



Memorandum

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| To: | SBCCP Public Advisory Committee |
| CC: | SBCCP Planning Team |
| From: | Bernadette Clueit, ICF Arielle Goodspeed, County of San Benito |
| Date: | August 16, 2023 |
| Re: | San Benito County Conservation Plan Proposed Covered Species |

Background

The County of San Benito (County) has experienced significant growth in the past several years, with increases in population, annexation, and development activities that will also likely lead to the need for the construction, maintenance, and operation of new public infrastructure such as roads and landfills. The proximity of future development activities to the presence of sensitive species and their habitats increases the likelihood of new liabilities under the federal Endangered Species Act (ESA) and California Endangered Species Act (CESA). To address the potential need for regulatory compliance, the County is developing a multi-species Habitat Conservation Plan (HCP)/Natural Community Conservation Plan (NCCP), referred to as the San Benito County Conservation Plan (SBCCP or Plan), compliant with the ESA and the California Natural Community Conservation Planning Act (NCCP Act) of 2002 (as amended) to address and mitigate potential impacts to threatened and endangered species associated with growth and development in the County.

An important milestone in developing an HCP/NCCP is defining the list of species covered by the plan. Both the ESA and NCCP Act require applicants to list the species for which take authorization is requested. This is commonly referred to as the *covered species* list. This is the list of species for which take authorization will be provided by the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW; collectively, *wildlife agencies*). Both the ESA and NCCP Act require that applicants evaluate the impacts of covered activities (i.e., those activities for which take authorization is requested) on covered species and estimate the level of take expected from these covered activities. Because of this regulatory requirement, HCP/NCCPs must focus significant attention and analysis on the selection of covered species.

ICF is providing this memorandum (memo) to facilitate the development of a covered species list for the SBCCP. The covered species will be described in the SBCCP based in part on this memo. The objectives of this memo are to:

- Define the criteria for covered species selection.
- Explain the process for developing a covered species list.
- Solicit information and feedback from the Public Advisory Committee on species to be included in the SBCCP based on permitting needs.

The proposed list of covered species will be developed by the County with support and guidance from ICF, the wildlife agencies, the SBCCP PAC, and the SBCCP Science Advisors. The selection of covered species should be guided by specific criteria in order to provide a transparent, systematic, and repeatable process. Criteria for coverage in the SBCCP as well as a description of the process and a list of potential species for consideration are described below.

Process for Developing the Covered Species List

The SBCCP must identify the species that will be affected by the covered activities, and for which take coverage will be requested. The covered species list for the ESA Section 10 and NCCP Act Section 2835 permits may include both listed species and non-listed species that have the potential to become federally or state listed during the permit term. In addition, the state permit can also provide take authorization for state fully protected species. To develop the covered species list, ICF uses a three-step process, each step of which is described in detail in the following sections.

- Step 1. Identify potential covered species.
- Step 2. Apply screening criteria.
- Step 3. Review and finalize the proposed covered species list.

Applying a systematic process has numerous benefits. The process enables plan preparers to respond to feedback objectively and dispassionately and to build a covered species list that is consistent with the SBCCP goals as well as any specific needs of the anticipated permittee(s).

Step 1: Identify Potential Covered Species

The first step in identifying covered species is to assess which special status species may be present in the plan area. The best resource for identifying terrestrial species occurrence data for special status species is the California Natural Diversity Database (CNDDDB). CNDDDB is a geodatabase (a database designed to store, query, and manipulate geographic information and spatial data) that provides information such as location and natural history information on special status species in California. For fish in the plan area, the best resource is *Fish Species of Special Concern in California* (Moyle et al. 2015). Other resources consulted included the following.

- Species listed as threatened or endangered under ESA (50 Code of Federal Regulations [CFR] 17.11 [listed wildlife] and 17.12 [listed plants]).

- Proposed or candidate species for possible future listing as threatened or endangered under ESA (Environmental Conservation Online System 2023).
- Species listed or candidates for listing by the State of California as threatened or endangered under CESA (14 California Code of Regulations [CCR] 670.5).
- Species listed as rare under the California Native Plant Protection Act (California Fish and Game Code Section 1900 et seq.).
- Species determined to meet the definitions of rare or endangered under CEQA (State CEQA Guidelines, Section 15380).
- “Special Plants” as defined by CDFW, including vascular plants, bryophytes, and lichens (California Department of Fish and Wildlife 2023).
- “Special Animals” as defined by CDFW, which includes all animal taxa tracked by CDFW’s CNDDDB.
- California Terrestrial and Vernal Pool Invertebrates of Conservation Priority (California Department of Fish and Wildlife 2017).
- Species considered by the California Native Plant Society (CNPS) to be “rare, threatened or endangered in California” (California Rare Plant Rank of 1B and 2B).
- Species listed by CNPS as plants about which more information is needed to determine their status and plants of limited distribution (California Rare Plant Rank 3 and 4) may be included based on local significance or recent biological information.
- Personal communication with local species experts, including USFWS and CDFW staff, and representatives of local environmental groups.

Based on these data sources, a list of 50 wildlife species and 52 plant species was considered for inclusion in the SBCCP’s proposed covered species list.

Step 2. Apply Covered Species Screening Criteria

Once a comprehensive set of special-status species is identified through Step 1, each species is assessed based on a set of criteria. In our experience, a clear set of criteria is very helpful throughout the HCP/NCCP development process when stakeholders or new agency staff propose to add new covered species. Using the criteria, these new species can be easily evaluated for coverage at any time during plan development. Clear criteria are also helpful in clearly explaining to stakeholders and the public why some species may not be covered by the SBCCP.

ICF routinely utilizes the following criteria to guide the selection process. To be covered, species must meet all four criteria.

Occurrence. The species is known to occur or have potential to occur in the plan area. Occurrence data are based on credible evidence, and consideration is given to species not currently known in the planning area but that are expected to occur in the planning area during the permit term (e.g., through range expansion or reintroduction to historic range).

Listing Status. The species falls into one of the following categories.

- Listed or proposed for listing under the ESA as threatened or endangered.
- Listed or a candidate species with the likelihood of becoming listed under CESA as threatened or endangered.
- Has an appreciable probability of becoming listed under ESA or CESA within the proposed permit term (assuming approximately 30 years for now). The potential for listing during the permit term is based on current listing status, consultation with experts and wildlife agency staff, evaluation of species population trends and threats, and best professional judgment. For fish, the assessment was based primarily on the species ranking score and status in Moyle et al. (2015).

Impact. Implementation of proposed covered activities is expected to result in take of the species, including take of individuals or of habitat as defined by the ESA¹.

Data. Sufficient scientific data exist on the species' life history, habitat requirements, and occurrence in the plan area to adequately evaluate impacts on the species and to develop conservation measures to mitigate these impacts to levels specified by regulatory standards.

For species that meet all the above criteria, we also consider if coverage for the species is necessary and efficient. For example, if an alternative ESA compliance pathway is available via a Section 7 consultation, and if covered activities may rarely affect a given species, then it may be both easier and less costly to omit the species from the SBCCP and seek a Section 7 incidental take statement as needed for individual projects.

Qualified biologists performed an assessment of the 102 species identified in Step 1 based on the above criteria.

Step 3. Review and Finalize Proposed Covered Species List

Completion of Steps 1 and 2 results in development of an initial proposed covered species list, provided in Table 1 (below). The covered species are identified as "proposed" for coverage in the SBCCP because they are not actually covered until the permits are issued by USFWS and CDFW. The covered species screening criteria were applied to the initial list of 102 potential covered species (or subspecies). This screening process resulted in a list of 21 species that may be appropriate to cover under the SBCCP. Of these species, 13 are state or federally listed species and 8 are non-listed species.

¹ CESA has a more narrow definition of "take" than the ESA, so the ESA definition is used for this criterion to be more inclusive. The state definition of "take" will be used to define which species would be covered by the state incidental take permit.

Table 1. Initial Proposed San Benito County HCP/NCCP Covered Species

| Species | Scientific Name | Status ¹ | |
|-------------------------------------------------------|------------------------------------------|---------------------|---------|
| | | State/RPR | Federal |
| Invertebrates | | | |
| Crotch bumble bee | <i>Bombus crotchii</i> | SC/— | — |
| Monarch butterfly | <i>Danaus plexippus</i> | —/— | FC |
| Vernal pool fairy shrimp | <i>Branchinecta lynchi</i> | —/— | FT |
| Vernal pool tadpole shrimp | <i>Lepidurus packardii</i> | —/— | FE |
| Amphibians and Reptiles | | | |
| Blunt-nosed leopard lizard | <i>Gambelia silus</i> | SE, FP/— | FE |
| California red-legged frog | <i>Rana draytonii</i> | SSC/— | FT |
| California tiger salamander, Central California DPS | <i>Ambystoma californiense</i> | ST/— | FT |
| Foothill yellow-legged frog, West/Central Coast clade | <i>Rana boylei</i> | SE/— | PT |
| Western pond turtle | <i>Emys marmorata</i> | SSC/— | FR |
| Western spadefoot toad | <i>Spea hammondi</i> | SSC/— | FR |
| Birds | | | |
| Burrowing owl | <i>Athene cunicularia</i> | SSC/— | — |
| Least Bell's vireo | <i>Vireo bellii pusillus</i> | SE/— | FE |
| Swainson's hawk | <i>Buteo swainsoni</i> | ST/— | — |
| Tricolored blackbird | <i>Agelaius tricolor</i> | ST/— | — |
| Mammals | | | |
| American badger | <i>Taxidea taxus</i> | SSC/— | — |
| Giant kangaroo rat | <i>Dipodomys ingens</i> | SE/— | FE |
| Nelson's (=San Joaquin) antelope squirrel | <i>Ammospermophilus nelsoni</i> | ST/— | — |
| San Joaquin kit fox | <i>Vulpes macrotis mutica</i> | ST/— | FE |
| Mountain lion, Southern California/Central Coast ESU | <i>Puma concolor</i> | UR | — |
| Plants | | | |
| San Joaquin woolly-threads | <i>Monolopia congdonii</i> | —/— | FE |
| Hoover's button-celery | <i>Eryngium aristulatum var. hooveri</i> | —/1B | — |

¹Status:

Federal

FE Federally Endangered
 FT Federally Threatened
 PT Federally proposed as Threatened
 FR Under Federal review for listing

State

SE State Endangered
 ST State Threatened
 SC State Candidate
 SSC California Species of Special Concern
 FP Fully Protected
 UR Under State review for listing

California Rare Plant Rank (RPR)

1B Rare, Threatened, or Endangered in California and Elsewhere.

ESU = evolutionarily significant unit.

DPS = distinct population segment.

In addition to the federal and state listing status types in Table 1, CDFW also has a list of Fish Species of Special Concern (FSSC) (Moyle et al. 2015). FSSC are determined using a qualitative scoring process of several metrics² that, when applied, results in a species-specific score that is between 0 – 5. A summary of the score definitions is provided below.

- 0: Extinct
- 1.0 – 1.9: Critical Concern, high risk of extinction in the wild
- 2.0 – 2.9: High Concern, high risk of becoming a critical concern species
- 3.0 – 3.9: Moderate Concern, declining, fragmented and/or small populations
- 4.0 – 5.0: Low Concern, California populations abundant and widespread

The FSSC that have potential to occur in the plan area are listed below in Table 2. At this time, covered activities are not anticipated to impact the FSSC with the potential to occur in the plan area and FSSC are therefore not proposed as covered species in the SBCCP (Table 1).

Table 2. Fish Species of Special Concern Status Scores

| Species | Score | Status* |
|------------------------------------------|--------------|----------------|
| Monterey hitch | 3.1 | Moderate |
| South Central California coast steelhead | 2.4 | Moderate |

*Status scores from Moyle et al. (2015).

Proposed Covered Species

Based on our initial analysis, we recommended considering for coverage in the SBCCP the species shown in Table 1. This list is preliminary and will require review by USFWS and CDFW and further assessment regarding likelihood to be affected by the covered activities, presence in the plan area, and other key considerations (see below for next steps).

Those species that are known to only occur on state or Federal lands (e.g., long-eared owl) are assumed to be avoided by covered activities. Covered activities will likely be confined to rangeland, agricultural land, and rural land use designations associated with anticipated future development and other land uses that are likely to occur within unincorporated San Benito County.

² The metrics are given scores from 1 (worst) to 5 (best) and include area occupied (e.g., number of watersheds or number of apparent self-sustaining populations); estimated adult abundance; dependence on human intervention for persistence; environmental tolerance under natural conditions; genetic risks; vulnerability to climate change; and anthropogenic threats (major dams; agriculture; grazing; rural residential; urbanization; instream mining; transportation; logging; fire; estuary alteration; recreation; harvest; hatcheries; and alien species).

Next Steps

This memo was prepared in advance of a Public Advisory Committee meeting scheduled for August 30, 2023. We request that the Public Advisory Committee review this memo in advance of the meeting.

We anticipate that the initial list of covered species will be updated in the coming months as the first phase of the SBCCP progresses. The refined list of proposed covered species will be used as the starting point for developing the sections in the SBCCP that describe covered species, including detailed species profiles, an effects analysis, and a detailed analysis of the species' conservation needs. As this detailed information is developed, it may become apparent that one or more of the proposed covered species no longer meets an evaluation criterion and, therefore, will be dropped from consideration for the SBCCP. Similarly, the wildlife agencies or Science Advisors may propose that certain species be added to or removed from the list.

References

- Calflora. 2023. Calflora: Information on California plants for education, research and conservation. Web application. Berkeley, California: The Calflora Database a non-profit organization. Available: <https://www.calflora.org/search.html>. Accessed: July 2023.
- California Department of Fish and Wildlife, Natural Diversity Database. 2023. Special Vascular Plants, Bryophytes, and Lichens List. Quarterly publication. July. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>. Accessed: July 2023.
- California Department of Fish and Wildlife, Natural Diversity Database. 2022. Special Animals. Quarterly Publication. July. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406&inline>. Accessed: July 2023.
- California Department of Fish and Wildlife. 2017. California Terrestrial and Vernal Pool Invertebrates of Conservation Priority. June. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149499&inline>. Accessed: July 2023.
- Conservation Online System. 2023. *Petitioned, Proposed, Candidate, and Delisted Species*. Available: <https://ecos.fws.gov/ecp/species-reports>. Accessed: July 2023.
- Moyle, P.B., R.M. Quiñones, J.V. Katz and J. Weaver. 2015. Fish Species of Special Concern in California. Sacramento: California Department of Fish and Wildlife. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=104268&inline>. Accessed: July 2023.