



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R8-ES-2024-0046; FF08ESMF00-245-FXES11140800000]

Azalea Hybrid Power Project Habitat Conservation Plan, Kern County, CA; Draft Categorical Exclusion and Draft Habitat Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from SF Azalea, LLC (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*) and giant kangaroo rat (*Dipodomys ingens*) incidental to development activities in Kern County, California. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), 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. To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, which is also available for public review.

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-2024-0046 at <https://www.regulations.gov>.

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

- *Internet:* Submit comments at <https://www.regulations.gov> under Docket No. FWS-R8-ES-2024-0046.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS-R8-ES-2024-0046; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

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

FOR FURTHER INFORMATION CONTACT: Justin Sloan, Senior Wildlife Biologist, San Joaquin Valley Division, Sacramento Fish and Wildlife Office, by phone at 916–414–6600. 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 SF Azalea, LLC 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 Azalea Hybrid Power Project HCP pursuant to section 10(a)(1)(B) of the ESA.

We also make available a 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.

The purpose of the draft CatEx is to assess the effects of issuing the permit and implementing the draft HCP on the natural and human environment.

We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and on the Service's 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)). To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, which is also available for public review.

Background Information

Section 9 of the ESA (16 U.S.C. 1531–1544 *et seq.*) and Federal regulations (50 CFR 17) prohibit the taking of fish and wildlife species listed as endangered or threatened under section 4 of the ESA. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. For more about the Federal habitat conservation plan (HCP) program, go to <https://www.fws.gov/service/habitat-conservation-plans>.

National Environmental Policy Act Compliance

The proposed issuance of a permit 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, to inform the public of the proposed action and associated impacts, and to disclose any irreversible commitments of resources.

Proposed Action

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, the federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*) and giant kangaroo rat (*Dipodomys ingens*)

Habitat Conservation Plan Area

The geographic scope of the draft HCP encompasses 560 acres in northwestern Kern County where the development will occur, and 210 acres in northwestern Kern County that will be used to mitigate impacts from HCP covered activities.

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.

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.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's proposed project would individually and cumulatively have a minor effect on the San Joaquin kit fox and giant kangaroo rat, and the human environment. Therefore, we have preliminarily determined that the proposed ESA section 10(a)(1)(B) permit would be a low-effect ITP that individually or cumulatively would have a minor effect on the species and may qualify for application of a categorical exclusion pursuant to the Council on Environmental Quality's NEPA regulations, DOI's NEPA regulations, and the DOI Departmental Manual. A low-effect ITP is one that would result in (1) minor or nonsignificant effects on species covered in the HCP; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonable foreseeable actions, would not result in significant

cumulative effects to the human environment.

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 provide 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 the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500-1508 and 43 CFR 46).

Michael Fris,

Field Supervisor,

Sacramento Fish and Wildlife Office.

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