

**APPENDIX G**

**RECLAMATION'S BIOLOGICAL ASSESSMENTS  
AND  
FISH AND WILDLIFE CONCURRENCE MEMORANDA**

JUL 27 2006

PXAO-1500  
ENV-6.00

MEMORANDUM

To: Steve Spangle, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road,  
Suite 103, Phoenix, Arizona 85021-4951

From: Bruce D. Ellis *Bruce D. Ellis*  
Chief, Environmental Resource Management Division

Subject: Biological Assessment on the Proposed Construction and Operation of a New Marina  
at Lake Pleasant Regional Park

As directed in the Section 7 (c) of the Endangered Species Act of 1973, as amended, and 50 CFR 402.12, SWCA Environmental Consultants prepared a biological evaluation of the proposed marina at Scorpion Bay, Lake Pleasant, Maricopa County, Arizona. The biological evaluation concluded that the proposed project would not likely have an effect on any federally listed species or their habitat (page 6 of Appendix B in attached Environmental Assessment [EA]).

However, after careful review of the biological evaluation and in discussions with your staff and Jamey Driscoll, Bald Eagle Program Coordinator, Arizona Game and Fish Department (AGFD), it is Reclamation's conclusion that increased recreational activities associated with the construction of the Scorpion Bay Marina and Yacht "may affect, but is not likely to adversely affect" the threatened bald eagle (*Haliaeetus leucocephalus*). We do not believe there will be any incremental increase in potential take of the species from this project. Reclamation has concluded the project will have "no effect" on the other species considered in the attached biological evaluation.

Maricopa County Parks and Recreation Department (MCPRD) has requested that Reclamation approve the construction and operation of the proposed Scorpion Bay Marina and Yacht Club on the west shore of Lake Pleasant within the Lake Pleasant Regional Park (LPRP)(Map 1). Under a Recreational Management Agreement between Reclamation and Maricopa County, under which MCPRD manages LPRP, Reclamation must comply with the National Environmental Policy Act and Endangered Species Act prior to the County initiating construction of these proposed facilities.

The proposed marina complex at total build-out would consist of the following major facilities: A paved parking area with a capacity of 420 vehicles; gravel parking areas for an additional 380 vehicles; paved driveways; a three-lane boat ramp; a 200-boat capacity, 40-foot-high dry stack

watercraft storage/repair building; a wastewater treatment plant; an 800-slip wet dock; a 1,200-foot-long wave attenuator; a watercraft supply store that would sell convenience items and snacks, rent watercraft, and provide office space; an eight-bay gas dock for watercraft fueling with separate, aboveground fuel storage tank farm; and a wheelchair-accessible tram to connect the main vehicle parking area with the wet dock.

The project would be constructed in four phases (see Table 1). Construction of the first phase would begin immediately upon approval by Reclamation and the County and acquisition of all necessary permits, in order to take advantage of low lake levels when working within the lake. It is anticipated this first phase would be completed within approximately 6 months. The remaining three phases, which are anticipated to occur over the span of several years, would be undertaken as determined by demand for facilities and services.

Table 1. Construction Phases for the Scorpion Bay Marina and Yacht Club

Activity	Phase I	Phase II	Phase III	Phase IV
Earth work	Grading and fill required for project at build-out (for roads, parking, boat ramps, and facilities)			
Infrastructure	Access roads; fencing; electrical system; potable water delivery system; temporary wastewater vault; wastewater treatment plant; wheelchair-accessible tram from main vehicle parking area to wet dock; a public boat ramp with one lane		Two additional lanes at the boat ramp contingent upon funding	
Buildings	Watercraft supply store/office building; two restroom boats			
Boat wet slips	248 wet slips	+ 64 wet slips	+ 292 wet slips	+ 196 wet slips
Outdoor watercraft storage	Fenced, graded area for 375 watercraft and/or trailers			Improvements & lighting
Dry-stack building			200 boats	
Parking	~280 vehicles above 1,702' & graded area above 1,702' for 24 public watercraft trailers		+ 140 above 1,702'+ +220 (low water); and graded area for 12 public watercraft trailers (low water)	Improvements & lighting for public watercraft trailer parking area
Fueling facility	five-bay gas dock plus aboveground fuel storage tank farm		+three-bay gas dock plus aboveground storage tank farm (total of eight bays)	
Wave attenuator	900 linear feet		Move & extend an additional 300 linear feet	

The Lake Pleasant bald eagle breeding area on the Agua Fria arm is one of the most productive breeding areas in the state (pers. comm. Jamey Driscoll, AGFD). Due to the high level of recreation at Lake Pleasant, a closure was created in 1985 to protect the nest area from disturbance. The MCPRD closure prohibits entry within one kilometer of the nest from December 15<sup>th</sup> to June 15<sup>th</sup> each year. Reclamation also provides funding for a team of nestwatchers at this breeding area. Information provided over the last few years by the

nestwatchers indicates that about four percent of the boaters observed approaching the southern boundary of the closure violate the closure (pers. comm. Jamey Driscoll, AGFD).

Reclamation funding of the Lake Pleasant nestwatchers is not the result of a Section 7 consultation but is from a Reclamation-wide program to implement activities for the conservation and recovery of threatened and endangered species. We plan to continue supporting the AGFD's Arizona Bald Eagle Nestwatch Program after the bald eagle is de-listed. However, the availability of the funds is dependent upon approval by Congress of annual appropriations.

Using assumptions that maximize use of the proposed marina facilities, Reclamation's EA estimated watercraft using Lake Pleasant could increase by up to 68 percent once the final phase of the marina project has been completed. Reclamation discussed these potential impacts with the MCPRD and the concessionaire. In an effort to minimize the effects to bald eagles from the anticipated increase in watercraft recreation on Lake Pleasant, the marina concessionaire has agreed to implement the following conservation measures:

1. Post signage at the new public boat ramp and marina to educate the public about the bald eagle and restrictions associated with the closure. This will be accomplished through coordination with the AGFD, U.S. Fish and Wildlife Service (FWS), and Reclamation.
2. Provide monofilament disposal receptacles at the new boat ramp and marina to assist anglers in properly disposing of used fishing line. This will be accomplished through coordination with the AGFD.
3. Contribute funds to the Arizona Bald Eagle Nestwatch Program to defray costs of supporting the Lake Pleasant nestwatch team as follows: At completion of Phase II, \$5,000 per year; at completion of Phase IV, this amount would be increased to \$10,000 per year. Contributions would continue until there is no nestwatch program at Lake Pleasant, or 20 annual contributions have been made, whichever occurs first.

We believe that the conservation measures proposed by the marina concessionaire will ensure that there will be no adverse effect to the bald eagle and will ensure that the Lake Pleasant breeding area will be monitored through the 20-year, post de-listing monitoring period. If you have any questions concerning this project, please contact Mr. Henry Messing at 623-773-6257. As per 50 CFR 402.12(j), we are requesting FWS' written concurrence with Reclamation's determination that the proposed Scorpion Bay Marina and Yacht Club "may affect, but is not likely to adversely affect" the threatened bald eagle. This concurrence should be provided within 30 days upon receipt of this letter.

Attachment

WBR:HMessing:rjk:07/26/2006

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Reclamation, using assumptions that maximize use of the proposed marina facilities, estimates that watercraft using Lake Pleasant, as a result of the Scorpion Bay Marina, could increase by 68 percent once the final phase has been completed. In an effort to minimize adverse effects to breeding bald eagles from anticipated increase in watercraft recreation, the marina concessionaire has agreed to the following conservation measures:

- 1) Post signs at the new public boat ramp and marina to educate the public about the bald eagle and restrictions associated with the seasonal nest area closure. This will be done in coordination with Arizona Game and Fish Department (AGFD), Fish and Wildlife Service, and Reclamation.
- 2) Provide monofilament disposal receptacles at the new boat ramp and marina to assist anglers in properly disposing of used fishing line. This will be accomplished through coordination with AGFD.
- 3) Contribute funds to the Arizona Bald Eagle Nestwatch Program to defray costs of supporting the Lake Pleasant nestwatch team as follows: At completion of Phase I, \$5,000 per year; at completion of Phase IV, this amount would be increased to \$10,000 per year. Contributions would continue until there is no Nestwatch Program at Lake Pleasant, or 20 annual contributions have been made, whichever comes first.
- 4) Provide the conservation measures regardless of the federally listed status of the bald eagle. These actions will cover the anticipated 20-year post de-listing monitoring period.

### **Determination of Effects**

#### *Bald eagle*

Bald eagles breed primarily in the Sonoran Desert of central Arizona along the Salt, Verde, and Gila rivers, and at some isolated lakes, like Lake Pleasant. Some pairs are known at higher elevations. The Lake Pleasant Bald Eagle Breeding Area (BA) was first discovered in 1979, but had little to no reproductive success until the completion of New Waddell Dam and the subsequent improvement in the continuity and availability in prey. After completion of the dam in 1993 through the 2005 breeding season, 16 eaglets have successfully fledged, and only twice has a breeding attempt failed. Foraging areas for the Lake Pleasant eagles are not well known. Lake Pleasant eagles have been detected foraging within the closure surrounding the nest area, but have also been detected in other parts of the lake where no closure exists. Monofilament fishing line has never been recorded entangling adult or nestling eagles at the Lake Pleasant BA, but was detected and removed from the nest three times between 1993 and 1999.

There has been a greater focus on bald eagle management at Lake Pleasant compared to most bald eagle breeding areas due to the increased amount and consistent level of recreation. Since the mid-1980s, a seasonal land and water closure has existed upstream and downstream of the nest area. Arizona Bald Eagle Nestwatchers have patrolled closure boundaries almost daily throughout the nesting season since 1993. Maricopa County Sheriffs Office and AGFD have enforced the closure. Fliers, brochures, signs, buoys, news segments, and magazine/newspaper articles have all been produced and/or used to improve education and reduce impacts to the Lake Pleasant eagles.

All of this effort however, has not removed the continued need for management as closure violations continue. From 1993 to 2005, the number of watercraft approaching the buoyed closure boundary during the breeding season ranged from hundreds to over 8,000. Noncompliance crossing into the closure has ranged from two percent of all recorded buoy-line visitors to about 12 percent. Numerically the violations range from about a dozen in a season to over 500. In 2004, of the 1,482 boats that were recorded approaching the closure boundary, 57 violated the closure. As mentioned earlier, it is not known specifically how or where eagles exploit prey resources on the lake. That said, it is clear from the productivity of the eagles since 1993, that the management efforts have been successful in minimizing and reducing impacts.

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 funds provided to the Arizona Bald Eagle Nestwatch Program will continue the monitoring necessary to prevent the increase in watercraft recreation from causing disturbance to birds at the nest; 2) the additional signage at the new facilities will alert recreationists to the closure; 3) signs and monofilament disposal stations will provide education and a disposal locations that, within the discretion of Reclamation and the concessionaire, will help prevent the risk of entanglement; and 4) there is no information to believe that the increase in recreation will prevent the ability for bald eagles to capture prey, based upon excellent productivity to date and the detection of eagles foraging within the closure. The Fish and Wildlife Service commends Reclamation and the concessionaire to the long-term commitment toward recreation management at Lake Pleasant for breeding bald eagles.

No additional consultation is needed for this project at this time. If additional information on the abundance or distribution of listed species becomes available, this determination may need to be reconsidered. We also encourage you to continue coordination with the AGFD. Should you require further assistance or if you have any questions, please contact Greg Beatty (x247) or Debra Bills (x239). Thank you for your continued efforts to conserve federally listed species.



for Steven L. Spangle

cc: Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ  
Bald Eagle Management Coordinator, Nongame Branch, Arizona Game and Fish Department,  
Phoenix, AZ

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OCT 25 2006

PXAO-1500  
ENV-6.00

MEMORANDUM

To: Steve Spangle, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road,  
Suite 103, Phoenix, Arizona 85021-4951

From: Bruce D. Ellis  
Acting for Chief, Environmental Resource Management Division

Subject: Revised Biological Assessment on the Proposed Construction and Operation of a New  
Marina at Lake Pleasant Regional Park, Maricopa County, Arizona

In a memorandum dated August 15, 2006, you indicated your concurrence with our determination that the above-referenced project "may affect, but is not likely to adversely affect" the threatened bald eagle (*Haliaeetus leucocephalus*).

In preparing responses to comments that we received on the initial draft environmental assessment (EA) on this project, dated July 2006, we discovered that errors had been made in gathering available data on actual daily and monthly watercraft counts. These watercraft counts are the basis for estimating current and future watercraft use on the lake in the EA. As a result of these inadvertent errors, our initial EA substantially underestimated the amount of watercraft currently using Lake Pleasant. Due to the discrepancy between the estimated current watercraft use identified in the initial draft EA distributed in July 2006, and the estimated current watercraft use based upon corrected data, we determined the draft EA should be revised and reissued for another public review and comment period. A copy of the revised draft EA, dated October 2006, is attached for your information.

We have included a copy of our original Biological Assessment and request for concurrence for your convenience. The only change in the information provided in that memorandum is the anticipated percent increase in watercraft as a result of the proposed project. On page 3, second paragraph of that memorandum, we indicated watercraft use would be expected to increase 68 percent over the current average annual daily basis. Using estimates based upon the corrected actual watercraft counts available from Maricopa County, the expected increase in watercraft on the lake on an average annual daily and peak season weekend daily basis would be 37 and 14 percent, respectively. The methodology for estimating the current and anticipated future watercraft use at Lake Pleasant is described in Appendix C of the attached revised draft EA.

Although not a part of this consultation request, we would like to point out the revised draft EA contains an action alternative, under which the final 196 wet slips (to be installed under Phase IV of

the proposed action) would not be installed, resulting in a marina with a total capacity of 804 boats, rather than 1,000 boats. The conservation measures for this alternative would be the same as those for the proposed action except that contributions to the Arizona Bald Eagle Nestwatch Program would remain at \$5,000 until there is no nestwatch program at Lake Pleasant, or 20 annual contributions have been made, whichever occurs first. This is because there would be no Phase IV under this alternative.

Reclamation has concluded the proposed action will have “no effect” on the other species considered in the attached biological evaluation.

The Lake Pleasant bald eagle breeding area on the Agua Fria arm is one of the most productive breeding areas in the state (pers. comm. Jamey Driscoll, Arizona Game and Fish Department [AGFD]). Due to the high level of recreation at Lake Pleasant, a closure was created in 1985 to protect the nest area from disturbance. The Maricopa County Parks and Recreation Department (MCPRD) closure prohibits entry within one kilometer of the nest from December 15<sup>th</sup> to June 15<sup>th</sup> each year. Reclamation also provides funding for a team of nestwatchers at this breeding area. Information provided over the last few years by the nestwatchers indicates that about four percent of the boaters observed approaching the southern boundary of the closure violate the closure (pers. comm. Jamey Driscoll, AGFD).

Reclamation funding of the Lake Pleasant nestwatchers is not the result of a Section 7 consultation, but is from a Reclamation-wide program to implement activities for the conservation and recovery of threatened and endangered species. We plan to continue supporting the AGFD’s Arizona Bald Eagle Nestwatch Program after the bald eagle is de-listed. However, the availability of the funds is dependent upon approval by Congress of annual appropriations.

Using assumptions that maximize use of the proposed marina facilities, Reclamation’s revised EA estimates watercraft using Lake Pleasant could increase by up to 37 percent once the final phase of the marina project has been completed. Reclamation discussed these potential impacts with the MCPRD and the concessionaire. In an effort to minimize the effects to bald eagles from the anticipated increase in watercraft recreation on Lake Pleasant, the marina concessionaire has agreed to implement the following conservation measures for the proposed action:

1. Post signage at the new public boat ramp and marina to educate the public about the bald eagle and restrictions associated with the closure. This will be accomplished through coordination with the AGFD, U.S. Fish and Wildlife Service (FWS), and Reclamation.
2. Provide monofilament disposal receptacles at the new boat ramp and marina to assist anglers in properly disposing of used fishing line. This will be accomplished through coordination with the AGFD.
3. Contribute funds to the Arizona Bald Eagle Nestwatch Program to defray costs of supporting the Lake Pleasant nestwatch team as follows: At completion of Phase II, \$5,000 per year; at completion of Phase IV, this amount would be increased to \$10,000 per year. Contributions

would continue until there is no nestwatch program at Lake Pleasant, or 20 annual contributions have been made, whichever occurs first.

We believe that the conservation measures proposed by the marina concessionaire will ensure that there will be no adverse effect to the bald eagle and will ensure that the Lake Pleasant breeding area will be monitored through the 20-year, post de-listing monitoring period. If you have any questions concerning this project, please contact Mr. Henry Messing at 623-773-6257. As per 50 CFR 402.12(j), we are requesting FWS' written concurrence with Reclamation's determination that the proposed Scorpion Bay Marina and Yacht Club "may affect, but is not likely to adversely affect" the threatened bald eagle. This concurrence should be provided within 30 days upon receipt of this letter.

Attachment

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# United States Department of the Interior

U.S. Fish and Wildlife Service  
Arizona Ecological Services Field Office

2321 West Royal Palm Road, Suite 103

Phoenix, Arizona 85021-4951

Telephone: (602) 242-0210 Fax: (602) 242-2513



In Reply Refer to:

AESO/SE

22410-2006-I-0547R1

11/9 1500 BSE

November 6, 2006

## Memorandum

To: Chief, Environmental Resources Management Division, Bureau of Reclamation,  
Glendale, Arizona

From: Field Supervisor

Subject: Clarification of Informal Section 7 Consultation on Scorpion Bay Marina and Yacht  
Club, Lake Pleasant, Maricopa County, Arizona

Thank you for your correspondence of October 25, 2006, received in our office on October 26, 2006. Your memorandum explains that the biological assessment we analyzed for the Scorpion Bay Marina and Yacht Club at Lake Pleasant project contained inaccurate data. Boat density was underestimated in the initial assessment. Your October 25<sup>th</sup> memo provides the updated, accurate information for our evaluation in compliance with section 7 of the Endangered Species Act of 1973 (ESA) as amended (16 U.S.C. 1531 et seq). On August 15, 2006, we concurred with your determination that the proposed project "may affect, but is not likely to adversely affect" the threatened bald eagle (*Haliaeetus leucocephalus*). This new information does not change our original conclusion, and we provide our rationale below.

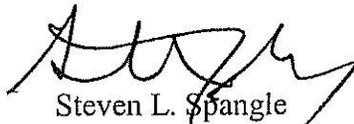
The proposed action includes the development and subsequent operation of the Scorpion Bay Marina and Yacht Club in four Phases. Phases I-IV would occur over the next several years and would include the development of infrastructure (roads, fencing, wastewater treatment plant, public boat ramp), buildings (store/office), boat slips, outdoor watercraft storage, parking spaces, a fueling facility, and a wave attenuator. Conservation measures proposed for the bald eagle will include educational signs, monofilament recovery receptacles, and funding for seasonal Arizona Bald Eagle Nestwatchers until there is no Nestwatch Program at Lake Pleasant, or until 20 annual contributions have been made, whichever comes first.

The corrected information estimates the current average annual daily use at 645 boats, which could increase to 881 boats with the proposed action. Peak weekend daily use was corrected to increase from the current use of 1,660 boats to 1,896 boats after implementation of the proposed action. This would represent a 37 percent (%) increase of daily annual use and a 14% increase in peak weekend boating use with full implementation of the project. These new estimates are a 153 percent and 336 percent difference in what was provided in the original biological

assessment for average annual daily (347 boats) and peak weekend (434 boats) boat use.

We believe the new information on numbers of boats currently using the lake and estimated to use the lake as a result of the proposed action does not change our previous conclusion. The change in numbers does not reflect an actual increase in boat numbers from the original estimation, but rather more accurately describes the current environmental baseline as we understand it. The funds provided to the Arizona Bald Eagle Nestwatch Program will continue the monitoring necessary to prevent watercraft recreation from causing disturbance to birds at the nest. Additional signage at the new facilities will alert recreationists to the closure. Signs and monofilament-disposal stations will provide education and disposal locations that, within the discretion of Reclamation and the concessionaire, will help prevent the risk of entanglement. Based upon the excellent productivity of the Lake Pleasant eagles, the observation of eagles foraging within the nest area closure, and the success of management efforts proposed to continue, we do not believe that the increase in annual daily (37%) and peak weekend (14%) boat use will prevent bald eagles from capturing prey and nesting successfully. Therefore, we concur with your determination that the proposed action may affect, but is not likely to adversely affect the bald eagle.

No additional consultation is needed for this project at this time. If additional information on the abundance or distribution of listed species becomes available, this determination may need to be reconsidered. We also encourage you to continue coordination with the Arizona Game and Fish Department. Should you require further assistance or if you have any questions, please contact Greg Beatty (x247) or Debra Bills (x239). Thank you for your continued efforts to conserve federally listed species.



Steven L. Spangle

cc: Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ  
Bald Eagle Management Coordinator, Nongame Branch, Arizona Game and Fish Department,  
Phoenix, AZ

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