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Dated: October 4, 2006.

**Cynthia K. Dohner,**

*Acting Regional Director.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Preparation of an Environmental Impact Statement for Issuance of an Incidental Take Permit Associated With a Habitat Conservation Plan for Pacific Gas & Electric Company's Operation, Maintenance, and Minor New Construction Activities in the San Francisco Bay Area, California

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

**ACTION:** Notice of intent.

**SUMMARY:** Pursuant to the National Environmental Policy Act (NEPA), we, the Fish and Wildlife Service (Service) are issuing this notice to advise the public that we intend to gather information necessary to prepare, in coordination with the California Department of Fish and Game (DFG), and Pacific Gas & Electric Company (PG&E), a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the PG&E San Francisco Bay Area Operations, Maintenance, and Construction Program (Plan). The Plan is being prepared under Section 10(a)(1)(B) of the Federal Endangered Species Act of 1973, as amended, (Act). PG&E intends to request a permit to cover 66 species federally listed as threatened or endangered and 23 unlisted species that may become listed during the term of the permit. The permit is needed to authorize take of listed species that could occur as a result of implementation activities covered under the Plan.

The Service provides this notice to: (1) Describe the proposed action and possible alternatives; (2) advise other Federal and State agencies, affected Tribes, and the public of our intent to prepare an EIS/EIR; (3) announce the initiation of a public scoping period; and (4) obtain suggestions and information on the scope of issues and alternatives to be included in the EIS/EIR.

**DATE:** Written comments should be received on or before December 7, 2006. Three public meetings will be held on:

1. Tuesday, November 14, 2006 from 4 p.m. to 6 p.m., Petaluma, CA.
2. Wednesday, November 15, 2006 from 10 a.m. to 12 p.m., Santa Clara, CA.
3. Wednesday, November 15, 2006 from 4 p.m. to 6 p.m., Walnut Creek, CA.

**ADDRESSES:** The public meetings will be held at the following locations:

1. Tuesday, November 14, 2006, at the Petaluma Community Center, 320 North McDowell Boulevard, Petaluma, CA 94954.
2. Wednesday, November 15, 2006, at the Santa Clara City Hall-Council Chambers, 1500 Warburton Avenue, Santa Clara, CA 95050.
3. Wednesday November 15, 2006, at the Walnut Creek Public Library-Ygnacio Valley, 2661 Oak Grove Road, Walnut Creek, CA 94598.

Information, written comments, or questions related to the preparation of the EIS/EIR and NEPA process should be submitted to Lori Rinek, Chief, Conservation Planning and Recovery Division, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, California 95825; FAX 916-414-6713.

#### FOR FURTHER INFORMATION CONTACT:

Sheila Larsen, Fish and Wildlife Biologist, or Lori Rinek, Division Chief, Conservation Planning and Recovery Division, at the Sacramento Fish and Wildlife Office at 916-414-6600.

#### SUPPLEMENTARY INFORMATION:

##### Reasonable Accommodation

Persons needing reasonable accommodations in order to attend and participate in the public meeting should contact Lori Rinek at 916-414-6600 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

##### Background

Section 9 of the Act and Federal regulations prohibit the "take" of a fish and wildlife species listed as endangered or threatened. Under the Act, the following activities are defined as take: harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). However, under section 10(a) 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 permits for threatened species and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22.

Take of listed plant species is not prohibited under the Act and cannot be authorized under a section 10 permit. However, plant species may be included on a permit in recognition of conservation benefits provided for them under the Plan. All species included on the permit would receive assurances under the Service's "No Surprises" regulation 50 CFR 17.22(b)(5) and 17.32(b)(5).

Currently, PG&E intends to request a permit for 89 species under the Plan: 66 listed and 23 unlisted species (covered species). These include the endangered California freshwater shrimp (*Syncares pacifica*), Conservancy fairy shrimp (*Branchinecta conservatio*), vernal pool tadpole shrimp (*Lepidurus packardii*), longhorn fairy shrimp (*Branchinecta longiantenna*), mission blue butterfly (*Icaricia icarioides missionensis*), callippe silverspot butterfly (*Speyeria callippe callippe*), Behren's silverspot butterfly (*Speyeria zerene behrensii*), Myrtle's silverspot butterfly (*Speyeria zerene myrtleae*), Lange's metalmark butterfly (*Apodemia mormo langei*), San Bruno elfin butterfly (*Incisalia mossii bayensis*), San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), California clapper rail (*Rallus longirostris obsoletus*), California least tern (*Sterna antillarum browni*), salt marsh harvest mouse (*Reithrodontomys raviventris*), San Joaquin kit fox (*Vulpes macrotis mutica*), San Mateo thornmint (*Acanthomintha duttonii*), Sonoma alopecurus (*Alopecurus aequalis var. sonomensis*), marsh sandwort (*Arenaria paludicola*), Clara Hunt's milk-vetch (*Astragalus clarianus*), Baker's stickyseed = Sonoma sunshine (*Blennosperma bakeri*), white sedge (*Carex albida*), Tiburon paintbrush = Tiburon Indian paintbrush (*Castilleja affinis spp. neglecta*), Coyote ceanothus (*Ceanothus ferrisiae*), robust spineflower (*Chorizanthe robusta ssp. robusta*), fountain thistle (*Cirsium fontinale var. fontinale*), Presidio clarkia (*Clarkia franciscana*), Vine Hill clarkia (*Clarkia imbricata*), soft bird's-beak (*Cordylanthus mollis ssp. mollis*), palmate-bracted bird's-beak (*Cordylanthus palmatus*), Pennell's bird's-beak (*Cordylanthus tenuis ssp. capillaris*), Baker's larkspur (*Delphinium bakeri*), yellow larkspur (*Delphinium luteum*), Santa Clara Valley dudleya (*Dudleya setchellii*), San Mateo woolly sunflower (*Eriophyllum latilobum*), Loch Lomond coyote-thistle (*Eryngium constancei*), Contra Costa

wallflower (*Erysimum capitatum ssp. angustatum*), Burke's goldfields (*Lasthenia burkei*), Contra Costa goldfields (*Lasthenia conjugens*), beach layia (*Layia carnosa*), San Francisco lessingia (*Lessingia germanorum*), Pitkin Marsh lily (*Lilium pardalinum ssp. pitkinense*), Sebastopol meadowfoam (*Limnanthes vinculans*), clover lupine = Tidestrom's lupine (*Lupinus tidestromii*), many-flowered navarretia (*Navarretia leucocephala ssp. plieantha*), Antioch dunes evening primrose (*Oenothera deltoides ssp. howellii*), white-rayed pentachaeta (*Pentachaeta bellidiflora*), Calistoga allocarya = Calistoga popcorn-flower (*Plagiobothrys strictus*), Napa bluegrass (*Poa napensis*), Hickman's potentilla = Hickman's cinquefoil (*Potentilla hickmanii*), Kenwood Marsh checkermallow (*Sidalcea oregana ssp. valida*), Metcalf Canyon jewelflower (*Streptanthus albidus ssp. albidus*), Tiburon jewelflower (*Streptanthus niger*), California seablight (*Suaeda californica*), showy Indian clover (*Trifolium amoneum*), and Solano grass (*Tuctoria mucronata*); and the threatened vernal pool fairy shrimp (*Branchinecta lynchi*), bay checkerspot butterfly (*Euphydryas editha bayensis*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), Delta green ground beetle (*Elaphrus viridis*), California red-legged frog (*Rana aurora draytonii*), California tiger salamander (*Ambystoma californiense*), Alameda whipsnake (*Masticophis lateralis euryxanthus*), giant garter snake (*Thamnophis gigas*), bald eagle (*Haliaeetus leucocephalus*), northern spotted owl (*Strix occidentalis caurina*), marbled murrelet (*Brachyramphus marmoratus*), and Marin dwarf-flax = Marin western flax (*Hesperolinon congestum*); and their habitats.

The unlisted species proposed for coverage under the Plan include: golden eagle (*Aquila chrysaetos*), American peregrine falcon (*Falco peregrinus anatum*), Swainson's hawk (*Buteo swainsoni*), white-tailed (= black-shouldered) kite (*Elanus leucurus*), western burrowing owl (*Athene cunicularia hypugea*), California black rail (*Laterallus jamaicensis coturniculus*), purple martin (*Progne subis*), tricolored blackbird (*Agelaius tricolor*), San Francisco (= salt marsh) common yellowthroat (*Geothlypis trichas sinuosa*), Alameda (= South Bay) song sparrow (*Melospiza melodia pusillula*), Baker's manzanita (*Arctostaphylos bakeri ssp. bakeri*), Vine Hill manzanita (*Arctostaphylos densiflora*), San Bruno Mountain manzanita (*Arctostaphylos imbricata*),

Point Reyes stickseed = Point Reyes blennosperma (*Blennosperma nanum var. robustum*), Pitkin Marsh Indian paintbrush (*Castilleja uliginosa*), Geysers dichantheium (*Dichantheium lanuginosum var. thermale*), Boggs Lake hedge-hyssop (*Gratiola heterosepala*), Mason's lilaepsis (*Lilaeopsis masonii*), Point Reyes meadowfoam (*Limnanthes douglasii ssp. sulphurea*), Dudley's lousewort (*Pedicularis dudleyi*), San Francisco popcorn-flower (*Plagiobothrys diffusus*), North Coast semaphore grass (*Pleuropogon hooverianus*), and rock sanicle (*Sanicula saxatilis*). Species may be added or deleted during the course of Plan development based on further analysis, new information, agency consultation, and public comment.

The Plan area includes the network of PG&E facilities in nine Bay Area Counties (Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara, San Mateo, and San Francisco) and includes approximately 75,000 acres surrounding electric transmission facilities, 34,000 acres surrounding gas transmission facilities, and 500,000 acre areas surrounding electric and gas distribution facilities.

Activities that may be covered under the Plan include a variety of tasks associated with the operation, maintenance, and minor new construction of PG&E's gas and electric transmission and distribution system as mandated for public safety by the California Public Utilities Commission, the California Energy Commission, and the California Department of Transportation. More specifically, these activities may include: gas pipeline protection, recoating, repair and replacement; electric line protection, repair, reconductoring, and replacement; electric pole repair/replacement; vegetation management to maintain clearances around facilities; and minor construction for new gas and electric extensions. The Plan would not cover operation, maintenance, or construction of power generation facilities. Under the Plan, the effects on covered species of the covered activities are expected to be minimized and mitigated through participation in a conservation program, which will be fully described in the Plan. This conservation program would focus on providing long-term protection of covered species by protecting biological communities in the Plan area.

Components of this conservation program are now under consideration by the Service and PG&E. These components will likely include: avoidance and minimization measures, monitoring, adaptive management, and

mitigation measures consisting of preservation, restoration and enhancement of habitat. The Service anticipates that PG&E will request a permit duration of 30 years.

#### Environmental Impact Statement/ Report

PG&E and the Service have selected North State Resources to prepare the Draft EIS/EIR. The joint document will be prepared in compliance with NEPA and the California Environmental Quality Act (CEQA). Although North State Resources will prepare the EIS/EIR, the Service will be responsible for the scope and content of the document for NEPA purposes, and DFG will be responsible for the scope and content of the CEQA document, as the state lead agency pursuant to CEQA and the permitting entity pursuant to the California Endangered Species Act and Fish and Game Code 2081.

The EIS/EIR will consider the proposed action (i.e., the issuance of a section 10(a)(1)(B) permit under the Act), and a reasonable range of alternatives. A detailed description of the proposed action and alternatives will be included in the EIS/EIR. It is anticipated that several alternatives will be developed, which may vary by the level of conservation, impacts caused by the proposed activities, permit area, covered species, or a combination of these factors. Additionally, a No Action alternative will be considered. Under the No Action alternative, the Service would not issue a section 10(a)(1)(B) permit.

The EIS/EIR will also identify potentially significant impacts on land use and planning, agricultural resources, biological resources, aesthetics, geology and soils, water resources, cultural resources, transportation and circulation, noise and vibration, air quality, public health/ environmental hazards, recreation, environmental justice, socioeconomic, and other environmental issues that could occur directly or indirectly with implementation of the proposed action and alternatives. For all potentially significant impacts, the EIS/EIR will identify mitigation measures where feasible to reduce these impacts to a level below significance.

Environmental review of the EIS/EIR will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*), its implementing regulations (40 CFR 1500–1508), other applicable regulations, and Service procedures for compliance with those regulations. This notice is being furnished in accordance with 40 CFR 1501.7 of NEPA to obtain suggestions

and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS/EIR. The primary purpose of the scoping process is to identify important issues raised by the public, related to the proposed action. Written comments from interested parties are invited to ensure that the full range of issues related to the permit request are identified. Only written comments will be accepted at the public meeting.

In addition, you may submit written comments by mail or facsimile transmission (see **ADDRESSES**). Our practice is to make comments, including names, home addresses, home phone numbers, and e-mail addresses of respondents, available for public review. Individual respondents may request that we withhold their names and /or homes addresses, etc., but if you wish us to consider withholding this information you must state this prominently at the beginning of your comments. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organization or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Dated: October 27, 2006.

**Ken McDermond,**

*Deputy Manager, California/Nevada Operations Office, Sacramento, California.*  
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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**Receipt of 13 Applications for Incidental Take Permits for Residential Construction in Charlotte County, FL**

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

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

**SUMMARY:** We, the Fish and Wildlife Service (Service), announce the availability of incidental take permit (ITP) and Habitat Conservation Plan (HCP). Peter Famulari, Robert Lavelle, and Jeffrey Leonard (Applicants) each request ITPs pursuant to section 10(a)(1)(B) of the Endangered Species

Act of 1973, as amended (Act). The Applicants anticipate taking about 5.42 acres combined of Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) foraging and sheltering habitat incidental to lot preparation for the construction of 13 residential units and supporting infrastructure in Charlotte County, Florida (Project). The destruction of 5.42 acres of foraging and sheltering habitat is expected to result in the take of five families of scrub-jays. The Applicants' Habitat Conservation Plan (HCP) describes the mitigation and minimization measures proposed to address the effects of the Projects to the Florida scrub-jay.

**DATES:** Written comments on the ITP applications and HCP should be sent to the South Florida Ecological Services Office (see **ADDRESSES**) and should be received on or before December 7, 2006.

**ADDRESSES:** Persons wishing to review the applications and HCP may obtain a copy by writing the Service's South Florida Ecological Services Office. Please reference Deep Creek Batch HCP in such requests. Documents will also be available for public inspection by appointment during normal business hours at the South Florida Ecological Services Office, 1339 20th Street, Vero Beach, Florida 32960.

**FOR FURTHER INFORMATION CONTACT:** Ms. Trish Adams, Fish and Wildlife Biologist, South Florida Ecological Services Office, Vero Beach, Florida (see **ADDRESSES**), telephone: 772-562-3909, extension 232.

**SUPPLEMENTARY INFORMATION:** If you wish to comment, you may submit comments by any one of several methods. Please reference permit numbers TE136149-0, TE136150-0, TE136151-0, TE136153-0, TE136154-0, TE136155-0, TE136157-0, TE136158-0, TE136159-0, TE136160-0, TE136161-0, TE136162-0, and TE136163-0, in such comments. You may mail comments to the Service's South Florida Ecological Services Office (see **ADDRESSES**). You may also comment via the Internet to [trish\\_adams@fws.gov](mailto:trish_adams@fws.gov). Please also include your name and return address in your Internet message. If you do not receive a confirmation from us that we have received your Internet message, contact us directly at the telephone number listed under **FOR FURTHER INFORMATION CONTACT**. Finally, you may hand deliver comments to the Service office listed under **ADDRESSES**. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from

the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Residential construction for the Deep Creek Batch HCP will take place within Section 09, Township 40, Range 23, Punta Gorda, Charlotte County, Florida, on 13 lots. Each of these lots is within scrub-jay occupied habitat.

The lots combined encompass about 5.42 acres, and the footprint of the homes, infrastructure, and landscaping preclude retention of scrub-jay habitat on each of these respective lots. In order to minimize take on site, the Applicants propose to mitigate for the loss of 5.42 acre of scrub-jay habitat by contributing a total of \$392,390 to the Florida Scrub-jay Conservation Fund administered by The Nature Conservancy or acquisition of 10.83 acres of credit at a Service approved conservation bank. The Florida Scrub-jay Conservation Fund is earmarked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and/or management.

The Service has determined that the Applicants' proposals, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, the ITPs are "low-effect" projects and qualify as categorical exclusions under the National Environmental Policy Act (NEPA)(40 CFR 1506.6), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1). This preliminary information may be revised based on our review of public comments that we receive in response to this notice. Low-effect HCPs are those involving (1) minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

The Service will evaluate the HCP and comments submitted thereon to determine whether the applications meet the requirements of section 10(a) of the Act (16 U.S.C. 1531 et. seq.). If it