



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[Docket No. FWS–R8–ES–2020–0049; FF08ESMF00–FXES1114080000–201]**

**Endangered and Threatened Wildlife and Plants; Central 40 Solar Project, Stanislaus County, California; Categorical Exclusion and Draft Habitat Conservation Plan**

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

**ACTION:** Notice of availability of permit application; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of a draft categorical exclusion under the National Environmental Policy Act. We also announce receipt of an application for an incidental take permit under the Endangered Species Act (ESA), and receipt of a draft habitat conservation plan. Central 40, LLC has applied for an incidental take permit under the ESA for the Central 40 Solar Project in Stanislaus County, California. The permit would authorize the take of two species incidental to the development, construction, operation and maintenance, and decommissioning of the project. We invite the public and local, State, Tribal, and Federal agencies to comment on the application. Before issuing the requested permit, we will take into consideration any information that we receive during the public comment period.

**DATES:** We must receive your written comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES: *Obtaining Documents:*** The incidental take permit (ITP) application, draft categorical exclusion (draft CatEx), draft habitat conservation plan (draft HCP), and any comments and other materials that we receive are available for public inspection at <http://www.regulations.gov> in Docket No. FWS–HQ–ES–2020–0049.

***Submitting Comments:*** To send written comments, please use one of the following methods, and note that your information request or comments are in reference to the draft CatEx, draft HCP, or both.

- *Internet:* Submit comments at <http://www.regulations.gov> under Docket No. FWS–R8–ES–2020–0049.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2020–0049; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see **Public Comments** and **Public Availability of Comments** under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Timothy Ludwick, Senior Wildlife Biologist, or Patricia Cole, Chief, San Joaquin Valley Division, Sacramento Fish and Wildlife Office, by phone at 916–414–6600 or via the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft categorical exclusion (draft CatEx), prepared pursuant to the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6. This notice also announces the receipt of an

application from Central 40, LLC (applicant), for a 35-year incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). Application for the permit requires the preparation of a habitat conservation plan (HCP) with measures to avoid, minimize, and mitigate the impacts of incidental take to the maximum extent practicable. The applicant prepared the draft Central 40 Solar Project HCP pursuant to section 10(a)(1)(B) of the ESA. The purpose of the CatEx is to assess the effects of issuing the permit and implementing the draft HCP on the natural and human environment.

### **Background**

Section 9 of the ESA (16 U.S.C. 1531–1544 *et seq.*) prohibits the taking of fish and wildlife species listed as endangered under section 4 of the ESA; by regulation, take of certain species listed as threatened is also prohibited. (16 U.S.C. 1533(d); 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 Federal habitat conservation plan (HCP) program, go to <http://www.fws.gov/endangered/esa-library/pdf/hcp.pdf>.

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

The proposed permit issuance triggers the need for compliance with the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*). The draft CatEx was prepared to analyze the impacts of issuing an ITP based on the draft HCP and to inform the public of the proposed action, any alternatives, and associated impacts, and to disclose any irreversible commitments of resources.

### ***Proposed Action Alternative***

Under the Proposed Action Alternative, the Service would issue an ITP to the applicant for a period of 35 years for certain covered activities (described below). The applicant has requested an ITP for two covered species (described below), which are listed as endangered or threatened under the ESA.

#### *Habitat Conservation Plan Area*

The geographic scope of the draft HCP encompasses 3,474 acres (ac) in western Stanislaus and Merced Counties where the development will occur, including the 1,044-ac parcel in Stanislaus County where development will occur and the 2,422-ac Piedra Azul Conservation Bank in Merced County, portions of which are being used to mitigate impacts from this development.

#### *Covered Activities*

The proposed section 10 ITP would allow incidental take of two covered species from covered activities in the proposed HCP area. The applicant is requesting incidental take authorization for covered activities, including site preparation, infrastructure development, construction, decommissioning, and management of the conservation easement area. The applicant is proposing to implement a number of project design features, including best management practices, as well as general and species-specific avoidance and minimization measures to minimize the impacts of the take from the covered activities.

#### *Covered Species*

The following two federally listed species are proposed to be included as covered species in the proposed HCP:

- San Joaquin kit fox (*Vulpes macrotis mutica*) (Federally listed as endangered)
- California tiger salamander – Central Valley Distinct Population Segment (*Ambystoma californiense*) (Federally listed as threatened and subject to a section 4(d) rule that prohibits take, with the exception of incidental take resulting from routine ranching activities located on private or Tribal lands, as defined in the regulation. 50 CFR 17.43(c)).

### ***No-Action Alternative***

Under the No-Action Alternative, the Service would not issue an ITP to the applicant, and the draft HCP would not be implemented. Under this alternative, the applicant may choose not to construct the facility or would do so in a manner presumed not to result in the take of ESA-listed species.

### **Public Comments**

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice, the draft CatEx, and the draft HCP. We particularly seek comments on the following:

1. Biological information concerning the species;
2. Relevant data concerning the species;
3. Additional information concerning the range, distribution, population size, and population trends of the species;
4. Current or planned activities in the area and their possible impacts on the species;

5. The presence of archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns, which are required to be considered in project planning by the National Historic Preservation Act; and
6. Any other environmental issues that should be considered with regard to the proposed development and permit action.

### **Public Availability of Comments**

Before including your address, phone number, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—might be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### **Next Steps**

Issuance of an incidental take permit is a Federal proposed action subject to compliance with NEPA and section 7 of the ESA. We will evaluate the application, associated documents, and any public comments we receive as part of our NEPA compliance process to determine whether the application meets the requirements of section 10(a) of the ESA. If we determine that those requirements are met, we will conduct an intra-Service consultation under section 7 of the ESA for the Federal action for the potential issuance of an ITP. If the intra-Service consultation confirms that issuance of the ITP will not jeopardize the continued existence of any endangered or threatened species, or destroy or adversely modify critical habitat, we will issue a permit to the applicant for the incidental take of the covered species.

**Authority**

We publish this notice under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347 *et seq.*), and its implementing regulations at 40 CFR 1500–1508, as well as in compliance with section 10(c) of the Endangered Species Act (16 U.S.C. 1531–1544 *et seq.*) and its implementing regulations at 50 CFR 17.22 and 17.32.

**Michael Fris,***Acting Field Supervisor,**Sacramento Fish and Wildlife Office,**U.S. Fish and Wildlife Service,**Sacramento, California.*

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