



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R8–ES–2016–N181]; [FXES11140800000–178–FF08E00000]**

**City of San Diego Vernal Pool Habitat Conservation Plan and Draft Environmental Impact Report/Statement; San Diego County, California**

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

**ACTION:** Notice of availability; request for public comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of a draft environmental impact report/statement (EIS/EIR), which evaluates the impacts of, and alternatives to, the proposed City of San Diego Vernal Pool Habitat Conservation Plan (VPHCP). The VPHCP was submitted by the City of San Diego in support of an application under the Endangered Species Act of 1973, as amended, for a permit authorizing the incidental take of federally listed covered species resulting from covered activities. We request review and comment on the VPHCP and the draft EIS/EIR from local, State, and Federal agencies; Tribes; and the public.

**DATES:** To ensure consideration, please send your written comments by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** *Obtaining Documents:*

- *Internet:* You may obtain copies of the draft EIR/EIS and draft VPHCP on the City's Web site at <https://www.sandiego.gov/planning/programs/mscp/vphcp>.

- *U.S. Mail:* A limited number of CD-ROM and printed copies of the draft EIR/EIS and draft VPHCP are available, by request, from the Field Supervisor, by mail at the Carlsbad Fish and Wildlife Office, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008; by phone at (760) 431-9440; or by fax at (760) 431-9624. Please note that your request is in reference to the City of San Diego VPHCP.
- *In-Person:* Copies of the draft EIR/EIS and draft VPHCP are also available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:
  - U.S. Fish and Wildlife Service, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008.
  - Department of the Interior, Natural Resources Library, 1849 C. St., NW, Washington, DC 20240.

*Submitting Comments:* You may submit written comments by one of the following methods:

- *U.S. Mail:* Field Supervisor, U.S. Fish and Wildlife Service, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008.
- *Fax:* Field Supervisor, 760-431-9624.
- *Email:* fw8cfwocomments@fws.gov; please include “Vernal Pool HCP” in the subject line.

**FOR FURTHER INFORMATION CONTACT:** G. Mendel Stewart, by mail at the U.S. Fish and Wildlife Service, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008; or by phone at (760) 431-9440.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service

(Service), announce the availability of a draft environmental impact report/statement (EIR/EIS), which evaluates the impacts of, and alternatives to, the proposed City of San Diego Vernal Pool Habitat Conservation Plan (VPHCP). The VPHCP was submitted by the City of San Diego (City) in support of an application under section 10 of the Endangered Species Act of 1973, as amended (ESA), for a permit authorizing the incidental take of federally listed covered species resulting from covered activities. The proposed VPHCP plan area encompasses 206,124 acres in the southwestern portion of San Diego County, within the State of California.

### **Introduction**

Under the National Environmental Policy Act of 1969 (NEPA), this notice advises the public of the availability for public review of the VPHCP EIR/EIS, which evaluates the impacts of, and alternatives to, the proposed City of San Diego VPHCP for incidental take of federally listed covered species resulting from covered activities within the Plan area. This document has been prepared as a joint EIR/EIS due to the combined local, State, and Federal discretionary actions and permits associated with the VPHCP. Co-lead agencies are the City, pursuant to the California Environmental Quality Act (CEQA), and the Service, pursuant to NEPA, as further described in the draft EIR/EIS. The proposed Federal action is issuance of an incidental take permit (ITP) under section 10(a)(1)(B) of the ESA to the City of San Diego. With this notice, we continue the HCP process, which started through a notice in the Federal Register on December 20, 2011 (76 FR 78942), in which we announced the preparation of the HCP and NEPA document.

### **Background**

Section 9 of the ESA prohibits “take” of fish and wildlife species listed as

endangered under section 4 (16 U.S.C. 1538, 1533, respectively). The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31). Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32. For more about the HCP program, go to <http://www.fws.gov/endangered/esa-library/pdf/hcp.pdf>.

Under section 10(a) of the ESA, the Service may issue permits to authorize incidental take of listed fish and wildlife species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Section 10(a)(1)(B) of the ESA contains provisions for issuing ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

- The taking will be incidental;
- The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
- The applicant will develop an HCP and ensure that adequate funding for the plan will be provided;
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
- The applicant will carry out any other measures that the Secretary may require as being necessary or appropriate for the purposes of the HCP.

The purpose of issuing an ITP to the City would be to permit incidental take of the covered species resulting from local development authorized by the City and conditioned on the City’s minimization and mitigation of the impacts of such take in

accordance with an approved VPHCP. Implementation of the VPHCP is intended to maximize the benefits of conservation measures for covered species and eliminate expensive and time-consuming efforts associated with processing individual ITPs for each project within the City's proposed plan area.

The proposed VPHCP includes measures intended to minimize and mitigate the impacts of the taking to the maximum extent practicable from residential, commercial, and other development activities within the proposed plan area.

The proposed VPHCP is a conservation plan for seven threatened and endangered vernal pool species that do not currently have Federal coverage under the City of San Diego's Multiple Species Conservation Program Subarea Plan (MSCP SAP) and the species' associated vernal pool habitat. The VPHCP would complement the City's existing MSCP SAP by conserving additional lands. The VPHCP will conserve vernal pool resources within the existing City of San Diego's Multi-Habitat Planning Area (MHPA). The species covered include the San Diego fairy shrimp, Riverside fairy shrimp, San Diego button celery, spreading navarretia, San Diego mesa mint, California Orcutt grass, and Otay mesa mint. The VPHCP would provide a comprehensive approach to the protection and management of the vernal pool preserve areas within the 206,124-acre plan area.

### **Alternatives**

We are considering three alternatives as part of this process:

***No Action Alternative:*** No ESA section 10(a)(1)(B) permit would be issued to the City. Instead, activities involving take of the covered species would require individual permits or ESA section 7 consultations if a Federal nexus exists under the current ESA

regulations; for non-Federal projects that lack a Federal nexus, take activities would require individual ITPs under section 10 of the ESA.

***Proposed Action Alternative:*** This alternative is issuance of an ITP by the Service for covered species in the HCP plan area, with a duration of 30 years. Incidental take authorized by the requested ITP would result from covered activities. The covered activities under the VPHCP are expected to include residential, commercial, and industrial development; airport operation; road and utility maintenance and construction; trail use; and vernal pool restoration and enhancement. Once fully implemented, the VPHCP would expand the City's existing Multi-Habitat Planning Area (MHPA) by adding approximately 275 acres of lands with valuable vernal pool resources. The VPHCP would conserve an additional 8 vernal pool complexes and an additional 226 pools, totaling 2.8 acres of basin area or 9 percent more vernal pool habitat than what is currently conserved within the MHPA. Once adopted, vernal pool lands within the MHPA would be subject to the provisions of the VPHCP, in addition to the City's MSCP SAP and other existing land use and biological resource plans, policies, and regulations.

***Expanded Conservation Alternative:*** Once fully implemented, the Expanded Conservation Alternative would expand the City's existing MHPA by adding approximately 508 acres of lands with valuable vernal pool resources. The Expanded Conservation Alternative would conserve an additional 9 vernal pool complexes within the Plan Area and conserve an additional 277 pools (11 percent more vernal pool habitat), totaling 3.3 acres of basin area, beyond what is currently conserved within the MHPA. All other aspects of the Expanded Conservation Alternative would be the same as the Proposed Action Alternative.

## **Request for Comments**

Consistent with section 10(c) of the ESA, we invite your submission of written data, views, or arguments with respect to the City's permit application, VPHCP, and permitting decision.

## **Public Availability of Comments**

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

## **Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

**Dated: December 19, 2016.**

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**Alexandra Pitts,**  
**Deputy Regional Director, Pacific Southwest Region,**  
**Sacramento, California.**

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