongoing agricultural activities until such time as the economy allows for the build-out of the housing development.** To offset these direct effects, the applicant will purchase 75.3 credits in the West Hills mitigation bank. In addition to minimize the possible edge effects on site with the adjacent Shaughnessy River area, 25.79 acres of hardwood forest would be restored on the south side of the proposed project adjacent to the Shaughnessy River. **In addition, the indirect effects will be minimized by preventing ownership of pet cats shielding of any security lighting, and education.**
3. Offsite Mitigation Alternative: This alternative would consist of the proposed project with different mitigation requirements of purchasing 151 credits off-site at the West Hills Mitigation Bank. The on-site restoration of 25.79-acres associated with the south lots would not occur adjacent to the Shaughnessy River that would form a buffer between the subdivision and the Shaughnessy River. This alternative would increase the amount of woodland habitat lost but would not increase the incidental take of the hedgehog. Instead of restoration the applicant has agreed to place the homes on the front portion of the lots leaving a 200-foot buffer and will minimize the trees removed with the development in this area. The Service, in discussion with the applicant selected this alternative for implementation because the Applicant has determined that this scenario was feasible when considering the pragmatic and fiscal considerations, and it reduced the amount of indirect effect to the Shaughnessy River area.

## II. Effects and Finding of No Significant Impact

The Service's proposed action is to issue a permit under section 10(a)(1)(B) of the Act pursuant to the terms in the HCP and IA. The proposed permit would: (1) authorize incidental take of the hedgehog, (2) identify measures that, subject to confirmation through the minor amendment process identified in the HCP and IA, would be implemented to avoid, minimize and mitigate incidental take of hedgehogs during the 20-year term of the permit.

The permit that would be issued under the Service's Proposed Action/Preferred Alternative would ultimately result in the permanent loss of a total of 50.2 acres of low quality hardwood forest habitat. Additional detail regarding the impacts of the Proposed Project on the habitats and species in the plan area is provided in section X of the HCP and chapter X of the EA, and our biological opinion for the proposed action.

Based on the extensive measures to minimize and mitigate effects to species to the maximum extent practicable summarized in the accompanying documents, the Service concludes that impacts to the hedgehog will be less than significant.

Pursuant to section 7 of the Act, we have prepared a biological opinion on the proposed action of issuing an incidental take permit and signing an implementation agreement. In the biological and conference opinion, we concluded that the proposed action would not result in jeopardy to the hedgehog. **These conclusions were reached in recognition of: 1) effects of the action, including conservation measures proposed as part of the project description; 2) the importance of the currently proposed conservation within the West Highland Estates Plan area to the survival and recovery of these listed and sensitive species; and 3) the threatened this specie. The conservation and management measures proposed by the applicant, suggest that the significant project-related effects of the proposed action are offset so that the open space portion of the Development and offsite mitigation is expected to function in a manner that is conducive to maintaining and creating habitats for this listed specie.**

Foreseeable actions on lands in the vicinity of the West Highland Development Project that could result in cumulative impacts are analyzed in the EA and biological and conference opinion. Major concerns in assessing the cumulative impacts of the proposed activities are the further loss of habitat for the hedgehog, including habitat degradation resulting from edge effects and increased habitat fragmentation. The Service recognizes that the best avenue to address these cumulative effects is a regional multiple species habitat conservation plan that conserves target wildlife and plant species. The County of Jefferson is currently working on the draft version of this plan. In the interim, the Service will continue to review projects that may affect listed species in the County on a case-by-case basis. Issuance of this permit for the incidental take of hedgehogs does not permit incidental take that is the result of future actions.

The Service incorporated by reference into its EA the analysis completed under the West Virginia Environmental Quality Act by the applicant. The EA evaluated five major environmental issue categories for potential significant adverse impacts. The major environmental issue categories were: biological resources; traffic and circulation; noise; air quality; and cultural resources. The Service specifically discussed air quality, cultural sites, economics, noise, and traffic/transportation patterns in the EA. Appropriate mitigation measures were incorporated into the project to reduce impacts to a level below significance for those issues in which negative impacts were anticipated. No significant effect to these environmental resources is expected to result from permit issuance.

### III. Public Review and Comment

On February 20, 2002 the Service published a notice of the availability of, and solicited comments on, the permit application and EA (64 FR 2222). The 60-day public comment period closed on April 20, 2000. Copies of the HCP, Implementing Agreement (IA), and EA were sent to 24 individuals, organizations, and agencies, including members of Federal and State congressional delegations, Federal and State agencies, County and City governments, and environmental organizations. Copies of these documents were sent to approximately 9 other interested parties as a result of requests the Service received after publication of the public notice in the *Federal Register*. The Service findings document and this Finding of No Significant Impact will be made available to all known interested parties. Following final action on the permit application, the Service will publish a notice of permit decision in the *Federal Register*.

### IV. Conclusion

In summary, as documented in the EA and biological and conference opinion, approval of the HCP and IA and the proposed issuance of a section 10(a)(1)(B) permit for incidental take of the hedgehog is not expected to result in significant impacts to the physical and biological resources at the proposed West Highland development project site or the surrounding area. The issuance of the permit and implementation of the HCP would not result in significant effects on the human environment.

The Service has determined that the proposal does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, preparation of an Environmental Impact Statement is not required.

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Regional Director, Region 5

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Date