



# United States Department of the Interior



## BUREAU OF RECLAMATION

Lower Colorado Regional Office

P.O. Box 61470

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**DEC 22 2005**

IN REPLY REFER TO:

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VIA FEDERAL EXPRESS

Mr. Jim Bartel, Field Supervisor  
U.S. Fish and Wildlife Service, Region 1  
Carlsbad Fish and Wildlife Office  
Attention: Ms. Carol Roberts  
6010 Hidden Valley Road  
Carlsbad, CA 92011

Subject: Request Confirmation of Conference Opinion (CFO# 1-6-96-F-12) as a Biological Opinion (BO) for Peirson's Milk-vetch (PMV) (*Astragalus magdalenae* var. *peirsonii*) for the All-American Canal Lining Project (Project), Imperial County, California (Your Letter Dated November 15, 2004 and the Bureau of Reclamation Response Letter Dated January 25, 2005)

Dear Mr. Bartel:

In the U.S. Fish and Wildlife Service's letter dated November 15, 2004, you requested additional clarification on the location and acreage to be affected by the Project as it relates to minimizing and offsetting impacts to PMV prior to confirming the Conference Opinion as a BO. As we previously communicated in our letter of January 25, 2005, the Bureau of Reclamation was not able to provide a disturbance footprint at that time, as the final parallel canal design had not progressed sufficiently. Since then, Reclamation and the Imperial Irrigation District (IID) have continued with project implementation activities and have now proceeded beyond the 90 percent design stage, so we are now confident in the accuracy of the acre calculations of the disturbance footprint for the Project. In providing the additional information that you requested, Reclamation has enclosed two sets of footprint drawings and a map showing sensitive plant habitat.

Enclosure Number 1 is a 4-sheet set of drawings labeled "Limits of Work Area and Survey Control" and identifies the centerline of the parallel lined canal and the limits of work activity within Reclamation land (note that North is directed to the bottom of the sheets). Enclosure Number 2 is a 14-sheet set of drawings labeled "All American Canal Lining Project Proposed Work Area" and more clearly identifies the permanent affected area by reach (Reaches 1A, 1B, 2 and 3) in cross-hatched red lines and temporary affected area in blue perpendicular lines. Please note that the centerline of the parallel lined canal indicates distance in feet by way of Station markers (e.g. Station 1260+00 is approximately the beginning of the new lining project just to the southwest of Sidewinder Road on Sheet 2 of 14) that will be used to approximately describe particular plant and acreage locations.

## **Identification of Temporary and Permanent Disturbance Acreage for the Project**

In the 1994 Final EIS/EIR, Reclamation estimated that the 600-foot construction zone of the Parallel Canal Alternative would eliminate up to an estimated 587 acres of desert scrub and 916 acres of sand dune habitat for a total of 1,503 acres. The 1994 FEIS/EIR estimated that approximately half (751.5 acres) of this total would be permanently lost to the parallel canal, access roads, and spoil deposits. The 1994 Final EIS/EIR also noted that after final design of the project facilities, total acreage would be adjusted based on 1993 habitat surveys, updated survey data and coordination with wildlife agencies of the biological work group.

Consultation with wildlife agencies of the interagency biological work group has been ongoing during the design phase of the Project. Representatives of the wildlife agencies, specifically the Service and the California Department of Fish and Game (CDFG) have attended the monthly Project coordination meetings and other meetings with IID and Reclamation environmental and biological staff. At a meeting between IID, the Service and CDFG on July 26, 2005, IID provided draft drawings of the new canal alignment and likely construction effects base on the draft 60% design drawings (from June 2005). Discussion included opportunities for habitat restoration in the temporary impact areas and within the old canal. All came to agreement that permanent impacts would consist of the new canal and associated access roads (operation and maintenance roads). The temporary impacts would consist of the spoil pile out to the limit of temporary effect area (limited of work), including the construction access roads which will be re-contoured to blend in with the local environment after completion of the project. The potential for an increase in the disturbance acreage was discussed. IID provided updated alignment and disturbance footprint maps and tables to the Service and CDFG at an implementation meeting held on November 11, 2005.

Based on the information that is now available, Reclamation has re-calculated the acreages of permanently lost and temporary disturbed areas for the parallel canal design as identified on the second set of drawings and provided in Table 1 below. As a result of refinements in the 90 percent canal design there is an increase in total acres affected from 1,503 to 2,161. However, there is a reduction in permanently lost acreage from 751.5 to 650 acres due to design refinements primarily in Reach 1B, the high sand dune PMV habitat area. This reduction was accomplished by keeping the new parallel canal alignment as close as possible to the existing canal, utilizing portions of the existing canal embankment, using open disturbed areas, and crossing southward to use other open and disturbed areas.

There is an increase in temporary disturbance acreage from 751.5 acres to 1511 acres. The increase of 759.5 acres is related to the need for a wider construction zone in construction Reach 1A and portions of 1B. The wider construction zone was needed to accommodate a larger spoils footprint from mass excavation through the sand dune overburden for the canal maintenance roads and the new parallel canal section to its hydraulic bottom elevation. Native vegetation in the temporary disturbed areas is expected to reestablish itself over time. Please note, that we have included construction staging areas, construction and site access roads, a proposed aggregate source and the Reach 2 reservoir in the table. The proposed aggregate source is not within PMV habitat. A second aggregate source is under evaluation in the American Girl Mine area northeast of Interstate 8 (I-8) and Ogilby Road exit,

California. This area is managed by the Bureau of Land Management and is not within PMV habitat. Review of the parallel canal design information indicates that the Project is now estimated to disturb fewer acres of high sand dune habitat in Reaches 1A and 1B as it relates to PMV and the other sand dune plant species.

Terrestrial and wetland habitats are described and located in the 1994 FEIS/EIR. A brief habitat summary and location as it relates to each construction reach follows in support of Table 1, below. Reach 1A begins one mile west of Pilot Knob. There is a gravelly desert pavement for about one and a half miles then low dune habitat westward from that point to the I-8 and Ogilby Road exit. Reach 1B begins at the I-8 and Ogilby Road exit and ends at Drop 1. Reach 1B is primarily in high dune habitat on the north side, transitions to open areas on the south, and desert scrub habitat in proximity of Drop 1. Reach 2 begins south of Drop 1 and proceeds westward to Drop 2. This reach is primarily composed of the desert scrub habitat. Reach 3 begins south of Drop 2 and proceeds westward to Drop 3. This area is a mixture of desert scrub habitat and wetlands. A localized Wash Woodland Community occupies intermittent wash channels and low moist pockets along the construction reaches except in the high dune area.

<b>Table 1. All American Canal Lining Project - Work Area Acreages</b>					
<b>WORK AREAS (Acres)</b>	<b>Reach 1A</b>	<b>Reach 1B</b>	<b>Reach 2</b>	<b>Reach 3</b>	
Permanently Lost Area - Parallel Canal	252	140	118	140	
Temporary Disturbed Area - Spoil Embankment	551	335	122	152	
Temporary Disturbed Area - 20' Construction Roads Along Canals	34	14	23	26	
Temporary Disturbed Area - 30' Construction Site Access Roads	10	9	0	0	
Temporary Disturbed Area - Construction Staging Area	23	11	30	0	
Temporary Disturbed Area - Reach 1A Aggregate Source	41	N/A	N/A	N/A	
Temporary Disturbed Area - Reach 2 Reservoir	N/A	N/A	130	N/A	
<b>SUMMARY</b>					<b>PROJECT TOTALS</b>
Total Permanently Lost Acres	252	140	118	140	<b>650</b>
Total Temporary Disturbed Acres	659	369	305	178	<b>1511</b>
Total Affected Acres	911	509	423	318	<b>2161</b>

**Vegetation Regeneration of The Unlined All-American Canal (AAC)**

As discussed in the FEIS/EIR, and noted above, it is anticipated that all temporary disturbed areas consisting primarily of spoil piles (low profile and contoured) would regenerate to desert scrub habitat. In addition, when the unlined AAC is taken out of service (exclusive of the Reach 2 Reservoir site within the existing AAC) these reaches would also be expected to regenerate to desert scrub habitat and/or provide additional locations for active vegetation mitigation. This additional acreage could be considered a benefit as the unlined canal would not be disturbed by construction and is not included in the acre amounts in Table 1. The acreage in the unlined canal that could potentially regenerate is presented in Table 2 below.

<b>Table 2. Unlined AAC- Potential Desert Regenerative Area Acreages</b>			
<b>Reach 1A</b>	<b>Reach 1B</b>	<b>Reach 2</b>	<b>Reach 3</b>
240	115	0*	170
* Future reservoir in unlined channel			

**Pierson’s Milk-vetch and Sensitive Plant Survey Results**

RECON, a Project consultant, undertook sensitive plant surveys and prepared a “Draft Final - Pre-Construction Sensitive Plant Survey” for the Project dated August 22, 2005. This report was previously provided to Reclamation and the Service by IID. Their surveys resulted in the identification of eighteen individual PMV plants in Reach 1B southeast of Station 1800+00. These plants are within the temporary impact area.

RECON was also charged, based upon their plant surveys, with calculating suitable plant species habitat for PMV (federally listed as threatened), and the Wiggin’s croton and Algodones Dunes sunflower (California sensitive status plants) within the permanent and temporary construction impact areas of the new parallel canal. Mr. Frank McDermott, RECON GIS Analyst, provided the information in Table 3 below, and Enclosure Number 3 the map labeled Sensitive Plant Suitable Habitat 2005 based on their survey report.

<b>Table 3 – Suitable Habitat for Sensitive Desert Dune Plant Species</b>	
<b>Permanent impact area</b>	<b>30 acres of suitable habitat</b>
<u>Peirson's milk-vetch</u>	0 individual plants
<u>Wiggin's croton</u>	0 individual plants
<u>Algodones Dunes sunflower</u>	67 individual plants
<b>Temporary impact area</b>	<b>120 acres of suitable habitat</b>
<u>Peirson's milk-vetch</u>	18 individual plants
<u>Wiggin's croton</u>	238 individual plants
<u>Algodones Dunes sunflower</u>	797 individual plants

In addition, RECON, with approval from the CDFG, Bureau of Land Management and the Service collected plant seeds on site and is storing the seeds of all five plant species for later re-planting.

### **Review of Environmental Commitments Relating to Special Status Species**

The Environmental Commitment Plan (ECP) prepared by Reclamation on July 8, 2003, is a compilation of environmental commitments identified in the FEIS/EIR and Reclamation's Record of Decision. Mitigation measures in the ECP are in place to assure protection and/or replacement of PMV habitat. These measures listed below, were proposed and enacted in the subject 1996 BCO:

1. Special status species shall be compensated by acquisition and management of replacement lands on an acre-per-acre basis.

Based upon all of the additional information provided to you in this letter and as mitigation for the thirty (30) acres of permanent impact to suitable habitat for PMV (as well as the other sand dune species, Wiggin's croton, Algodones Dunes sunflower, Giant Spanish needle and Sand food), Reclamation and IID will restore and manage thirty (30) acres within the out of service unlined AAC between Stations 1640+00 to 1745+00 as desert dune habitat. Re-seeding the site as necessary with native plant seeds could take place. Between these stations, an additional 15 acres is identified as a reserved, as needed, mitigation area above and beyond the original acre-per-acre commitment.

2. Prior to disturbance, abundance and habitat characterization studies will be conducted for PMV.

Reclamation and IID have fulfilled this requirement in the Survey of PMV and Other Sensitive Plant Species report/letter dated June 22, 2004, prepared by BLM under Memorandum Of Understanding #04MU00009 (attached to Reclamation letter to you dated September 9, 2004) and by the Draft Final – Pre-Construction Sensitive Plant Survey for the All-American Canal Project, Imperial County, California (RECON Number 4140B); RECON; August 22, 2005 previously sent to you by IID.

3. Previously disturbed areas will be used as much as possible for construction staging, concrete batch plant, access roads, borrow and disposal activities. Where it is not possible to use disturbed areas, a qualified biologist would survey the area to minimize effects to special status species and/or habitat.
4. To mitigate negative impacts, vegetation will be crushed rather than bladed wherever possible.

Reclamation and IID believe the mitigation measures presented to the Service and incorporated into the referenced BCO by the Service, as well as the additional information presented in this letter and enclosures, provide all of the necessary mitigation to protect or replace PMV habitat.

We hereby request your concurrence with our conclusions and request confirmation of the Conference Opinion for PMV as a BO for this plant species. Reclamation appreciates the Service's consideration of our information in their decision-making process. If you have any questions, please contact Mr. James Green at 702-293-8519.

Sincerely,



FOI Deanna J. Miller, Director  
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Enclosures - 3

cc: See next page.

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bc: YAO-1000 (w/encl)  
YAO-1100, 2000, 6030, 7000, 7200 (w/o encl)  
LC-1000, 2012 (w/encl to each)

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