



United States Department of the Interior



FISH AND WILDLIFE SERVICE

California/Nevada Operations Office
2800 Cottage Way, Suite W-2606
Sacramento, CA 95825

In Reply Refer to:
CNO-ES

MAY 08 2007

Craig Coolahan
State Director
Animal and Plant Health Inspection Service
Wildlife Services
California State Office
3419 A, Arden Way
Sacramento, CA 95825

Re: Amended Biological Assessment for APHIS-WS activities to protect livestock, property, human health and safety, and natural resources in the State of California

Dear Mr. Coolahan:

Thank you for applying the recent changes and conditions to your program's proposed action in the document entitled: "BIOLOGICAL ASSESSMENT; USDA Animal and Plant Health Inspection Service, California Wildlife Services Program; Part II; Integrated Wildlife Damage Management To Protect Livestock, Property, Human Health and Safety, and Natural Resources in the State of California". As indicated in your letter of February 7, 2007, this biological assessment (dated February 7, 2007) replaces "Part II" of the original (July 8, 2004) version.

This letter serves to designate you and your approved staff as agents of the Service for the purpose of harassing brown pelicans that constitute a demonstrable threat to aviation safety at United States Navy facilities in San Diego County. Authority for this action is provided under 50 CFR 17.21 and is effective upon signature of this letter. Pursuant to 50 CFR 17.21(c)(3)(iv) any employee or agent of the Service, who is designated by his agency for such purposes, may take endangered wildlife without a permit if such action is necessary to remove specimens which constitute a demonstrable but non-immediate threat to human safety. This agent status is conditional upon full compliance with the terms outlined and included in your assessment (Pages 60-61).

In accordance with the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and implementing regulations (50 CFR 17.21), this letter also represents a partial response to your original request for formal consultation and/or concurrence with findings under section 7 of the Endangered Species Act and addresses only those activities identified in the assessment dated February 7, 2007.

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We concur with the determinations in your Biological Assessment that the types of activities (employed with the described avoidance and minimization measures) as described will either have no effect or will not adversely affect the following identified endangered or threatened species. No further consultation pursuant to the Endangered Species Act of 1973 is required with the Service for these particular activities (on these particular species), unless new information reveals effects of the proposed action not considered herein.

1. Short-tailed albatross (*Phoebastria (=Diomedea) albatrus*)
2. Coastal California gnatcatcher (*Poliopitila californica californica*)
3. San Clemente loggerhead shrike (*Lanius ludovicianus mearnsi*)
4. San Clemente sage sparrow (*Amphispiza belli clementeae*)
5. Peninsular bighorn sheep (*Ovis canadensis*)
6. Sierra Nevada bighorn sheep (*Ovis canadensis californiana*)
7. Point Arena mountain beaver (*Aplodontia rufa nigra*)
8. San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*)
9. San Joaquin kit fox (*Vulpes macrotis mutica*)
10. Tipton kangaroo rat (*Dipodomys nitratoideus nitratoideus*)
11. Stephen's kangaroo rat (*Dipodomys stephensi* (incl. *D. cactus*))
12. Buena Vista Lake shrew (*Sorex ornatus relictus*)
13. Fresno kangaroo rat (*Dipodomys nitratoideus exilis*)
14. Giant kangaroo rat (*Dipodomys ingens*)
15. Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*)
16. Pacific pocket mouse (*Perognathus longimembris pacificus*)
17. California red-legged frog (*Rana aurora draytoni*)
18. California tiger salamander (*Ambystoma californiense*)
19. Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*)
20. Alameda whipsnake (=striped racer) (*Masticophis lateralis euryxanthus*)
21. Blunt-nosed leopard lizard (*Gambelia silus*)
22. Coachella Valley fringe-toed lizard (*Uma inornata*)
23. Giant garter snake (*Thamnophis gigas*)
24. Island night lizard (*Xantusia riversiana*)
25. San Francisco garter snake (*Thamnophis sirtalis tetrataenia*)
26. Tidewater goby (*Eucyclogobius newberryi*)
27. Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*)
28. Conservancy fairy shrimp (*Branchinecta conservation*)
29. Longhorn fairy shrimp (*Branchinecta longiantenna*)
30. Vernal pool fairy shrimp (*Branchinecta lynchi*)
31. San Diego fairy shrimp (*Branchinecta sandiegonensis*)
32. Riverside fairy shrimp (*Streptocephalus woottoni*)
33. Armargosa vole (*Microtus californicus scirpensis*)
34. Inyo California towhee (*Pipilo crissalis eremophilus*)

We also concur with the determinations for the following species, but wish to clarify that an "active coyote den" is defined as having met the observance standard as described on Page 65: "...meaning coyotes must be positively observed (by sight or sound) by qualified personnel at the time of or immediately prior to treatment":

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- 35. Arroyo (=arroyo southwestern) toad (*Bufo californicus* (=microscaphus))
- 36. Desert slender salamander (*Batrachoseps aridus*)
- 37. Mountain yellow-legged frog (*Rana muscosa*)

We also concur that these actions are not likely to adversely affect the riparian (San Joaquin Valley) woodrat (*Neotoma fuscipes riparia*) as long as repellent devices are limited to audio repellents (no pyrotechnics) and are not employed directly in riparian areas.

We also concur that the proposed actions are not likely to adversely affect the riparian brush rabbit (*Sylvilagus bachmani riparius*), but did not find the map attached to the assessment as indicated. The range map is attached for your use in implementing the avoidance measures as described in your assessment.

We also concur that proposed activities are not likely to adversely affect the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), but would like to clarify that while the application "observation standard" is essential to this determination, it is not part of the 1992 BO "reasonable and prudent measure" as referenced in your document on Page 72.

We would like to thank you for your patience and flexibility throughout this process. We look forward to working with you to revisit "Part I" of your original Biological Assessment regarding APHIS-WS activities to benefit threatened and endangered species. Please contact Vicki Campbell, Deputy Division Chief of our Section 7, Habitat Conservation and Contaminants Division at 916-414-6464 for the formal phase of this consultation.

Sincerely,



Paul Henson
Assistant Manager, Ecological Services

Attachment

cc:

Ventura Fish and Wildlife Office
Sacramento Fish and Wildlife Office
Carlsbad Fish and Wildlife Office

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United States
Department of
Agriculture

Animal and
Plant Health
Inspection
Service

Wildlife
Services

California State
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Carrie Thompson
U. S. Fish and Wildlife Service
California/Nevada Operations Office
2800 Cottage Way, W-2606
Sacramento, CA 95825

February 7, 2007

Re: Amended Biological Assessment for APHIS-WS activities to protect livestock, property, human health and safety, and natural resources in the State of California

Dear Ms. Thompson:

This letter is to inform you that we have amended our Biological Assessment (BA) (attached) in response to the U.S. Fish and Wildlife Service's (Service) request to incorporate its conditions and changes required for concurrence with our determinations made on 7/8/04. The changes and conditions contained in your 1/26/07 communication with our agency (an undated draft letter attached to your 1/26/07 email to Shannon Hebert, APHIS, WS) are now reflected in the attached BA (amended 2/7/07).

In a meeting with you and Shannon Hebert (APHIS-WS) on 7/5/06, I agreed to a partial response to our request for formal consultation and concurrence with findings under section 7 of the Endangered Species Act (submitted 7/8/04). The initial request and Biological Assessment (BA) (7/8/04), was organized into two parts: 1) APHIS-WS activities to benefit threatened and endangered species and 2) APHIS-WS activities "...to protect livestock, human health and safety, property, agriculture, and natural resources...from wildlife conflicts in California..." The second part (Part II - Protecting Livestock, Property, Human Health and Safety and Natural Resources, pages 56-76 of the 2004 BA), is contained in the attached BA, now fully amended per your request, with the first portion (APHIS-WS activities to benefit threatened and endangered species (Part I)) now omitted.

Please note that the attached BA contains a request for agent status to haze brown pelicans from airports along with all of the conditions described in the draft letter attached to your 1/26/07 email to Shannon Hebert.

Finally, we agree in the BA to adopt the range maps provided by the Service (attached to the BA) for application to listed species. We wish to note that we have agreed to use map provided for the San Joaquin kit fox range as a general guide because there is currently no more precise interpretation of occupied range. It is our intent to seek to gather new information as it becomes available to present a more precise interpretation of occupied range of the San Joaquin kit fox. Prior to our use of new information relating to the BA, we would seek USFWS agreement that the new

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Animal and Plant Health Inspection Service

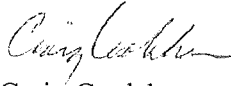
Safeguarding American Agriculture

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information is acceptable to use in lieu of the more general range map.

Thank you once again for your dedication and assistance with this portion of our consultation needs.

Sincerely,

A handwritten signature in cursive script, appearing to read "Craig Coolahan".

Craig Coolahan
State Director
Animal and Plant Health Inspection Service
Wildlife Services
California State Office
3419 A, Arden Way
Sacramento, CA 95825

cc Shannon Hebert

Encl. Biological Assessment