



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-ES-2023-0191; FXES1114080000-234-FF08ESMF00]

Endangered and Threatened Wildlife and Plants; Draft Habitat Conservation Plan and Draft Environmental Assessment; Sacramento Municipal Utility District Operations, Maintenance, and New Construction Habitat Conservation Plan, Sacramento County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Sacramento Municipal Utility District (applicant) for an incidental take permit (permit) under the Endangered Species Act and an accompanying draft habitat conservation plan (plan). We also announce the availability of a draft environmental assessment pursuant to the National Environmental Policy Act. We request public comment on the application, which includes the applicant's proposed plan, and the Service's draft environmental assessment. We invite comment from the public and local, State, Tribal, and Federal agencies.

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 documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS-R8-ES-2023-0191 at <https://www.regulations.gov>.

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

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting

comments on Docket No. FWS-R8-ES-2023-0191.

- *U.S. mail:* Public Comments Processing; Attn: Docket No. FWS-R8-ES-2023-0191; U.S. Fish and Wildlife Service; MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Ian Perkins-Taylor, Fish and Wildlife Biologist, ian_perkins-taylor@fws.gov (by email), or at the Sacramento Fish and Wildlife office (by telephone at 916-414-6585). 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 Sacramento Municipal Utility District (SMUD; applicant) for a 30-year Permit under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). In support of the application, the applicant prepared a draft habitat conservation plan (plan) pursuant to section 10(a)(1)(B) of the Act. The plan includes seven covered species that are all federally listed as threatened or endangered under the Act. These species comprise five animals and two plants: California tiger salamander (*Ambystoma californiense*) Central California distinct population segment; giant garter snake (*Thamnophis gigas*); valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*); vernal pool fairy shrimp (*Branchinecta lynchi*); vernal pool tadpole shrimp (*Lepidurus packardii*); Sacramento Orcutt grass (*Orcuttia viscida*); and slender Orcutt grass (*Orcuttia tenuis*). The plan also includes a conservation strategy to avoid, minimize, and mitigate for covered activities. The applicant requests the permit for incidental take of the five covered animal species incidental to the applicant's ongoing operations and maintenance activities for the

applicant's energy infrastructure in Sacramento County and surrounding areas, as well as new construction activities associated with providing energy to its users in Sacramento County, California.

Background

Section 9 of the Act prohibits "take" of fish and wildlife species listed as 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 Act (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 a permit 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

As described in the applicant's draft plan, the applicant is proposing to conduct various activities necessary for the ongoing operations and maintenance of the applicant's energy infrastructure in Sacramento County and surrounding areas, as well as some construction of new energy infrastructure to replace or supplement the existing infrastructure. All seven covered species have known occurrences and suitable habitat present within or near the locations where these activities would occur. Therefore, take of the five covered animal species and adverse effects to the two covered plant species could occur in association with the proposed activities. The plan includes a conservation strategy to avoid, minimize, and mitigate impacts to covered species from the proposed activities. Avoidance and minimization measures for the covered species will reduce the

impacts to covered species, and the applicant will mitigate for the remaining unavoidable impacts.

National Environmental Policy Act Compliance

The draft environmental assessment was prepared to analyze the impacts of issuing a permit based on the plan and to inform the public of the proposed action, alternatives, and associated impacts and disclose any irreversible commitments of resources. The proposed permit issuance triggers the need for compliance with the National Environmental Policy Act. The proposed action presented in the draft environmental assessment is compared to the no-action alternative. The no-action alternative represents estimated future conditions to which the proposed action's estimated future conditions can be compared. The Service also considered eight other alternatives, but these were eliminated from further consideration because they did not meet the purpose and need of the proposed action or the applicant's objectives.

Next Steps

The Service will evaluate the application and the comments received to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the Act to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the Act have been met. If met, the Service will issue the permit.

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 17.22 and 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500-1508) and the Department of the Interior's National Environmental Policy Act regulations (43 CFR 46).

Michael Fris,

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Sacramento Fish and Wildlife Office,

Sacramento, California.

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