



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R8–ES–2020–N062; FXES11140000–201–FF08E00000]**

**Final Environmental Impact Statement for the Upper Santa Ana River Wash  
Habitat Conservation Plan; San Bernardino County, CA**

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

**ACTION:** Notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of a final environmental impact statement (EIS) analyzing the impacts of issuance of two incidental take permits (ITPs) under the Endangered Species Act for implementation of the Upper Santa Ana River Wash Habitat Conservation Plan (HCP). Our proposed decision is to issue 30-year ITPs to the San Bernardino Valley Water Conservation District (District) and the San Bernardino County Flood Control District (SBCFCD) covering two federally listed animal species, two federally listed plant species, and one non-listed animal species. The HCP covers activities for water conservation, aggregate mining, recreation, flood control, and other public services in San Bernardino County, California. The final EIS is a joint Environmental Impact Statement/Supplemental Environmental Impact Report (EIS/SEIR). The final SEIR portion of the joint document was prepared by the District in compliance with the California Environmental Quality Act.

**DATES:** This notice initiates the availability of the final EIS. A record of decision will be signed no sooner than 30 days after the publication of this notice of availability in the *Federal Register*.

**ADDRESSES: *Obtaining Documents:*** You may obtain the documents by the following methods.

- ***Internet:*** [https://www.fws.gov/carlsbad/HCPs/HCP\\_Docs.html](https://www.fws.gov/carlsbad/HCPs/HCP_Docs.html) or <https://sbvwcd.org>.

**FOR FURTHER INFORMATION CONTACT:** Contact either of the two following individuals for more information:

- Karin Cleary-Rose, USFWS, via email to [karin\\_cleary-rose@fws.gov](mailto:karin_cleary-rose@fws.gov), telephone at 760-322-2070, or U.S. mail at 777 E. Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262; or
- Daniel Cozad, via email to [dcozad@sbvwcd.org](mailto:dcozad@sbvwcd.org).

TTY users can contact the above individuals by calling 800-877-8339.

**SUPPLEMENTARY INFORMATION:** The Service received applications submitted by the San Bernardino Valley Water Conservation District (District, applicant), and the San Bernardino County Flood Control District (SBCFCD, applicant) for incidental take permits (ITPs) under section 10 (a)(1)(B) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The final environmental impact statement (EIS) was developed in compliance with the Service's decision-making requirements under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and analyzes three alternatives, including the Upper Santa Ana River Wash Habitat Conservation Plan (HCP) submitted by the applicants. The applicants' proposed HCP covers five species (two federally listed animal species, two federally listed plant species, and one non-listed

animal species). The HCP covers activities for water conservation, aggregate mining, recreation, flood control, and other public services in San Bernardino County, California. The EIS is a joint Environmental Impact Statement/Supplemental Environmental Impact Report (EIS/SEIR). The SEIR portion of the joint document was prepared by the District in compliance with the California Environmental Quality Act. The EIS/SEIR evaluates the direct, indirect, and cumulative impacts of several alternatives related to the Service's decision whether to issue ITPs in response to the District's and SBCFCD's applications. The project area lies within San Bernardino County, primarily in the cities of Highland and Redlands, as well as within the unincorporated County area. The plan area encompasses approximately 4,892 acres.

## **Background**

Section 9 of the ESA prohibits the "take" of fish and wildlife species federally listed as endangered without special exemption. Federal regulations promulgated under section 4(d) of the ESA may also prohibit take of fish and wildlife species federally listed as threatened. Take of the coastal California gnatcatcher (the only threatened animal species covered by the HCP) is prohibited by regulation.

"Take" of federally listed fish or wildlife is defined under the ESA as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct (16 U.S.C. 1538). "Harm" includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50

CFR 17.3). Under limited circumstances, we may issue permits to authorize take that is incidental to and not the purpose of otherwise lawful activities.

**Habitat Conservation Plan Covered Activities**

The Service’s proposed action is to issue ITPs to the applicants consistent with the Upper Santa Ana River Wash HCP. The HCP covers two types of activities in the Upper Santa Ana River Wash Plan project area:

- Activities related to the operations and maintenance of existing facilities or land uses already in operation in the Wash, covering an area totaling 166.9 acres; and
- Expansion or enhancement of facilities planned for the Wash area, totaling 634.1 acres.

**Habitat Conservation Plan Covered Species**

The proposed ITPs would cover five species. Incidental take authorization would be provided under the ITPs for the wildlife species; the plant species are included in recognition of the conservation measures provided under the HCP and to provide No Surprises assurances to the applicants for the covered plants under 50 CFR §17.22(b)(5). The applicant’s HCP includes the following species:

| <b>Species</b>   | <b>Federal Listing Status</b> |
|--|-------------------------------|
| Coastal California gnatcatcher ( <i>Polioptila californica californica</i> )       | Threatened                    |
| San Bernardino kangaroo rat ( <i>Dipodomys merriami parvus</i> )                   | Endangered                    |
| Cactus wren ( <i>Campylorhynchus brunneicapillus</i> )                             | Not listed                    |
| Santa Ana River woolly-star ( <i>Eriastrum densifolium</i> ssp. <i>sanctorum</i> ) | Endangered                    |
| Slender-horned spineflower ( <i>Dodecahema leptoceras</i> )                        | Endangered                    |

The HCP proposes conservation measures considered necessary to minimize and mitigate, to the maximum extent practicable, the impacts of the incidental taking of

covered species in the HCP.

### **National Environmental Policy Act Compliance**

The EIS/SEIR addresses the Federal and local actions associated with the proposed issuance of the ITPs and implementation of the HCP and covered activities. We published a notice of intent to prepare a draft EIS/SEIR in the Federal Register on March 3, 2015 (80 FR 11463), and we published the notice of availability of the draft EIS/SEIR on December 9, 2019 (84 FR 67292), which included a 45-day public comment period.

The EIS/SEIR analyzes three alternatives: the *No Action Alternative*, the *Proposed Action Alternative*, and *Action Alternative 1*. The Service has identified the *Proposed Action Alternative* as the preferred alternative. We received 13 comment letters on the draft EIS/SEIR and the proposed HCP. A response to each comment received in these letters has been included in the final EIS/SEIR. Minor revisions to the final EIS/SEIR or to the final HCP have been made to address the comments received on the draft documents. The descriptions and analysis of the three alternatives analyzed in the final EIS/SEIR generally remain the same as presented in the draft EIS/SEIR.

### **EPA's Role in the EIS Process**

In addition to this notice, the EPA is publishing a notice in the Federal Register announcing this EIS, as required under section 309 of the Clean Air Act. The publication date of EPA's notice of availability is the official beginning of the public comment period. EPA's notices are published on Fridays.

EPA serves as the repository (EIS database) for EISs prepared by Federal agencies. All EISs must be filed with EPA. You may search for EPA comments on EISs, along with EISs themselves, at <https://cdxnodengn.epa.gov/cdx-enepa->

public/action/eis/search.

### **Public Review**

Any comments we receive will become part of the decision record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. 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.

### **Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22), and NEPA (42 U.S.C. 4321 *et seq.*) and NEPA implementing regulations (40 CFR 1506.6).

**Michael Fris,**

*Assistant Regional Director,*

*Pacific Southwest Region,*

*U.S. Fish and Wildlife Service,*

*Sacramento, California.*

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