



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R1–ES–2017–N104; FXES1114010000–189–FF01E00000]**

**Draft Habitat Conservation Plan for the Olympia Subspecies of the Mazama Pocket Gopher and Oregon Spotted Frog and Draft Environmental Assessment, Thurston County, Washington**

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), received an application from UCP, LLC (applicant) for an incidental take permit (ITP) pursuant to the Endangered Species Act of 1973, as amended (ESA). The application includes a draft habitat conservation plan (HCP), which describes the actions the applicant will take to minimize and mitigate the impacts of the taking of the threatened Olympia subspecies of the Mazama pocket gopher and the threatened Oregon spotted frog that may occur incidental to the otherwise lawful construction of 327 single and multi-family residences at a development site known as The Preserve located in Thurston County, Washington. We also announce the availability of a draft environmental assessment (EA) addressing the draft HCP and proposed permit. We invite the public to review and comment on the permit application, including the draft HCP and the draft EA.

**DATES:** To ensure consideration, please submit written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may view or download copies of the draft HCP and draft EA and obtain additional information on the Internet at <http://www.fws.gov/wafwo/>. To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to “The Preserve HCP/EA”:

- *Email:* [wfwocomments@fws.gov](mailto:wfwocomments@fws.gov).
- *U.S. Mail:* Public Comments Processing, Attn: **FWS-R1-ES-2017-N104**; U.S.

Fish and Wildlife Service; Washington Fish and Wildlife Office, 510 Desmond Drive SE, Suite 102; Lacey, WA 98503.

- *In-Person Drop-off, Viewing, or Pickup:* Call 360-753-5823 to make an appointment (necessary for viewing or picking up documents only) during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Tim Romanski, Conservation Planning and Hydropower Branch Manager, Washington Fish and Wildlife Office (see **ADDRESSES**); telephone: 360-753-5823. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** The Service received an application from UCP, LLC for an ITP pursuant to section 10(a)(1)(B) of the ESA. The application requests a 15-year permit that would authorize “take” of two covered species—the threatened Olympia subspecies of the Mazama pocket gopher (*Thomomys mazama pugetensis*; hereafter referred to as the Olympia pocket gopher); and the threatened Oregon spotted frog (*Rana pretiosa*)—incidental to otherwise lawful land development and habitat conservation activities on parcels the applicant owns in Thurston County,

Washington. The application includes a draft HCP, which describes the actions the applicant will take to minimize and mitigate the impacts of the taking on the two covered species. The Service also announces the availability of a draft EA addressing the draft HCP and proposed permit. We invite comments from all interested parties regarding the permit application, including the draft HCP and EA.

## **Background**

Section 9 of the ESA prohibits “take” of fish and wildlife species listed as endangered or threatened. Under the ESA, the term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). The term “harm,” as defined in our regulations, includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term “harass” is defined in our regulations as to carry out actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3).

Section 10(a)(1)(B) of the ESA contains provisions that authorize the Service to issue permits to non-Federal entities for the take of endangered and threatened species caused by otherwise lawful activities, provided the following criteria are met: (1) The taking will be incidental; (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking; (3) the applicant will ensure that adequate funding for the plan will be provided; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the applicant

will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP. Regulations governing permits for endangered and threatened species are found in 50 CFR 17.22 and 17.32, respectively.

In this case, the applicant is requesting a 15-year permit that would authorize take of the Olympia pocket gopher and the Oregon spotted frog incidental to otherwise lawful activities on parcels they own in Thurston County, Washington. The application includes a draft HCP that describes the actions the applicant will take to minimize and mitigate the impacts of the taking on the two covered species.

### **Proposed Action**

The Service proposes to issue the requested 15-year permit based on the applicant's commitment to implement the draft HCP, if permit issuance criteria are met. Covered activities include measures related to construction, land development, and the conservation of the two covered species. The area covered under the draft HCP consists of a project development site known as The Preserve, totaling approximately 127 acres and an approximately 64-acre conservation site. Take of the Olympia pocket gopher would occur primarily on fragmented habitat remaining on a previously disturbed project development site, and will be offset by permanent management of a single block of occupied habitat for the covered species at the conservation site. The Oregon spotted frog is not known from the project development site, but is known to occur on the conservation site. Any take of the Oregon spotted frog would be incidental to conservation site management activities and is offset by permanently conserving and managing on-site habitat for the benefit of the species. Financial assurances have been

provided by the applicant to ensure ongoing perpetual management of the conservation site.

### **National Environmental Policy Act Compliance**

The proposed issuance of a permit is a Federal action that triggers the need for compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.; NEPA). Pursuant to the requirements of NEPA, we have prepared a draft EA to analyze the environmental impacts of a reasonable range of alternatives to the proposed Federal permit action.

Alternatives analyzed in the EA include a no-action alternative, the proposed alternative, and an on-site mitigation alternative. Under the no-action alternative, take of listed species would be avoided by limiting construction and development on the project development site to areas where impacts to listed species could be avoided. Because no impacts to listed species are expected under this alternative, no HCP would be needed and no permit would be issued. The proposed alternative is implementation of the proposed HCP and issuance of the requested 15-year permit, as described above. The on-site mitigation alternative would provide for incidental take of the Olympia pocket gopher associated with a level of development that could be fully offset by managing currently occupied habitat on the project site.

### **Public Comments**

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We specifically request information, views, and opinions from interested parties regarding our proposed Federal action, including on the adequacy of the

draft HCP pursuant to the requirements for permits at 50 CFR parts 13 and 17 and the adequacy of the draft EA pursuant to the requirements of NEPA.

### **Public Availability of Comments**

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personally identifiable information in your comments, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. All comments received from organizations, businesses, or individuals representing organizations or businesses are available for public inspection in their entirety. Comments and materials we receive, as well as supporting documentation we use in preparing the EA, will be available for public inspection by appointment, during normal business hours, at our Washington Fish and Wildlife Office (see **ADDRESSES**).

### **Next Steps**

After public review and completion of the EA, we will determine whether the proposed action warrants a finding of no significant impact or whether an environmental impact statement should be prepared. We will evaluate the permit application, associated documents, and any comments received, to determine whether the permit application meets the requirements of section 10(a)(1)(B) of the ESA. We will also evaluate whether issuance of the requested section 10(a)(1)(B) permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation under section 7(a)(2) of the ESA on anticipated ITP actions. The final NEPA and permit determinations will not be

completed until after the end of the 30-day comment period and will fully consider all comments received during the comment period. If we determine that all requirements are met, we will issue an incidental take permit under section 10(a)(1)(B) of the ESA to the applicant for the take of the covered species, incidental to otherwise lawful covered activities.

**Authority**

We provide this notice in accordance with the requirements of section 10 of the ESA (16 U.S.C. 1531 et seq.) and NEPA (42 U.S.C. 4321 et seq.) and their implementing regulations (50 CFR 17.22 and 40 CFR 1506.6, respectively).

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U.S. Fish and Wildlife Service.

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