

**SANTA BARBARA COUNTY  
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Agenda Number:**  
**Prepared on:** 01/06/03  
**Department Name:** P&D  
**Department No.:** 053  
**Agenda Date:** 01/14/03  
**Placement:** Departmental  
**Estimate Time:** 1 Hour  
**Continued Item:** NO  
**If Yes, date from:**

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**TO:** Board of Supervisors

**FROM:** Dianne Meester, Interim Director,  
Planning and Development (P&D)

**STAFF**

**CONTACT:** John Karamitsos, Supervising Planner (934-6255)

**SUBJECT:** California Tiger Salamander: U.S. Fish & Wildlife Service Presentation

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**Recommendation:**

That the Board of Supervisors receive the attached materials and a presentation from United States Fish & Wildlife Service staff regarding the status of the Endangered Species Act listing of the California Tiger Salamander in Santa Barbara County.

**Estimated length of hearing:**

1.0 hour (30 minute presentation, 30 minute public testimony)

**Alignment with Board Strategic Plan:**

The recommendation is primarily aligned with Goal No. 1:

An Efficient Government Able to Respond to the Needs of the Community.

**Executive Summary and Discussion:**

**I. INTRODUCTION**

The United States Fish & Wildlife Service (FWS) Emergency listed the Santa Barbara County distinct population of the California Tiger Salamander (CTS) as Endangered under the federal Endangered Species Act (ESA) on January 19, 2000; a Formal listing followed on September 21, 2000. Since that time, FWS staff has been periodically meeting with Planning & Development (P&D) staff to discuss CTS issues in Santa Barbara County. Recently, management-level discussions have resulted in a request from FWS to directly address the Board of Supervisors on the status of the listing, recovery efforts, and permit

streamlining efforts in Santa Barbara County. In a letter to the Board, dated 11/05/02 (attached), FWS staff identifies a commitment to “working with the Board over the long term to conserve the County’s unique species and habitats,” with a goal of establishing “a collaborative relationship to resolve issues of mutual concern.”

## **II. FISH & WILDLIFE SERVICE SUBMITTAL TO THE BOARD**

In preparation for the requested presentation, FWS staff has submitted the following materials, attached to this report, for Board consideration:

1. Final Rule to List the California Tiger Salamander as Endangered
2. General Information on the CTS Listing
3. Recovery Information
4. Projects with CTS Issues in Santa Barbara and Selected Correspondence
5. Information on Habitat Conservation Planning
6. Map of CTS Range and Locations
7. Private Landowner Incentive Programs

## **III. PLANNING & DEVELOPMENT ADMINISTRATIVE PRACTICE RELATIVE TO THE LISTING**

P&D established a CTS project team in March 2000. The project team has assisted in the preparation of the CTS Range Map, established an administrative practice for coordinated analysis of CTS issues on development projects, and led many inter-agency meetings. In order to effectively address challenges posed by differing federal, state, and local regulations, P&D staff developed a process for preparing initial field assessments (IFAs) to provide an early indication of a project’s possible impacts on CTS. Approximately 35 IFA’s have been conducted throughout the range: approximately 22 have indicated a low probability for occurrence of CTS; the balance indicated a moderate or high probability of occurrence. In addition, approximately 10 habitat assessments have been prepared for discretionary projects within the range. Outcomes have been variable, but most permits have been issued for projects where there was low probability of occurrence and low potential for impact.

Several projects with moderate probabilities for occurrence of CTS have been delayed due to the need for additional surveys and coordination with FWS on "incidental take" requirements under Section 10 of the ESA. To date, FWS has issued three “incidental take” permits under either Section 7 or Section 10.

Section 7 of the ESA, relating to Interagency Cooperation, applies primarily to federal agencies, while Section 9 prohibits take of endangered species. If a project/action is subject to Section 7 of the ESA, and if a project/action may affect an Endangered or Threatened species, the project proponent is required to prepare a *Biological Assessment*. The assessment may conclude that a proposed project is: 1) Not likely to adversely affect a species; 2) Likely to adversely affect a species; or 3) Likely to benefit a species. If a project is “not likely to jeopardize the continued existence of any endangered or threatened species,” then there is relief from the Section 9 prohibition against take for government agencies.

Section 10 of the ESA applies primarily to private entities and allows exceptions to Section 9 prohibitions against “take” through issuance of permits for take that is “incidental” to otherwise lawful activities. Under

Section 10, however, there is no provision for a biological assessment. Instead, the requirement is for an HCP that, when implemented, “will, to the maximum extent practicable, minimize and mitigate the impacts” of taking and “not appreciably reduce the likelihood of survival and recovery of the species in the wild.” An HCP is required for all projects since even small-scale projects have the potential to adversely affect a species. This can delay applicants for presumably ministerial permits, since preparation of an IFA and HCP can take time and be costly and lead to the exercise of discretion to address environmental impacts in permit decision making. In addition, the County has duties under CEQA that are separate and distinct from those under the ESA in issuing permits for development projects. The County must comply with CEQA Guideline 15065 (Mandatory Findings of Significance), which requires the preparation of an EIR where a project "has the potential to reduce the number or restrict the range of an endangered, rare, or threatened species..."

Thus, County staff has found itself confronted with the fact that although only the FWS has the authority to make a “take” determination, the County must separately comply with CEQA in approving local agency permits. County staff has attempted to address and reconcile these different duties in the context of presumably ministerial permits by approving LUPs for projects where the following facts exist and conditions apply: 1) a moderate probability of CTS occurrence; 2) no direct evidence of CTS presence in suitable habitat onsite; 3) a determination that proposed development activities would result in a low likelihood of disturbance to CTS; and 4) inclusion of appropriate conditions of approval (i.e., ESA disclaimer, Indemnity clauses, CTS biologist monitoring, fencing requirements, minimization of construction area, limitations on vehicle use).

**Mandates and Service Levels:**

Not mandated.

**Fiscal and Facilities Impacts:**

The FWS report relates to ongoing program efforts currently budgeted in Fiscal Year 2002-03. Funds for this project are budgeted in cost center Development Review-North and located on page D-268 of the FY02-03 adopted budget. The receipt of this report will have no fiscal impacts.

**Special Instructions:**

Clerk of the Board shall forward a copy of the Minute Order to Planning and Development Hearing Support Section, Attn: Cintia Mendoza.

**Concurrence:**

County Counsel

**Attachments:**

1. Carl T. Benz, Assistant Field Supervisor, Ventura FWS office, letter dated 11/05/02.
2. Bridget Fahey, Division Chief, Ventura FWS office, briefing materials dated 12/13/02

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Hearing to Receive Report from USFWS  
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