

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R8-ES-2025-0143; FXES11140800000-256-FF08EVEN00]

Receipt of Incidental Take Permit Application and Draft Habitat Conservation Plan and Draft Environmental Assessment for the California Department of Parks and Recreation, Oceano Dunes District, San Luis Obispo County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the receipt of an application from California Department of Parks and Recreation (CDPR; applicant) for an incidental take permit (ITP) under the Endangered Species Act (ESA). The applicant requests the ITP to take federally listed species incidental to lawful activities at Pismo State Beach and Oceano Dunes State Vehicular Recreation Area, San Luis Obispo County, California. The activities are described in the draft habitat conservation plan (HCP) and associated draft environmental assessment (EA) for CDPR activities. The CDPR developed the draft HCP as part of their application for an ITP. The Service prepared a draft EA in accordance with the National Environmental Policy Act (NEPA) to

evaluate the potential effects to the natural and human environment resulting from issuing an ITP to CDPR. We are providing notice that the draft HCP and draft EA are both available for public review. We invite comment on these documents from the public and local, State, Tribal, and Federal agencies.

DATES: Please submit written comments on or before January 23, 2026.

ADDRESSES:

Obtaining documents: The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online at <https://www.regulations.gov> in Docket No. FWS-R8-ES-2025-0143.

Submitting comments: If you wish to submit comments on any of the documents, you may do so in writing by one of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R8-ES-2025-0143.
- *U.S. mail:* Public Comments Processing; Attn: Docket No. FWS-R8-ES-2025-0143; U.S. Fish and Wildlife Service; MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041-3803.

FOR FURTHER INFORMATION CONTACT:

Catherine Darst, Field Supervisor, by telephone at 805-644-1766, email at fw8venturaitp@fws.gov, or by U.S. mail at 2493 Portola Road, Suite B, Ventura, CA 93003. Individuals in the United States who are deaf, deafblind, hard of

hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the receipt of an application from the CDPR for an ITP under the Endangered Species Act 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take federally listed species incidental to CDPR's public use, recreation management, natural resources management, and park and beach management activities on 5,005 acres of Pismo State Beach and Oceano Dunes State Vehicular Recreation Area, in San Luis Obispo County, California. The CDPR developed the draft HCP as part of its application for an ITP under the ESA. The Service prepared a draft EA in accordance with NEPA (42 U.S.C. 4321 *et seq.*) to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to CDPR. We invite public comment on these documents.

Draft HCP Covered Species

The CDPR has developed a draft HCP that includes measures to mitigate and minimize impacts to the following 10 covered species and 2 proposed listed species:

Species	Listing information
<i>Federally Listed as Endangered:</i>	
California least tern (<i>Sterna antillarum browni</i>)	June 2, 1970 (35 FR 16047).
Tidewater goby (<i>Eucyclogobius newberryi</i>)	February 4, 1994 (59 FR 5494).
Gambel's watercress (<i>Rorippa gambelii</i>)	August 3, 1993 (58 FR 41378).
La Graciosa thistle (<i>Cirsium scariosum</i> var. <i>loncholepis</i>)	March 20, 2000 (65 FR 14888).
Marsh sandwort (<i>Arenaria paludicola</i>)	August 3, 1993 (58 FR 41378).
Nipomo Mesa lupine (<i>Lupinus nipomensis</i>)	March 20, 2000 (65 FR 14888).
<i>Federally Listed as Threatened:</i>	
Western snowy plover (<i>Charadrius nivosus nivosus</i>)	March 5, 1993 (58 FR 12864).
California red-legged frog (<i>Rana draytonii</i>)	May 23, 1996 (61 FR 25813).
<i>State Listed as Threatened:</i>	
Surf thistle (<i>Cirsium rothophilum</i>)	1990.
Beach spectaclepod (<i>Dithyrea maritima</i>)	1990.
<i>Proposed federal listing</i>	
Southwestern pond turtle (<i>Actinemys pallida</i>)	2023 (88 FR 68370).
Western spadefoot (<i>Spea hammondi</i>)	2023 (88 FR 84252).

The ITP would authorize take of the four animal species (California least tern, tidewater goby, western snowy plover, and California red-legged frog) incidental to otherwise lawful activities associated with the HCP-covered activities. The draft HCP also includes minimization measures to reduce impacts on the two animal species that

have been proposed for listing. In the event these animals become listed, the ITP will be amended to authorize the take of these species as outlined in the HCP.

Background

Section 9 of the ESA prohibits the take of fish or wildlife species listed as

endangered. As applicable to the species affected by the proposed action, the ESA implementing regulations also prohibit take of fish or wildlife species listed as threatened. "Take" is defined under the ESA to include the following activities: "[T]o 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); however, under section 10(a)(1)(B) of the ESA, we may issue permits to authorize incidental take of listed species.

“Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are in the Code of Federal Regulations (CFR) at 50 CFR 17.32 and 17.22, respectively. Under the ESA, protections for federally listed plants differ from the protections afforded to federally listed animals. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species. The permittees would receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)) regarding conservation activities for the covered species.

Proposed Activities

The CDPR has applied for an ITP that would authorize incidental take of the four covered animal species that could result from covered activities described in the HCP. The covered area comprises 5,005 acres of Pismo State Beach and Oceano Dunes State Vehicular Recreation Area. The covered area includes designated critical habitat for the western snowy plover, tidewater goby, and La Graciosa thistle. The HCP describes measures CDPR will implement to avoid and minimize impacts and take of the covered species. Mitigation for unavoidable take would be accomplished through CDPR’s existing conservation program and through meeting the biological goals and objectives outlined in the HCP. The conservation program is designed to protect and promote recovery of covered species, including managing habitat components to benefit covered species, minimizing human alteration or disturbance of native habitats, reducing conflicts between covered species and park users, restoring native habitats, and monitoring the success of these efforts.

Alternatives

We are considering four alternatives in the draft EA:

(1) The no action alternative, which would not result in issuance of an ITP for ongoing activities;

(2) The proposed action would be issuance of an ITP based on the activities described in draft HCP, including reduction of the existing protected area boundary (“southern enclosure”) for the California least tern and western snowy plover if the species’ meet biological targets;

(3) Issuance of an ITP based on the draft HCP maintaining the existing “southern enclosure” boundary; and
(4) Issuance of an ITP based on the draft HCP with year-round enclosures.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, 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 view, we cannot guarantee that we will be able to do so.

Next Steps

The Service will evaluate the application and the comments received to determine whether to issue the requested ITP. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue an ITP to the applicant.

Authority

We provide this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 50 CFR 17.32), and NEPA (42 U.S.C. 4321 *et seq.*).

Catherine Darst,

Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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HEARTH Act Approval of Shivwits Band of Paiutes Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Assistant Secretary—Indian Affairs approved the Shivwits Band of Paiutes (listed as Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes))

Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into agriculture, business, residential, public, religious, educational, and recreational leases without further Secretary of the Interior approval.

DATES: The Assistant Secretary—Indian Affairs issued the approval on September 26, 2025.

FOR FURTHER INFORMATION CONTACT: Ms. Carla Clark, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, carla.clark@bia.gov, (702) 484–3233.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into leases of Tribal trust lands, for various uses, for a primary term of 25 years and, in some cases, up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious, or educational purposes for a primary term of up to 75 years without the approval of the Secretary.

Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary’s approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior’s (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes).

II. Federal Preemption of State and Local Taxes

The Department’s regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests,