factors such as few public comments to address or final decisions that are nearly complete) would have higher priority than proposed rules for species with equivalent listing priorities that still require extensive work to complete.

Given species with equivalent listing priorities and the factors previously discussed being equal, proposed listings with the oldest dates of issue would be processed first.

Tier 3—Resolving the Conservation Status of Candidate Species and Processing Administrative Findings on Petitions

As of this date, the Service has determined that 183 species warrant issuance of proposed listings. The Act directs the Service to make ''expeditious progress'' in adding new species to the lists. Issuance of new proposed listings is the first formal step in the regulatory process for listing a species. It provides some procedural protection in that all Federal agencies must ''confer'' with the Service on any actions that are likely to jeopardize the continued existence of proposed species.

Administrative findings for listing petitions that are not assigned to Tier 1 after initial screening would also be processed as a Tier 3 priority. As the Regional offices complete their pending Tier 1 and 2 actions, they will be expected to begin processing Tier 3 actions. Within the discretionary funds available, each Region should begin processing Tier 3 actions once all Tier 2 determinations are underway and near completion and then Tier 4 actions once Tier 3 actions are underway. Setting priorities within Tier 3 is discussed below.

Setting Priorities Within Tier 3

The 1983 listing priority guidelines and the basic principle that species in greatest need of protection should be processed first would be the primary bases for establishing priorities within Tier 3. Highest priority within Tier 3 would be processing of new proposed listings for species facing imminent, high-magnitude threats. If the initial screening of a petition suggests that the species probably faces imminent, high magnitude threats, processing that action will be accorded high priority.

Tier 4— Processing Critical Habitat Determinations

Designation of critical habitat consumes large amounts of the Service's listing appropriation and generally provides only limited conservation benefits beyond those achieved when a species is listed as endangered or threatened. Because the protection that flows from critical habitat designation applies only to Federal actions, situations where designating critical habitat provides additional protection beyond the consultation provisions of section 7, which also apply to Federal actions, are rare. It is essential during this period of limited listing funds to maximize the conservation benefit of listing appropriations. The Service believes that the small amount of additional protection that is gained by designating critical habitat for species already on the lists is greatly outweighed by the benefits of applying those same dollars to putting more species on the lists, where they would gain the protections included in sections 7 and 9. The Service has decided, in other words, to place higher priority on addressing species that presently have no or very limited protection under the Act, rather than devoting limited resources to the expensive process of designating critical habitat for species already protected by the Act.

Addressing Matters in Litigation

Using the proposed guidance and the 1983 listing priority guidelines, the Service will assess the status and the relative priority of all section 4 petition and rulemaking activities that are the subject of active litigation. The Service, through the Department of the Interior's Office of the Solicitor, will then notify the Justice Department of its priority determinations and request that appropriate relief be sought from each district court to allow those species with the highest biological priority to be addressed first. As noted in the guidance issued May 16, 1996, when the Service undertakes one listing activity, it inevitably foregoes another, and in some cases courts have ordered the Service to complete activities that are simply not, in the Service's expert judgment, among the highest biological priorities. However, to the extent that these efforts to uphold the Service's listing priority guidance and the 1983 listing priority guidelines do not receive deference in the courts, the Service will need to comply with court orders despite any conservation disruption that may result. The fact that the Service acknowledges its duty to comply with court orders should not, however, be interpreted to mean that any court order is consistent with this guidance without regard to how disruptive it may be to the Service's effort to make the most biologically sound use of its resources.

The Service will not elevate the priority of proposed listings for species under active litigation. To do so would let litigants, rather than expert biological judgments, set listing priorities. The Regional Office with responsibility for processing such packages will be responsible for determining the relative priority of such cases based upon this proposed guidance and the 1983 listing priority guidelines, and for furnishing supporting documentation that can be submitted to the relevant court to indicate where such species rank in the overall priority scheme.

Public Comments Solicited

The Service intends that any action resulting from this proposed guidance be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, environmental groups, industry, commercial trade entities, or any other interested party concerning any aspect of this proposed guidance are hereby solicited. The Service will take into consideration any comments and additional information received (especially the final FY 97 appropriations law) and will announce further guidance after the close of the public comment period and as promptly as possible after a FY 97 appropriations bill for the Department of the Interior is approved and becomes law.

Authority

The authority for this notice is the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Dated: September 9, 1996.

John G. Rogers,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 96–23719 Filed 9–16–96; 8:45 am]

BILLING CODE 4310–55–P

Environmental Assessment; Texas

ACTION: Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for Incidental Take Permit for Construction of One Single Family Residence on 8.0 acres on Bullick Bluff (Tax parcel #01–5947–011600007), Austin, Travis County, Texas.

SUMMARY: Jane Marie Hurst (applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The applicant has been assigned permit number PRT–818874. The requested permit, which is for a period of 5 years, would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica*

chrysoparia). The proposed take would occur as a result of the construction of one single family residence on 8.0 acres on Bullick Bluff (Tax parcel #01–5947–011600007), Austin, Travis County, Texas.

This action will eliminate less than one-half acre and indirectly impact less than one-half additional acre of golden-cheeked warbler habitat. The applicant proposes to compensate for this loss of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. Alternatives to this action were rejected because selling or not developing the subject property with federally listed species present is not economically feasible. A determination of whether jeopardy to the species will occur or a Finding of No Significant Impact (FONSI) will not be made before 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received by October 17, 1996.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Joseph E. Johnston or Mary Orms, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the above Austin address. Written data or comments concerning the application(s) and EA/HCPs should be submitted to the Field Supervisor, at the Austin Ecological Services Field Office at the above address. Please refer to permit number PRT–818874 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Joseph E. Johnston or Mary Orms at the above Austin Ecological Service Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22

Lynn B. Starnes,

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

[FR Doc. 96–23752 Filed 9–16–96; 8:45 am]

BILLING CODE 4510–55–M

Bureau of Land Management

[NM–070–1430–01; NMNM96317]

Notice of Realty Action—Recreation and Public Purpose (R&PP) Act Classification, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of R&PP patent of public land in San Juan County, New Mexico.

SUMMARY: The following described public land is determined suitable for classification for patenting to San Juan County, New Mexico under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 et seq.). San Juan County proposes to use the land for a solid waste transfer station.

New Mexico Principal Meridian

T. 25 N., R. 9 W.,
Sec. 19, lot 4.

A portion of lot 4 containing 5 acres, more or less.

COMMENT DATES: On or before November 4, 1996 interested parties may submit comments regarding the purposed conveyance or classification of the lands to the Bureau of Land Management at the following address. Any adverse comments will be reviewed by the Bureau of Land Management, Farmington District Manager, 1235 LaPlata Highway, Farmington, NM 87401, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action becomes the final determination of the Department of the Interior and effective November 20, 1996.

FOR FURTHER INFORMATION CONTACT: Information related to this action, including the environmental assessment, is available for review at the Bureau of Land Management, Farmington District Office, 1235 LaPlata Highway, Farmington, NM 87401.

SUPPLEMENTARY INFORMATION: Publication of this notice segregates the public land described above from all other forms of appropriation under the public land laws, including the general mining laws, except for leasing and conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws for a period of two (2) years from date of this publication in the Federal Register. The segregative affect will terminate upon issuance of the patent to San Juan County, or two (2) years from the date of this publication, whichever occurs first.

The patent, when issued, will be subject to the following terms:

1. Reservation to the United States of a right-of-way for ditches and canals in accordance with 43 U.S.C. 945.
2. Reservation to the United States of all minerals.
3. All valid existing rights, e.g. rights-of-way and leases of record.
4. Provisions that if the patentee or its successor attempts to transfer title to or control over the land to another or the land is devoted to a use other than for which the land was conveyed, without the consent of the Secretary of the Interior or his delegate, or prohibits or restricts, directly or indirectly, or permits its agents, employees, contractors, or subcontractors, including without limitation, lessees, sublessees and permittees, to prohibit or restrict, directly or indirectly, the use of any part of the patented lands or any of the facilities whereon by any person because of such person's race, creed, color, or national origin, title shall revert to the United States.

The lands are not needed for Federal purposes. Patenting is consistent with current Bureau of Land Management policies and land use planning. The proposal serves the public interest since it would provide readily accessible facilities to the surrounding public for deposition of solid waste.

Dated: September 12, 1996.

Ilyse K. Auringer,

Acting Assistant District Manager for Lands and Renewable Resources.

[FR Doc. 96–23862 Filed 9–16–96; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Outer Continental Shelf (OCS) Policy Committee of the Minerals Management Advisory Board; Notice and Agenda for Meeting

AGENCY: Minerals Management Service, Interior.

SUMMARY: The OCS Policy Committee of the Minerals Management Advisory Board will meet at the Grand Hotel in Gulfport, Mississippi on October 23–24, 1996.

The agenda will cover the following principal subjects:

—5-Year Program Review