

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service**

[FWS-R3-ES-2016-N012];  
[FVES59420300000F2 14X FF03E00000]

**Michigan Department of Natural Resources; Application for Enhancement of Survival Permit; Proposed Programmatic Candidate Conservation Agreement With Assurances for the Eastern Massasauga Rattlesnake in Michigan**

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

**ACTION:** Receipt of application; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce receipt from the Michigan Department of Natural Resources (MDNR) of an application for an enhancement of survival permit under the Endangered Species Act of 1973, as amended. The requested permit would authorize take of eastern massasauga rattlesnake (*Sistrurus catenatus*), resulting from certain land use and conservation activities, should the species be listed as endangered or threatened in the future. The permit application includes a proposed programmatic candidate conservation agreement with assurances (CCAA) between MDNR, the Michigan Department of Military and Veterans Affairs (MDMVA), and the Service. The requested term of the proposed CCAA and permit is 25 years. We are accepting comments on the permit application and the draft CCAA.

**DATES:** We will accept comments on the application and draft CCAA on or before March 24, 2016.

**ADDRESSES:** *Document Availability:* This draft CCAA, permit application, and final environmental assessment are available on the Internet at <http://www.regulations.gov> under Docket No. FWS-R3-ES-FWS-R3-ES-2016-0009. Supporting documentation, including the draft CCAA, permit application, and final environmental assessment, are available for public inspection during normal business hours at: U.S. Fish and Wildlife Service, East Lansing Field Office, 3001 Coolidge Rd, # 400, East Lansing, Michigan 48823.

To submit comments on the application and draft CCAA, go to <http://www.regulations.gov>. In the Search box, enter FWS-R3-ES-2016-0009, which is the docket number for this Notice of Availability. Then click on the Search button. Please ensure that you have located the correct document before submitting your comments. You

may submit a comment by clicking on "Comment Now!"

**FOR FURTHER INFORMATION CONTACT:** Scott Hicks, Field Supervisor, East Lansing Field Office (see **ADDRESSES**); by telephone (517-351-6274), or by facsimile (517-351-1443). If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), announce receipt from the Michigan Department of Natural Resources (MDNR) and Michigan Department of Military and Veterans Affairs (MDMVA) of an application for an enhancement of survival permit (permit) under the Endangered Species Act of 1973, as amended (ESA). The requested permit would authorize take of eastern massasauga rattlesnake (EMR) resulting from certain land use and conservation activities, should the species be listed as endangered or threatened in the future. The permit application includes a proposed programmatic candidate conservation agreement with assurances (CCAA) between MDNR, MDMVA, and the Service. The requested term of the proposed CCAA and permit is 25 years. We are accepting comments on the permit application and the proposed CCAA.

### **Background**

Enhancement of survival permits issued for CCAs encourage non-Federal landowners to implement conservation measures for species that are, or are likely to become, candidates for Federal listing as endangered or threatened by assuring landowners they will not be subjected to increased property use restrictions if the covered species becomes listed in the future. Application requirements and issuance criteria for enhancement of survival permits issued for CCAs are in the Code of Federal Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d). Service policy guidance for CCAs was published in the **Federal Register** on June 17, 1999 (64 FR 32726).

### **Proposed Programmatic Candidate Conservation Agreement With Assurances**

The proposed EMR CCAA is a programmatic agreement between the Service, the MDNR, and the MDVA to further the conservation of the eastern massasauga rattlesnake on non-Federal lands. The purpose of this CCAA is to encourage non-Federal landowners in Michigan to manage their properties in ways that are consistent with the long-

term sustainability and persistence of EMR. On September 30, 2015, the Service proposed to list the EMR as a threatened species under the Endangered Species Act (Act). Although there are several factors that are affecting the species' status, loss of habitat continues to be the primary threat to this species, either through development or through changes in habitat structure due to vegetative succession.

Most viable populations of EMR in the State of Michigan occur on land managed by the MDNR and the MDMVA. Implementation of the CCAA will facilitate identification and minimization of threats on these properties. Education and outreach efforts are proposed to raise awareness and increase understanding about the species for all stakeholders, reduce persecution or indiscriminate killing, and promote conservation of the species. The conservation goal of this CCAA on the part of the Service, the MDNR, the MDMVA and other cooperators is to maintain viable populations of EMR on public and private land by reducing threats and managing and restoring habitat for EMR.

Populations of EMR continue to persist throughout most of the species' historical range in Michigan. Therefore, the proposed EMR CCAA framework is based on two categories of management approaches for the species. Both categories contain common measures to conserve EMR, including protections for the species from collection and persecution. The first category encompasses lands considered most important to the long-term sustainability of EMR, which will be managed with strategies designed to protect EMR populations while also creating and restoring suitable habitat needed to sustain EMR populations. The strategies for this category include EMR-protective specifications for wetlands, prescribed fire use, water-level manipulations, vegetation management (*e.g.*, cutting, mowing, use of chemicals), oil/gas/mineral leasing, and forest management. The second category comprises land that is generally not suitable habitat for the species or where EMR management is not a priority (*e.g.*, campgrounds). The strategies for this category include measures to minimize the potential for human-EMR interactions (*e.g.*, keeping grass mowed in developed areas) as well as measures to help protect individual snakes (*e.g.*, safe relocation methods).

### **National Environmental Policy Act Determination**

As required by NEPA, we previously evaluated potential impacts to the

human environment that could result from issuance of the requested permit for the EMR CCAA, and we do not foresee any significant impacts. We completed an Environmental Assessment and a Finding of No Significant Impact on a Proposal to Implement Candidate Conservation Agreements and Conservation Measures for Eastern Massasaugas in Illinois, Iowa, Michigan, Missouri, Ohio, and Wisconsin (see <http://www.fws.gov/midwest/angered/permits/enhancement/ccaa/index.html>). Participating in the EMR CCAA is strictly a voluntary action for landowners.

### Next Steps

We will evaluate the permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of the ESA, NEPA, and implementing regulations. If we determine that all requirements are met, we will sign the proposed CCAA and issue a permit under section 10(a)(1)(A) of the ESA to MDNR and MDMVA for take of EMR. We will not make our final decision until after the end of the 30-day public comment period, and we will fully consider all comments we receive during the public comment period.

### 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 comment, you should be aware that the entire comment, including your personal identifying information, may be made 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.

### 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 17.32), and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Dated: February 8, 2016.

**Lynn M. Lewis,**

*Assistant Regional Director, Ecological Services, Midwest Region.*

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**BILLING CODE 4333-15-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R8-ES-2016-N026;  
FXES1112080000-167-FF08ECAR00]

### Endangered and Threatened Wildlife and Plants; Incidental Take Permit Application; Proposed Low-Effect Habitat Conservation Plan and Associated Documents; City of Santee, California

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received an application from Mrs. Rita Cutri (applicant) for a 3-year incidental take permit for the threatened coastal California gnatcatcher pursuant to the Endangered Species Act of 1973, as amended (Act). We are requesting comments on the permit application and on the preliminary determination that the proposed Habitat Conservation Plan qualifies as a “low-effect” Habitat Conservation Plan, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. The basis for this determination is discussed in the environmental action statement (EAS) and the associated low-effect screening form, which are also available for public review.

**DATES:** Written comments should be received on or before March 24, 2016.

**ADDRESSES:** *Submitting Comments:* You may submit comments by one of the following methods:

- *U.S. Mail:* Field Supervisor, Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008.

- *Fax:* Field Supervisor, 760-431-9624.

*Obtaining Documents:* To request copies of the application, proposed HCP, and EAS, contact the Service immediately, by telephone at 760-431-9440 or by letter to the Carlsbad Fish and Wildlife Office (see **ADDRESSES**). Copies of the proposed HCP and EAS also are available for public inspection during regular business hours at the Carlsbad Fish and Wildlife Office (see **ADDRESSES**).

**FOR FURTHER INFORMATION CONTACT:** Ms. Karen Goebel, Assistant Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES**); telephone: 760-431-9440. If you use a telecommunications device for the deaf (TDD), please call the Federal

Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), have received an application from Ms. Rita Cutri (applicant) for a 3-year incidental take permit for one covered species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*, Act). The application addresses the potential “take” of the threatened coastal California gnatcatcher in the course of activities associated with the construction of the Cutri residential home project, in the City of Santee, San Diego County, California. A conservation program to avoid, minimize, and mitigate for project activities would be implemented as described in the proposed Habitat Conservation Plan (HCP) by the applicant.

We are requesting comments on the permit application and on the preliminary determination that the proposed HCP qualifies as a “low-effect” HCP, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. The basis for this determination is discussed in the environmental action statement (EAS) and associated low-effect screening form, which are also available for public review.

### Background

Section 9 of the Act and its implementing Federal regulations prohibit the “take” of animal species listed as endangered or threatened. Take is defined under the Act as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to 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 such as breeding, feeding, or sheltering (50 CFR 17.3). However, under section 10(a) of the Act, the Service 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. Regulations governing incidental take permits for threatened and endangered species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

The applicant requests a 3-year permit under section 10(a)(1)(B) of the Act. If we approve the permit, the applicant anticipates taking coastal California