



## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R8-ES-2023-0075; FXES1114080000-234-FF08EVEN00]

### Receipt of Incidental Take Permit Application for Participation in the General Conservation Plan for Oil and Gas Activities; Draft Categorical Exclusion for the Conoco Philips Soil Remediation Project; Santa Barbara County, CA

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

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

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce receipt of an application from Conoco Philips for an incidental take permit (ITP), pursuant to the Endangered Species Act, under the approved General Conservation Plan for Oil and Gas Activities (GCP). If granted, the ITP would authorize take of the California red-legged frog (*Rana draytonii*) and the Santa Barbara County distinct population segment (DPS) of the California tiger salamander (*Ambystoma californiense*), incidental to excavation and remediation of soils contaminated with hydrocarbons at the historical Cox 3-32 oil well sump and oilfield lease access road. The Service prepared a draft screening form in accordance with the National Environmental Policy Act to evaluate the potential effects of the specific project to the natural and human environment resulting from issuing an ITP to the applicant. We invite the public and local, State, Tribal, and Federal agencies to comment on the draft screening form and the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations, the Department of the Interior's (DOI) NEPA regulations, and the DOI Departmental Manual.

**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 document this notice announces (draft screening form), as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS-R8-ES-2023-0075 at <https://www.regulations.gov>. The approved GCP and the associated final environmental assessment/finding of no significant impact are also available on that site. However, we are no longer taking comments on those finalized, approved documents.

*Submitting Comments:* If you wish to submit comments, you may do so in writing by one of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R8-ES-2023-0075.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS-R7-NWRS-2023-0075; U.S. Fish and Wildlife Service, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

**FOR FURTHER INFORMATION CONTACT:** Kirby Bartlett, Fish and Wildlife Biologist, by email at [kirby\\_bartlett@fws.gov](mailto:kirby_bartlett@fws.gov), by telephone at 805-644-1766, or by U.S. mail at the Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), announce receipt of an application from Conoco Philips for an incidental take permit (ITP), pursuant to the Endangered Species Act of 1973, as amended (ESA; 16

U.S.C. 1531 *et seq.*), under the approved General Conservation Plan for Oil and Gas Activities (GCP). A GCP is a mechanism that meets the definition of a conservation plan in section 10(a)(1)(B) of the ESA and enables the construct of a programmatic permitting and conservation process to address a defined suite of proposed activities over a defined planning area. The application for an incidental take permit was made pursuant to section 10(a)(1)(B) of the ESA. The ITP, if granted, would authorize take of the federally threatened California red-legged frog (*Rana draytonii*) and the federally endangered Santa Barbara County distinct population segment (DPS) of the California tiger salamander (*Ambystoma californiense*) incidental to activities associated with the soil remediation for the historical Cox 3-32 oil well sump and oilfield lease access road in Santa Maria, California. The permit would be issued to the applicant under the GCP for Oil and Gas Activities, which was approved on June 27, 2022. Prior to approval, a notice of availability of the draft programmatic environmental assessment (EA) and GCP published on March 6, 2020 (85 FR 13181). The approved GCP and the associated final programmatic environmental assessment/finding of no significant impact are available on the Ventura Fish and Wildlife Office webpage at <https://www.fws.gov/media/habitat-conservation-plans-and-general-conservation-plans>. We have also uploaded them to <https://www.regulations.gov>. However, we are no longer taking comments on these finalized, approved documents.

### **Document for Public Comment**

We invite public comment on a draft screening form we prepared in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), and on our preliminary determination that this proposed ITP qualifies as “low effect,” and may qualify for a categorical exclusion pursuant to the Council on Environmental Quality’s National Environmental Policy Act (NEPA) regulations (40 CFR 1501.4), the

Department of the Interior's (DOI) NEPA regulations (43 CFR 46), and the DOI's Departmental Manual (516 DM 8.5(C)(2)).

## **Background**

The Service listed the California red-legged frog as threatened on May 23, 1996 (61 FR 25813), and the Santa Barbara County DPS of the California tiger salamander as endangered on September 21, 2000 (65 FR 57242). Section 9 of the ESA prohibits "take" of fish and wildlife species listed as threatened or endangered (16 U.S.C. 1538), where take is defined to include the following activities: "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). Under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), we may issue permits to authorize take of listed fish and wildlife species that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened species are in the Code of Federal Regulations (CFR) at 50 CFR 17.22 and 17.32, respectively. Issuance of an ITP also must not jeopardize the existence of federally listed fish, wildlife, or plant species. The permittee would receive assurances under our "No Surprises" regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

## **Applicant's Proposed Activities**

The applicant has applied for a permit for incidental take of California red-legged frog and California tiger salamander. The take would occur in association with activities necessary to remediate soil contaminated with hydrocarbons at the historical Cox 3-32 oil well sump and oilfield lease access road in Santa Maria, California. Excavation of hydrocarbon-impacted material surrounding the oil well sump would extend to a maximum depth of approximately 12 feet (ft) below ground surface within an approximately 0.88-acre work area surrounded by a temporary chain link fence. California red-legged frogs have a known population approximately 0.5 miles (mi) west

of the project site in Bradley Lake, making the project within dispersal distance for the California red-legged frog. Additionally, California tiger salamanders have been identified approximately 0.65 mi southwest of the project site, making the project site potential California tiger salamander upland habitat. The proposed soil remediation would require excavating contaminated soils to a depth of approximately 12 ft in the area where the oil well sump was located, which will result in impacts to burrowing and dispersal habitat for the covered species as well as the potential for direct injury or mortality from crushing during excavation activities.

The project includes avoidance and minimization measures for the California red-legged frog and California tiger salamander and mitigation for unavoidable impacts to their habitat. The applicant has proposed mitigation in the form of funding activities consistent with the GCP that will compensate for unavoidable impacts to the California red-legged frog. To mitigate for impacts to the California tiger salamander, the applicant proposes to purchase one California tiger salamander credit from the Service-approved La Purisima Conservation Bank located in Santa Barbara County, California.

### **Public Availability of Comments**

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**

The Service provides this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500-1508 and 43 CFR 46).

**Stephen P. Henry,**

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