

underground. They inhabit caves and mesocaverns (humanly impassable voids in karst limestone) in Bexar County, Texas. They are characterized by small or absent eyes and pale coloration. These species are *Rhadine exilis*, *Rhadine infernalis*, *Batrises ventyvi*, *Texella cokendolpheri*, *Neoleptoneta microps*, *Cicurina baroni*, *Cicurina madla*, *Cicurina venii*, and *Cicurina vespera*.

The draft recovery plan includes scientific information about the species and provides objectives and actions needed to recover the Bexar County karst invertebrates and to ultimately remove them from the list of threatened and endangered species. Recovery actions designed to achieve these objectives include reducing threats to the species by securing an adequate quantity and quality of habitat. This includes selecting caves or cave clusters that represent the range of the species and potential genetic diversity for the nine species, then preserving these karst habitats by preserving their drainage basins and surface communities upon which they rely. Because many aspects of the population dynamics and habitat requirements of the species are poorly understood, recovery is also dependant on incorporating research findings into adaptive management actions. Because four of these species are known to occur in only one cave, full recovery may not be possible for these species.

#### Public Comments

To comment on the plan, please mail comments to the Field Supervisor, Attention Draft Bexar County Karst Invertebrate Recovery Plan, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758. You may also submit comments electronically to [BexarKlrecplan@fws.gov](mailto:BexarKlrecplan@fws.gov) or fax to 512-490-0974.

#### Public Availability of Comments

Before including your address, phone number, e-mail 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 we will try to honor your written request to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: April 24, 2008.

**Christopher T. Jones,**

*Acting Regional Director, Region 2.*

[FR Doc. E8-10996 Filed 5-15-08; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R8-ES-2008-N0082; 1112-0000-81420-F2]

#### East Bay Municipal Utility District Habitat Conservation Plan, East Bay Watershed Lands, Alameda and Contra Costa Counties, CA

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

**ACTION:** Notice of availability: Proposed low-effect habitat conservation plan; request for comment.

**SUMMARY:** The East Bay Municipal Utility District, Oakland (EBMUD or applicant) has applied to the Fish and Wildlife Service (Service) for a 30-year incidental take permit for seven species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). The application addresses the potential for "take" of two listed animals, two listed plants, and three currently unlisted species. The applicant would implement a conservation program to minimize and mitigate the project activities, as described in the East Bay Municipal Utility District Low-Effect East Bay Habitat Conservation Plan (plan). We request comments on the applicant's application and plan, and the preliminary determination that the plan qualifies as a "low-effect" habitat conservation plan, eligible for a Categorical Exclusion under the National Environmental Policy Act of 1969, as amended (NEPA). We discuss our basis for this determination in our Environmental Action Statement (EAS), which is also available for public review.

**DATES:** We must receive written comments on or before June 16, 2008.

**ADDRESSES:** Please address written comments to Sheila Larsen, Conservation Planning Branch, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, CA 95825. Alternatively, you may send comments by facsimile to (916) 414-6713.

**FOR FURTHER INFORMATION CONTACT:** Sheila Larsen, or Eric Tattersall, Branch Chief, Conservation Planning Branch, at the address shown above or at 916-414-6600 (telephone).

## SUPPLEMENTARY INFORMATION:

### Availability of Documents

Copies of the permit application, plan, and EAS can be obtained from the individuals named above (see **FOR FURTHER INFORMATION CONTACT**). Copies of these documents are available for public inspection, by appointment, during regular business hours, at the Sacramento Fish and Wildlife Office (see **ADDRESSES**). Documents also are available for public inspection, during regular business hours, at the East Bay Municipal Utility District, Orinda, Natural Resources Department, 500 San Pablo Dam Road, Orinda, CA 94563.

### Public Availability of Comments

Before including your address, phone number, e-mail 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 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.

### Background Information

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing Federal regulations prohibit the "take" of fish or wildlife species listed as endangered or threatened. "Take" is defined under the Act to include the following activities: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or to attempt to engage in such conduct. However, under section 10(a)(1)(B) of the Act, we 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 endangered and threatened species, respectively, are in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Although take of listed plant species is not prohibited under the Act, and therefore cannot be authorized under an incidental take permit, plant species may be included on a permit in recognition of the conservation benefits provided to them under a habitat conservation plan. All species included on the incidental take permit would receive assurances under the Services' "No Surprises" regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

The applicant seeks an incident take permit for covered activities within 28,200 acres of watershed lands owned

by EBMUD located in Contra Costa and Alameda Counties, California. EBMUD is requesting permits for take of two federally listed animal species, both listed as threatened: California red-legged frog (*Rana aurora draytonii*) and Alameda whipsnake (*Masticophis lateralis euryxanthus*). The two federally listed plant species, both listed as threatened, are Santa Cruz tarplant (*Holocarpha macradenia*) and pallid manzanita (*Arctostaphylos pallida*). The proposed covered species also include three wildlife species that are not currently listed under the Act—western pond turtle (*Clemmys marmorata*), pallid bat (*Antrozous pallidus*), and an unlisted resident population of rainbow trout (*O. mykiss*)—should these species be listed during the life of the permit. These rainbow trout are genetically identical to steelhead, a fish species federally listed as threatened. However, these trout are landlocked above Upper San Leandro Dam, and are considered rainbow trout, not steelhead. Collectively, all of these species are referred to as “covered species” in the plan.

EBMUD owns and manages watershed lands in Alameda and Contra Costa Counties, located in the San Francisco Bay Area of California. These lands surround five reservoirs (Briones, San Pablo, Upper San Leandro, Chabot, and Lafayette) and a portion of one basin that does not have a reservoir (Pinole Valley). EBMUD reservoirs store drinking water and emergency water supplies for 1.3 million people residing in Alameda and Contra Costa Counties.

Covered activities include the following watershed management and maintenance activities: A biodiversity program; forestry program; livestock grazing; agricultural operations; fire and fuels management; a trench spoils storage and removal program for the north and south watershed areas; maintenance activities related to recreational activities; and permitted watershed access on fire roads and designated trails. The implementation of mitigation measures such as creek restoration activities are also included as covered activities. The covered activities are described more fully in the plan, and additional information on EBMUD management activities can be found in their East Bay Watershed Master Plan, Fire Management Plan, and EBMUD's Range Resource Management Plan. EBMUD's watershed planning documents are available at this link: [http://www.ebmud.com/water\\_&\\_environment/environmental\\_protection/](http://www.ebmud.com/water_&_environment/environmental_protection/).

The applicant proposes to avoid, minimize, and mitigate the effects to the covered species associated with the covered activities by fully implementing the plan. To minimize and mitigate the impacts of the covered activities, the applicant will continue ongoing conservation activities and develop additional measures for the further protection of covered species, if necessary. Minimization measures will include, but are not limited to, seasonal restrictions on when work may be conducted, preconstruction surveys, and temporary removal of covered species from work areas. General mitigation measures will include restoration of disturbed habitat, improved grazing practices, maintenance of stockponds for California red-legged frogs and western pond turtles, riparian restoration, and conversion of non-native forests to native species.

Santa Cruz tarplant is represented by a single experimental population that has not been observed for 10 years. It will be adaptively managed to encourage the re-establishment of this fire-adapted species. Pallid manzanita will not be affected by covered activities, but competition with other species will be reduced through pruning of nearby vegetation. Rainbow trout habitat will be improved through revegetation of affected areas and fencing of creek corridors, and placement of spawning gravel to provide substrate if no spawning is observed on EBMUD lands. Coastal scrub that provides habitat for Alameda whipsnakes will be allowed to encroach into grassland so that the overall amount of this vegetation community does not vary by more than 1 percent due to covered activities. Mitigation measures for pallid bat include maintenance of moderate grazing levels; education of grazing lessees, signage on the known habitat, and installation of bat boxes adjacent to the currently used site.

### Alternatives

The Service's proposed action consists approving the applicant's plan and issuance of an incidental take permit for the applicant's Covered Activities. As required by the Act, the applicant's plan considers alternatives to the take under the proposed action. The plan considers the environmental consequences of one alternative to the proposed action, the No Action alternative. Under the No Action Alternative, no permit would be issued and projects would be reviewed and permitted on an individual basis. The

proposed action alternative consists of issuance of the incidental take permit for the applicant's proposed project, which includes the activities described above.

### National Environmental Policy Act

As described in our EAS, we have made the preliminary determination that approval of the proposed plan and issuance of the permit would qualify as a categorical exclusion under NEPA, as provided by Federal regulations (40 CFR 1500.5(k), 1507.3(b)(2), 1508.4) and the Department of the Interior Manual (516 DM 2 and 516 DM 8). Our EAS found that the proposed plan qualifies as a “low-effect” habitat conservation plan, as defined by the Service's Habitat Conservation Planning Handbook (November 1996). Determination of low-effect habitat conservation plans is based on the following three criteria: (1) Implementation of the proposed plan would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the proposed plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the plan, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant. Based upon the preliminary determinations in the EAS, we do not intend to prepare further NEPA documentation. We will consider public comments when making the final determination on whether to prepare an additional NEPA document on the proposed action.

We provide this notice pursuant to section 10(c) of the Act and the NEPA public-involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We will evaluate the permit application, including the plan, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If the requirements are met, we will issue a permit to the applicant for the incidental take of the California red-legged frog, Alameda whipsnake, western pond turtle, pallid bat, rainbow trout, Santa Cruz tarplant, and pallid manzanita, from the implementation of the covered activities described in the plan, or from mitigation conducted as part of this plan. We will make the final permit decision no sooner than 30 days after the date of this notice.

Dated: May 12, 2008.

**Susan K. Moore,**

*Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California.*

[FR Doc. E8-10994 Filed 5-15-08; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R2-ES-2008-N0086; 20124-11120000-F2]

#### Regional Habitat Conservation Plan, Hays County, TX

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

**ACTION:** Notice of intent to prepare an environmental impact statement; announcement of public scoping meeting; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), advise the public that we intend to prepare an Environmental Impact Statement (EIS) to evaluate the impacts of, and alternatives to, the proposed issuance of an Incidental Take Permit (ITP) under the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) to Hays County, Texas (Applicant). We also announce a public scoping meeting and public comment period.

**DATES:** We must receive written comments on alternatives and issues to be addressed in the EIS by July 18, 2008. We will hold a public scoping meeting on June 18, 2008, from 5:30 p.m. to 8:30 p.m. at the San Marcos Activity Center, 501 E. Hopkins Road, San Marcos, TX 78666.

**ADDRESSES:** Send your comments or request for information by any one of the following methods:

- *U.S. mail:* Field Supervisor, Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758.
- *Facsimile:* 512-490-0974.
- *E-mail:* [info@hayscountyhcp.com](mailto:info@hayscountyhcp.com).

#### FOR FURTHER INFORMATION CONTACT:

- *EIS Information:* Ms. Allison Arnold, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758; 512-490-0057 (phone); 512-490-0974 (fax); or [Allison\\_Arnold@fws.gov](mailto:Allison_Arnold@fws.gov) (e-mail).
- *Hays County RHCP Information:* County Judge Liz Sumter, 111 E. San Antonio St., Suite 300, San Marcos, TX 78666; 512-393-2205 (phone); or 512-393-2282 (fax).

- *Other Information:* You may obtain additional information on the Hays County RHCP on the Internet at <http://www.hayscountyhcp.com>.

**SUPPLEMENTARY INFORMATION:** We intend to prepare an EIS to evaluate the impacts of, and alternatives to, the proposed issuance of an ITP under the Act, to the Applicant. We also announce a public scoping meeting and public comment period. The Applicant proposes to apply for an ITP supported by development and implementation of the Hays County Regional Habitat Conservation Plan (RHCP). The Hays County RHCP will include measures necessary to minimize and mitigate the impacts of the proposed taking on the federally-listed species. We furnish this notice in compliance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), and its implementing regulations (40 CFR 1500-1508), in order to: (1) Advise other Federal and state agencies, affected tribes, and the public of our intent to prepare an EIS; (2) announce the initiation of a public scoping period; and (3) obtain suggestions and information on the scope of issues and alternatives we will consider in our EIS. We intend to gather the information necessary to determine impacts and alternatives for an EIS regarding our potential issuance of an ITP to the Applicant, and the implementation of the Hays County RHCP.

#### Purpose and Need for Action

Section 9 of the Act and its implementing regulations prohibit take of species listed under the Act as endangered or threatened. The definition of "take" under the Act includes the following activities: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or attempt to engage in any such conduct (16 U.S.C. 1538). Regulations define "harm" as significant habitat modification or degradation that results in actual death or injury to the listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

Section 10(a)(1)(B) of the Act requires us to issue ITPs to non-Federal entities for take of endangered and threatened species, provided the following criteria are met: (1) The taking will be incidental; (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking; (3) the applicant will develop a habitat conservation plan 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 applicant will carry out any other measures that we may require as being necessary or

appropriate for the purposes of the habitat conservation plan.

We anticipate that under the ITP, the Applicant will request coverage for a period of 30 years from the date of the RHCP approval. Implementation of the Hays County RHCP would result in the establishment of preserves intended to provide for the conservation of the covered species occupying those preserves. Research, monitoring, and adaptive management would be used to facilitate accomplishment of these goals.

#### Proposed Action

The proposed action is the issuance of an ITP for the covered species in Hays County. The Applicant would develop and implement the Hays County RHCP, which must meet the requirements in section 10(a)(2)(A) of the Act by providing measures necessary to minimize and mitigate the impacts of the proposed taking on the covered species.

Activities proposed for coverage under the ITP include otherwise lawful activities that would occur consistent with the Hays County RHCP and include, but are not limited to, construction and maintenance of public projects and infrastructure as well as residential, commercial, and industrial development.

Species the Applicant has recommended for inclusion as covered species in the Hays County RHCP include the golden-cheeked warbler (*Dendroica chrysoparia*) and black-capped vireo (*Vireo atricapilla*). For these covered species, Hays County would seek incidental take authorization. The Hays County RHCP would also address 40 "evaluation species" (39 terrestrial or aquatic karst species and the Cagle's map turtle (*Graptemys caglei*)) and 15 "additional species" (6 listed aquatic species, 3 unlisted plants, and 6 unlisted surface aquatic species). Incidental take authorization for the evaluation species may become necessary to include in the proposed ITP over the term of the Hays County RHCP; however, these species will not be initially included as "covered" species. Evaluation species may be currently unlisted, but could become listed in the foreseeable future. The Hays County RHCP may include conservation measures to benefit evaluation species, where practicable, and support research to help fill data gaps regarding the biology, habitat, distribution, or management of these species. The research supported by the RHCP may aid in the conservation of these species or facilitate obtaining incidental take coverage, if these species become listed in the future. For the 15