



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
Carlsbad Fish and Wildlife Office  
2177 Salk Avenue, Suite 250  
Carlsbad, California 92008



In Reply Refer To:  
FWS-LA-14B0023-14TA0020

DEC 17 2013

### Agenda Item 9(a)

SMMC

2-24-2014

Ms. Catalina Hernandez  
City of Los Angeles, Department of Public Works  
Bureau of Engineering  
1149 South Broadway, Suite 600  
Los Angeles, California 90015

Subject: Notice of Intent to Adopt a Mitigated Negative Declaration (MND) for the Proposed Citywide Cat Program, City of Los Angeles, Los Angeles County, California

Dear Ms. Hernandez:

The U.S. Fish and Wildlife Service (Service) has reviewed the MND for the proposed Citywide Cat Program (Program) in the City of Los Angeles (City), Los Angeles County, California. The proposed Program includes changes to the Los Angeles Administrative and Municipal Codes to: 1) provide subsidies for sterilization of free roaming cats through the Animal Sterilization Fund, 2) define cat colony,<sup>1</sup> 3) exclude stray or feral cats that are sterilized and living in cat colonies from the prohibition against feeding non-domesticated mammalian predators, and 4) increase the number of cats allowed to be kept without a permit from 3 to 5 per household.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. Specifically, the Service administers the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 *et seq.*).

Section 9 of the Act prohibits the "take" (e.g., harm, harassment, pursuit, injury, kill) of federally listed wildlife. Take incidental to otherwise lawful activities can be permitted under the provisions of section 7 (Federal consultations) and section 10 (private permits) of the Act. The MBTA prohibits killing or injuring adults and destroying the active nests of migratory birds. The MBTA protects over 800 species of birds that occur in the United States.<sup>2</sup> Provisions of the

<sup>1</sup> A geographic location not in a public park or Environmentally Sensitive Area where stray or feral cats typically live and/or where they forage or hunt for food, or are fed and generally cared for by individuals volunteering as "Caregivers," also referred to as "Caretakers"

<sup>2</sup> For a list of species protected under the MBTA see:

<http://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/mbtandx.html>

MBTA do not provide a process for issuing permits to address incidental direct or indirect killing or injury of migratory birds.

The proposed Program would be implemented throughout the City, an approximately 465-square mile area. As identified in the MND (Table 2, Animal Species of Concern), the City supports several federally listed bird species: western snowy plover (*Charadrius alexandrinus nivosus*), California least tern (*Sternula antillarum browni*), coastal California gnatcatcher (*Polioptila californica californica*, gnatcatcher), and least Bell's vireo (*Vireo bellii pusillus*). Habitat within the City also supports a number of unlisted bird species that are protected under the MBTA. The City is located within the Pacific Flyway, one of four major migratory bird routes in North America. There are several significant migratory bird stopovers in the City (e.g., Ballona Wetlands, the Los Angeles Harbor, and the Los Angeles River) where birds gather in the thousands to feed and rest before continuing on their migration.

We offer the following comments and recommendations regarding Program-associated biological impacts based on our review of the MND and our knowledge of declining habitat types and species within Los Angeles County. These comments are provided in keeping with our agency's mission to "work with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people."

## **1. Cat Predation on Birds**

By establishing cat colonies and allowing the feeding of feral cats, the Program is likely to increase the number of feral cats and other non-domesticated mammalian predators (see 2c below) and therefore lead to an increase in predation pressure on sensitive wildlife, including species protected under the Act and MBTA.

A recent review of studies on predation rates of owned and un-owned cats across the contiguous United States estimates that free-ranging cats kill 1.4 to 3.7 billion birds annually (Loss et al. 2013). More information regarding the impacts of feral cats on wild bird populations and ways to reduce this source of mortality is available on the following internet sites:

Cats and Wildlife Issues (California Department of Fish and Wildlife)  
[http://www.dfg.ca.gov/wildlife/nongame/nuis\\_exo/dom\\_cat/index.html](http://www.dfg.ca.gov/wildlife/nongame/nuis_exo/dom_cat/index.html)

Cats Indoors! (American Bird Conservancy)  
<http://www.abcbirds.org/abcprograms/policy/cats/index.html>

## **2. Proposed Mitigation for Potential Adverse Effects on Sensitive Biological Resources**

The MND includes three measures intended to mitigate for the potential loss of sensitive biological resources in association with the establishment and maintenance of cat colonies. We

believe these measures are unlikely to effectively minimize impacts on wildlife for the reasons described below.

- a) BIO-1: Cat feeding will not be allowed within one mile of Environmentally Sensitive Habitat Areas (ESAs), with some exceptions. According to the MND, the average range of a cat colony is 2.7 square miles; therefore, it is unlikely that a 1-mile buffer will effectively minimize the potential for feral and stray cats to enter and hunt within ESAs. In addition, sensitive wildlife occurs outside of the areas mapped as ESAs.
- b) BIO-2: Animal Services may disallow a cat colony if it poses a danger to endangered or threatened species listed by the California Department of Fish and Wildlife. The MND is not clear in describing what criteria will be used to determine whether a cat colony is posing a danger to State-listed species and does not include measures to ensure that Animal Services *will* disallow a cat colony if it poses a danger to endangered or threatened species listed by the California Department of Fish and Wildlife *or the U.S. Fish and Wildlife Service* (language in italics represents recommended edits).
- c) BIO-3: Reasonable measures must be taken to prevent access to food by any animal other than a sterilized cat. There is no discussion or examples in the MND of potential reasonable measures that may be implemented by caretakers of cat colonies to exclude unsterilized cats and non-domesticated mammalian predators (e.g., coyotes, foxes, possums, raccoons, and skunks). Without clear guidance on what these reasonable measures would be, it is likely that animals other than sterilized cats will also be supported by cat colonies. Therefore, in addition to increasing the availability of food resources for feral cats, the Program is likely to lead to an increase in non-domesticated mammalian predators that may prey on sensitive wildlife.

### **3. Monitoring and Enforcement**

The proposed Program does not appear to include a monitoring and enforcement component. Without a detailed monitoring and enforcement plan, the Program will ease restrictions on feeding feral cats without ensuring that the proposed mitigation measures are being implemented or that the Program is effectively minimizing potential impacts to sensitive wildlife. Therefore, we strongly encourage the City to develop such a plan. This plan should include quantitative performance goals and remedial measures if the performance goals are not met. We recommend that monitoring be initiated prior to implementing the rest of the Program so that appropriate baseline information can be obtained.

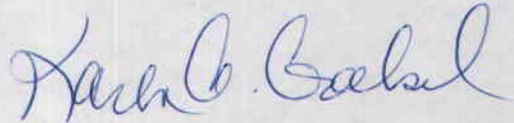
### **4. Opportunities for Bird Conservation within the City of Los Angeles**

The Service's Urban Conservation Treaty for Migratory Birds (Urban Bird Treaty) program is dedicated to conserving birds in or passing through cities and can help finance education and

outreach projects that focus on migratory bird protection and conservation as well as help with the creation and restoration of habitats within urban areas (enclosed). We encourage the City to pursue the development and implementation of an Urban Bird Treaty that can foster an increased awareness of the value of birds in the City of Los Angeles.

We appreciate the opportunity to comment on the subject Program. If you have any questions regarding these comments, please contact Christine Medak of this office at 760-431-9440, extension 298.

Sincerely,



Karen A. Goebel  
Assistant Field Supervisor

Enclosure

cc:

Erinn Wilson, California Department of Fish and Wildlife