

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[Docket No. FWS-R3-ES-2024-0112;
FXES11140300000-245-FF03E00000]

**Draft Environmental Assessment;
Receipt of an Application for Incidental
Take Permit and Habitat Conservation
Plan for the Edenville Dam Restoration
Project; Gladwin and Midland
Counties, MI**

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Notice of availability; request
for comment and information.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from the Four Lakes Task Force (applicant) for an incidental take permit (ITP) under the Endangered Species Act. If approved, the permit would be for a 30-year period and would authorize the incidental take of one endangered species, the snuffbox mussel. The applicant has prepared the Edenville Dam Restoration Project Habitat Conservation Plan (HCP) to cover activities associated with refilling and maintaining a court-ordered legal lake limit for Wixom Lake, directly upstream of the dam, located in Gladwin and Midland Counties, Michigan. We make available for public comment the applicant's HCP and announce the availability of a draft environmental assessment, which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these documents.

DATES: We will accept comments received or postmarked on or before September 12, 2024.

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 in Docket No. FWS-R3-ES-2024-0112 at <https://www.regulations.gov>.

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-R3-ES-2024-0112.
- *U.S. mail:* Submit comments by U.S. mail to Public Comments Processing, Attn: Docket No. FWS-R3-

ES-2024-0112; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041-3803.

FOR FURTHER INFORMATION CONTACT: Scott Hicks, Field Supervisor, Michigan Ecological Services Field Office, by email at scott_hicks@fws.gov, or by telephone at 517-351-2555; or Andrew Horton, Regional HCP Coordinator, by email at andrew_horton@fws.gov, or by telephone at 612-713-5337. 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 have received an application from the Four Lakes Task Force (applicant) for a 30-year incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The Four Lakes Task Force was established and became the delegated authority of Secord, Smallwood, Wixom, and Sanford Lakes and their dams (Secord, Smallwood, Edenville, and Sanford) for Midland and Gladwin Counties. The applicant petitioned the circuit courts in Midland and Gladwin Counties to order a lake level for Wixom Lake under part 307 of Michigan Public Act 451 of 1994. The lake level order was issued in June 2019, legally determining both summer (675.2-foot (ft)) and winter (672.2-ft) normal lake levels on Wixom Lake, creating a special assessment district, and designating the applicant as the delegated authority under part 307 to repair, maintain, and operate Edenville Dam and other dams located within the Four Lakes system. The applicant is applying for an ITP for take of the federally endangered snuffbox mussel (*Epioblasma triquetra*) because of this action. The applicant has prepared a habitat conservation plan (HCP) that describes the actions and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the snuffbox mussel. We also announce the availability of a draft environmental assessment, which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*).

Background

Section 9 of the ESA and its implementing regulations prohibit the take of animal species listed as

endangered or threatened. "Take" is defined under the ESA as to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect [listed animal species,] or to attempt to engage in such conduct" (16 U.S.C. 1538). However, under section 10(a) 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 an otherwise lawful activity (16 U.S.C. 1539). Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22 and 50 CFR 17.32. Impacts to plants do not fall under the definition of "take"; therefore, the Service cannot authorize incidental take of plants. However, the Service cannot issue an ITP that would jeopardize the continued existence or adversely modify the designated critical habitat of any listed species.

Applicant's Proposed Project

The applicant requests a 30-year ITP for take of the federally endangered snuffbox mussel. The applicant determined that take is reasonably certain to occur incidental to maintaining the legal lake limit of Wixom Lake. This action consists of refilling the 1,908-acre (ac) basin back to court ordered lake limits, which includes the 69.21-ac area where snuffbox impacts are expected to occur. The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of seasonal drawdowns that may degrade a portion of available snuffbox habitat. The biological goals and objectives are to maintain or improve water quality, maintain or improve bank stability and bed integrity, maintain or improve suitable aquatic habitat, and maintain hydrology sufficient for long-term persistence of snuffbox. Based on estimated density of mussels discovered during survey, the estimated level of lethal take from the proposed permit term is 84 individuals. To offset the impacts of the taking, the applicant proposes to introduce measures that are anticipated to improve habitat conditions for snuffbox within the permit area. Biological goals and objectives will be adaptively managed and, if necessary, mitigation may be provided outside of the permit area for the covered species.

National Environmental Policy Act

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA. We prepared a

draft EA that analyzes the environmental impacts on the human environment resulting from three alternatives: a no-action alternative, a dam removal alternative, and the applicant's proposed action.

Next Steps

The Service will evaluate the permit application and the comments received to determine whether the application meets the requirements of section 10(a) of the ESA. 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 above findings, 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 the requested ITP to the applicant.

Request for Public Comments

The Service invites comments and suggestions from all interested parties on the proposed HCP, draft EA, and supporting documents during a 30-day public comment period (see **DATES**). In particular, information and comments regarding the following topics are requested:

1. The effects that implementation of any alternative could have on the human environment;
2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed;
3. Any threats to the snuffbox mussel that may influence their populations over the life of the ITP that are not addressed in the proposed HCP or EA;
4. Whether the conservation measures outlined in the HCP are sufficient to offset impacts over a 30-year duration; and
5. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Availability of Public Comments

You may submit comments by one of the methods shown under **ADDRESSES**. We will post on <https://www.regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. Before including your address, phone number, email 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 request in your comment that

we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR parts 1500 through 1508; 43 CFR part 46).

Lori Nordstrom,

Assistant Regional Director, Ecological Services.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R3-ES-2024-N044;
FXES11130300000-245-FF03E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before September 12, 2024.

ADDRESSES: *Document availability and comment submission:* Submit requests for copies of the applications and related documents, as well as any comments, by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (e.g., ESXXXXXX; see table in

SUPPLEMENTARY INFORMATION):

• *Email (preferred method):* permitsR3ES@fws.gov. Please refer to the respective application number (e.g., Application No. ESXXXXXX) in the subject line of your email message.

• *U.S. Mail:* Regional Director, Attn: Nathan Rathbun, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437-1458.

FOR FURTHER INFORMATION CONTACT:

Nathan Rathbun, 612-713-5343 (phone); permitsR3ES@fws.gov (email). 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, invite review and comment from the public and local, State, Tribal, and Federal agencies on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and the Freedom of Information Act.

Background

The ESA prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.