

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 0648-XB088

Environmental Impact Statement; Availability:

Authorization for Incidental Take and Implementation of the Stanford University Habitat Conservation Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; Fish and Wildlife Service (USFWS), Interior.

ACTION: Notice of availability of final environmental impact statement, multi-species habitat conservation plan, and implementing agreement.

SUMMARY: This notice announces the availability for public review of the Final Environmental Impact Statement (FEIS) for Authorization for Incidental Take and Implementation of the Stanford University Habitat Conservation Plan; the Stanford University Habitat Conservation Plan (HCP); and the Implementing Agreement (IA). Pursuant to the National Environmental Policy Act (NEPA), this notice advises the public that we, the USFWS and NMFS (collectively the Services), have received applications for 50-year Incidental Take Permits (ITPs) pursuant to the Endangered Species Act of 1973, as amended (ESA) from the Board of Trustees of Leland Stanford Junior University (Stanford; Applicant). The Applicant seeks the ITPs to authorize incidental take of the covered species that could occur as a result of the proposed covered activities.

DATES: Written comments on the FEIS, HCP, and IA, must be received by 5 p.m. Pacific Time on December 24, 2012.

ADDRESSES: Comments concerning the FEIS, HCP, and IA can be sent by U.S. Mail, facsimile, or email to (1) Mike Thomas, Division Chief, Conservation Planning Division, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, CA 95825, facsimile (916) 414-6713; (2) FW8Stanford_HCP@fws.gov. Include the document identifier: Stanford HCP; (3) Gary Stern, San Francisco Bay Branch Supervisor, National Marine Fisheries Service, North Central California Office, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404, facsimile (707) 578-3435; or (4) Stanford.HCP@noaa.gov. Include the document identifier: Stanford HCP.

FOR FURTHER INFORMATION CONTACT: Gary Stern, San Francisco Bay Branch Supervisor, NMFS, telephone (707) 575-6060, Sheila Larsen, Senior Staff Biologist, USFWS; telephone (916) 414-6685, or Mike Thomas, Chief, Conservation Planning Division, USFWS; telephone (916) 414-6600.

SUPPLEMENTARY INFORMATION: This notice is provided pursuant to the ESA and regulations for implementing NEPA, as amended (40 CFR 1506.6), to inform the public that the FEIS and HCP, and the Services' responses to public comments are available for review, and that the Services have filed a FEIS with the U.S. Environmental Protection Agency (EPA) for public notice. The decision on whether to issue ITPs to Stanford will be made by the Services no sooner than 30 days after the publication of the EPA's public notice. Copies of the FEIS, HCP and IA are available for public review during regular business hours from 9 a.m. to 5 p.m. at the USFWS, Sacramento Fish and Wildlife Office (see ADDRESSES), and the NMFS, North Central California Office (see ADDRESSES). Additionally, hard bound copies of the FEIS,

HCP, and IA are available for viewing, or for partial or complete duplication, at the following locations:

1. Social Sciences Resource Center, Green Library, Room 121, Stanford, CA 94305
2. Palo Alto Main Library, 1213 Newell Road, Palo Alto, CA 94303.

Individuals wishing to obtain copies of the FEIS, HCP, or IA should contact either of the Services by telephone (see FOR FURTHER INFORMATION CONTACT) or by letter (see ADDRESSES). These documents are also available electronically for review on the NMFS Southwest Region website at: <http://swr.nmfs.noaa.gov> or the USFWS, Sacramento Fish and Wildlife Office Website at <http://www.fws.gov/sacramento/>.

Background

Section 9 of the Federal Endangered Species Act (ESA) of 1973, as amended, and Federal regulations prohibit the take of fish and wildlife species listed as endangered or threatened (16 U.S.C. 1538). 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 (16 U.S.C. 1532(19)). 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(c)). NMFS further defines harm as an act which actually kills or injures fish or wildlife, and expands the list of essential behavioral patterns that can be impaired by habitat modification or degradation to include breeding, spawning, rearing, migrating, feeding or sheltering (50 CFR 222.102). Pursuant to section 10(a)(1)(B) of the ESA, the Services may issue ITPs authorizing the take of listed species if, among other things, such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing ITPs for threatened and endangered species are found in 50 CFR 17.22, 17.32, and 222.307.

Each of the Services has received an application for an ITP for implementation of the HCP. The applications were prepared and submitted by The Board of Trustees of Leland Stanford Junior University. The Applicant has prepared the HCP to satisfy the application requirements for a section 10(a)(1)(B) permit under the ESA .

The Applicant seeks a 50-year incidental take permit for Covered Activities within a proposed 8,180-acre permit area located in southern San Mateo and northern Santa Clara counties. The permit area includes approximately 8,000 acres of Stanford's lands. Located on portions of the Santa Cruz Mountains and at the base of the San Francisco Peninsula, Stanford University is within two main watersheds, Matadero/Deer Creek and San Francisquito Creek watersheds. The San Francisquito Creek watershed spans San Mateo and Santa Clara counties, and encompasses an area of approximately 45 square miles. This watershed includes San Francisquito, Los Trancos, Corte Madera, Bear, Dennis Martin, Sausal, and Alambique creeks, and portions of San Francisquito, Los Trancos, Corte Madera, and Bear creeks flow through Stanford lands. The Matadero/Deer Creek watershed is entirely within Santa Clara County, and portions of Matadero and Deer creeks flow through Stanford lands. In addition to significant riparian areas associated with the creeks, the permit area includes foothills, and most of the main campus that is located on an alluvial plain located between the foothills and San Francisco Bay.

The Applicant has requested permits that will authorize the take of four animal species, which are currently listed as threatened or endangered under the ESA, and one animal species that may become listed under the ESA. The Applicant has requested coverage from the USFWS for the California tiger salamander (Ambystoma californiense), California red-legged frog (Rana draytonii), and San Francisco garter snake (Thamnophis sirtalis tetrataenia), and from NMFS for

the Central California Coast steelhead (Oncorhynchus mykiss). The Applicant has also requested coverage from the USFWS for the western pond turtle (Clemmys marmorata), which is not listed under the ESA at the current time. Collectively these species are referred to as “Covered Species.”

If the proposed HCP is approved and the permits issued, take authorization of listed Covered Species would be effective at the time of permit issuance. Take of the currently non-listed Covered Species would be authorized concurrent with the species’ listing under the ESA, should it be listed during the duration of the permit.

The proposed HCP is intended to be a comprehensive document, providing for species conservation and habitat planning, while allowing the Applicant to better manage ongoing operations and future growth. The proposed HCP also is intended to provide a coordinated process for permitting and mitigating the take of Covered Species as an alternative to a project-by-project approach.

The proposed HCP addresses a number of required elements, including: species and biological goals and objectives; evaluation of the effects of Covered Activities on Covered Species, including indirect and cumulative effects; a conservation strategy; a monitoring and adaptive management program; descriptions of changed circumstances and remedial measures; identification of funding sources; and an assessment of alternatives to take of listed species.

The HCP divides the permit area into four “zones.” Zone 1 supports one or more of the Covered Species or provides critical resources for the species. Zone 2 areas are occasionally occupied by a Covered Species and provide some of the resources used by the species, or buffers between occupied habitat and urbanized areas. Zone 3 consists of generally undeveloped land

that provides only limited and indirect benefit to the Covered Species. Zone 4 includes urbanized areas that do not support the covered species. The covered activities described in the HCP include the ongoing operation and maintenance of several existing University facilities, and a limited amount of future development. Ongoing operations and maintenance are divided into the following categories of activities: water management; creek maintenance; academic activities; utility installation and maintenance; general infrastructure; recreation and athletics; grounds and vegetation; agricultural and equestrian leaseholds; and commercial and institutional leaseholds. Up to 180 acres of development in Zones 1, 2, and 3 are also covered by the HCP, but the HCP does not supersede any permitting or entitlement required by other regulations. The HCP does not cover ongoing operations and maintenance associated with Searsville Dam, Searsville Reservoir and other facilities directly related to Searsville Reservoir

Stanford's proposed conservation strategy in the HCP is designed to minimize and mitigate the impacts of Covered Activities, improve habitat conditions for listed Covered Species, and protect populations of the non-listed Covered Species. The HCP includes minimization measures that would avoid and minimize the take of Covered Species from ongoing operation and maintenance of most University facilities and future development. The HCP also includes mitigation for the loss of habitat, and proposes to conserve approximately 360 acres of riparian habitat with conservation easements within one year of issuance of the permits. Additional riparian habitat would be preserved as needed. A 315-acre "California Tiger Salamander Reserve" (Reserve) also would be established at the outset of the HCP. No development would be permitted within the Reserve for the term of the permits, and a portion of habitat within the 315-acre Reserve would be permanently protected to offset any loss of

California tiger salamander habitat that occurs during the permit term. Habitat protected under the HCP would be managed and monitored, and annual reports documenting the status of the species and compliance with the HCP would be submitted to the Services. In addition to the minimization measures and mitigation for the loss of habitat, the HCP includes a number of potential habitat enhancements that Stanford may perform during the term of the permits. Other conservation activities include a California tiger salamander management plan that covers 95 acres, including Lagunita Reservoir and habitat around Lagunita Reservoir.

National Environmental Policy Act Compliance

Proposed permit issuance triggers the need for compliance with the NEPA. As co-lead agencies, the Services prepared a Draft EIS which evaluated the impacts of the proposed issuance of the permit and implementation of the HCP, as well as a reasonable range of alternatives. The Draft EIS and Draft HCP were circulated for public review and comment. The public review period was initiated with the publication of a Notice of Availability (NOA) in the Federal Register on April 12, 2010 (75 FR 18482). The official comment period began with publication of the NOA and initially was scheduled to end on July 12, 2010. At the request of the public, the Services published a notice in the Federal Register on July 15, 2010 (75 FR 41157) extending the public comment period an additional 45 days to August 30, 2010.

During the comment period, 30 comment letters were received from Federal and local agencies, environmental organizations, and the general public, including over 3000 form email messages. The primary issues raised in the comment letters and email messages were related to Searsville Dam and Reservoir. Many commenters requested Stanford revise the HCP and the Services prepare a supplemental DEIS for public review and comment. Comments received on

the Draft EIS and Draft HCP and responses can be found in Volume II of the FEIS. Following the public comment period, in January 2011, Stanford revised the HCP to remove Covered Activities related to Searsville Dam, Reservoir, and Diversion. Accordingly, minimization measures for Searsville-related activities have also been removed from the HCP. Volume I of the FEIS incorporates all changes to the text, tables, and figures that were completed following the public review and comment period.

The FEIS analyzes three alternatives including the issuance of ITPs and the implementation of the proposed HCP described above. The issuance of 50-year take permits and Applicant implementation of the proposed HCP is considered the Preferred Alternative. Two other alternatives being considered by the Services include the following:

Under the No Action Alternative, the Services would not issue incidental take permits for implementation of the HCP. As a result, the Applicant would likely seek individual incidental take authorization as needed for new projects and ongoing operations that would result in the take of federally listed species.

Under the California Tiger Salamander Only Alternative, Stanford would prepare a HCP only for the California tiger salamander, and obtain section 10 authorization only for the take of California tiger salamander. Future development and ongoing activities that would result in the take of other listed species would be permitted individually, as needed.

Public Comments

The Services invite the public to review the final HCP, final IA, and FEIS during a 30-day public waiting period [see DATES and SUPPLEMENTARY INFORMATION]. All comments and materials received, including names and addresses, will become part of the

administration record and may be released to the public. Our practice is to make comments, including names, home addresses, home telephone numbers, and email addresses of respondents available for public review. 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 may 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. This notice is provided pursuant to section 10(c) of the ESA and regulations for implementing NEPA, as amended (40 CFR 1506.6). We provide this notice in order to allow the public, agencies, or other organizations to review and comment on these documents.

Next Steps

The Services will evaluate the applications, associated documents, and public comments submitted to them to prepare their respective Records of Decision (RODs). Any comments received during this 30-day period will be considered during the Services' decision-making process. A permit decision will be made no sooner than 30 days after the publication of EPA's notice of the FEIS and completion of the RODs.

Dated: November 5, 2012.

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

Dated: November 13, 2012.

Angela Somma, Chief, Endangered Species Division,
Office of Protected Resources,
National Marine Fisheries Service.

[FR Doc. 2012-28488 Filed 11/21/2012 at 8:45 am; Publication Date: 11/23/2012]