FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

* KERN WATER BANK AUTHORITY
  P.O. BOX 80607
  BAKERSFIELD, CA  93380-0607

2. AUTHORITY-STATUTES

16 USC 1539(a)

REGULATIONS (Attached)

50 CFR 17.32
50 CFR 17.22

3. NUMBER

PRT-828086

4. RENEWABLE  □ YES  □ NO
5. MAY COPY  □ YES  □ NO

6. EFFECTIVE  10/02/97
7. EXPIRES  10/01/2072

8. NAME AND TITLE OF PRINCIPAL OFFICER (if #1 is a business)

William D. Phillimore, Chairman

9. TYPE OF PERMIT

Incidental take PRT-828086

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

Kern Water Bank - Western Kern County, California.

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND Timely COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

SEE ATTACHED SHEETS

12. REPORTING REQUIREMENTS

□ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ON REVERSE ALSO APPLY

 ISSUED BY  [Signature]  TITLE Regional Director  DATE 10/2/97

ORIGINAl
FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

KERN WATER BANK AUTHORITY
P.O. BOX 80607
BAKERSFIELD, CA  93380-0607

2. AUTHORITY-STATUTES
16 USC 1539(a)

REGULATIONS (Attached)
50 CFR 17.32
50 CFR 17.22

3. NUMBER
PRT-835054

4. RENEWABLE
☒ YES  ☐ NO

5. MAY COPY
☒ YES  ☐ NO

6. EFFECTIVE  10/02/97
7. EXPIRES  10/01/2072

8. NAME AND TITLE OF PRINCIPAL OFFICER (if #1 is a business)
William D. Phillimore, Chairman

9. TYPE OF PERMIT
Incidental take PRT-835054

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED
Master Permit Area - portions of Kern County, the Allensworth area of Tulare County, and the Kettleman Hills area of Kings County.

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. all activities authorized herein must be carried out in accord with and for the purposes described in the application submitted. continued validity, or renewal, of this permit is subject to complete and timely compliance with all applicable conditions, including the filing of all required information and reports.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE.

SEE ATTACHED SHEETS

☐ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ON REVERSE ALSO APPLY

12. REPORTING REQUIREMENTS

ISSUED BY  Michael [Signature]  TITLE  Regional Director  DATE  10/2/97

ORIGINAL
D. All sections of Title 50 Code of Federal Regulations, parts 13 and 17.22 and 17.32 are conditions of this permit (copies attached).

E. The permittee, and their designated agents, are authorized to incidentally take (harm or harass) 160 covered species (named below) that are listed or may be listed in the future under the Federal Endangered Species Act of 1973, as amended (Act), to the extent that take of these species would otherwise be prohibited under section 9 of the Act, and its implementing regulations, or pursuant to a rule promulgated under section 4(d) of the Act. Take authorization for currently listed species is effective once the Implementation Agreement and this permit have been signed. For unlisted covered species, take authorization will become effective upon their listing under the Act. The level of incidental take authorized under this permit, and the conditions under which such take may occur, are described in the NCCP/HCP. Such take must be incidental to planned activities described in the permit application and as conditioned herein.

Covered Species:

Group 1 Species: Species with documented occurrences or potential habitat in the project area and which may be affected by the action during the life of the permit.

*Documented occurrence in the Kern Water Bank project area.

Listed

Birds

1. Aleutian Canada goose  
   Branta canadensis leucopareia
2. American peregrine falcon  
   Falco peregrinus anatum
3. California condor  
   Gymnogyps californianus
4. bald eagle  
   Haliaeetus leucocephalus
5. southwestern willow flycatcher  
   Empidonax traillii extimus
6. least Bells’ vireo  
   Vireo bellii pusillus

Mammals

1. San Joaquin kit fox*  
   Vulpes macrotis mutica
2. giant kangaroo rat  
   Dipodomys ingens
3. Tipton kangaroo rat*  
   Dipodomys nitratoides nitratoides
**Reptiles and Amphibians**

1. blunt-nosed leopard lizard*  
   *Gambelia silus*  
2. giant garter snake  
   *Thamnophis gigas*  
3. California red-legged frog  
   *Rana aurora draytoni*

**Invertebrates**

1. Conservancy fairy shrimp  
   *Branchinecta conservatio*  
2. longhorn fairy shrimp  
   *Branchinecta longianterina*  
3. vernal pool fairy shrimp  
   *Branchinecta lynchii*  
4. vernal pool tadpole shrimp  
   *Lepidurus packardi*  
5. valley elderberry longhorn beetle  
   *Desmocerus californicus dimorphus*

**Plants**

1. Bakersfield cactus  
   *Opuntia basilaris var. treleasei*  
2. California jewelflower  
   *Caulanthus californicus*  
3. Hoover’s woolly-star*  
   *Eriastrum hooveri*  
4. Kern mallow  
   *Eremalche kernensis*  
5. San Joaquin woolly-threads*  
   *Lembertia congdonii*

**Unlisted**

**Birds**

1. Mountain plover  
   *Charadrius montanus*  
2. Le Conte’s thrasher  
   *Toxostoma lecontei*  
3. ferruginous hawk  
   *Buteo regalis*  
4. loggerhead shrike*  
   *Lanius ludovicianus*  
5. white-faced ibis  
   *Plegadis chihi*  
6. tricolor blackbird  
   *Agelaius tricolor*  
7. greater sandhill crane  
   *Grus canadensis tubida*  
8. western snowy plover (interior)  
   *Charadrius alexandrinus nivosus*  
9. Swainson’s hawk  
   *Buteo swainsoni*  
10. white-tailed kite  
    *Elanus caeruleus*  
11. burrowing owl*  
    *Athene cunicularia*

**Mammals**

1. Buena Vista Lake shrew  
   *Sorex ornatus relictus*  
2. greater western mastiff bat  
   *Eumops perotis californicus*  
3. Pacific western big-eared bat  
   *Plecotus townsendii*  
4. American badger*  
   *Taxidea taxus*  
5. San Joaquin antelope squirrel*  
   *Ammospermophilus nelsoni*

**Reptiles and Amphibians**

1. western pond turtle  
   *Clemmys marmorata*
2. western spadefoot toad  \textit{Scaphiopus hammondi}
3. California tiger salamander  \textit{Ambystoma tigrinum}

**Plants**

1. Lost Hills saltbush  \textit{Atriplex vallicola}
2. Comanche Point layia  \textit{Layia leucopappa}
3. recurved larkspur*  \textit{Delphinium recurvatum}
4. slough thistle*  \textit{Cirsium crassicaule}
5. heart-leaved saltbush  \textit{Atriplex cordulata}
6. hispid bird's beak  \textit{Cordylanthus mollis ssp. hispidus}
7. Bakersfield saltbush  \textit{Atriplex tularensis}
8. Kern tarplant  \textit{Hemizonia pallidus}
9. lesser saltbush  \textit{Atriplex miniscula}
10. alkali mariposa lily  \textit{Calochortus striatus}

Group 2 Species: Species that do not currently occur and for which habitat does not currently exist in the project area, and are unlikely to be affected by the action during the life of the permit, but for which potential habitat may be created.

**Birds**

1. golden eagle  \textit{Aquila chrysaetos}
2. sharp-shinned hawk  \textit{Accipiter striatus}
3. Cooper’s hawk  \textit{Accipiter cooperii}
4. red-shouldered hawk  \textit{Buteo lineatus}
5. northern goshawk  \textit{Accipiter gentilis}
6. northern harrier  \textit{Circus cyaneus}
7. osprey  \textit{Pandion haliaetus}
8. merlin  \textit{Falco columbarius}
9. American bittern  \textit{Botaurus lentiginosus}
10. great egret  \textit{Casmerodius albus}
11. great blue heron  \textit{Ardea herodias}
12. black-crowned night heron  \textit{Nycticorax nycticorax}
13. green-backed heron  \textit{Butorides striatus}
14. snowy egret  \textit{Egretta thula}
15. purple martin  \textit{Progne subis}
16. bank swallow  \textit{Riparia riparia}
17. common loon  \textit{Gavia immer}
18. western grebe  \textit{Aechmophorus occidentalis}
19. Clark's grebe  \textit{Aechmophorus calrkii}
20. American white pelican  \textit{Pelecanus erythrorhynchos}
21. double-crested cormorant  \textit{Phalacrocorax auritus}
22. least bittern  \textit{Ixobrychus exilis}
23. prairie falcon  \textit{Falco mexicanus}
24. Caspian tern: *Sterna caspia*
25. black tern: *Chlidonias niger*
26. barn owl: *Tyto alba*
27. long-eared owl: *Asio otus*
28. short-eared owl: *Asio flammeus*
29. black swift: *Cypseloides niger*
30. Fulvous whistling-duck: *Dendrocygna bicolor*
31. wood duck: *Aix sponsa*
32. canvasback: *Aythya valisineria*
33. Virginia rail: *Rallus limicola*
34. Sora rail: *Porzana carolina*
35. long-billed curlew: *Numenius americanus*
36. common nighthawk: *Chordeiles minor*
37. western yellow-billed cuckoo: *Coccyzus americanus*
38. lesser nighthawk: *Chordeiles acutipennis*
39. Lewis’ woodpecker: *Melanerpes lewis*
40. hairy woodpecker: *Picoides villosus*
41. yellow warbler: *Dendroica petechia*
42. yellow-breasted chat: *Icteria virens*
43. summer tanager: *Piranga rubra*
44. blue grosbeak: *Guiraca caerulea*

**Mammals**

1. beaver: *Castor canadensis*
2. river otter: *Lutra canadensis*
3. ringtail: *Bassariscus astutus*
4. mountain lion: *Felis concolor*
5. yellow-cheeked weasel: *Mustela frenata xanthogenys*
6. Buttonwillow weasel: *Mustela frenata pulchra*
7. San Joaquin myotis: *Myotis yumanensis oxalis*
8. McKittrick pocket mouse: *Perognathus inornatus neglectus*
9. Tulare grasshopper mouse: *Onychomys torridus tularensis*
10. Buena Vista lake pocket gopher: *Thomomys bottae ingens*
11. short-nosed kangaroo rat: *Dipodomys nitratoides brevinasus*
12. Tulare kangaroo rat: *Dipodomys heermanni tularensis*
13. Carrizo Plain kangaroo rat: *Dipodomys heermanni*
14. spotted bat: *Euderma maculatum*
15. bobcat: *Felis rufus*
16. tule elk: *Cervus elaphus nannoides*
17. pronghorn: *Antilocapra americana*
18. pallid bat: *Antrozous pallidus*
19. San Joaquin pocket mouse: *Perognathus inornatus*
### Reptiles and Amphibians
1. relictual slender salamander  
   *Batrachoseps pacificus relictus*
2. Kern Canyon slender salamander  
   *Batrachoseps simatus*
3. Tehachapi slender salamander  
   *Batrachosepe stebbinsi*
4. California horned lizard  
   *Phrynosoma coronatum frontale*
5. California legless lizard  
   *Anniella pulchra*
6. southern rubber boa  
   *Charina bottae umbratica*
7. San Joaquin coachwhip  
   *Masticophis flagellum ruddocki*
8. California glossy snake  
   *Arizona elegans*
9. southwestern black-headed snake  
   *Tantilla hobartsmithi*
10. western yellow-bellied racer  
    *Coluber constrictor mormon*
11. western patch-nosed snake  
    *Salvadora hexalepis*

### Invertebrates
1. Moestan blister beetle  
   *Lytta moesta*
2. Morrison’s blister beetle  
   *Lytta morrisoni*
3. Hopping’s blister beetle  
   *Lytta hoppingi*
4. monarch butterfly  
   *Danaus plexippus*

### Fish
1. Kern brook lamprey  
   *Lampetra hubbsi*
2. Kern River rainbow trout  
   *Oncorhynchus mykiss gairdneri*

### Plants
1. striped adobe-lily  
   *Fritillaria striata*
2. Vasek’s clarkia  
   *Clarkia tembloriensis calientensis*
3. Mexican mosquito fern  
   *Azolla mexicana*
4. Coulter’s goldfields  
   *Lasthenia glabrata ssp. coulteri*
5. small-leaved monkeyflower  
   *Mimulus microphyllus*
6. little mousetail  
   *Myosurus minimus ssp. apus*
7. round wooly-marbles  
   *Psilocarphus tenellus var. globiferus*
8. Mojave indigo-bush  
   *Psorothamnus arborescens var. arborescens*
9. Sanford’s arrowhead  
   *sagittaria sanfordii*
10. crownscale  
    *Atriplex coronata var. coronata*
11. brittlescale  
    *Atriplex depressa*
12. small-flowered morning-glory  
    *Convulvulus simulans*
13. cottony buckwheat  
    *Eriogonum gossypinum*
14. temblor buckwheat  
    *Eriogonum temblorense*
15. Tejon poppy  
    *Echscholzia lemmontii ssp. kernensis*
16. stinkbells  
    *Fritillaria agrestis*
17. golden goodmania  
    *Goodmania luteola*
18. Salinas Valley goldfields  
    *Lasthenia leptalea*
19. pale-yellow layia  
    *Layia heterotricha*
20. Munz’s tidy-tips  
21. Jared’s pepper grass  
22. large-flower linanthus  
23. showy madia  
24. California spineflower  
25. slender nemacladus  
26. Gairdner’s yampah  
27. oil neststraw  
28. Mason’s neststraw  
29. San Joaquin bluecurls

Layia munzii  
Lepidium jaredii ssp. jaredii  
Linanthus grandiflorus  
Madia radiata  
Mucrona californica  
Nemacladus gracilis  
Perideridia gairdneri ssp. gairdneri  
Stylocline citroleum  
Stylocline masonii  
Trichostoma ovatum.

G. The authorization granted by this permit is subject to full and complete compliance with, and implementation of the NCCP/HCP, in accordance with the executed Implementation Agreement, which is hereby incorporated into the permit.

H. Upon locating dead, injured, or sick endangered or threatened wildlife species, the permittees or their designated agents must notify within 1 working day the Service's Division of Law Enforcement (3310 El Camino Ave., Suite 140, Sacramento, California, 95821, telephone 916-979-2986) or the Sacramento Fish and Wildlife Office (3310 El Camino Ave., Suite 130, Sacramento, California 95821, telephone 916-979-2725). Written notification to both offices must be made within 3 calendar days and must include the date, time, and location of the specimen and any other pertinent information.

I. A copy of this permit must be in the possession of the permittees and designated agents while conducting taking activities. Please refer to the permit number in all correspondence and reports concerning permit activities. Any questions you may have about this permit should be directed to the Field Supervisor, Sacramento Fish and Wildlife Office.

J. Annual reports shall be prepared as described in the NCCP/HCP and submitted by March 1 of each year that the permit is in effect, beginning in 1998. One copy of the annual report shall be submitted to 1) the Field Supervisor, Sacramento Fish and Wildlife Office, and 2) the Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, 911 Northeast 11th Avenue, Portland, Oregon 97232.
§ 12.42

Recovery of certain storage costs.

If any wildlife, plant, or evidentiary item is seized and forfeited under the Endangered Species Act, 16 U.S.C. 1531 et seq., any person whose act or omission was the basis for the seizure may be charged a reasonable fee for expenses of the United States connected with the transfer, board, handling, or storage of such property. If any fish, wildlife or plant is seized in connection with a violation of the Lacey Act Amendments of 1981, 16 U.S.C. 3371, et seq., any person convicted thereof, or assessed a civil penalty therefor, may be assessed a reasonable fee for expenses of the United States connected with the storage, care and maintenance of such property. Within a reasonable time after forfeiture, the Service shall send to such person by registered or certified mail, receipt requested, a bill for such fee. The bill shall contain an itemized statement of the applicable costs, together with instructions on the time and manner of payment. Payment shall be made in accordance with the bill. The recipient of any assessment of costs under this section who has an objection to the reasonableness of the costs described in the bill may, within 30 days of the date on which he received the bill, file written objections with the Regional Director of the Fish and Wildlife Service for the Region in which the seizure occurred. Upon receipt of the written objections, the appropriate Regional Director will promptly review them and within 30 days mail his final decision to the party who filed objections. In all cases, the Regional Director’s decision shall constitute final administrative action on the matter.

§ 12.51

Return procedure.

If, at the conclusion of the appropriate proceedings, seized property is to be returned to the owner or consignee, the Solicitor or Service shall issue a letter or other document authorizing its return. This letter or other document shall be delivered personally or sent by registered or certified mail, return receipt requested, and shall identify the owner or consignee, the seized property, and, if appropriate, the baseline of the seized property. It shall also provide that upon presentation of the letter or other document and proper identification, and the signing of a receipt provided by the Service, the seized property is authorized to be released, provided it is properly marked in accordance with applicable State or Federal requirements.

PART 13—GENERAL PERMIT PROCEDURES

Subpart A—Introduction

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13.2 Purpose of regulations.
13.3 Scope of regulations.
13.4 Emergency variation from requirements.
13.5 Information collection requirements.

Subpart B—Application for Permits

13.10 Application procedures.
13.11 General information requirements or applications for permits.

Subpart C—Permit Administration

13.23 Issuance of permits.
13.24 Renewal of permits.
13.25 Amendment of permits.
13.26 Right of succession by certain persons.
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13.42 Alteration of permits.
13.43 Display of permits.
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13.47 Compliance with conditions of permit.
13.48 Agreement of permitter.
13.49 Acceptance of liability.


§ 13.35

Emergency variation from requirements.

The Director may approve variations from the requirements of this part when he finds that an emergency exists and that the proposed variations will not hinder effective administration of this subchapter B and will not be unlawful.

Subpart A—Introduction

13.1 General.

Each person intending to engage in an activity for which a permit is required by this subchapter B shall, before commencing such activity, obtain a valid permit authorizing such activity. Each person who desires to obtain the permit privileges authorized by this subchapter must make application for such permit in accordance with the requirements of this part 13 and the other regulations in this subchapter which set forth the additional requirements for the specific permits desired. If the activity for which permission is sought is covered by the requirements of more than one part of this subchapter, the requirements of each part must be met. If the information required for each specific permitted activity is included, one application will be accepted for all permits required, and a single permit will be issued.

13.2 Purpose of regulations.

The regulations contained in this part provide uniform rules, conditions, and procedures for the application for and issuance, denial, suspension, revocation, and general administration of all permits issued pursuant to this subchapter B.

35 FR 3617, Sept. 4, 1970

13.3 Scope of regulations.

The provisions in this part are in addition to, and are not in lieu of, other permit regulations of this subchapter and apply to all permits issued thereunder, including "Import and Marking" (part 14), "Feather Imports" (part 15), "Endangered Wildlife and Plants" (part 17), "Marine Mammals" (part 18), "Migratory Birds" (part 21), "Eagles" (part 22) and "Endangered Species Convention" (part 23). As used in this part 13, the term "permit" shall refer to either a license, permit, or certificate as the context may require.


[47 FR 56631, Dec. 21, 1982]
§ 13.11 Application procedures.

The Service may not issue a permit for any activity authorized by this chapter B unless the applicant has filed an application in accordance with the following procedures. Applicants do not have to submit a separate application for each permit unless otherwise required by this chapter.

(a) Forms. Applications must be submitted in writing on a Federal Fish and Wildlife License Permit Application Form (Form 3-200) or as otherwise specifically directed by the Service.

(b) Forwarding instructions. Applications for permits in the following categories should be forwarded to the issuing office indicated below:

(1) Migratory bird banding permits (50 CFR 21.22) — Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Maryland 20708. (Special application forms must be used for bird banding permits. They may be obtained by writing to the Bird Banding Laboratory.)

(2) Exception to designated port (50 CFR part 14), import/export license (50 CFR 14.83), migratory bird permit, other than banding (50 CFR part 21) and Bald or Golden eagle permits (50 CFR part 22) — Assistant Regional Director for Law Enforcement of District in which the applicant resides (see 50 CFR 10.62 for addresses and boundaries of the law enforcement districts).


(c) Time notice. The Service will process all applications as quickly as possible. However, it cannot guarantee final action within the time limits the applicant requests. Applicants for endangered species and marine mammal permits should submit applications to the Office of Management Authority which are postmarked at least 90 calendar days prior to the requested effective date. Applicants for all other permits should submit applications to the issuing office which are postmarked at least 60 days prior to the requested effective date.

(d) Fees. (1) Unless otherwise exempted by this paragraph, applicants for issuance or renewal of permits must pay the required permit processing fee at the time of application. Applicants should pay fees by check or money order payable to "U.S. Fish and Wildlife Service." The Service will not refund any application fee under any circumstances if the Service has processed the application. However, the Service may return the application fee if the applicant withdraws the application before the Service has significantly processed it.

(2) Except as provided in paragraph (d)(4) of this section the fee for processing any application is $25.00. If regulations in this subchapter require more than one type of permit for an activity, and the permits are issued by the same office, the issuing office may issue one consolidated permit authorizing the activity. The issuing office may charge only the highest single fee for the activity permitted.

(3) A fee shall not be charged to any State or local government agency, or to any individual or institution under contract to such agency for the proposed activities. The fee may be waived or reduced for public institutions (see 50 CFR 10.12). Proof of such status must accompany the application.

(4) Nonstandard fees.

<table>
<thead>
<tr>
<th>Type of permit</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Important Listed (Section 14.83)</td>
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</tr>
<tr>
<td>Marine Mammal (Section 18.31)</td>
<td>$100.00</td>
</tr>
<tr>
<td>Migratory Bird Banding (31.22)</td>
<td>$50.00</td>
</tr>
<tr>
<td>Bald or Golden Eagles (Part 22)</td>
<td>No charge</td>
</tr>
</tbody>
</table>

(e) Abandoned or incomplete applications. Upon receipt of an incomplete or improperly executed application, or if the applicant does not submit the proper fees, the issuing office will notify the applicant of the deficiency. If the applicant fails to supply the correct information to complete the application or to pay the required fees within 30 days of the date of notification, the Service will consider the application abandoned. The Service will not refund any fees for an abandoned application.


§ 13.12 General information requirements on applications for permits.

(a) General information required for all applications. The applicant must contain the following information:

(1) Applicant's full name, mailing address, telephone number(s), and (2) If the applicant is an individual, the date of birth, height, weight, hair color, eye color, sex, and any businesses or institutional affiliations of the applicant.

(b) Location where the requested permit activity is to occur or be conducted.

(c) Reference to the particular section(s) of this subchapter B as listed in paragraph (b) of this section under which the application is made for a permit or permits, together with any applicable Federal regulations, including supporting documentation as required by the referenced paragraph(s) and section(s).

(d) If the requested permit activity involves the import or re-export of wildlife or plants from or to any foreign country and the country of origin, or the country of export or re-export restricts the taking, possession, transportation, exportation, or sale of wildlife or plants, documentation as indicated in $44.52(c) of this subchapter B.

(e) Certification in the following language:

I hereby certify that I have read and am familiar with the regulations contained in title 50, part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of chapter I of title 50, Code of Federal Regulations, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to the civil penalty of $10,000, for each violation, of 16 U.S.C. 1539.

(f) Desired effective date of permit except where issuance date is fixed by the part under which the permit is issued.

(g) Date of signature of the applicant.

(h) Such other information as the Director determines relevant to the processing of the application.

(i) Additional information required on permit applications. As stated in paragraph (a) of this section certain additional information is required on all applications. Additional information may be found by referring to the section of this subchapter B cited after the type of permit for which application is being made.
\[\text{\textsection 13.21} \text{ Issuance of permits.} \]

(a) No permit may be issued prior to the receipt of a written application therefor, unless a written variation from the requirements, as authorized by \textsection 13.4, is inserted into the official file of the Bureau. An oral or written representation of an employee or agent of the United States Government, or an action of such employee or agent, shall not be construed as a permit unless it meets the requirements of a permit as defined in 50 CFR 10.12.

(b) Upon receipt of a properly executed application for a permit, the Director shall issue the appropriate permit unless:

1. The applicant has been assessed a civil penalty or convicted of any criminal provision of any statute or regulation relating to the activity for which the application is filed. If such assessment or conviction evidences a lack of responsibility.
2. The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his application.
3. The applicant has failed to demonstrate a valid justification for the permit and a showing of responsibility.
4. The application was not submitted to the Director for his consideration.
5. The Director finds through further inquiry or investigation, or otherwise, that the applicant is not qualified.

(c) Disqualifying factors. Any one of the following will disqualify a person from receiving permits issued under this part:

1. A conviction, or entry of a plea of guilty or no contest, for a felony violation of the Lacey Act, the Migratory Bird Treaty Act, or the Bald and Golden Eagle Protection Act disqualifies any such person from receiving or exercising the privileges of a permit, unless such disqualification has been expressly waived by the Director in response to a written petition.
2. The revocation of a permit for reasons found in \textsection 13.26(a)(1) or (a)(2) disqualifies any such person from receiving or exercising the privileges of a similar permit for a period of five years from the date of the final agency decision on such revocation.
3. The failure to pay any required fees or assessed costs and penalties, whether or not reduced to judgment disqualifies such person from receiving or exercising the privileges of a permit as long as such moneys are owed to the United States. This requirement shall not apply to any civil penalty presently subject to administrative or judicial appeal provided that the pendency of a collection action brought by the United States or its assigns shall not constitute an appeal within the meaning of this subsection.
4. The failure to submit timely, accurate, or valid reports as required may disqualify such person from receiving or exercising the privileges of a permit as long as the deficiency exists.
5. Use of supplemental information. The issuing officer, in making a determination under this subsection, may utilize any information available that is relevant to the issue. This may include any prior conviction, or entry of a plea of guilty or no contest, or assessment of civil or criminal penalty for a violation of any Federal or State law or regulation governing the permitted activity. It may also include any prior permit revocations or suspensions, or any reports of State or local officials. The issuing officer shall consider all relevant facts or information available, and any reports of State or local officials. The issuing officer shall also consider all relevant information or investigation to verify information or substantiate qualifications asserted by the applicant.
6. Conditions of issuance and acceptance. Any permit automatically incorporates within its terms the conditions and requirements of subpart D of this part and of any party or section(s) specifically authorizing or governing the activity for which the permit is issued.

\[\text{\textsection 13.22} \text{ Renewal of permits.} \]

(a) Application for renewal. Applicants for renewal of a permit must submit a written application at least 30 days prior to the expiration date of the permit. Applicants must certify in the form required by \textsection 13.12(a)(5) that all statements and information in the original application remain current and correct, unless previously changed or corrected. If such information is no longer current or correct, the applicant must provide corrected information.

(b) Renewal criteria. The renewal applicant shall issue a renewal of a permit if the applicant meets the criteria for issuance in \textsection 13.21(b) and is not disqualified under \textsection 13.21(c).

(c) Continuation of permitted activity. Any person holding a valid, renewable permit, who complies with this section, may continue the activities authorized by the expired permit until the Service has acted on such person's application for renewal.

(d) Denial. The renewal applicant may deny renewal of a permit to any applicant who fails to meet the issuance criteria set forth in \textsection 13.21 of this part, or the party or section(s) specifically governing the activity for which the renewal is requested.

\[\text{\textsection 13.23} \text{ Amendment of permits.} \]

(a) Permittee's request. Where circumstances have changed so that a permittee desires to have any condition of his permit modified, such permittee must submit a full written justification and supporting information in conformity with this part and the part under which the permit was issued.

(b) Service reservation. The Service reserves the right to amend any permit for just cause at any time during its term, upon written finding of necessity.

(c) Change of name or address. A permittee is not required to obtain a new permit if there is a change in the legal individual or business name, or in the mailing address of the permittee. A permittee is required to notify the issuing office within 10 calendar days of such change. This provision does not authorize any change in location of the conduct of the permitted activity when approval of the location is a qualifying condition of the permit.

\[\text{\textsection 13.24} \text{ Right of succession by certain persons.} \]

(a) Certain persons, other than the permittee are granted the right to carry on a permitted activity for the remainder of the term of a current permit provided they comply with the provisions of paragraph (b) of this section. Such persons are the following:

1. The surviving spouse, child, executor, administrator, or other legal representative of a deceased permittee.
2. A receiver or trustee in bankruptcy or a court designated assignee for the benefit of creditors.

(b) In order to secure the right provided in this section the person or persons desiring to continue the activity shall file the permit to the issuing office for endorsement within 90 days.

\[\text{\textsection 10.60} \text{ U.S. Fish and Wildlife Serv., Interior} \]

\[\text{\textsection 13.25} \text{ Application for permit.} \]

(a) Any person accepting and holding a permit under this subchapter B acknowledges the necessity for close regulation and monitoring of the permitted activity by the Government. By accepting such permit, the permittee consents to and shall allow entry by agents or employees of the Service upon premises where the permitted activity is conducted at any reasonable hour. Service agents or employees may enter such premises to inspect the location; any books, records, or permits required to be kept by this subchapter B, and any wildlife or plants kept under authority of the permit.

(b) Term of permit. Unless otherwise modified, a permit is valid during the period specified on the face of the permit. Such period shall include the effective date and the date of expiration.

(c) Denial. The issuing officer may deny a permit to any applicant who fails to meet the issuance criteria set forth in this section or in the party or section(s) specifically governing the activity for which the permit is requested.

\[\text{\textsection 13.26} \text{ Determination of issuance.} \]

(a) The Director shall, at least 60 days before the expiration of the permit, review the permit by the following process:

1. Review of permit. The Director shall review the permit to determine whether the permit holder is entitled to be reissued a new permit.
2. Notice of decision. The Director shall issue a notice of decision to the permit holder at least 15 days before the expiration of the permit.
3. Opportunity for hearing. The permit holder shall be given an opportunity for hearing before the decision is made.
4. Decision. The Director shall issue a decision to the permit holder within 30 days after the hearing.

(b) The Director shall not issue a new permit if the permit holder is not entitled to be reissued a new permit. The permit holder shall be informed of the reasons for the decision and the permit shall be revoked.

\[\text{\textsection 13.27} \text{ Conditions of issuance.} \]

(a) Any permit is subject to the following conditions:

1. The permittee shall comply with all applicable laws and regulations.
2. The permittee shall report all activities conducted under the permit.
3. The permittee shall allow the Service to inspect the premises and records.

(b) The permittee shall not conduct any activity that is not authorized under the permit.

\[\text{\textsection 13.28} \text{ Revocation of permit.} \]

(a) The Director shall revoke a permit if the permit holder fails to comply with any condition of the permit.

(b) The Director shall revoke a permit if the permit holder conducts any activity that is not authorized under the permit.

\[\text{\textsection 13.29} \text{ Renewal of permit.} \]

(a) The Director shall renew a permit if the permit holder complies with all applicable laws and regulations and does not conduct any activity that is not authorized under the permit.

(b) The Director shall not renew a permit if the permit holder fails to comply with any condition of the permit or conducts any activity that is not authorized under the permit.

\[\text{\textsection 13.30} \text{ Amendment of permit.} \]

(a) The Director shall amend a permit if the permit holder requests an amendment and the Director determines that the amendment is necessary.

(b) The Director shall amend a permit if the permit holder requests an amendment and the Director determines that the amendment is appropriate.

\[\text{\textsection 13.31} \text{ Right of succession by certain persons.} \]

(a) Certain persons, other than the permittee are granted the right to carry on a permitted activity for the remainder of the term of a current permit provided they comply with the provisions of paragraph (b) of this section. Such persons are the following:

1. The surviving spouse, child, executor, administrator, or other legal representative of a deceased permittee.
2. A receiver or trustee in bankruptcy or a court designated assignee for the benefit of creditors.

(b) In order to secure the right provided in this section the person or persons desiring to continue the activity shall file the permit to the issuing office for endorsement within 90 days.
from the date the successor begins to carry on the activity.  

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§ 13.25 Permits not transferable; agency

(a) Permits issued under this part are not transferable or assignable. Some permits authorize certain activities in connection with a business or commercial enterprise and in the event of any lease, sale, or transfer of such business entity, the successor must obtain a permit prior to continuing the permitted activity. However, certain limited rights of succession are provided in §13.24.

(b) Except as otherwise stated in the face of the permit, any person who is under the direct control of the permittee, or who is employed by or under contract to the permittee for purposes authorized by the permit, may carry out the activity authorized by the permit, as an agent for the permittee.  

§ 13.26 Discontinue of permit activity.

When a permittee, or any successor to a permittee as provided for by §13.24, discontinues activities authorized by a permit, the permittee shall within 30 calendar days of the discontinuance return the permit to the issuing office together with a written statement surrendering the permit for cancellation. The permit shall be deemed void and cancelled upon receipt by the issuing office. No refund of any fees paid for issuance of the permit or for any other fees or costs associated with a permitted activity shall be made when a permit is surrendered for cancellation for any reason prior to the expiration date stated on the face of the permit.  

§ 13.27 Permit suspension.

(a) Criteria for suspension. The privileges of exercising some or all of the permit authority may be suspended at any time if the permittee is not in compliance with the conditions of the permit, or with any applicable laws or regulations governing the conduct of the permitted activity. The issuing official may also suspend all or part of the privileges authorized by a permit if the permittee fails to pay any fees, penalties or costs owed to the Government. Such suspension shall remain in effect until the issuing officer determines that the permittee has corrected the deficiencies.  

(b) Procedure for suspension. (1) When the issuing officer believes there are valid grounds for suspending a permit the permittee shall be notified in writing of the proposed suspension by certified or registered mail. This notice shall identify the permit to be suspended, the reason(s) for such suspension, the actions necessary to correct the deficiencies, and inform the permittee of the right to object to the proposed suspension. The issuing officer may amend any notice of suspension at any time.

(2) Upon receipt of a notice of proposed suspension the permittee may file a written objection to the proposed action. Such objection must be in writing, must be filed within 45 calendar days of the date of the notice of proposed action, must state the reasons why the permittee objects to the proposed suspension, and may include supporting documentation.

(3) A decision on the suspension shall be made within 45 days after the end of the objection period. The issuing officer shall notify the permittee in writing of the Service’s decision and the reasons therefore. The issuing officer shall also provide the applicant with the information concerning the right to request reconsideration of the decision under §13.29 of this part and the procedures for requesting reconsideration.

§ 13.28 Permit revocation.

(a) Criteria for revocation. A permit may be revoked for any of the following reasons:

(1) The permittee willfully violates any Federal, State statute or regulation, or any Indian tribal law or regulation, or any law or regulation of any foreign country, which involves a violation of the conditions of the permit or of the laws or regulations governing the permitted activity; or

(b) Procedure for revocation. (1) When the issuing officer believes there are valid grounds for revoking a permit, the permittee shall be notified in writing of the proposed revocation by certified or registered mail. This notice shall identify the permit to be revoked, the reason(s) for such revocation, the proposed disposition of the wildlife, if any, and inform the permittee of the right to object to the proposed revocation. The issuing officer may amend any notice of revocation at any time.

(2) Upon receipt of a notice of proposed revocation the permittee may file a written objection to the proposed action. Such objection must be in writing, must be filed within 45 calendar days of the date of the notice of proposed action, must state the reasons why the permittee objects to the proposed revocation, and may include supporting documentation.

(3) A decision on the revocation shall be made within 45 days after the end of the objection period. The issuing officer shall notify the permittee in writing of the Service’s decision and the reasons therefore, together with the information concerning the right to request and the procedures for requesting reconsideration.

(4) Unless a permittee files a timely request for reconsideration, any wildlife held under authority of a permit that is revoked must be disposed of in accordance with instructions of the issuing officer. If a permittee files a timely request for reconsideration of a proposed revocation, such permittee may retain possession of any wildlife held under authority of the permit until final disposition of the appeal process.

§ 13.29 Review procedures.

(a) Request for reconsideration. Any person requesting a reconsideration of an action under this part if that person is one of the following:

(1) An applicant for a permit who has been granted written notice of denial.

(2) An applicant for renewal who has received written notice that a renewal is denied.

(3) A permittee who has a permit amended, suspended, or revoked, except for those actions which are required by changes in statutes or regulations, or are emergency changes or limited applicability for which an expiration date is set within 90 days of the permit change;

(4) A permittee who has a permit issued or renewed but has not been granted authority by the permit to perform all activities requested in the application, except when the activity requested is one for which there is no lawful authority to issue a permit.

(b) Method of requesting reconsideration. Any person requesting reconsideration of an action under this part must comply with the following criteria:

(1) Any request for reconsideration must be in writing, signed by the person requesting reconsideration or by the legal representative of that person, and must be submitted to the issuing office.

(2) The request for reconsideration must be received by the issuing officer within 60 calendar days of the date of notification of the decision for which reconsideration is being requested.

(3) The request for reconsideration shall state the decision for which reconsideration is being requested and shall state the reasons for the reconsideration, including presenting any new information or facts pertinent to the issues raised by the request for reconsideration.

(4) The request for reconsideration shall contain a certificate in substantially the same form as that provided by §13.12(a)(5). If a request for reconsideration does not contain such certification, but is otherwise timely
and appropriate, it shall be held and the person submitting the request shall be given written notice of the need to submit the certification within 15 calendar days. Failure to submit certification shall result in the request being rejected as insufficient in form and content.

(c) Inquiry by the Service. The Service may institute a separate inquiry into the matter under consideration.

(d) Determination of grant or denial of a request for reconsideration. The issuing officer shall notify the permittee of the Service's decision within 45 days of the receipt of the request for reconsideration. This notification shall be in writing, shall state the reasons for the decision, and shall contain a description of the evidence which was relied upon by the issuing officer. The notification shall also provide information concerning the right to appeal, the official to whom an appeal may be addressed, and the procedures for making an appeal.

(e) Appeal. A person who has received an adverse decision following submission of a request for reconsideration may submit a written appeal to the Regional Director for the region in which the issuing office is located, or to the Director for offices which report directly to the Director. An appeal must be submitted within 45 days of the date of the notification of the decision on the request for reconsideration. The appeal shall state the reason(s) and issue(s) upon which the appeal is based and may contain any additional evidence or arguments to support the appeal.

(5) Decision on appeal. Before a decision is made concerning the appeal the appellant may present oral arguments before the Regional Director or the Director as appropriate. If such official judges oral arguments are necessary to clarify issues raised in the written record.

(6) The Service shall notify the appellant in writing of its decision within 45 calendar days of receipt of the appeal, unless extended for good cause and the appellant notified of the extension.

(3) The decision of the Regional Director or the Director shall constitute the final administrative decision of the Department of the Interior.

§13.41 Subpart D—Conditions

§13.41 Humane conditions.

Any live wildlife possessed under a permit must be maintained under humane and healthful conditions.

§13.42 Permits are specific.

The authorizations on the face of a permit which set forth specific times, dates, places, methods of taking, numbers and kinds of wildlife or plants, location of activity, authorize certain circumscribed transactions, or otherwise permit a specifically limited matter, to be strictly construed and shall not be interpreted to permit similar or related matters outside the scope of strict construction.

§13.43 Alteration of permits.

Permits shall not be altered, erased, or mutilated, and any permit which has been altered, erased, or mutilated shall immediately become invalid. Unless specifically permitted on the face thereof, no permit shall be copied, nor shall any copy of a permit issued pursuant to this subchapter be displayed, offered for inspection, or otherwise used for any official purpose for which the permit was issued.

§13.44 Display of permit.

Any permit issued under this part shall be displayed for inspection upon request to the Director or his agent, or to any other person relying upon its existence.

§13.45 Filing of reports.

Permits may be required to file reports of the activities conducted under the permit. Any such reports shall be filed not later than March 31 for the preceding calendar year ending December 31, or any portion thereof, during which the permit was in force, unless the regulations of this subchapter or the provisions of the permit set forth other reporting requirements.

§13.46 Maintenance of records.

From the date of issuance of the permit, the permittee shall maintain complete and accurate records of any taking, possession, transportation, sale, purchase, barter, exportation, or importation of plants obtained from the wild (excluding seeds) or wildlife pursuant to such permit. Such records shall be kept current and shall include names and addresses of persons with whom any plant obtained from the wild (excluding seeds) or wildlife has been purchased, sold, bartered, or otherwise transferred, and the date of such transaction, and such other information as may be required or appropriate. Such records shall be legibly written or reproducible in English and shall be maintained for five years from the date of expiration of the permit.

§13.47 Inspection requirement.

Any person holding a permit under this subchapter shall, at any reasonable hour to inspect any wildlife or plant held or to inspect, audit, or copy any permits, books, or records required to be kept by regulations of this subchapter.

§13.48 Compliance with conditions of permit.

Any person holding a permit under this subchapter shall comply with all conditions of the permit and with all applicable laws and regulations governing the permitted activity.

§13.49 Surrender of permit.

Any person holding a permit under this subchapter shall surrender the permit to the issuing officer upon notification that the permit has been suspended or revoked by the Service, and all appeal procedures have been exhausted.

§13.50 Acceptance of liability.

Any person holding a permit under this subchapter shall accept full liability for the conduct of any activity conducted under the authority of such permit.
the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c), (d), and (e) of this section must be reported in writing to the U.S. Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 1983, Washington, D.C. 20013, within 5 days.

The specimen may only be retained, disposed of, or salvaged in accordance with directions from Service.

(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take those endangered species which are covered by an approved cooperative agreement for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in:

(I) The death or permanent disabling of the specimen;

(II) The removal of the specimen from the State where the taking occurred;

(III) The introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species;

(IV) The holding of the specimen in captivity for a period of more than 45 calendar days.

(6) Possession of other acts with unlawful taking. (1) It is unlawful to possess, sell, deliver, carry, transport, or ship in interstate or foreign commerce, in the course of a commercial activity, any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife, which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this section.

(3) Captive-bred wildlife. (1) Notwithstanding paragraphs (b), (c), (d) and (e) of this section, any person may take, import or export, deliver, receive, carry, transport or ship in interstate or foreign commerce, in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered wildlife that is bred in captivity in the United States, provided the principal purpose of these activities is to facilitate captive breeding, and, provided the following conditions are met:

(i) The wildlife is a species having a natural geographic distribution not including any part of the United States.

(ii) The wildlife is a species that the Director has determined to be eligible in accordance with paragraph (g)(9)(i) of this section.

(iii) The purpose of such activity is to enhance the propagation or survival of the affected species.

(iv) Such activity does not involve interstate or foreign commerce, in the course of a commercial activity, with respect to non-living wildlife.

(2) Each specimen of wildlife to be imported is uniquely identified by a band, tattoo or other means that was reported in writing to an official of the Service at a port of entry prior to export from the United States and

(3) Any person subject to the jurisdiction of the United States who engages in any of the activities authorized by this paragraph must first register with the Service (Pederal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240). Requests for registration must be submitted on an official application form (Form S-200) provided by the Service, and must include the following information:

(i) The types of wildlife sought to be covered by the registration, identified by common and scientific name to the taxonomic level of family, genus or species.

(ii) A description of the applicant's experience in maintaining and propagating the types of wildlife sought to be covered by the registration, or in conducting research directly related to maintaining and propagating such wildlife.

(iii) A description, if appropriate, of the means by which the applicant intends to educate the public about the ecological role and conservation needs of the affected species.

(iv) Photographs or other evidence clearly depicting the facilities where such wildlife will be maintained; and

(v) A copy of the applicant's license or registration, if any, under the animal welfare regulations of the U.S. Department of Agriculture (9 CFR part 2).

(3) Upon receiving a complete application, the Director will decide whether or not the registration will be approved. In making his decision, the Director will consider, in addition to the general criteria in §13.2(b) of this subchapter, whether the expertise, facilities or other resources available to the applicant appear adequate to enhance the propagation or survival of the affected wildlife. Each person so registered must maintain accurate written records of activities conducted under the registration and must submit to the Director a written annual report of such activities.

(4) Any person subject to the jurisdiction of the United States seeking to export or conduct foreign commerce in captive-bred endangered wildlife which will not remain under the care of that person must first obtain approval by providing written evidence to satisfy the Director that the proposed recipient of the wildlife has expertise, facilities or other resources adequate to enhance the propagation or survival of the wildlife and that the proposed recipient will use such wildlife for purposes of enhancing the propagation or survival of the affected species.

(5) The Director shall use the following criteria to determine if wildlife of any species having a natural geographic distribution that includes any part of the United States is eligible for the provisions of this paragraph:

(A) Whether there is a low demand for taking of the species from wild populations, either because of the success of captive breeding or because of other reasons, and

(B) Whether the wild populations of the species are effectively protected from unauthorized taking as a result of the inaccessibility of their habitat to man or as a result of the effectiveness of law enforcement.

(6) The Director shall follow the procedures set forth in section 6(b) and section 6(c)(4)(A) of the Act and in the regulations promulgated thereunder before granting any such permits and notifying the public of the existence of the permit and the number of specimens involved. The Director may not issue any permit unless the application is filed with the Director at least 45 calendar days prior to the date on which the Director proposes to grant the permit.

(7) In accordance with the criteria in paragraph (g)(3)(ii) of this section, the Director has determined the following species to be eligible for the provisions of this paragraph:

Laysan teal (Anas laysanensis).

§17.22 Permits for scientific purposes, enhancement of propagation or survival, or for incidental taking.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited by §17.21. In accordance with the issuance criteria of this section, for scientific purposes, for enhancing the
propagation or survival, or for the incidental taking of endangered wildlife. Such permits may authorize a single transaction, a series of transactions, or a number of activities over a specific period of time. (See §17.22 for permits for threatened species.) The Director shall publish notice in the Federal Register of each application for a permit that is made under this section. Each notice shall invite the submission from interested parties, within 30 days after the date of the notice, of written data, views, or arguments with respect to the application. The 30-day period may be waived by the Director in an emergency situation where the life or health of an endangered animal is threatened and no reasonable alternative is available to the applicant. Notice of any such waiver shall be published in the Federal Register within 10 days following issuance of the permit.

(a)(1) Application requirements for permits for scientific purposes or for the enhancement of propagation or survival. Applications for permits under this paragraph must be submitted to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 611, Arlington, Virginia 22201, by the person wishing to engage in the activity prohibited by §17.21. Each application must be submitted on an official application (Form 3-200) provided by the Service and must include as an attachment, all of the following information:

(I) The common and scientific names of the species sought to be covered by the permit, as well as the number, age, and sex of such species, and the activity sought to be authorized (such as taking, exporting, selling in interstate commerce).

(ii) A statement as to whether, at the time of application, the wildlife sought to be covered by the permit (A) is still in the wild, (B) has already been removed from the wild, or (C) was born in captivity;

(iii) A resume of the applicant's attempts to obtain the wildlife sought to be covered by the permit in a manner which would not cause the death or removal from the wild of such wildlife;

(iv) If the wildlife sought to be covered by the permit has already been removed from the wild, the country and place where such removal occurred; if the wildlife sought to be covered by the permit was born in captivity, the country and place where such wildlife was born;

(v) A complete description and address of the institution or other facility where the wildlife sought to be covered by the permit will be used, displayed, or maintained;

(vi) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams, of the facilities to house and/or care for the wildlife and a resume of the experience of those persons who will be caring for the wildlife;

(vii) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit;

(viii) If the application is for the purpose of enhancement of propagation, a statement of the applicant's willingness to participate in a cooperative breeding program and to maintain or contribute data to a stockbook;

(ix) The information collection requirements contained in this paragraph have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0002. This information is being collected to provide information necessary to evaluate permit applications, and to establish criteria for the issuance of permits.

(b) Permit conditions. In addition to the general conditions set forth in part 13 of this subchapter, every permit issued under this paragraph shall subject the special condition that the escape of living wildlife covered by the permit shall be immediately reported to the Service office designated in the permit;

(1) Duration of permits. The duration of permits issued under this paragraph shall be designated on the face of the permit.

(2) Issuance criteria. Upon receiving an application completed in accordance with §17.21(a)(1) of this section, the Director shall decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in §13.21(b) of this subchapter, the following factors:

(i) Whether the purpose for which the permit is required is adequate to justify removing from the wild the other wildlife;

(ii) A description of the activity sought to be authorized;

(iii) The common and scientific names of the species sought to be covered by the permit;

(iv) The probable direct and indirect effect which issuing the permit would have on the wild populations of the species sought to be covered by the permit;

(v) Whether the permit, if issued, would in any way, directly or indirectly, conflict with any known program intended to enhance the survival probabilities of the population from which the wildlife sought to be covered by the permit was or would be removed;

(vi) Whether the purpose for which the permit is required is likely to significantly reduce the threat of extinction facing the species of wildlife sought to be covered by the permit;

(vii) The opinions or views of scientists or other persons or organizations having expertise concerning the wildlife or other matters germane to the application, and

(viii) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.

(c) Alterations. The permit holder may, with the approval of the Director, alter the conditions of the permit in accordance with §17.21(b) of this subchapter. Such alterations shall be issued by the Director in writing, and the permit holder shall comply with such alterations.

(d) Notice of alteration. Any alteration of the permit shall be issued by the Director in writing, and the permit holder shall comply with such alteration.

(e) Notice of violation. Any violation of the terms of the permit shall be reported to the Director in writing.

(f) Review of permit. The Director shall review the permit at least annually and report to the Congress on the effectiveness of the permit.

(g) Revocation of permit. The Director shall revoke the permit if the permit holder fails to comply with the terms of the permit.

(h) Inspection of permit. The Director shall inspect the permit at any time and place to ensure compliance with the terms of the permit.

(i) Enforcement of permit. The Director shall enforce the terms of the permit and take any action necessary to prevent violation of the permit.

(j) Notice of revocation. Any notice of revocation shall be issued by the Director in writing, and the permit holder shall comply with such revocation.
his decision, the Director shall also consider the anticipated duration and geographic scope of the applicant's planned activities, including the amount of listed species habitat that is involved and the degree to which listed species and their habitats are affected.

(3) Permit conditions. In addition to the general conditions set forth in part 13 of this subchapter, every permit issued under this paragraph shall contain such terms and conditions as the Director deems necessary or appropriate to carry out the purposes of the permit and the conservation plan including, but not limited to, monitoring and reporting requirements deemed necessary for determining whether such terms and conditions are being complied with. The Director shall rely upon existing reporting requirements to the maximum extent practicable.

(4) Duration of permits. The duration of permits issued under this paragraph shall be sufficient to provide adequate assurance to the permittee to commit funding necessary for the activities authorized by the permit, including conservation activities and land use restrictions. In determining the duration of a permit, the Director shall consider the duration of the planned activities, as well as the possible positive and negative effects associated with permits of the proposed duration on listed species, including the extent to which the conservation plan will enhance the viability of listed species and increase the long-term survivability of such species.

(5) Notice to applicant for permit issuance. (1) In regard to any notice of a permit application published in the FEDERAL REGISTER, any interested party that objects to the issuance of a permit, in whole or in part, may, during the comment period specified in the notice, request notification of the final action to be taken on the application. A separate written request shall be made for each permit application. Such a request shall specify the permit's application number and state the reasons why that party believes the applicant does not meet the issuance criteria contained in §§13.21 and 17.22 of this subchapter or other reasons why the permit should not be issued.

(2) If the Service decides to issue a permit contrary to objections received pursuant to paragraph (c)(1) of this section, then the Service shall, at least ten days prior to issuance of the permit, make reasonable efforts to contact by telephone or other expedient means, any party who has made a request pursuant to paragraph (c)(1) of this section and inform that party of the issuance of the permit. However, the Service may reduce the time period or dispense with such notice if it determines that time is of the essence and that delay in issuance of the permit would: (i) Harm the species or population involved; or (ii) unduly hinder the actions authorized under the permit.

(3) The Service will notify any party filing an objection and request for notice under paragraph (c)(1) of this section of the final action taken on the application in writing. If the Service has reduced or dispensed with the notice period referred to in paragraph (c)(2) of this section, it will include its reasons therefore in such written notice.

(§50 FR 35667, Sept. 30, 1985)

§17.23 Economic hardship permits.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited by §17.21, in accordance with the issuance criteria of this section in order to prevent undue economic hardship. The Director shall publish notice in the FEDERAL REGISTER of each application for a permit that is made under this section. Each notice shall invite the submission of interested parties within 30 days after the date of the notice, of written data, views, and arguments with respect to the application. The 30-day period may be waived by the Director in an emergency situation where the life or health of an endangered animal is threatened and no reasonable alternative is available to the applicant. Notice of any such waiver shall be published in the FEDERAL REGISTER within 10 days following issuance of the permit.

(a) Application requirements. Applications for permits under this section must be submitted to the Director by the person allegedly suffering undue economic hardship because his desired activity is prohibited by §17.21. Each application must be submitted on an official application form (Form 3-250) provided by the Service, and must include, as an attachment, all of the information required in §17.23(i) and the following additional information:

(1) The possible legal, economic or subsistence alternatives to the activity sought to be authorized by the permit.

(2) A full statement, accompanied by copies of all relevant contracts and correspondence, showing the applicant's involvement with the wildlife sought to be covered by the permit (as well as his involvement with similar wildlife), including, where applicable, that portion of applicant's income derived from the taking of such wildlife, or the subsistence use of such wildlife, during the calendar year immediately preceding either the notice in the FEDERAL REGISTER of review of the status of the species or of the proposal to list such wildlife as endangered, whichever is earlier.

(3) Where applicable, proof of a contract or other binding legal obligation which:

(i) Deals specifically with the wildlife sought to be covered by the permit;

(ii) Became binding prior to the date when the notice of a review of the status of the species or the notice of proposed rulemaking proposing to list such wildlife as endangered was published in the FEDERAL REGISTER, whichever is earlier.

(4) The probable direct and indirect effect which issuing the permit would have on the wild populations of the wildlife sought to be covered by the permit.

(5) The economic, legal, subsistence, or other alternatives or relief available to the applicant.

(6) The amount of evidence that the applicant was in fact party to a contract or other binding legal obligation which:

(i) Deals specifically with the wildlife sought to be covered by the permit;

(ii) Became binding prior to the date when the notice of a review of the status of the species or the notice of proposed rulemaking proposing to list such wildlife as endangered was published in the FEDERAL REGISTER, whichever is earlier.

(7) The severity of economic hardship which the contract or other binding legal obligation referred to in paragraph (b)(4) of this section would cause if the permit were denied;

(8) Where applicable, the portion of the applicant's income which would be lost if the permit were denied, and the relationship of that portion to the balance of his income;

(9) Where applicable, the nature and extent of subsistence taking generally by the applicant;

(10) The likelihood that applicant can reasonably carry out his desired activity within one year from the date a notice is published in the FEDERAL REGISTER to review status of such wildlife, or to list such wildlife as endangered, whichever is earlier.

(b) Issuance criteria. Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued under any of the three categories of economic hardship, as defined in section 10(b)(2) of the Act. In making his decision, the Director shall consider, in addition to the general criteria in §13.21(h) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is being requested is adequate to justify removing from the wild or otherwise changing the status of the wildlife sought to be covered by the permit;

(2) The probable direct and indirect effect which issuing the permit would have on the wild populations of the wildlife sought to be covered by the permit;

(3) The economic, legal, subsistence, or other alternatives or relief available to the applicant.

(4) The amount of evidence that the applicant was in fact party to a contract or other binding legal obligation which:

(i) Deals specifically with the wildlife sought to be covered by the permit;

(ii) Became binding prior to the date when the notice of a review of the status of the species or the notice of proposed rulemaking proposing to list such wildlife as endangered was published in the FEDERAL REGISTER, whichever is earlier.

(5) The severity of economic hardship which the contract or other binding legal obligation referred to in paragraph (b)(4) of this section would cause if the permit were denied;

(6) Where applicable, the portion of the applicant's income which would be lost if the permit were denied, and the relationship of that portion to the balance of his income;

(7) Where applicable, the nature and extent of subsistence taking generally by the applicant;

(8) The likelihood that applicant can reasonably carry out his desired activity within one year from the date a notice is published in the FEDERAL REGISTER to review status of such wildlife, or to list such wildlife as endangered, whichever is earlier.

(9) Where applicable, the portion of the applicant's income which would be lost if the permit were denied, and the relationship of that portion to the balance of his income;

(10) The likelihood that applicant can reasonably carry out his desired activity within one year from the date a notice is published in the FEDERAL REGISTER to review status of such wildlife, or to list such wildlife as endangered, whichever is earlier.

(11) Where applicable, the portion of the applicant's income which would be lost if the permit were denied, and the relationship of that portion to the balance of his income;

(12) Where applicable, the portion of the applicant's income which would be lost if the permit were denied, and the relationship of that portion to the balance of his income;
§ 17.31 Duration of permits issued under this section shall be designated on the face of the permit. No permit issued under this section, however, shall be valid for more than one year from the date a notice is published in the Federal Register to review status of such wildlife, or to list such wildlife as endangered, whichever is earlier.

(2) If the permit is not renewed within such time, the provisions of this part applies to the permit as if it were issued under this section.

Subpart D—Threatened Wildlife

§ 17.33 Prohibitions.

(a) Except as provided in subpart A of this part, or in a permit issued under this subpart, all of the provisions in § 17.21 shall apply to threatened wildlife, except § 17.21(e)(6).

(b) In addition to any other provisions of this part, 17.21(e)(6), any employee or agent of the Service, of the National Marine Fisheries Service, or of a State or Federal agency which is operating a conservation program pursuant to the terms of a Cooperative Agreement with the Service in accordance with section 5 of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take those threatened species of wildlife which are covered by an approved cooperative agreement to carry out such conservation programs.

(c) Whenever a special rule in §§17.40 to 17.48 applies to a threatened species, none of the provisions of paragraphs (a) and (b) of this section shall apply. The special rule will contain all the applicable prohibitions and exceptions.

§ 17.32 Permits—general

Upon receipt of a complete application the Director may issue a permit for any activity otherwise prohibited with regard to threatened wildlife. Such permit shall be governed by the provisions of this section unless a special rule applicable to the wildlife, appearing in §§17.40 to 17.48, of this part provides otherwise. Permits issued under this section shall be for one of the following purposes: Scientific purposes, or the enhancement of propagation or survival, or economic hardship, or ecological, or educational purposes, or incidental taking, or special purposes consistent with the purposes of the Act. Such permits may authorize a single transaction, a series of transactions, or a number of activities over a specific period of time.

(a)(1) Application requirements for scientific purposes, or the enhancement of propagation or survival, or economic hardship, or ecological, or educational purposes, or special purposes consistent with the purposes of the Act.

Applications for permits under this paragraph shall be submitted to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, 100 N. Glebe Road, Room 611, Arlington, Virginia 22202, by the person wishing to engage in the prohibited activity. Each application must be submitted in an official application (Form 3–200) provided by the Service, and must include, as an attachment, as much of the following information which relates to the purpose for which the applicant is requesting a permit:

(1) The common and scientific names of the species sought to be covered by the permit, as well as the number, age, and sex of such species, and the activity sought to be authorized (such as taking, exporting, selling in interstate commerce).

(2) A statement as to whether, at the time of application, the wildlife sought to be covered by the permit (A) is in the wild, (B) has already been removed from the wild, or (C) was born in captivity.

(3) A resume of the applicant's attempts to obtain the wildlife sought to be covered by the permit in a manner which would not cause the death or removal from the wild of such wildlife.

(4) If the wildlife sought to be covered by the permit has already been removed from the wild, the country and place where such removal occurred; if the wildlife sought to be covered by the permit was born in captivity, the country and place where such wildlife was born;

(5) A complete description and address of the institution or other facility where the wildlife sought to be covered by the permit will be used, displayed, or maintained.

(6) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams, of the facilities to house and/or care for the wildlife and a resume of the experience of those persons who will be caring for the wildlife.

(7) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit.

(b) If the application is for the purpose of enhancement of propagation, a statement of the applicant's willingness to participate in a cooperative breeding program and to maintain or contribute data to a studbook.

(c) The information collection requirements contained in this paragraph have been approved by the Office of Management and Budget under 44 U.S.C. 3501 and assigned Clearance Number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications and make decisions, according to criteria established in various Federal and State wildlife and plant conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

(b)(1) Application requirements for incidental taking.

(1) Applications for permits under this paragraph must be submitted to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, 100 N. Glebe Road, Room 611, Arlington, VA 22202, by the person wishing to engage in the activity prohibited by § 17.31.

(2) The director shall publish notice in the Federal Register of each application for a permit that is made under this section. Each notice shall invite the submission of comments by interested parties, within 30 days after the date of the notice, of written data, views, or arguments with respect to the application.

(i) Each application must be submitted on an official application (Form 3–200) provided by the Service, and must include as an attachment, all of the following information:

(A) A complete description of the activity sought to be authorized;
§ 17.40  Mammals;

(a) [Reserved]

(b) Grizzly bear (Ursus arctos) – Prohibitions: The following prohibitions apply to the grizzly bear:

(1) Taking. (Except as provided in paragraphs (b)(1)(i)(B) through (F) of this section, no person shall take any grizzly bear in the 48 contiguous states of the United States.

(2) Grizzly bears may be taken in self-defense or in defense of others, but such taking shall be reported, within 5 days of occurrence, to the Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 2546, Denver, Federal Center, Denver, Colorado 80201-2546, or FTS 778-7540, if occurring in Montana or Wyoming, or to the Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service, Loidd 500 Building, Suite 1400, 500 Northeast Multnomah Street, Portland, Oregon, or to the U.S. Fish and Wildlife Service, 1935 C Street, N.W., Washington, D.C. 20805, or if occurring in Idaho or Washington, and to appropriate State and Federal, tribal authorities. Grizzly bears or their parts taken in self-defense or in defense of others shall not be possessed, delivered, carried, transported, shipped, exported, received, or sold, except by Federal, State, or Tribal authorities.

(3) Removal of nuisance bears. A grizzly bear committing a demonstrable but non-imminent threat to human safety or committing significant depredations to lawfully present livestock, crops, or beehives may be taken, but only if:

(I) It has not been reasonably possible to eliminate such threat or depredation by live-capturing and releasing unharmed in a remote area the grizzly bear involved; and

(2) The taking is done in a humane manner by authorized Federal, State, or Tribal authorities, and in accordance with current interagency guidelines covering the taking of such nuisance bears.

(4) The taking is reported within 5 days of occurrence to the appropriate Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(b) Import or export. Except as provided in paragraphs (b)(1)(i)(B) and (b)(2) of this section, no person shall import or export any grizzly bear into the United States.

(c) Federal, State, or Tribal scientific or research activities. Federal, State, or Tribal authorities may import grizzly bears into the United States for scientific or research purposes.

(d) Public zoological institutions. Public zoological institutions (see 50 CFR 10.12) may import grizzly bears into the United States.

(e) Commercial transactions. (Except as provided in paragraph (b)(1)(i)(B) of this section, no person shall take any grizzly bear for commercial activity, deliver, receive, carry, transport, or ship in interstate or foreign commerce.

(f) A public zoological institution (see 50 CFR 10.12) dealing with other public zoological institutions may sell, trade, or barter with such grizzly bears, but only if such bears are delivered, received, and held for use in interstate or foreign commerce.

(g) Other violations. No person shall attempt to commit, cause, or permit another to commit, any violation of this section.
William D. Phillimore, Chairman
Kern Water Bank Authority
P.O. Box 80607
Bakersfield, California 93380-0607

Dear Mr. Phillimore:

Enclosed are Endangered Species Act permits (PRT-828086 and PRT-835054) which authorize incidental take for up to 161 species, including 22 federally listed species, in conjunction with the development, operation and maintenance of the Kern Water Bank and the Kern Water Bank Conservation Bank in Kern County, California. The authorization granted by these permits is subject to compliance with, and implementation of, your Habitat Conservation Plan and other related agreements with the Fish and Wildlife Service, pursuant to section 10(a)(1)(B) of the Act.

Any questions you may have concerning the permit should be directed to Mr. Wayne White, Field Supervisor of the Service’s Sacramento Fish and Wildlife Office, at (916) 979-2710.

Sincerely,

[Signature]
Regional Director

Enclosures