



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

Ecological Services  
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### Memorandum

To: Regional Director, Lower Colorado Region,  
Bureau of Reclamation, Boulder City, Nevada  
(Attn: Environmental Compliance Group Manager)

From: Assistant Field Supervisor, Carlsbad Fish and Wildlife Office  
Fish and Wildlife Service, Carlsbad, California 

Subject: Request for Confirmation of Conference Opinion (1-6-96-F-12) as a Biological  
Opinion for Peirson's Milk-Vetch (*Astragalus magdalenae* var. *peirsonii*) for the  
All-American Canal Lining Project, Imperial County, California.

The Fish and Wildlife Service (Service) has reviewed your letter dated September 9, 2004, and received by this office September 13, 2004, and its accompanying attachment regarding the confirmation of the existing Conference Opinion (1-6-96-F-12) as a Biological Opinion for Peirson's milk-vetch for the All-American Canal lining project. We require additional clarification on the following issues prior to our confirmation of this change.

We acknowledge that no critical habitat was designated for the Peirson's milk-vetch in the project area, and no adverse modification of critical habitat will result from the project. Your letter provides the measures included in the Environmental Commitment Plan (ECP) that will be implemented to avoid, minimize and offset impacts to the Peirson's milk-vetch as a result of the project. The ECP does not provide a specific figure for the compensation habitat as that will be based on the actual area of impact. However, given the survey information that is currently available (the cited 1993 Service surveys and more recent Bureau of Land Management (BLM) surveys for the milk-vetch in the vicinity of the canal) and the anticipated disturbance associated with the project, it should be feasible to estimate the acreage that would be required to offset the impacts to the milk-vetch. It would be helpful to have such an estimate provided in comparison to the available private land that falls within the range of Peirson's milk-vetch and has the appropriate habitat characteristics to ensure this offsetting measure can be achieved. It recently has come to our attention that the ECP developed by the Imperial Irrigation District provides for an alternative approach to this measure. Their ECP allows for the restoration of habitat within the old canal alone or in combination with acquisition such that the habitat loss is still offset on

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an acre-for-acre basis. We acknowledge there may be merit in this approach given the limited private land available in suitable habitat, but the specifics have yet to be provided such that we can determine that this would offset the impacts adequately.

Your letter identifies crushing of vegetation as the preferred approach rather than blading the soils wherever possible. The ECP commits to this approach, and it includes stockpiling of the topsoil for redistribution following construction wherever blading is required. Because it is not possible to identify topsoil in an active dune concept as it is in other situations, the measure should require that there be no removal of sand from the dune system. After work is complete, sand and its associated seed bank should be redistributed such that it will be incorporated into the natural dynamics of the active dune system. An additional measure that would be appropriate to incorporate into the project would be to conduct all disturbance of potential Peirson's milk-vetch habitat outside the growth and flowering period for this species (i.e., avoid soil disturbing activities following the first fall rains until seeds have set which generally occur starting November 1 through April 30). We believe the project could be phased to support this approach, and we would like to work with you and the Bureau of Land Management to identify appropriate locations for the distribution of sand from the project.

The ECP calls for abundance and habitat characterization studies prior to habitat disturbance. Your letter did not specify when these surveys would take place relative to the anticipated project schedule. This information would be helpful in determining areas to avoid as the specific alignment and locations of staging areas, concrete batch plant, access roads, borrow and disposal sites are identified. The project description calls for the new parallel canal to be as close as practicable to the existing canal to reduce the necessary excavation. We encourage you to consider an alignment between the existing canal and Interstate 8 (where feasible) to minimize the use of undisturbed habitat for project facilities. Given it will be necessary to locate at least some of these facilities in currently undisturbed sites, have additional measures been contemplated (other than those discussed above) to minimize the impacts of construction on the Peirson's milk-vetch? One measure that would be appropriate is to salvage plant material from the project area prior to disturbance (locations will be known based on the studies). Another measure that would minimize impacts would be to reduce the risk of spreading invasive plant species by cleaning heavy equipment prior to use in the dunes and removing invasive species from the work areas prior to disturbance to avoid incorporating seeds of these species into the seed bank. Follow up surveys in disturbed areas with removal of any invasive plants found would provide for the opportunity to enhance the efficacy of this approach. We recommend that this follow up effort continue for a minimum of three years.

The Service has not been provided with any specific information regarding sand and gravel borrow sites so no assessment of the impacts to Peirson's milk-vetch of the extraction of sand and gravel required for the project can be made at this time.

There is one additional issue unrelated to the Peirson's milk-vetch. Although the Service's Biological Opinion identified Senator Wash Reservoir as the location for release of razorback

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suckers (*Xyrauchen texanus*) that may be stranded in the old canal, this site is no longer deemed appropriate given changes in conditions there. As we get closer to the time of canal de-watering, we would like to work with you and the California Department of Fish and Game to identify an appropriate release location that takes into consideration the conditions on the Colorado River at that time.

The Service looks forward to continued cooperation with the Bureau of Reclamation on the All-American Canal lining project. Please contact Carol Roberts of my staff at (760) 431-9440 ext. 271 if you have any questions regarding our information requests and/or comments.