



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2024–0184; FXES1114080000–256–FF08ESMF00]

Draft Habitat Conservation Plan and Draft Categorical Exclusion; California Department of Water Resources Sutter and Sacramento Maintenance Yards Habitat Conservation Plan for Eight Elderberry Management Zones

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce receipt of an application from the California Department of Water Resources (applicant) for an incidental take permit (ITP) under the Endangered Species Act (ESA). The applicant requests the ITP to take the federally threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*; beetle) incidental to vegetation maintenance activities along State-maintained levees in portions of seven California counties. 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 the proposed permitting action may be eligible for a categorical exclusion pursuant to National Environmental Policy Act (NEPA), the Department of the Interior’s (DOI) NEPA regulations, and the DOI Departmental Manual (DM). To make this preliminary determination, we prepared a joint draft environmental action statement and low-effect screening form, both of which are 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 at <https://www.regulations.gov> in Docket No. FWS–R8–ES–2024–0184.

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:* Submit comments on Docket No. FWS–R8–ES–2024–0184 at <https://www.regulations.gov>.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2024–0184; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Wendy Pearson, Senior Wildlife Biologist, Sacramento Fish and Wildlife Office, by email at wendy_pearson@fws.gov or by telephone at 916–414–6675. 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 the California Department of Water Resources (applicant) for a 5-year ITP under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 et seq.). In support of the application, the applicant prepared a draft HCP pursuant to section 10(a)(1)(B) of the ESA. The HCP covers elderberry shrub (*Sambucus* spp.) trimming and removal that will result in the incidental take of the valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*; beetle) and its habitat along portions of State-maintained levees.

The Service prepared a draft categorical exclusion screening form consistent with NEPA (42 U.S.C. 4321 et seq.), the DOI’s NEPA regulations (43 CFR part 46), and the DOI’s

Departmental Manual (516 DM 8.5(C)(2)). The purpose of the screening form is to confirm that, pursuant to agency NEPA procedures, the agency action is within a category of actions previously determined not to normally have significant effects on the natural and human environment and thus not requiring further NEPA evaluation. The screening form is also used to verify that there are no extraordinary circumstances that indicate an otherwise excluded action may warrant further NEPA evaluation.

Background Information

Section 9 of the ESA prohibits the taking of fish and wildlife species listed as endangered or threatened under section 4 of the ESA. Under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), the Service 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 permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. For more about the Federal habitat conservation plan program, go to <https://www.fws.gov/service/habitat-conservation-plans>.

Proposed Action

The proposed action is the Service's issuance of an ITP for a period of 5 years for the beetle, the only species covered by the plan. The ITP is requested to cover ongoing routine vegetation management along specific levees maintained by the applicant to support levee structural integrity, visibility, and accessibility for inspections, maintenance, and flood-fighting operations. Vegetation management along these areas often requires the removal or trimming of elderberry shrubs, which are the sole host plant for the beetle. The plan includes three covered activities: trimming or removing select elderberry shrubs, transplanting removed elderberry shrubs, and trimming adjacent riparian vegetation needed to access the elderberry shrubs. The plan also includes a conservation strategy to avoid, minimize, and mitigate effects to the beetle from the

proposed activities. Avoidance and minimization measures for the beetle will reduce effects to the species, and the applicant will mitigate for the remaining unavoidable effects. Covered activities will occur in portions of the following seven California counties: Butte, Colusa, Glenn, Sacramento, Solano, Sutter, and Yolo. The total plan area is approximately 3,162 acres of levees in eight areas along the Sacramento River, Butte Creek, Cache Creek, Putah Creek, and the Yolo Bypass.

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. 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 subject 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, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. If you

submit a comment at <https://www.regulations.gov>, your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, 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.

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 covered species 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 and cumulatively would have a minor effect on the beetle and may qualify for application of a categorical exclusion pursuant to NEPA, the DOI's NEPA regulations, and the DOI DM. A low-effect ITP is one that would result in (1) minor or nonsignificant effects on species covered in the plan; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonably foreseeable actions, would not result in significant cumulative effects to the human environment.

Next Steps

Issuance of an ITP 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 is not likely to 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

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 50 CFR 17.32), NEPA (42 U.S.C. 4321 et seq.) and the DOI's implementing regulations (43 CFR part 46).

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Sacramento Fish and Wildlife Office.

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