



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2020–N105; FXES11140100000–201–FF01E00000]

Proposed Habitat Conservation Plan for the Taylor’s Checkerspot Butterfly and Three Subspecies of the Mazama Pocket Gopher, Puget Sound Energy; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), received an application from Puget Sound Energy (applicant) for an incidental take permit (ITP) pursuant to the Endangered Species Act of 1973, as amended. The ITP would authorize the applicant’s take of three threatened subspecies of the Mazama pocket gopher incidental to otherwise lawful activities during replacement, repair, and upgrade of existing utility systems in Thurston County, Washington. The application includes a habitat conservation plan (HCP) with measures to minimize and mitigate the impacts of the taking on the covered species, including maintenance of occupied habitat. The HCP would also result in habitat improvement for the endangered Taylor’s checkerspot butterfly, which is not a covered species, at one mitigation site. The Service has prepared a draft environmental action statement for our preliminary determination that the HCP and permit decision may be eligible for a categorical exclusion under the National Environmental Policy Act. We invite the public to review and comment on these documents.

DATES: To ensure consideration, please submit written comments by [INSERT DATE

30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: To request further information or submit written comments, please use one of the following methods:

- *Internet:* You may view or download copies of the HCP, draft EAS, and additional information on the Internet at <http://www.fws.gov/wafwo/>.
- *Email:* wfwocomments@fws.gov. Include “PSE HCP” in the subject line of the message.
- *U.S. Mail:* Public Comments Processing, Attn: **FWS–R1–ES–2020–N105**; U.S. Fish and Wildlife Service; Washington Fish and Wildlife Office; 510 Desmond Drive SE, Suite 102; Lacey, WA 98503.

FOR FURTHER INFORMATION CONTACT: Tim Romanski, Conservation Planning and Hydropower Branch Manager, Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service (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: We, the Fish and Wildlife Service (Service), received an application for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). If the application is approved, the ITP would authorize the applicant’s “take” of three threatened subspecies of the Mazama pocket gopher (*Thomomys mazama pugetensis*, *T. m. yelmensis*, and *T. m. tumuli*) incidental to otherwise lawful activities during replacement, repair, and upgrades of existing utility systems in Thurston County, Washington, for a period of 5 years. The application includes a habitat conservation plan

(HCP) with measures to minimize and mitigate the impacts of the taking on the above covered species, and to improve habitat for the endangered Taylor's checkerspot butterfly (*Euphydryas editha taylori*), which is not a covered species. We have also prepared a draft environmental action statement (EAS) for our preliminary determination that the HCP and permit decision may be eligible for a categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*).

Background

Puget Sound Energy proposes to conduct maintenance, replacement, and upgrades of existing electric power and natural gas systems in Thurston County, Washington. Covered activities may include pole replacement, cable or pipe repairs, and tree pruning projects for purposes of safety and efficiency. Work may also include conversion of overhead power lines to underground power lines in existing rights-of-way, short extension of existing feeder lines, and new gas service to existing homes where the gas supply pipes already exists at the street. In some cases, project activity would occur in potential habitat for three subspecies of the Mazama pocket gopher, but would not occur in critical habitat for these species. Puget Sound Energy would offset impacts to each of the covered species through the establishment and maintenance of permanent mitigation sites. Specifically, the applicant would permanently maintain suitable breeding, feeding and sheltering habitat for each of the covered species. In addition, the applicant would improve habitat for the Taylor's checkerspot butterfly at one mitigation site. However, the applicant does not anticipate any take of Taylor's checkerspot butterfly, and is not currently seeking ITP coverage for take of the Taylor's checkerspot butterfly.

The permit area includes 340,000 acres of lands in Thurston County, bounded to the west by the Black River and to the north by Interstate 5, and an area of more-preferred soils for the Mazama pocket gopher, as depicted in the HCP (Figure 3-1). The permit area encompasses lands where covered activities may occur, as well as 13 parcels of mitigation lands at 5 locations where mitigation would occur. The Service proposes to issue an ITP with a term limit of 5 years based on Puget Sound Energy's commitment to implement their proposed HCP, if permit issuance criteria are met.

Endangered Species Act

Section 9 of the ESA (16 U.S.C. 1531 *et seq.*) 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 intentional or negligent 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 plan. Regulations governing permits for endangered and threatened species are found in 50 CFR 17.22 and 17.32, respectively.

Public Comments

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. We specifically request information, views, and suggestions from interested parties regarding our proposed Federal action, including adequacy of the HCP pursuant to the requirements for permits at 50 CFR parts 13 and 17 and adequacy of the EAS 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 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.

Next Steps

After public review, 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 the proposed ITP action. If we determine that the project qualifies for a categorical exclusion under NEPA because neither the permit nor the permit issuance is anticipated to significantly affect the quality of the human environment, we will finalize the EAS. 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 ITP 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 17.32 and 40 CFR 1506.6, respectively).

Robyn Thorson,
Regional Director,
U.S. Fish and Wildlife Service.

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