

**Attachment E: Endangered Species Act  
Coordination Letter**

JUN 19 2008

BUREAU OF RECLAMATION  
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**United States Department of the Interior**



**FISH AND WILDLIFE SERVICE**

Nevada Fish and Wildlife Office  
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Reno, Nevada 89502  
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June 16, 2008  
File No. 2008-SL-0368

Ms. Andrea Minor  
Bureau of Reclamation  
705 North Plaza Street, Room 320  
Carson City, Nevada 89701

Dear Ms. Minor:

**Subject: Species List Request for Carson Pasture Project,  
Churchill County, Nevada**

This responds to your letter received on May 30, 2008, requesting a species list for the Carson Pasture Project in Churchill County, Nevada. To the best of our knowledge, no listed or proposed species occur in the subject project area; however, the following is a list of candidate species which may occur in the subject project area:

- Yellow billed-cuckoo (*Coccyzus americanus*) (Western U.S. Distinct Population Segment), candidate

This response fulfills the requirements of the Fish and Wildlife Service (Service) to provide a list of species pursuant to section 7(c) of the Endangered Species Act of 1973 (Act), as amended, for projects that are authorized, funded, or carried out by a Federal agency. Candidate species receive no legal protection under the Act, but could be proposed for listing in the near future. Consideration of these species during project planning may assist species conservation efforts and may prevent the need for future listing actions.

We note that the bald eagle (*Haliaeetus leucocephalus*) may occur in the project area, and could be affected by it. On August 8, 2007, the bald eagle was removed from the Federal list of threatened and endangered species (72 FR37346). Bald Eagles will continue to be protected



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under the Bald and Golden Eagle Protection Act (BGEPA) of 1940, as amended (16 U.S.C. 668-668d) and the Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 *et seq.*). Both of these laws prohibit killing, selling or otherwise harming eagles, their nests, or their eggs. The bald eagle remains listed as endangered in the State of Nevada. Please also coordinate with state wildlife agencies to ensure compliance with state regulations regarding the bald eagle.

The Service has developed the National Bald Eagle Management Guidelines (Guidelines) to advise landowners, land managers, and others when and under what circumstance the protective provisions of the BGEPA may apply to their activities. These documents and more information about the bald eagle are available on the Service's website at <http://www.fws.gov/migratorybirds/baldeagle.htm>. A variety of human activities can potentially interfere with bald eagles, affecting their ability to forage, nest, roost, breed, or raise young. The Guidelines are intended to help people minimize such impacts to bald eagles, particularly where they may constitute "disturbance", which is prohibited by the BGEPA. The Service is developing regulations that would authorize, under limited circumstances, the use of permits if "take" of an eagle is anticipated but unavoidable. Until the permit system rulemaking is completed, the Service recommends that an agency or person follow the Guidelines to avoid violating the BGEPA.

The Nevada Fish and Wildlife Office no longer provides species of concern lists. Most of these species for which we have concern are also on the sensitive species list for Nevada maintained by the State of Nevada's Natural Heritage Program (Heritage). Instead of maintaining our own list, we are adopting Heritage's sensitive species list and partnering with them to provide distribution data and information on the conservation needs for sensitive species to agencies or project proponents. The mission of Heritage is to continually evaluate the conservation priorities of native plants, animals, and their habitats, particularly those most vulnerable to extinction or in serious decline. Consideration of these sensitive species and exploring management alternatives early in the planning process can provide long-term conservation benefits and avoid future conflicts.

For a list of sensitive species by county, visit Heritage's website at [www.heritage.nv.gov](http://www.heritage.nv.gov). For a specific list of sensitive species that may occur in the project area, you can obtain a data request form from the website or by contacting Heritage at 901 South Stewart Street, Suite 5002, Carson City, Nevada 89701-5245, (775) 684-2900. Please indicate on the form that your request is being obtained as part of your coordination with the Service under the Act. During your project analysis, if you obtain new information or data for any Nevada sensitive species, we request that you provide the information to Heritage at the above address. Furthermore, certain species of fish and wildlife are classified as protected by the State of Nevada (see <http://www.leg.state.nv.us/NAC/NAC-503.html>). Before a person can hunt, take, or possess any parts of wildlife species classified as protected, they must first obtain the appropriate license, permit, or written authorization from the Nevada Department of Wildlife (visit <http://www.ndow.org> or call 775-688-1500).

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We note that the pygmy rabbit (*Brachylagus idahoensis*) may occur within the planning area and could be affected by it. On January 8, 2008, the Service published a substantial 90-day finding on a petition to list the pygmy rabbit as threatened or endangered under the Act, thus initiating a status review of the species. Draft survey guidelines have been developed for this species and are available upon request from the Nevada Fish and Wildlife Office. We encourage you to survey the proposed project area for pygmy rabbits prior to any ground disturbing activities and to consider the needs of this species as you complete project planning and implementation. The Bureau of Land Management State Director for Nevada has directed all Field Office staff in Nevada to address the pygmy rabbit in all upcoming Land Use Plan revisions.

Because wetlands, springs, or streams are known to occur in the project area, we ask that you be aware of potential impacts project activities may have on these habitats. Discharge of fill material into wetlands or waters of the United States is regulated by the U.S. Army Core of Engineers (Corps) pursuant to section 404 of the Clean Water Act of 1972, as amended. We recommend you contact the Corps' regulatory Section 300 Booth Street, Room 2103, Reno, Nevada 89509, (775) 784-5304 regarding the possible need for a permit.

Based on the Service's conservation responsibilities and management authority for migratory birds under the MBTA we are concerned about potential impacts the proposed project may have on migratory birds in the area. Given these concerns, we recommend that any land clearing or other surface disturbance associated with proposed actions within the project area be timed to avoid potential destruction of bird nests or young, or birds that breed in the area. Such destruction may be in violation of the MBTA. Under the MBTA, nests with eggs or young of migratory birds may not be harmed, nor may migratory birds be killed. Therefore, we recommend land clearing be conducted outside the avian breeding season. If this is not feasible, we recommend a qualified biologist survey the area prior to land clearing. If nests are located, or if other evidence of nesting (*i.e.*, mated pairs, territorial defense, carrying nesting material, transporting food) is observed, a protective buffer (the size depending on the habitat requirements of the species) should be delineated and the entire area avoided to prevent destruction or disturbance to nests until they are no longer active.

Please reference File No. 2008-SL-0368 in future correspondence concerning this species list. If you have any questions regarding this correspondence or require additional information, please contact me or James Harter at (775) 861-6300.

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Sincerely,

  
 Robert D. Williams  
 Field Supervisor