

Billing Code 4510-55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-ES-2011-N240]

[FF08ESMF00-FXES1112080000F2-123]

**Draft Environmental Impact Statement and Proposed Maricopa Sun Solar Complex
Multi-Species Habitat Conservation Plan, Kern County, California**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; announcement of public scoping meetings; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare a draft environmental impact statement (EIS) under the National Environmental Policy Act for the proposed Maricopa Sun Solar Complex Habitat Conservation Plan (HCP) under development by Maricopa Sun, LLC. The draft EIS will evaluate the impacts of several alternatives related to the HCP being proposed by Maricopa Sun, LLC in support of its

anticipated application for an Endangered Species Act permit for incidental take of five federally endangered species (one reptile and four mammal species) and 14 California special status species (one amphibian species, three reptile species, six avian species, and four mammal species) from activities associated with the construction, operation, and decommissioning of a 700 megawatt photo-voltaic power generating facility and implementation of conservation actions associated with the HCP in Kern County, California. We also announce plans for a public scoping meeting and the opening of a public comment period. 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.

DATES: A public scoping meeting will be held to solicit comments from interested parties to assist in determining the scope of the environmental analysis, including the alternatives to be addressed, and to identify significant environmental issues related to the Proposed Action. The scoping meeting date and location are:

- Monday, January 23, 2012 from 1-3 pm
- Kern County Public Services Building
2700 M Street Conference Room 1-A
Bakersfield, CA 93301

To ensure consideration, please send your written comments by close of business

[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FR]

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 Maricopa Sun Solar Complex Habitat Conservation Plan.

- *U.S. Mail:* 2800 Cottage Way, Room W-2605, Sacramento, California 95825-1846.
- *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:* Justin Sloan or Mike Thomas, (916) 414-6713, Attn.: Maricopa Sun Solar Complex Habitat Conservation Plan.

FOR FURTHER INFORMATION CONTACT: Justin Sloan, Senior Fish and Wildlife Biologist, (916) 414-6600 (phone) or Mike Thomas, Chief, Habitat Conservation Planning Division, (916) 414-6678 (phone). If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), publish this notice under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*; NEPA), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6, as well as in compliance with section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*; Act). We intend to prepare a draft EIS to evaluate the impacts of several alternatives related to the potential issuance

of an incidental take permit (ITP) to the applicant, as well as impacts of the implementation of the supporting HCP.

The applicant proposes to develop an HCP as part of their application for an ITP under section 10(a)(1)(B) of the Act. The proposed HCP will include measures necessary to minimize and mitigate the impacts, to the maximum extent practicable, of potential proposed taking of federally listed and non-listed species to be covered by the HCP, and the habitats upon which they depend, resulting from construction, operation, and decommissioning of a 700 megawatt photo-voltaic power generating facility and implementation of conservation actions associated with the HCP in Kern County, California.

The project is a proposed 700 megawatt solar power facility within a proposed planning area covering approximately 6,766 acres in the southwest portion of unincorporated Kern County, California. Multiple parcels comprise the project, which are approximately six to 20 miles east of Taft along South Lake Road and along Copus Road. The individual sites can be accessed from Interstate 5, South Lake Road and Copus Road, and several other access roads.

Background

Section 9 of the Act prohibits taking of fish and wildlife species listed as endangered or threatened under section 4 of the Act. Under the Act, the term “take”

means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The term “harm” is defined in the regulations as including significant habitat modification or degradation that results in death or injury to listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term “harass” is defined in the regulations as to carry out actions that create the likelihood of injury to listed wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3).

However, under specified circumstances, the Service may issue permits that allow the take of federally listed wildlife species, provided that the take that occurs is incidental to, but not the purpose of, an otherwise lawful activity. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively.

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

1. The taking will be incidental;
2. The applicants will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
3. The applicants will develop a proposed HCP and ensure that adequate funding for the plan will be provided;

4. The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and

5. 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 would be to allow the applicant to carry out development activities associated with the proposed photo-voltaic power generating facility while conserving the covered species and their habitats. The Service expects that the applicants will request ITP coverage for a period of 50 years.

Alternatives in the Draft Environmental Impact Statement

The proposed action presented in the draft EIS will be compared to the no-action alternative. The no-action alternative represents estimated future conditions assuming an ITP is not issued, to which the proposed action's estimated future conditions can be compared. Other alternatives, including their potential impacts, will also be addressed in the draft EIS.

No-Action Alternative

Under the no-action alternative, an ITP pursuant to Section 10(a)(1)(B) of the Act would not be issued for development of the Maricopa Sun Solar Complex Project. The proposed Maricopa Sun Solar Complex Project and HCP would not occur without

issuance of an ITP. According to the applicant, the proposed planning area would be reconsidered and the existing land uses would be maintained at the sites of proposed photovoltaic facilities until and unless an ITP could be secured. The applicant's intended purpose for the project would not be met under the no-action alternative.

Proposed Alternative

The proposed action is the issuance of an ITP to Maricopa Sun, LLC covering impacts to the 20 covered species resulting from development activities within the proposed planning area for a period of 50 years. The proposed HCP, which must meet the requirements of section 10(a)(2)(A) of the Act, including measures that minimize and mitigate the effects of the potential incidental take of covered species to the maximum extent practicable, would be developed and implemented by the applicant. This alternative would be intended to allow for a comprehensive mitigation approach for unavoidable impacts and reduce permit processing times and efforts for the applicant and the Service.

Activities proposed for coverage under the proposed ITP would be otherwise lawful activities that could occur consistent with the HCP, to include, but not be limited to the following general categories:

1. Pre-construction
2. Construction

3. Operation
4. Decommissioning
5. Preservation/Enhancement
6. Conservation Plan Management

Pre-construction could include activities such as surveying and staking, clearing and grubbing, staging areas, temporary access roads, drainage and erosion control, and geotechnical drilling. Construction related activities could include grading and compaction, trenching, paving of access roads, installation of solar arrays, meteorological stations, transmission lines, septic leech fields, fencing, and landscaping. Construction of solar facilities on all sites is anticipated to be completed over an 8 to 10 year period from the commencement of the initial development; however, unknown constraints could extend the development phase to a 10 to 15 year period. Construction of the project will occur in a series of approximately 1 megawatt blocks, consisting of approximately 5 to 8.64 acres each. It is anticipated that construction of each section (640 acres) within the Maricopa Sun Solar Complex will take 12 to 18 months. Operation related activities could include solar panel maintenance, on-site parking, operation of solar modules, inspection, and repair of equipment, and operation of lighting. Typical activities associated with decommissioning of the solar energy facility include removal of all solar electric systems, buildings, cabling, electrical components, breaking up of concrete pads and foundations, removal of access roads, additional grading, and replacement of soil disturbed from decommissioning. Preservation/enhancement and conservation plan management activities could include vegetation control (i.e., grazing and mowing), fence

installation, special status species monitoring (i.e., surveys such as trapping, use of remote cameras and spotlighting), and habitat restoration and creation.

We anticipate that the following five federally listed endangered species will be included as covered species in the applicants' proposed HCP:

Blunt-nosed leopard lizard (*Gambelia sila*)

Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*)

Giant kangaroo rat (*Dipodomys ingens*)

San Joaquin kit fox (*Vulpes macrotis mutica*)

Buena Vista Lake shrew (*Sorex ornatus relictus*)

We also anticipate that the following federally non-listed species will be included as covered species in the applicant's proposed HCP:

Western spadefoot (*Spea hammondi*)

Silvery legless lizard (*Anniella pulchra pulchra*)

San Joaquin whipsnake (*Masticophis flagellum ruddocki*)

California horned lizard (*Phrynosoma coronatum*)

Western Burrowing owl (*Athene cunicularia*)

Swainson's hawk (*Buteo swainsoni*)

Mountain plover (*Charadrius montanus*)

Northern harrier (*Circus cyaneus*)

White-tailed kite (*Elanus leucurus*)

Le Conte's thrasher (*Toxostoma lecontei*)

San Joaquin antelope squirrel (*Ammospermophilus nelson*)

Western mastiff bat (*Eumops perotis californicus*)

Tulare grasshopper mouse (*Onychomys torridus tularensis*)

San Joaquin pocket mouse (*Perognathus inornatus*).

Inclusion of these non-listed species as covered species will be determined during the HCP planning and development process. If included as covered species, the HCP will treat these species the same as the federally listed species. All species included in the incidental take permit would receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

Other Alternatives

The draft EIS will include a reasonable range of additional alternatives. The range of alternatives considered in the draft EIS could include variations in impacts, conservation, permit duration, covered species, covered activities, permit area, or a combination of these elements.

Environmental Review and Next Steps

The Service will conduct an environmental review to analyze the proposed action, along with other alternatives evaluated and the associated impacts of each. The draft EIS will evaluate impacts for each covered species and is expected to provide biological

descriptions of the affected species and habitats, as well as the effects of the alternatives on other resources, such as vegetation, wetlands, wildlife, geology and soils, air quality, water resources, water quality, cultural resources, land use, recreation, water use, local economy, and environmental justice.

Following completion of the environmental review, the Service will publish a notice of availability and a request for comment on the draft EIS and the applicant's permit application, which will include the proposed HCP. The draft EIS and proposed HCP are expected to be completed and available to the public in spring 2012.

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 and in the development of a HCP and ITP. 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 planning 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;
6. Identification of any other alternatives to the proposed action that should be analyzed in the draft EIS; and
7. Identification of any other environmental issues that should be considered in the draft EIS.

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 document, will be available for public inspection by appointment, during normal business hours, at our office (see FOR FURTHER INFORMATION CONTACT).

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other

personal identifying information in your comments, 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 review, we cannot guarantee that we will be able to do so.

Scoping Meetings

See DATES for the date and time of our public meeting. The purpose of scoping meetings 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.

The meeting format will consist of a formal presentation of the proposed action, summary of the NEPA process, and presentation of oral comments from the public. 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 meetings. Comments can also be submitted by methods listed in the ADDRESSES section. Once the draft EIS and proposed HCP are complete, there will be additional opportunity for public comment on the content of the EIS through a Notice of Availability.

Meeting Location Accommodations

Please note that the meeting location is accessible to wheelchair users. If you require additional accommodations, please notify us at least one week in advance of the meeting.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 et seq.) and by NEPA Regulations (40 CFR 1501.7, 40 CFR 1506.6, and 1508.22).

Paul McKim,
Acting Deputy Regional Director,
Pacific Southwest Region,
U.S. Fish and Wildlife Service,
Sacramento, California.

[FR Doc. 2011-32894 Filed 12/22/2011 at 8:45 am; Publication Date: 12/23/2011]