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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R8–ES–2014–N209; FF08ESMF00–FXES11120800000F2–145]**

**Proposed Habitat Conservation Plan/Natural Community Conservation Plan for the Counties of Yuba and Sutter, California; Scoping for Environmental Impact Statement**

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

**ACTION:** Notice of intent; notice of public scoping meeting; request for comments.

**SUMMARY:** Under the National Environmental Policy Act, we, the U.S. Fish and Wildlife Service, intend to prepare a draft environmental impact statement (EIS) for the proposed habitat conservation plan/natural community conservation plan for the Counties of Yuba and Sutter, hereafter referred to as the Yuba-Sutter Regional Conservation Plan (YSRCP). The YSRCP would provide a regional approach for the long-term conservation of covered species plan area, while allowing for compatible future land use and development under county and city general plan updates and the regional transportation plans. The draft EIS is being prepared under the Federal Endangered Species Act of 1973, as amended, and the California Natural Community Conservation Planning Act. We announce meetings and invite comments.

**DATES:** To ensure consideration, please send your written comments by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

The public scoping meeting is on Tuesday, January 6<sup>th</sup>, from 3-5 and 6-8, at the Yuba County Government Center, Wheatland room, 915 8<sup>th</sup> St, Marysville, CA 95901.

**ADDRESSES:** To request further information or submit written comments, please use one of the following methods, and note that your information request or comment is in reference to the Yuba-Sutter Regional Conservation Plan:

- *U.S. Mail:* U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, CA 95825.
- *In-Person Drop-Off, Viewing, or Pickup:* Call (916) 414–6600 to make an appointment during regular business hours to drop off comments or view received comments at the above location.
- *Fax:* U.S. Fish and Wildlife Service, (916) 414–6713, Attn.: Ellen McBride.

**FOR FURTHER INFORMATION CONTACT:** Ellen McBride, Senior Biologist, or Mike Thomas, Chief Conservation Planning Division, Sacramento Fish and Wildlife Office, by phone at (916) 414–6600 or by U.S. mail at the above address. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

## **Introduction**

We, the U.S. Fish and Wildlife Service (Service), intend to prepare a draft environmental impact statement (EIS) to evaluate the impacts of several alternatives related to the potential issuance of an incidental take permit (ITP), as well as impacts of the implementation of the supporting proposed habitat conservation plan/natural community conservation plan, which we will refer to as the Yuba-Sutter Regional Conservation Plan (YSRCP). The EIS will be a joint EIS/environmental impact report (EIS/EIR), for which the Service, Yuba and Sutter Counties, and the California Department of Fish and Wildlife (CDFW) intend to gather information necessary for preparation.

The YSRCP is designed to be a comprehensive regional plan that will provide long-term conservation and management of natural communities, sensitive species, and the habitats upon which those species depend, while accommodating other important uses of the land. It is intended to serve as a habitat conservation plan pursuant to the Federal Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and as a natural community conservation plan under the California Natural Community Conservation Planning Act.

The YSRCP will address State and Federal endangered species compliance requirements for the Counties of Yuba and Sutter (Counties); the Cities of Wheatland, Yuba City, and Live Oak; and the YSRCP implementing entity that will be established to

implement the YSRCP (permit applicants) for activities and projects in the YSRCP plan area that they conduct or approve. The California Department of Transportation (Caltrans), while not directly a permit applicant because of limited discretionary authority over projects, may participate in the YSRCP by contributing conservation lands to the overall conservation strategy established by the YSRCP. The plan area generally includes the Counties of Sutter and Yuba; however, the plan area does not include the Sutter Buttes, portions of Southern Sutter County within the Natomas Basin HCP, portions of Eastern Yuba County that are dominated by oak woodlands, and the City of Marysville. The permit applicants are currently preparing a complete draft of the YSRCP as an HCP/NCCP and the permitting agencies (Service and CDFW) are assisting and will be proceeding with agency review and finalization in the coming months. The permit applicants intend to apply for a 50-year incidental take permit (ITP) from the Service. The permittees are seeking authorized incidental take of threatened and endangered species that could result from activities covered under the YSRCP. We announce meetings and invite comments.

The Service will serve as the administrative lead for all actions related to this **Federal Register** notice for the EIS component of the EIS/EIR. Sutter County will serve as the State lead agency under the California Environmental Quality Act (CEQA) for the EIR component. Sutter County, in accordance with CEQA, is publishing a similar notice.

### **Project Summary**

In 2001, Caltrans began the planning process for improvements to State Routes 70 and 99 in Yuba and Sutter Counties. Early environmental review indicated that the roadway improvement projects would affect federally listed species and would lead to additional cumulative effects, because the roadway improvements would prompt additional urban development within these corridors. In order to ensure compliance with the Act, the Service recommended preparation of an HCP, to which the Counties and Caltrans agreed. The parties agreed to interim planning guidelines during preparation of the HCP, which allowed the Service to issue a biological opinion to allow the roadway projects to proceed. The Counties, Service, CDFW, and Caltrans formed a working group in accordance with the provisions of the biological opinion. The working group evaluated conservation planning approaches, and the Counties pursued grant funding. The working group agreed to address the California Endangered Species Act (CESA), as well as the federal Act, by preparing a combined HCP/NCCP. Work on the YSRCP began in 2004 and resulted in delineation of the plan area boundaries, determination of the covered species, and identification of the permit applicants. Development of the YSRCP is still in progress. In 2012, the the permit applicants, CDFG, and the Service entered into the YSRCP Planning Agreement. The planning agreement set out the initial scope of the program and defined the roles and responsibilities of the parties in the development of the YSRCP. The planning agreement has helped guide the YSRCP planning process and to define the initial scope of the effort. Sutter County served as the lead in coordination of the process and preparation of the YSRCP.

The YSRCP's conservation strategy proposes to provide a regional approach for the long-term conservation of covered species (see **Covered Species**) and natural communities within the YSRCP plan area, while allowing for compatible future land use and development under county and city general plan updates and the regional transportation plans. The YSRCP identifies and addresses the covered activities that would be carried out by the permittees that could result in take of covered species within the YSRCP plan area. The proposed YSRCP is intended to be consistent with and support compliance with other Federal and State wildlife-related laws and regulations, other local conservation planning efforts, and county and city general plans.

The YSRCP is being designed to streamline and coordinate existing processes for review and permitting of public and private activities that potentially affect protected species. To meet this goal, the YSRCP sets out a conservation strategy that includes measures that are intended to ensure that impacts on covered species and their habitat related to covered activities are avoided, minimized, or mitigated, as appropriate. These covered activities encompass the range of existing and future activities that are associated with much of the regional economy (see **Covered Activities**).

## **Background**

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) prohibits the "take" of wildlife species listed as endangered or threatened. The Act defines the term "take" as: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to

engage in such conduct (16 U.S.C. 1532). Harm includes significant habitat modifications or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Pursuant to section 10(a)(1)(B) of the Act, we may issue permits to authorize “incidental take” of listed species. “Incidental take” is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Service regulations governing permits for threatened species and endangered species, respectively, are promulgated in 50 CFR sections 17.22 and 17.32.

Section 10(a)(1)(B) of the Act contains provisions for issuing such ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

- The take will be incidental;
- The applicants will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
- The applicants will develop a proposed HCP and ensure that adequate funding for the plan will be provided;
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
- The applicants will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

Thus, the purpose of issuing an ITP is to allow the applicants, under their respective regional authority, to authorize development while conserving the covered species and their habitat. Implementation of a multispecies HCP, rather than a species-by-species or project-by-project approach, will maximize the benefits of conservation measures for covered species and eliminate expensive and time-consuming efforts associated with processing individual ITPs for each project within the applicants' proposed plan area. The Service expects that the permit applicants will request ITP coverage for a period of 50 years.

### **Plan Area**

The proposed YSRCP plan area (or permit area) includes approximately 469,271 acres, including 141,644 acres in Yuba County and 327,627 acres in Sutter County. This area includes the Cities of Wheatland, Yuba City, and Live Oak, and the spheres of influence of each jurisdiction. The plan area excludes the areas listed below:

- The Sutter Buttes, because their ecological characteristics are distinct from surrounding areas and because the Buttes are largely protected from future development;
- Portions of southern Sutter County within the Natomas Basin HCP area;
- Portions of eastern Yuba County dominated by oak woodlands; and
- Marysville, because of lack of funding and no future growth plans.

The YSRCP plan area is bounded on the west by Yolo and Colusa Counties, on the north by Butte County, on the east by Placer County and portions of Yuba County outside the Plan Area, and on the south by Yolo and Sacramento Counties and by the portion of Sutter County that is located within the Natomas Basin HCP Area.

The boundary of the YSRCP plan area is based on political, ecological, and hydrologic factors. The geographic scope focuses on valley bottom lands. Areas chosen for inclusion were selected on the basis of their likelihood to experience future growth; need to expand and maintain infrastructure; ability to provide connectivity to adjacent conservation efforts; and feasibility of contributing to a plan that is scientifically defensible, flexible, and amenable to analysis and implementation. The plan area is broad enough to accommodate changes in jurisdictional boundaries over time, provided the boundaries do not extend beyond the boundaries of the plan area and project impacts do not exceed the take authorization provided by the final ITP.

### **Covered Activities**

The proposed section 10 ITP may allow take of Covered Species resulting from proposed Covered Activities on non-Federal land in the YSRCP Plan Area. The Permit Applicants intend to request incidental take authorization for Covered Species that could be affected by activities identified in the YSRCP. The proposed activities within the YSRCP Plan Area for which ITP coverage is requested include construction and maintenance of

facilities and infrastructure, both public and private, that are consistent with local general plans and local, State, and Federal laws. The following list is not intended to be exhaustive; rather, it provides an overview of the types of activities that would be expected to occur.

Covered Activities fall into nine general categories, which are further described below:

1. Residential, commercial, industrial, and commercial agricultural facilities;
2. Recreational facilities;
3. Transportation facilities;
4. Public and private utilities;
5. Mining and mineral extraction;
6. Groundwater supply and delivery facilities;
7. Flood control maintenance and other stream-related facilities;
8. Wastewater and waste management facilities; and
9. Monitoring and management activities within the YSRCP reserves.

These categories were created to help organize Covered Activities into groupings that would have similar impacts on Covered Species. Covered Activities, which would normally be implemented or carried out in accordance with all other Federal, State, and local laws and regulations, are described in greater detail below. In addition to the description of Covered Activities below, the YSRP also contains a list of specific projects that are currently proposed and that would be covered by the Plan.

## **1. Residential, Commercial, Industrial, and Agricultural Facilities**

This category includes construction, operation, maintenance, and use of residential, commercial, industrial, and agricultural facilities within the Plan Area. This category is intended to be as inclusive as possible, to accommodate both urban growth and public infrastructure projects; it includes the construction, operation, maintenance, and use of typical public and private urban and rural facilities. This category also includes the construction, maintenance, and use of urban and rural facilities, including residential, commercial, industrial, and other types of urban development and infrastructure; rural residential development and infrastructure; agricultural structures, warehouses, and processing facilities; and public service and community serving and cultural facilities, including fire and police stations, community and convention centers, recreation centers, and similar facilities. Vegetation management and control and fuel management activities would also be included.

## **2. Recreational Facilities**

This category includes construction, operation, maintenance, and use of recreational facilities in the Plan Area. This category is intended to be as inclusive as possible, to accommodate both urban growth and public infrastructure projects, and includes but is not limited to the construction, maintenance, and use of urban and rural facilities, including large recreational facilities such as golf courses, parks, and ball fields; recreational facilities maintenance; and improvements to and expansion of existing parks and bicycle and

pedestrian trails. Trail maintenance activities, including vegetation management activities, and minor remediation projects within recreational facilities, are also proposed for inclusion.

### **3. Transportation Facilities**

This category includes construction of transportation facilities in the Plan Area, including construction, operation, and maintenance of State highways, including addition of new lanes and off-ramps; paved and unpaved roads, bridges, culverts, and transit facilities; new construction and improvements, including road widening, bridges, intersection level-of-service improvements, grade separations, and sound wall installation; and road repair and rehabilitation, including construction of retaining walls to stabilize adjacent embankments. This category also includes channel modifications incidental to streambank stabilization and road restoration and vegetation management.

### **4. Public and Private Utilities**

This category includes construction, operation and maintenance, and use of public and private utilities in the Plan Area, including transmission lines, telecommunication lines, telecommunication towers, and gas lines; vegetation management activities; maintenance of small utility facilities; and access and maintenance of infrastructure facilities.

## **5. Mining and Mineral Extraction**

This category includes mining or mineral extraction in the Plan Area, including construction, operation, and maintenance of operations for mining of sand, soil, aggregate, and other mineral resources, and mineral extraction, including gas wells and gas pipelines.

## **6. Groundwater Supply and Delivery Facilities**

This category includes construction of typical water supply and delivery facilities in the Plan Area, including water treatment plants, water supply pipelines, percolation ponds, and pump stations; groundwater recharge sites and associated facilities; maintenance of water supply facilities; and operation and maintenance of pump stations, operations yards, utility yards, and corporation yards. Surface water projects will not be covered under the YSRCP.

## **7. Flood Control Maintenance and Other Stream-Related Facilities**

This category includes detention basins and other stream-related facilities in the Plan Area, including bank and levee stabilization and bank or levee improvements, including levee grouting. This includes the construction, operation and maintenance, and use of retention/detention ponds; channel modifications incidental to streambank stabilization associated with retention/detention ponds; bridge construction and

replacement, including vehicular, train, and pedestrian bridges; culverts; restoration projects outside the reserve system; creek-side trail projects; and levee maintenance.

## **8. Wastewater and Waste Management Facilities**

This category includes construction, operation and maintenance, and use of wastewater and waste management facilities in the Plan Area, including typical wastewater and waste management facilities; stormwater management facilities, such as storm sewer systems, nonpoint source reduction, outfalls, and drainage improvements; hazardous materials remediation for, and restoration related to, abandoned dumps; operation and maintenance of pump stations, operations yards, utility yards, and corporation yards; and sewage treatment plants, sanitary sewer systems (including rehabilitation of force mains and effluent lines, discharge and reclamation lines, and pump stations), water recycling, recycling centers, transfer stations, and landfills.

## **9. Monitoring and Management Activities within the YSRCP Reserves**

This includes projects and activities associated with implementation of the YSRCP's conservation strategy, most of which will take place within the reserve system assembled by the Plan. This includes construction and maintenance of recreational and management and maintenance and operational facilities and infrastructure; vegetation management; relocation of covered species from impact sites and within reserves as necessary; demolition or removal of structures, roads, or artificial livestock ponds to

increase public safety or to restore habitat; control of introduced predators; stream maintenance for habitat purposes; surveys and monitoring for mitigation and restoration/enhancement projects; travel through reserves by various means for management or maintenance purposes; fire management hazardous materials remediation; repair of existing facilities damaged by floods or fire; and operations related to water supply for reserve management. This category also includes limited recreational use of YSRCP reserves and activities related to habitat enhancement, restoration, and creation, and species surveys, monitoring, and research.

### **Covered Species**

Covered Species are those species addressed in the proposed YSRCP for which conservation actions will be implemented and for which the Permit Applicants will seek incidental take authorizations for a period of up to 50 years. Proposed Covered Species are expected to include threatened and endangered species listed under the Act, species listed under the CESA, and currently unlisted species that have the potential to become listed during the life of the YSRCP and have some likelihood to occur within the YSRCP Plan Area. The YSRCP is currently expected to address 18 listed and non-listed wildlife and plant species. The list of proposed Covered Species may change as the planning process progresses; species may be added or removed as more is learned about the nature of Covered Activities and their impact within the YSRCP Plan Area.

The following Federally listed threatened and endangered wildlife species are proposed to be covered by the YSRCP. The threatened vernal pool fairy shrimp (*Branchinecta lynchi*), endangered vernal pool tadpole shrimp (*Lepidurus packardi*), threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), and the threatened giant garter snake (*Thamnophis gigas*).

The following unlisted wildlife species are proposed to be covered by the YSRCP: western spadefoot toad (*Spea hammondi*), western pond turtle (*Actinemys marmorata*), Swainson's hawk (*Buteo swainsoni*), western yellow-billed cuckoo (*Coccyzus americanus occidentalis*), bank swallow (*Riparia riparia*), California black rail (*Laterallus jamaicensis coturniculus*), greater sandhill crane (*Grus canadensis tabida*), bald eagle (*Haliaeetus leucocephalus*), western burrowing owl (*Athene cunicularia hypugaea*), and tricolored blackbird (*Agelaius tricolor*).

“Take” as defined under the Act does not apply to listed plant species, and therefore cannot be authorized under a section 10 permit. However, the Permit Applicants propose to include plant species on the permit in recognition of the conservation benefits provided for them under an HCP. For the purposes of the Plan, certain plant species are further included to meet regulatory obligations under section 7 of the Act and CESA. All species included on an ITP would receive assurances under the Service's “No Surprises” regulations found in 50 CFR sections 17.22(b)(5) and 17.32(b)(5). The following unlisted plant species are proposed for inclusion in the YSRCP in recognition of the conservation benefits provided for them under the YSRCP and the assurances permit holders would receive if they are

included on a permit: Bogg's Lake hedge-hyssop (*Gratiola heterosepala*), Ahart's dwarf rush (*Juncus leiospermus* var. *ahartii*), dwarf downingia (*Downingia pusilla*), and legenera (*Legenere limosa*). Bogg's Lake hedge-hyssop is listed as endangered under CESA.

## **Environmental Impact Statement**

Before deciding whether to issue the requested Federal ITP, the Service will prepare a draft EIS in order to analyze the environmental impacts associated with issuance of the ITP. In the EIS component of the EIS/EIR, the Service will consider the following alternatives: (1) The proposed action, which includes the issuance of take authorizations consistent with the proposed YSRCP under Section 10(a)(1)(B) of the Act; (2) no action (no permit issuance); and (3) a reasonable range of additional alternatives. The EIS/EIR will include a detailed analysis of the impacts of the proposed action and alternatives. The range of alternatives could include variations in impacts, conservation, permit duration, Covered Species, Covered Activities, Permit Area, or a combination of these elements.

The EIS/EIR will identify and analyze potentially significant direct, indirect, and cumulative impacts of our authorization of incidental take (permit issuance) and the implementation of the proposed YSRCP on biological resources, land uses, utilities, air quality, water resources, cultural resources, socioeconomics and environmental justice, recreation, aesthetics, climate change and greenhouse gases, and other environmental issues that could occur with implementation of each alternative. The Service will also identify

measures to avoid or minimize any significant effects of the proposed action on the quality of the human environment.

Following completion of the environmental review, the Service will publish a notice of availability and a request for comment on the Draft EIS/EIR and the applicants' permit application, which will include the proposed the YSRCP.

### **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. We will consider these comments in developing a Draft EIS/EIR and in the development of an HCP and ITP. We particularly seek comments on the following:

1. Biological information concerning species in the proposed Plan Area;
2. Relevant data concerning these 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 archaeological 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. Identification of any other environmental issues that should be considered with regard to the proposed development and permit action.

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section.

Comments and materials we receive, as well as supporting documentation we use in preparing the EIS/EIR document, will be available for public inspection by appointment during normal business hours (Monday through Friday, 8 a.m. to 4:30 p.m.) at the Service's Sacramento address (see **ADDRESSES**).

### **Scoping Meetings**

See **DATES** for the date and time of the scheduled public meeting. The purpose of the scoping meeting is to provide the public with a general understanding of the background of the proposed HCP and activities it would cover, alternative proposals under consideration for the Draft EIS, and the Service's role and steps to be taken to develop the Draft EIS for the proposed HCP/NCCP.

The primary purpose of these meetings and public comment period is to solicit suggestions and information on the scope of issues and alternatives for the Service to

consider when drafting the EIS. Written comments will be accepted at the meeting.

Comments can also be submitted by methods listed in the **ADDRESSES** section. Once the Draft EIS and proposed HCP/NCCP are complete and made available for review, there will be additional opportunity for public comment on the content of these documents through additional public comment periods.

### **Meeting Location Accommodations**

Persons needing reasonable accommodations in order to attend and participate in the public meetings should contact Ellen McBride at (916) 414-6600 as soon as possible. In order to allow sufficient time to process requests, please call at least one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

## **Authority**

We publish this notice under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1501.7, 1506.6, and 1508.22), as well as in compliance with section 10(c) of the Act (16 U.S.C. 1531 *et seq.*).

**Dated: November 25, 2014.**

**Alexandra Pitts,  
Deputy Regional Director,  
U.S. Fish and Wildlife Service,  
Pacific Southwest Region,  
Sacramento, California.**

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