

APPENDIX B

FWS Concurrence Letter Informal Section 7 Consultation



United States Department of the Interior

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In Reply Refer to:
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FILE COPY

August 10, 2006

Memorandum

To: Phoenix Area Manager, Bureau of Reclamation, Phoenix, Arizona

From: Field Supervisor

Subject: Informal Section 7 Consultation on the Southwestern Willow Flycatcher Habitat Acquisition on the San Pedro River near San Manuel, Pinal County, Arizona

Thank you for your correspondence of August 8, 2006, received in our office the same day. This letter documents our review of the U.S. Bureau of Reclamation's (Reclamation) proposed acquisition of 73 acres along the San Pedro River near San Manuel, Pinal County, in compliance with section 7 of the Endangered Species Act of 1973 (ESA) as amended (16 U.S.C. 1531 et seq.). The property is located about 9 miles southeast of the Town of San Manuel and about 11 miles north of the Town of Redington. Your letter concluded that the proposed project "may affect, but is not likely to adversely affect" the endangered southwestern willow flycatcher (*Empidonax traillii extimus*) (flycatcher) or its designated critical habitat, and the threatened bald eagle (*Haliaeetus leucocephalus*). We concur with your determinations and provide our rationales below. You also concluded there would be "no effect" to the lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*). Species with "no effect" determinations do not require review from the Fish and Wildlife Service, and are not addressed further.

Background

The proposed action implements Component 1(c) of the Reasonable and Prudent Alternative in our July 17, 1996, *Final Biological Opinion for the Modified Roosevelt Dam and Its Effects of the Endangered Southwestern Willow Flycatcher and Responses to Reclamation's Comments of Draft Biological Opinion* (USFWS file number 02-21-95-F-0462), which requires Reclamation to establish and expend a flycatcher management fund. Salt River Project's (SRP) 2002 Roosevelt Habitat Conservation Plan (RHCP) (USFWS file number 2-21-03-F-003) requires additional acquisition and management of riparian habitat, and incorporates Reclamation's requirements from the 1996 Biological Opinion.

The action proposed by Reclamation involves: (1) purchase of the San Pedro River property; (2) removal of trash and debris from the site; and (3) fencing of the property to manage human use and exclude livestock. The trash and debris removal and fence construction will occur during the flycatcher non-breeding season. Though not part of the currently-proposed action, Reclamation and SRP will subsequently enter into an agreement under which SRP would take over management of the subject property to benefit the flycatcher in perpetuity. The property proposed for acquisition is adjacent to SRP's existing 144 acre Spirit Hollow Preserve, which is located directly north of the acreage proposed to be purchased.

Determination of Effects

Southwestern willow flycatcher and its critical habitat

Greg Beatty, from my staff, accompanied Reclamation and SRP to evaluate the San Pedro property for flycatcher habitat on December 6, 2005. The San Pedro River runs through the property and the riparian area is vegetated with native plant species, including Fremont cottonwood (*Populus fremontii*) and willow (*Salix* spp.), with some exotic saltcedar (*Tamarix ramossissima*), with moderate to closed canopies (usually greater than 60% cover). Principal constituent elements of plants species and structure are present, and in good condition.

Although this property has not been surveyed, we believe it is highly likely that migratory and dispersing flycatchers use the property, and that with proper management, breeding flycatchers will use the property. Breeding flycatchers are located upstream and downstream of this property. Immediately north and adjacent to the project area, at the Catalina Wash site, four territories were detected in 2005. Farther north, at the San Manuel Crossing site, 55 flycatcher territories were detected in 2005. Only a small proportion of suitable habitat has been surveyed south of the project area, but breeding willow flycatchers have been detected at the Soza Wash and Three Links Farm sites. In 2005, seven territories were detected at Three Links Farms.

We concur with your determination that the proposed action may affect, but is not likely to adversely affect the flycatcher and its designated critical habitat for the following reasons: (1) the acquisition portion of the proposed action is primarily administrative in nature; (2) on-the-ground disturbance, fencing, and removal of debris will occur when potentially-present flycatchers are not breeding on the site; and (3) the clean-up, management, and protection of the site will serve the long-term conservation needs of the flycatcher and its critical habitat. The proposed action is thus considered wholly beneficial.

Bald eagle

Bald eagles breed primarily in central Arizona along the Salt, Verde, and Gila rivers, although a few pairs are known at higher elevations. Bald eagles are presently not expected to be breeding at the proposed area of land acquisition, but could occur opportunistically as winter migrants. Winter migrants can be found statewide in a variety of habitats, but more typically are found along aquatic environments where eagles can find tall roosting and hunting trees, water, and prey such as fish or waterfowl. This San Pedro property has the quality of a location that could be used by winter migrants, but due to the erratic river flow and paucity of preferred fishes

(larger suckers, carp, and catfish), is not known to be a dependable resource for wintering bald eagles. The closest known bald eagle breeding area (BA) (Winkelman) is found at the San Pedro/Gila river confluence about 35 miles north of the project. The Winkelman BA has been unoccupied by breeding eagles for the last eight breeding seasons. As a result of the erratic water flow and subsequently, the lack of the presence and continuity of fishes preferred by breeding bald eagles along this portion of the San Pedro River, it is not likely a nesting/foraging location for breeding bald eagles.

We concur with your determination that the proposed action may affect, but is not likely to adversely affect the bald eagle for the following reasons: (1) the acquisition portion of the proposed action is primarily administrative in nature; (2) on-the-ground disturbance to wintering bald eagles from fencing and removal of debris is not expected to occur because of the limited resources at the site for bald eagles, and therefore our expectation that eagles would not be present during these activities; (3) however, should wintering bald eagles occur and be flushed from a perch or while foraging from any reconnaissance or fencing/clean-up activities, it would expected to be an isolated incident because of the limited resources for eagles at the site, and therefore, the effect would be considered insignificant and discountable; and (4) the protection of the site could, in the long-term, provide a conservation benefit for opportunistic wintering bald eagles. The proposed action is thus considered wholly beneficial.

Should you require further assistance or if you have any questions, please contact Greg Beatty (x 247) or Debra Bills (x 239). Thank you for your continued efforts to conserve endangered species.

Debra T. Bills

for Steven L. Spangle

cc: Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ
Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ
Southwestern Willow Flycatcher Coordinator, Bureau of Reclamation, Phoenix, AZ

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