

Billing Code: 4333-15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R2-ES-2015-N239; FXES1112020000-167-FF02ENEH00]

Notice of Availability of the Draft Record of Decision, Final Environmental Impact Statement; and Final Pima County Multi-Species Conservation Plan; Pima County, Arizona

AGENCY: Fish and Wildlife Service. U.S. Department of the Interior.

ACTION: Notice of Availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft Record of Decision (ROD) and related final Environmental Impact statement (EIS) for the Pima County Multi-Species Conservation Plan (MSCP). We intend to issue an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (Act), to Pima County and the Pima County Regional Flood Control District (hereafter Applicants or, collectively, Pima County) for impacts associated with Covered Activities as outlined in the MSCP. The ITP will be in effect for a period of 30 years and will authorize incidental take of 7 animal species and impacts to 2 plant species currently listed under the Act, as well as impacts to 35 species that may become listed under the Act in the future (collectively, "Covered Species"). The incidental take and other impacts would occur in Pima County and adjacent counties—Cochise, Santa Cruz, and Pinal, Arizona—as a result of specific actions conducted under the authority of Pima County (Covered Activities).

DATES: We will issue the ROD and a final permit no sooner than 30 days after publication of this notice. We must receive any comments on the final EIS and MSCP by June 12, 2016. Final documents will be available on the Arizona Ecological Services Office website: <http://www.fws.gov/southwest/es/arizona>.

ADDRESSES: *Obtaining Documents:* You may download copies of the draft ROD, the final EIS, and final MSCP from the Arizona Ecological Services Office website at <http://www.fws.gov/southwest/es/arizona>. Alternatively, you may use one of the methods below to request a CD-ROM of the documents. Please send your requests or comments by any one of the following methods:

- **U.S. Mail:** U.S. Fish and Wildlife Service; Arizona Ecological Services Office; Attn: Field Supervisor, Arizona Ecological Services Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021.

- Viewing or In-Person Pickup: Scott Richardson, telephone 520-670-6150, extension 242, to make an appointment during regular business hours to view documents at the Arizona Ecological Services, Tucson Sub-Office.
- Fax: Arizona Ecological Services, Tucson Suboffice; fax number 520-670-6155.

FOR FURTHER INFORMATION CONTACT: Scott Richardson, by U.S. mail at the Arizona Ecological Services Office, Tucson Suboffice, 201 North Bonita Avenue, Suite 141, Tucson, AZ 85745; by telephone at 520-670-6150 extension 242; or by email at scott_richardson@fws.gov.

SUPPLEMENTARY INFORMATION: Under the National Environmental Policy Act (NEPA), we advise the public that:

1. The final EIS was updated to address the comments received on the 2012 draft EIS and considers the environmental effects of issuing an ITP (for Covered Activities) on the Covered Species; and
2. Pima County has developed a final habitat conservation plan—the Pima County MSCP—which describes the measures Pima County has agreed to implement to minimize and mitigate the effects of the proposed incidental take of federally listed species, and unlisted Covered Species, to the maximum extent practicable, pursuant to Section 10(a)(1)(B) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

The 30-year ITP will authorize incidental take of 40 animal species. Among the 40 animal species are seven species currently listed under the Act:

- Lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)
- Yellow-billed cuckoo (*Coccyzus americanus*; western distinct population segment)
- Northern Mexican gartersnake (*Thamnophis eques megalops*)
- Chiricahua leopard frog (*Lithobates chiricahuensis*)
- Gila topminnow (*Poeciliopsis occidentalis occidentalis*)
- Gila chub (*Gila intermedia*)

The 40 animal species also include 33 species that would be covered should they become listed under the Act within the term of the permit:

- Mexican long-tongued bat (*Choeronycteris mexicana*)
- Western red bat (*Lasiurus blossevillii*)
- Western yellow bat (*Lasiurus xanthinus*)
- California leaf-nosed bat (*Macrotus californicus*)
- Pale Townsend's big-eared bat (*Corynorhinus townsendii pallascens*)
- Merriam's mouse (*Peromyscus merriami*)
- Western Burrowing owl (*Athene cunicularia hypugaea*)

- Cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*)
- Rufous-winged sparrow (*Aimophila carpalis*)
- Swainson's hawk (*Buteo swainsoni*)
- Abert's towhee (*Melospiza aberti*)
- Arizona Bell's vireo (*Vireo bellii arizonae*)
- Sonoran desert tortoise (*Gopherus morafkai*)
- Desert box turtle (*Terrapene ornata luteola*)
- Tucson shovel-nosed snake (*Chionactis occipitalis klauberi*)
- Groundsnake (valley form) (*Sonora semiannulata*)
- Giant spotted whiptail (*Aspidoscelis stictogramma*)
- Lowland leopard frog (*Lithobates yavapaiensis*)
- Longfin dace (*Agosia chrysogaster*)
- Desert sucker (*Catostomus clarki*)
- Sonora sucker (*Catostomus insignis*)
- San Xavier talussnail (*Sonorella eremita*)
- Papago talussnail (*Sonorella ambigua*)
- Total Wreck talussnail (*Sonorella imperatrix*)
- Empire Mountain talussnail (*Sonorella imperialis*)
- Sonoran talussnail (*Sonorella magdalenensis* syn. *tumamocensis*)
- Pungent talussnail (*Sonorella odorata*)
- Santa Rita talussnail (*Sonorella walkeri*)
- Posta Quemada talussnail (*Sonorella rinconensis*)
- Santa Catalina talussnail subspecies (*Sonorella sabinoensis buehmanensis*)
- Santa Catalina talussnail subspecies (*Sonorella sabinoensis tucsonica*)
- Las Guijas talussnail (*Sonorella sitiens*)
- Tortolita talussnail (*Sonorella tortillita*)

Take of listed plant species is not defined in the Act, although the Act does identify several prohibitions. However, because Covered Species in the MSCP include both plants and animals, in the following discussion we use the term "incidental take" when discussing impacts to Covered Plant Species, as well as actual incidental take of Covered Animal Species. Pima County proposes four plant species for coverage under their MSCP to formally document the conservation benefits provided to them through that process, including two listed species:

- Huachuca water umbel (*Lilaeopsis schaffneriana* ssp. *recuva*)
- Pima pineapple cactus (*Coryphantha scheeri* var. *robustispina*)

And two unlisted species:

- Needle-spined pineapple cactus (*Echinomastus erectocentrus* var. *erectocentrus*)
- Tumamoc globeberry (*Tumamoca macdougali*)

The proposed incidental take would occur within Pima County, Arizona, and may also occur in adjacent counties as a result of impacts from actions occurring under the authority of the Applicants. The Applicants have completed a final habitat conservation plan as part of the application package, as required by the Act. The application and associated documents describe measures the Applicants have agreed to implement to avoid, minimize, and mitigate—to the maximum extent practicable—the effects of the proposed incidental take of Covered Species and impacts to habitats on which they depend. The final EIS considers the direct, indirect, and cumulative effects of the proposed action of permit issuance, including the measures that will be implemented to minimize and mitigate such impacts to the maximum extent practicable.

Background

Over the past 50 years, Pima County, Arizona, has had one of the fastest growing human populations of any county in the United States (an increase of just under 500 percent) as a result of a sunny climate, natural beauty, and economic opportunities. Urban growth has resulted in significant development, which is expected to continue in the foreseeable future. A significant proportion of the predicted future development in unincorporated Pima County is anticipated to occur in the undeveloped or underdeveloped areas, particularly in the eastern portion of the County.

The presence of threatened and endangered species in the areas of potential land development creates regulatory concerns in Pima County. Interest in conservation and its potential related costs is found across many segments of the community, ranging from environmental advocates promoting strengthened protections to members of the business community, the development industry, and real estate profession, all of whom may be concerned about potential economic impacts. Landowners and private property interests are concerned about how their land-use decisions can potentially be affected by the presence of federally listed threatened and endangered species.

A long-term solution to ensure compliance with the Act—particularly in areas such as Pima County, where there is a large number of listed and unlisted species—is to develop a habitat conservation plan, such as the MSCP, under Section 10 of the Act. The Pima County MSCP proposes a combination of long-term and short-term actions and long-range planning to protect and enhance some areas of the natural environment within Pima County. The Pima County MSCP would help guide public investments in both infrastructure and conservation, as well as establish Pima County's preferences for the expenditure of funds to preserve and reduce the threats posed by urbanization to species and their habitats, using tools such as ranch conservation and open space programs. Through the MSCP and the ITP, Pima County commits to a series of measures that will avoid, minimize, and mitigate impacts of Covered Activities on the Covered Species.

The objective of the Pima County MSCP is to achieve a balance between:

- Long-term conservation of the diversity of natural vegetation communities and native species of plants and animals that make up an important part of the natural heritage and allure of Pima County; and
- The orderly use of land to promote a sustainable economy, health, well-being, customs, and culture of the growing population of Pima County.

In addition, the Pima County MSCP has been designed to:

- Avoid, minimize, and mitigate for the impacts of activities that would result in take of threatened and endangered species and provide long-term management and monitoring programs to help ensure program effectiveness;
- Meet the requirements for the Applicants to receive an ITP—pursuant to Section 10 of the Act—that would allow for the incidental take of threatened and endangered species while engaging in otherwise lawful activities;
- Provide conservation benefits to species and ecosystems in Pima County that would not otherwise occur without the MSCP;
- Maximize flexibility and available options in developing mitigation and conservation programs;
- Minimize uncoordinated decision making, which can result in incremental habitat loss and inefficient project review;
- Provide a decision-making framework that minimizes habitat loss and maximizes the efficiency of public-sector projects;
- Provide the Applicants and their community stakeholders (participants) with long-term planning assurances;
- Cover an appropriate range of activities under the permit;
- Reduce the regulatory burden of compliance with the Act for the Applicants and all affected participants; and
- Designate the funding that would be available to implement the Pima County MSCP over the entirety of its proposed term.

We gathered the information necessary to determine the impacts and to formulate the alternatives for the final EIS, related to the issuance of an ITP to Pima County. The need for this action is based on the potential for activities proposed by the Applicants on lands under their jurisdiction to result in incidental take of Covered Species, thus requiring an ITP because Section 9 of the Act prohibits the “taking” of threatened and endangered species. We are authorized, however, under limited circumstances, to issue permits to take federally listed species when such a taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered and threatened species are in the Code of Federal Regulations (CFR) at 50 CFR 17.22 and 17.32, respectively.

We prepared the EIS in response to Pima County's request for an ITP. To identify the scope and content of the draft EIS for the MSCP, the Service formally initiated the scoping process on September 7, 2000, with the publication in the *Federal Register* (65 FR 54295) of the Notice of Intent to prepare an EIS. Public involvement meetings were held in the forum of open house/informational meetings in October, November, and December 2000. In addition, a public scoping meeting was held in October 2003 prior to the release of an early draft MSCP. This meeting was preceded by the publication in the *Federal Register* (68 FR 53748) of a second Notice of Intent to prepare an EIS. Subsequent drafts of the MSCP were published in 2005, January and September 2006, 2008, and 2009 as part of the extensive process of developing scientific information and inviting public review and comment.

A Notice of Availability and Notice of Public Meetings for the Draft MSCP and EIS were posted in the *Federal Register* on December 7, 2012 (77 FR 73045). The Service posted the *Federal Register* notice and announced the availability of the draft MSCP/draft EIS on the Arizona Ecological Services' website (<http://www.fws.gov/southwest/es/arizona/HCPs.htm>). The formal comment period for the Pima County Draft MSCP/Draft EIS was from December 7, 2012 to March 15, 2013. Pima County hosted five public meetings for the draft MSCP in January 2013. The Service held one public comment meeting for the EIS, on February 21, 2013, in Tucson, Arizona.

During the public comment period, including the six public meetings as described above, 20 letters and written comments were received. Of the comments received during the draft MSCP/draft EIS public comment review period, the topics of primary concern were the planning and decision making process, natural resources management, social and economic concerns, cumulative effects, and MSCP specific issues. Detailed information concerning public involvement and a record of comments received during scoping and public comment periods are provided in Chapter 6 of the final EIS.

Revisions were made to the draft MSCP and draft EIS based on public comments. We have afforded government agencies, tribes, and the public extensive opportunity to participate in the preparation of the EIS. We have requested data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party regarding the draft EIS and draft MSCP. We have considered these comments in completing the final EIS, working with Pima County to finalize the MSCP and developing the ITP.

Authority

We provide this notice under Section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32), and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6).

**Regional Director, Southwest Region,
Albuquerque, New Mexico.**