



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2019–N064; FXES1114080000–189–FF08EVEN00]

Draft Habitat Conservation Plan for Eight Species; Draft Environmental Impact Statement for the Habitat Conservation Plan for Fort Ord, Monterey County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an incidental take permit application under the Endangered Species Act of 1973, as amended. The permit would authorize take of the federally threatened California tiger salamander, California red-legged frog, and western snowy plover, and the federally endangered Smith’s blue butterfly, incidental to otherwise lawful activities associated with commercial, residential and recreational development, recreational use, and habitat management within portions of the former Fort Ord Army base in the draft habitat

conservation plan (HCP). We invite public comment on the applicant's draft HCP and the draft environmental impact statement, which the Service prepared in response to the application for an incidental take permit.

DATES: Written comments must be received on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: *To obtain documents:* You may download a copy of the draft habitat conservation plan and environmental impact statement at <http://www.fws.gov/ventura/>, or you may request copies of the documents by sending U.S. mail to our Ventura office (see below), or by phone (see **FOR FURTHER INFORMATION CONTACT**). For information on reviewing U.S. Environmental Protection Agency (EPA) comments on the draft EIS, see **EPA's Role in the EIS Process** under **SUPPLEMENTARY INFORMATION**.

To submit written comments: Please send us your written comments using one of the following methods:

- *U.S. mail:* Send your comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.
- *Facsimile:* Fax your comments to 805-644-3958.
- *Electronic Mail:* Send your comments to fw8fortordhcp@fws.gov.

FOR FURTHER INFORMATION CONTACT: Leilani Takano, Assistant Field Supervisor, by phone at 805–644–1766, at the Ventura address in **ADDRESSES**, or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an application for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant has developed a draft habitat conservation plan (HCP) for the project that includes measures to mitigate and avoid/minimize impacts to the federally threatened California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana draytonii*), western snowy plover (*Charadrius nivosus nivosus*), and Monterey spineflower (*Chorizanthe pungens* var. *pungens*); the federally endangered Smith’s blue butterfly (*Euphilotes enoptes smithi*), Monterey (sand) gilia (*Gilia tenuiflora* ssp. *arenaria*), and Yadon’s piperia (*Piperia yadonii*); and the State endangered seaside bird’s beak (*Cordylanthus rigidus* ssp. *littoralis*). The permit would authorize take of the California tiger salamander, California red-legged frog, western snowy plover, and Smith’s blue butterfly incidental to otherwise lawful activities associated with the Fort Ord HCP. We invite public comment on the application, the draft HCP, and draft environmental impact statement (EIS).

Background

The California tiger salamander was listed as threatened on August 4, 2004 (69 FR 47212); the California red-legged frog was listed as threatened on May 23, 1996 (61

FR 25813); the western snowy plover was listed as threatened on March 5, 1993 (58 FR 12864); the Monterey spineflower was listed as threatened on February 4, 1994 (59 FR 5499); the Smith's blue butterfly was listed as endangered on June 1, 1976 (41 FR 22041); the Monterey (sand) gilia was listed as endangered on June 22, 1992 (57 FR 27848); and the Yadon's piperia was listed as endangered on August 12, 1998 (63 FR 43100). The seaside bird's beak has no Federal status, but was listed as endangered by the State of California in 1982 (<https://www.dfg.ca.gov/wildlife/nongame/list.html>), and the applicant has chosen to address this species in the HCP to facilitate State permitting.

Section 9 of the ESA and its implementing regulations in effect at the time the above-referenced species were listed prohibited the take of fish or wildlife species listed as endangered or threatened. "Take" is defined under the ESA to include the following activities: "[T]o 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); however, under section 10(a)(1)(B) of the ESA, we may issue permits to authorize incidental take of listed fish or 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. Regulations governing incidental take permits for threatened and endangered species are in the Code of Federal Regulations (CFR) at 50 CFR 17.32 and 17.22, respectively. Under the ESA, protections for federally listed plants differ from the protections afforded to federally listed animals. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species. The permittees would receive assurances under our "No Surprises" regulations ((50 CFR 17.22(b)(5) and 17.32(b)(5)) regarding conservation activities for the California tiger salamander, California red-legged frog, western snowy

plover, Monterey spineflower, Smith's blue butterfly, Monterey (sand) gilia, Yadon's piperia, and seaside bird's beak.

Applicant's Proposed Activities

The applicant has applied for a permit for incidental take of the California tiger salamander, California red-legged frog, western snowy plover, and Smith's blue butterfly. Take is likely to occur in association with activities necessary to develop and use commercial, residential, and recreational facilities on non-Federal portions of the former Fort Ord Army base and to manage habitats within conserved areas of the former base. The site contains 4 acres of aquatic breeding habitat and 5,718 acres of upland habitat for the California tiger salamander. The site contains 4 acres of aquatic breeding habitat and 3,494 acres of upland habitat for the California red-legged frog. The site contains 71 acres of breeding, foraging, and overwintering habitat for the western snowy plover, all of which is in critical habitat designated for the species. The site contains 110 acres of habitat (for all of the species' activities) for the Smith's blue butterfly. The HCP includes measures to minimize take of the California tiger salamander, California red-legged frog, western snowy plover, and Smith's blue butterfly in the forms of injury, mortality, and harm. Mitigation for unavoidable take of the species consists of preservation and management of existing habitat and restoration of areas of degraded habitat (primarily through restoration of aquatic breeding habitat for the two amphibian species and of upland habitat for all species).

National Environmental Policy Act Compliance

The Service has developed a draft EIS in response to the ITP application in accordance with the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). The draft EIS analyzes three alternatives. The proposed action is issuance of a base-wide ITP, which would address development and use of the former Fort Ord in accordance with the HCP. This would include unrestricted development of some undisturbed habitat areas, redevelopment of areas developed by the Army during its use of the base, and limited development within areas otherwise conserved and managed as habitat. Under the “no action” alternative, a base-wide ITP would not be issued and the HCP would not be implemented. Development and use of the former base would likely continue under existing local and Army-prepared planning documents and the applicant would likely apply for future project-specific ITPs. Under the “reduced take” alternative, a base-wide ITP would be issued, but limited development within areas otherwise conserved and managed as habitat would be eliminated.

EPA’s Role in the EIS Process

The EPA is charged with reviewing all Federal agencies’ EISs and commenting on the adequacy and acceptability of the environmental impacts of proposed actions in EISs. Therefore, EPA is publishing a notice in the *Federal Register* announcing this draft EIS, as required under section 309 of the Clean Air Act. The publication date of EPA’s notice of availability is the official beginning of the public comment period. EPA’s notices are published on Fridays. EPA serves as the repository (EIS database) for EISs prepared by Federal agencies. All EISs must be filed with EPA. You may search for EPA

comments on EISs, along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search>.

Public Comments

If you wish to comment on the permit application, draft HCP, draft EIS, and associated documents, you may submit comments by one of the methods in **ADDRESSES**. 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 can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

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

**Michael Long,
Acting Assistant Regional Director,
Pacific Southwest Region,
Sacramento, California.**

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