

Dated: July 17, 2013.

**Richard R. Hannan,**

*Acting Regional Director, Pacific Region, U.S. Fish and Wildlife Service.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R8-ES-2013-N133; FF08E00000-FXES1112080000F2-123-F2]

#### **Draft Environmental Assessment and Proposed Cross Valley Transmission Line Habitat Conservation Plan, Tulare County, California**

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

**ACTION:** Notice of availability; receipt of permit application, draft environmental assessment, proposed habitat conservation plan; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have prepared a draft environmental assessment (EA) under the National Environmental Policy Act of 1969, as amended (NEPA), in response to an application from Southern California Edison (the Applicant) for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application addresses the proposed incidental take (take) of 13 proposed Covered Species within a 3,385-acre Permit Area during a proposed permit term of 30 years. The Applicant has prepared the draft Cross Valley Transmission Line Habitat Conservation Plan (Cross Valley Line HCP) (HCP) to describe and implement a conservation plan that will minimize and mitigate environmental effects associated with the construction, operation, and maintenance of the Cross Valley Loop Transmission Line, an electrical transmission project in central Tulare County, California. We also announce a 45-day public comment period on the permit application, including the draft EA and the proposed HCP. We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party.

**DATES:** To ensure consideration, please send your written comments by September 9, 2013.

**ADDRESSES:** Please address written comments to Nina Bicknese, Senior Fish and Wildlife Biologist, 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:**

Mike Thomas, Chief, Conservation Planning Division, or Eric Tattersall, Deputy Assistant Field Supervisor, at the address shown above or at (916) 414-6600 (telephone). If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** We publish this notice under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347 *et seq.*; NEPA), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1500-1508, as well as in compliance with section 10(c) of the Endangered Species Act (16 U.S.C. 1531-1544 *et seq.*; Act).

#### **Availability of Documents**

You may obtain copies of the draft EA, the draft HCP, and the permit application from the individuals in **FOR FURTHER INFORMATION CONTACT**, or from the Sacramento Fish and Wildlife Office Web site at <http://www.fws.gov/sacramento>. Copies of these documents are also available for public inspection, by appointment, during regular business hours, at the Sacramento Fish and Wildlife Office (see **ADDRESSES**).

#### **Background Information**

Section 9 of the Act (16 U.S.C. 1531-1544 *et seq.*) and Federal regulations prohibit the taking of fish and wildlife species listed as endangered or threatened under section 4 of the Act. Take of federally listed fish or wildlife is defined under the Act as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct. The term "harass" is defined in the regulations as to carry out actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). The term "harm" is defined in the regulations as significant habitat modification or degradation that results in death or injury of listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). However, under specified circumstances, the Service may issue permits that allow the take of federally listed species, provided that the take that occurs is incidental to, but not the purpose of, an otherwise lawful activity. Regulations governing

permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. Section 10(a)(1)(B) of the Act contains provisions for issuing such incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

1. The taking will be incidental;
2. The applicants will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
3. The applicants will develop a proposed HCP and ensure that adequate funding for the HCP 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 applicants will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

The draft HCP addresses, and the Applicant seeks incidental take authorization for, 13 species, including 10 animal species (4 federally endangered, 3 federally threatened, and 3 unlisted) and 3 plant species (2 federally threatened, 1 unlisted). The proposed permit would provide take authorization for all species identified in the draft HCP as a Covered Species. Take authorized for listed Covered Species would be effective upon permit issuance. Take authorization for currently unlisted Covered Species would become effective concurrent with listing, should the species be listed under the Act during the proposed 30-year Permit Term.

The proposed ITP would include the following nine federally listed species: the threatened vernal pool fairy shrimp (*Branchinecta lynchi*), the endangered vernal pool tadpole shrimp (*Lepidurus packardii*), the threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), the threatened California tiger salamander (*Ambystoma californiense*), the endangered southwestern willow flycatcher (*Empidonax traillii extimus*), the endangered least Bell's vireo (*Vireo bellii pusillus*), the endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the threatened Hoover's spurge (*Chamaesyce hooveri*), and the threatened San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*). The unlisted species proposed for coverage under the draft HCP are the western spadefoot toad (*Spea hammondi*), the burrowing owl (*Athene cunicularia*), the little willow flycatcher (*Empidonax traillii brewsteri*), and the spiny-sepaled button-celery (*Eryngium spinosepalum*).

Implementation of Covered Activities described in the proposed HCP would

construct a new 23-mile-long double-circuit 220 kV transmission line (including construction of 90 new 160-foot tubular-steel poles [TSPs] and 16 new 12-foot lattice steel towers [LSTs]); preparation of temporary work areas to allow for equipment access, use, and staging during construction; access road construction; improvements to existing access roads; use of existing laydown yards; and activities associated with future operation and maintenance of the new transmission line.

Specifically, the Applicant is requesting coverage for incidental take resulting from the following seven categories of construction Covered Activities:

- (1) operation and restoration of existing laydown yards;
- (2) construction of new dirt access roads;
- (3) improvement and repair of existing access roads;
- (4) construction of transmission line structures (TSPs and LSTs);
- (5) stringing of electrical conductors (electrical wires) and the optical ground wire on the transmission line structures;
- (6) installation of Storm Water Pollution Prevention Plan best management practices; and
- (7) implementation of avoidance and minimization measures.

In addition, the Applicant is also requesting coverage for incidental take resulting from the following 13 categories of operation and maintenance Covered Activities that will be implemented over the proposed 30-year Permit term:

- (1) the aerial inspections of the operational Cross Valley Loop Transmission Line using helicopters or fixed-wing aircraft;
- (2) routine transmission line ground patrols;
- (3) optical ground wire testing;
- (4) minor and major repairs to TSPs and LSTs;
- (5) minor and major repairs or replacement of conductors and the optical ground wire;
- (6) insulator washing;
- (7) replacement of one TSP or one LST structure;
- (8) repair/replacement of bird flight diverters;
- (9) access road maintenance;
- (10) access road drainage-structure maintenance or replacement;
- (11) installation of Storm Water Pollution Prevention Plan best management practices during maintenance actions;
- (12) tree pruning for vegetation management; and
- (13) brush and weed abatement for vegetation management.

The proposed Covered Activities would result in the permanent or temporary disturbance of up to 199 acres of existing landcover within the proposed 3,385-acre Permit Area. The proposed Permit Area comprises natural and anthropomorphic landcover types, including annual grassland, vernal pools, riparian woodland, agricultural fields, orchards, vineyards, irrigated pastures, urban developments, and rural residential developments. Covered Activity impacts to existing landcover types were used as a surrogate to identify maximum potential impacts to species-suitable habitat and the potential take of each Covered Species. The proposed HCP conservation strategy prescribes conditions for implementing each Covered Activity that avoid or minimize potential take of the Covered Species, and identifies compensatory mitigation for species effects that cannot be avoided.

#### **National Environmental Policy Act Compliance**

Our proposed permit issuance decision triggers compliance with NEPA, which requires that environmental information be available to public officials and citizens before Federal decisions are made and before Federal actions are taken. We prepared the draft EA to inform the public of the proposed HCP; our proposed permit action; alternatives to that action; the environmental impacts of the alternatives including the proposed action; any adverse environmental effects that cannot be avoided; any irreversible commitments of resources, and to address comments received during early public scoping efforts.

#### **Alternatives in the Draft Environmental Assessment**

The Service is providing notice of the availability of our draft EA, which evaluates the impacts of the Proposed Action Alternative as well as a No Action Alternative.

*No Action Alternative:* Under the No Action Alternative, we would not issue an incidental take permit to the Applicant, the Applicant would not implement an HCP, and the Cross Valley Loop Transmission Line could not be constructed. The No Action Alternative would not address the Applicant's underlying electrical needs or existing substation electrical-overload problems, and would not achieve the Applicant's objectives in proposing a Cross Valley Loop Transmission Line.

*Proposed Action Alternative:* Under the Proposed Action Alternative, we would issue an incidental take permit for the Applicant's proposed HCP,

which includes the Covered Activities and the conservation measures described above in Background Information, and described with more detail in the Applicant's Cross Valley Line HCP document.

*Other Action Alternatives:* Under Department of the Interior regulations for implementation of NEPA (43 CFR Part 46), when there are no unresolved conflicts about a proposed action with respect to alternative uses of the available resources, an environmental assessment need only consider the proposed action, and does not need to consider additional action alternatives, pursuant to section 102(2)(E) of NEPA. The Service has determined that the Proposed Action under consideration meets these requirements. Consequently, no additional action alternatives are analyzed in our draft EA.

#### **Public Comments**

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice. We particularly seek comments on the following:

1. Biological information concerning the species;
2. Relevant data concerning the species;
3. Additional information concerning the range, distribution, population size, and population trends of the species;
4. Current or planned activities in the subject area and their possible impacts on the species;
5. The presence of archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns, which are required to be considered in project planning by the National Historic Preservation Act; and
6. Identification of any other environmental issues that should be considered with regard to the proposed transmission line and permit action.

You may submit your comments and materials by one of the methods listed above in **ADDRESSES**. Comments and materials we receive, as well as supporting documentation we used in preparing the EA document, will be available for public inspection by appointment, during normal business hours, at our office (see **FOR FURTHER INFORMATION CONTACT**).

#### **Public Availability of Comments**

Before including your address, phone number, or other personal identifying information in your comment, you should be aware that your entire

comment—including your personal identifying information—might 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.

#### Authority

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).

#### Next Steps

We will evaluate the permit application, including the Applicant's HCP, and comments we receive 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 13 Covered Species from the implementation of the Covered Activities described in the Cross Valley Line HCP. We will make the final permit decision no sooner than September 23, 2013.

Dated: July 17, 2013.

**Alexandra Pitts,**

*Regional Director, Pacific Southwest Region, Sacramento, California.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R1-ES-2013-N137;  
FXES11130100000D2-134-FF01E00000]

#### Experimental Removal of Barred Owls To Benefit Threatened Northern Spotted Owls; Final Environmental Impact Statement

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

**ACTION:** Notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of the final environmental impact statement (Final EIS) for experimental removal of barred owls to benefit threatened northern spotted owls. The barred owl, a species recently established in western North America, is displacing the northern spotted owl and threatening its viability. The Final EIS analyzes a no-action alternative and eight action alternatives to experimentally determine if removing barred owls will benefit northern spotted owl populations and to test the feasibility and efficiency of barred owl removal as a management tool. The

action alternatives vary by the number and location of study areas, the type of experimental design, duration of study, and method of barred owl removal.

**ADDRESSES:** The Final EIS is available at:

- U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 2600 SE 98th Ave., Suite 100, Portland, OR 97266; telephone 503-231-6179.

- Internet: <http://www.fws.gov/oregonfwo>.

**FOR FURTHER INFORMATION CONTACT:** Paul Henson, State Supervisor, Oregon Fish and Wildlife Office, at 503-231-6179. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

We, the U.S. Fish and Wildlife Service (Service), announce the availability of the Final EIS for experimental removal of barred owls to benefit threatened northern spotted owls. We are publishing this notice in compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*; NEPA) and its implementing regulations at 40 CFR 1506.6. The Final EIS evaluates the impacts of eight action alternatives and a no-action alternative related to: (1) Federal involvement in barred owl removal experiments, and (2) the possible issuance of one or more scientific collecting permits under the Migratory Bird Treaty Act (16 U.S.C. 703-712; MBTA) for lethal and nonlethal take of barred owls.

The northern spotted owl (*Strix occidentalis caurina*) is listed as threatened under the Endangered Species Act (16 U.S.C. 1531 *et seq.*; Act). Competition from barred owls (*Strix varia*) is identified as one of the main threats to the northern spotted owl in the 2011 *Revised Northern Spotted Owl Recovery Plan* (Recovery Plan) (USFWS 2011, p. III-62). To address this threat, the Recovery Plan recommends designing and implementing large-scale controlled experiments to assess the effects of barred owl removal on spotted owl site occupancy, reproduction, and survival (USFWS 2011, p. III-65). The study would be conducted on from one to several study areas in western Washington, western Oregon, and northwestern California. The action alternatives vary by the number and location of study areas, the type of experimental design, duration of the study, and the method of barred owl removal.

## Background

The Service listed the northern spotted owl as a threatened species under the Act in 1990, based primarily on habitat loss and degradation (55 FR 26114). As a result, conservation efforts for the northern spotted owl have been largely focused on habitat protection. While our listing rule noted that the long-term impact of barred owls on the spotted owl was of considerable concern, the scope and severity of this threat was largely unknown at that time (55 FR 26114, p. 26190). The Recovery Plan summarized information available since our listing rule and found that competition from barred owls now poses a significant and immediate threat to the northern spotted owl throughout its range (USFWS 2011, pp. B-10 through B-12).

Historically, the barred owl and northern spotted owl did not co-occur. In the past century, barred owls have expanded their range westward, reaching the range of the northern spotted owl in British Columbia by about 1959. Barred owl populations continue to expand southward within the range of the northern spotted owl, the population of barred owls behind the expansion-front continues to increase, and barred owls now outnumber spotted owls in many portions of the northern spotted owl's range (Pearson and Livezey 2003, p. 272).

There is strong evidence to indicate that barred owls are negatively affecting northern spotted owl populations. Barred owls displace spotted owls from high-quality habitat (Kelley *et al.* 2003, p. 51; Pearson and Livezey 2003, p. 274; Courtney *et al.*, pp. 7-27 through 7-31; Gremel 2005, pp. 9, 11, 17; Hamer *et al.* 2007, p. 764; Dugger *et al.* 2011, pp. 2464-2466), reducing their survival and reproduction (Olson *et al.* 2004, p. 1048; Anthony *et al.* 2006, p. 32; Forsman *et al.* 2011, pp. 41-43, 69-70). In addition, barred owls may physically attack spotted owls (Gutierrez *et al.* 2007, p. 187). These effects may help explain declines in northern spotted owl territory occupancy associated with barred owls in Oregon, and reduced northern spotted owl survivorship and sharp population declines in Washington (e.g., in northern Washington, spotted owl populations declined by as much as 55 percent between 1996 and 2006) (Anthony *et al.* 2006, pp. 21, 30, 32; Forsman *et al.* 2011, pp. 43-47, 65-66)). Without management intervention, it is reasonable to expect that competition from barred owls may cause extirpation of the northern spotted owl from all or