

RECLAMATION

Managing Water in the West

June 28, 2010

**National Environmental Policy Act
FINDING OF NO SIGNIFICANT IMPACT**

No. 10-SCAO-012-FONSI

Bishop-Paiute Native Fish Refuge
Inyo County, California

The Bureau of Reclamation (Reclamation) is providing American Recovery and Reinvestment Act funds to enhance wetlands at the Conservation Open Space Area (COSA) on the Bishop-Paiute Reservation in Inyo County, California. The project will install or rehabilitate supply and drainage pipelines to control water flows, enhance wetlands, and provide public access and interpretive features.

Based on our review and evaluation of a draft Environmental Assessment prepared in accordance with Tribal Environmental Protection Ordinance No. 98-02, we have determined that the project does not constitute a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). Accordingly, preparation of an environmental impact statement on the proposed action is not required.

Recommended: _____ /s/ Date: 6/25/2101
Doug McPherson, Environmental Protection Specialist

Reviewed By: _____ /s/ Date: 6/25/2010
Leslie Cleveland, Water Resources Manager

Approved: _____ /s/ Date: 6/27/2010
William J. Steele, Area Manager



**U.S. Department of the Interior
Bureau of Reclamation
Lower Colorado Region
Southern California Area Office
Temecula, California**

BACKGROUND

The Bureau of Reclamation is providing Federal funds appropriated under the American Reinvestment and Recovery Act of 2009 to enhance the Conservation Open Space Area (COSA) on the Bishop Paiute Reservation, Inyo County California. The 24.8-acre COSA was preserved by Tribal Council resolution as mitigation for a Clean Water Act (CWA) nationwide permit (NWP 26, No. 96-50401-BAH) approved by the Army Corps of Engineers in 1997.

Assistance Agreement No. R10AV35R22 provides funding to design and construct the proposed Native Fish Refuge. Identified effects were evaluated in an Environmental Assessment prepared under Tribal Environmental Protection Ordinance No. 98-02 and released for public review on June 8, 2010.

PURPOSE AND NEED

The Tribe proposes to create a native fish refuge for the Federal and State endangered Owens pupfish (*Cyprinodon radiosus*) and Owens tui chub (*Gila bicolor snyderi*) in accord with the Owens Basin Wetland and Aquatic Species Recovery Plan (September 1998). This project is a subset of a larger "Conservation Area Management Project" to enhance and manage the entire 24.8-acre COSA.

The overall goal is to enhance wetland habitat to encourage habitation of wetland native species of flora and fauna endemic to the Owens Valley. The primary objective is to provide a perennial and controlled supply of water thus restoring the major beneficial uses of that water for desert fishes indigenous to the Owens Valley. Secondary objectives of this project include: reduce localized flooding, reduce vector (mosquito) populations, restore function of the agricultural drain and improve soil drainage within an approximately a 180 acre area, foster environmental and cultural awareness, and encourage environmental stewardship in the schools.

AUTHORITY

Public Law 108-7, Consolidated Appropriations Resolution 2003, Division D—Energy and Water Development Appropriations 2003, Title II Section 201: "In order to increase opportunities for Indian tribes to develop, manage, and protect their water resources, in fiscal year 2003 and thereafter, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants and cooperative agreements with any Indian tribe, institution of higher education, national Indian organization, or tribal organization pursuant to 31 USC 6301–6308. Nothing in this Act is intended to modify or limit the provisions of the Indian Self Determination Act (25 USC 45, et seq.)."

PROJECT DESCRIPTION

The project will install or rehabilitate supply and drainage pipelines to control water flows, enhance wetlands, and provide public access and interpretive features in the COSA, including the following specific components:

1. Rehabilitate and Realign Drain line/Install Irrigation Line/Establish Domestic Line Water Source: Install a water distribution system to provide a perennial and controlled supply of water from drainage and irrigation lines to a wetland portion of the conservation area, restoring the major beneficial uses of that water.
2. Engineer final fish refuge design based upon observed seasonal water flows through the system: A species-appropriate build-ready plan will be designed to maximize the potential of fish to thrive at the site as well as to decrease long term maintenance needs.
3. Establish pond and channel: May include deepening of existing wetland areas, installation of fish control structures, ditching, pipelines etc.
4. Rehabilitate Remaining Drain Line: The drainline upgradient of the new drainline will be inspected to identify and repair problem locations in order to increase the flow of water to the site.

5. Establish Pathways and Boardwalks: Approximately 4000 feet of polymer stabilized compacted DG trails will be installed to the area connecting the Tribal Cultural Center and public elementary schools with the site. A lesser footage of boardwalks will be erected across low and wet areas.
6. Install Interpretive Kiosks and Signs: Three informational kiosks will be erected for cultural and biological interpretation.

ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENT

The National Environmental Policy Act (NEPA) requires review of a proposed Federal action to determine its impact on the human environment. Council on Environmental Quality (CEQ) regulations direct Federal agencies to cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements (40 CFR 1506.2). Department of Interior procedures for implementing NEPA encourage tiering of environmental documents and provide for adoption of existing environmental documents if, upon evaluation by a responsible official, it is found to comply with relevant provisions of the CEQ regulations.

In accordance with CEQ regulations for implementing the procedural requirements of NEPA, Reclamation staff reviewed the draft Environmental Assessment prepared under Tribal Environmental Protection Ordinance No. 98-02 and concluded that the document adequately identifies and discloses the reasonably foreseeable environmental effects of the proposed action. We adopt the document as our Environmental Assessment in accordance with CEQ regulations (40 CFR 1506.3) and Department of the Interior regulations for implementing NEPA (43 CFR 46.320(a)).

SUMMARY OF FINDINGS

The Environmental Assessment concluded that the proposed project could not have a significant effect on the environment. No Environmental Impact Report is required under Tribal Environmental Protection Ordinance No. 98-02. No mitigation measures were identified.

OTHER FEDERAL REQUIREMENTS

Endangered Species Act, Section 7

A Biological Assessment is attached to the Environmental Assessment. Within areas directly affected by the Project, no federal listed threatened or endangered plant or wildlife species are known to occur. No endangered southwestern willow flycatcher (*Empidonax traillii extimus*) or least Bell's vireo (*Vireo bellii pusillus*) were detected. Once satisfactory wetland habitat values are established, the Tribe may seek an agreement to reintroduce Owens pupfish (*Cyprinodon radiosus*) and/or Owens tui chub (*Gila bicolor snyderi*) in accordance with the Owens Basin Wetland and Aquatic Species Recovery Plan (September 1998). No native fish reintroduction is proposed at this time.

National Historic Preservation Act, Section 106

A Cultural Resources Survey Report identified three cultural resources within the Area of Potential Effect: a historic standpipe, a section of historic irrigation line and associated valves, and two horse-drawn tractors. None were recommended as eligible for inclusion on the National Register of Historic Places.

Indian Trust Assets

The proposed project will not adversely affect tribal water rights or other Indian Trust Assets.

Clean Water Act (CWA) and Protection of Wetlands – Executive Order 11990

The Tribe will apply to the Army Corps of Engineers for a permit under CWA section 404. The action appears to qualify for Nationwide Permit NWP-27, *Aquatic Habitat Restoration, Establishment, and Enhancement Activities*. The project will create additional wetland areas and improve the function and habitat value of existing wetlands. There will be no net loss of wetland or riparian habitat. The Tribe is authorized to administer water quality standards and issue water quality certifications on surface and groundwater of the Bishop Reservation, and was granted "Treatment in the Same Manner as a State (TAS)" under CWA §518(e) to administer CWA §303(c) and §401. The Environmental Protection Agency approved the Tribe's water quality standards on August 15, 2008.

Flood Plain Management – Executive Order 11988

No practicable alternatives to avoid the floodplain were identified. The Project appears to comply with Executive Order No. 11988.

Clear Air Act

Implementation of the proposed project would result in short-term impacts to air quality in association with construction. Emissions will not exceed Clean Air Act conformity applicability *de minimis* thresholds [40 CFR 93.153(b)] and will not be regionally significant. No conformity determination is required.

Environmental Justice

The proposed project will not disproportionately impact economically disadvantaged or minority populations. No impacts relevant to Environmental Justice are anticipated.

Farmland Protection Policy Act

No prime or unique farmlands are mapped in the area.

Wild and Scenic Rivers Act

The proposed project will not impact any designated Wild and Scenic Rivers.

Coastal Zone Management Act

The proposed project is outside the California Coastal Zone boundary. No Coastal Zone Management Act consistency certification is needed.

AGENCY CONSULTATION AND COORDINATION

U.S. Fish and Wildlife Service (FWS)

Informal consultation with Ventura Field Office staff on May 24, 2010 identified no issues of concern. A memorandum finding that the action would not affect Federal listed species or designated critical habitat areas was transmitted to FWS on June 5, 2010.

California Department of Fish and Game (CDFG)

Reclamation staff contacted CDFG staff on May 27, 2010, and verified that they were aware of the proposed project. No concerns were identified. The Tribal reservation is outside CDFG jurisdiction.

Tribal Historic Preservation Officer

Reclamation submitted a finding of no effect to properties eligible for the National Register of Historic Places to the Tribal Historic Preservation Officer on May 28, 2010.

U.S. Army Corp of Engineers (ACOE)

Reclamation staff contacted ACOE staff on May 11, 2010 and verified that the action is compliant with the mitigation requirements of NWP No. 96-50401-BAH and likely qualifies for CWA 404 NWP-27.

ENVIRONMENTAL COMMITMENTS

Cultural Resources

Should cultural resources be discovered during project construction, all ground disturbing activities in the area of the archeological resource will stop and the Tribal Historic Preservation Officer will be contacted.

ATTACHMENTS

1. May 28, 2010 Letter to Tribal Historic Preservation Officer.
2. June 3, 2010 Memorandum to FWS.

REFERENCES

Environmental Assessment, Tierra Environmental Services, June 2010.



United States Department of the Interior



IN REPLY REFER TO:

SCAO-1000
ENV-3.00

BUREAU OF RECLAMATION
Southern California Area Office
27708 Jefferson Ave., Suite 202
Temecula CA 92590-2628

MAY 28 2010

Ms. Theresa Stone
Tribal Historic Preservation Officer
Bishop Paiute Tribe
50 Tu Su Lane
Bishop, California 93514

Subject: Bishop Wetlands Project, Inyo County, California

Dear Ms. Stone:

The Bureau of Reclamation is providing American Recovery and Reinvestment Act of 2009 funds to the Bishop Paiute Tribe to enhance wetland habitat values in the Conservation Open Space Area (COSA) on the Bishop-Paiute Reservation in Inyo County, California. A Cultural Resources Survey Report (May 2010) prepared by Tierra Environmental Services, San Diego, California, is enclosed.

Description of the Undertaking

See the enclosed Workplan. The undertaking will install or rehabilitate supply and drainage pipelines to control water flows, enhance wetlands, and provide public access and interpretive features in the COSA, including the following specific components:

1. Rehabilitate and Realign Drain line/Install Irrigation Line/Establish Domestic Line
Water Source: Install a water distribution system to provide a perennial and controlled supply of water from drainage and irrigation lines to a wetland portion of a conservation area, restoring the major beneficial uses of that water.
2. Engineer final fish refuge design based upon observed seasonal water flows through the system: A species-appropriate build-ready plan will be designed to maximize the potential of fish to thrive at the site as well as to decrease long term maintenance needs.
3. Establish pond and channel: May include deepening of existing wetland areas, installation of fish control structures, ditching, pipelines etc.
4. Rehabilitate Remaining Drain Line: The drainline upgradient of the new drainline will be inspected to identify and repair problem locations in order to increase the flow of water to the site.

5. Establish Pathways and Boardwalks: Approximately 4000 feet of polymer stabilized compacted DG trails will be installed to the area connecting the Tribal Cultural Center and public elementary schools with the site. A lesser footage of boardwalks will be erected across low and wet areas.
6. Install Interpretive Kiosks and Signs: Three informational kiosks will be erected for cultural and biological interpretation.

Area of Potential Effect (APE)

The APE is indicated on Figure 3 of the enclosed Cultural Resources Survey Report. The undertaking includes the 24.8-acre COSA and 5,650 linear feet of drainage and irrigation piping. The Cultural Resources Survey Report investigated a larger 95.5-acre APE including the COSA, a surrounding mixed-use development area, and the pipeline alignments. We accept this APE.

Identification and Evaluation of Cultural Resources

Three cultural resources were identified within the APE: a historic standpipe, a section of historic irrigation line and associated valves, and two horse-drawn tractors. None were recommended as eligible for inclusion on the National Register of Historic Places.

Native American Consultations

Bishop Tribal Council Resolution T2010-16 is enclosed.

Assessment of Effects

We accept the recommendation that the resources identified within the APE are not eligible for inclusion in the National Register of Historic Places. Pursuant to 36 CFR 800.4(d)(1), we find that no historic properties will be affected by the proposed undertaking.

We believe the enclosed Cultural Resources Survey Report is a reasonable and good faith effort to identify historic resources appropriate to the scale of the undertaking. If you have any questions or concerns, please contact me at 951-695-5310 or by e-mail at wsteele@usbr.gov.

Sincerely,



William J. Steele
Area Manager

Enclosures (3)

bc: SCAO-1500 (w/o encl)

Chrono (w/o encl)

WBR:DMcPherson:dsd:05/28/10:951-695-5310

O:\Environmental\Bishop THPO 106.docx



United States Department of the Interior



IN REPLY REFER TO:

SCAO-1500
ENV-7.00

BUREAU OF RECLAMATION
Southern California Area Office
27708 Jefferson Ave., Suite 202
Temecula CA 92590-2628

JUN 03 2010

MEMORANDUM

To: Assistant Field Supervisor, Desert Division, Fish and Wildlife Service,
Ventura Field Office
Attn: Michael Glenn

From: Douglas S. McPherson
Environmental Protection Specialist

Doug McPherson

Subject: Bishop-Paiute Native Fish Refuge Project, Inyo County, California

The Bureau of Reclamation (Reclamation) is providing American Recovery and Reinvestment Act of 2009 funds to enhance wetland habitat at the Conservation Open Space Area (COSA) on the Bishop-Paiute Reservation in Inyo County, California. The 24.8-acre COSA was preserved by Tribal Council resolution as mitigation for a Clean Water Act nationwide permit (NWP 26, No. 96-50401-BAH) approved by the Army Corps of Engineers in 1997.

A fundamental project objective is to encourage habitation of native flora and fauna endemic to the Owens Valley. Once satisfactory habitat values are established, the Tribe may seek an agreement with your office to reintroduce Owens pupfish (*Cyprinodon radiosus*) and/or Owens tui chub (*Gila bicolor snyderi*) in accord with the Owens Basin Wetland and Aquatic Species Recovery Plan (September 1998). No native fish reintroduction is proposed at this time.

A Biological Assessment (Cummings and Associates, May 2010) is attached. No least Bell's vireo (*vireo bellii pusillus*) or southwestern willow flycatcher (*Empidonax trailii extimus*) were observed, although riparian woodland habitat suitable for both species is present in the action area. Biological monitoring was recommended to avoid effects to these species.

Based on a commitment by the tribe to require breeding bird surveys if construction activities occur during the nesting season, we have determined that the proposed action will not affect any Federally-listed threatened or endangered species or designated critical habitat areas.

Thank you for the guidance you provided in our recent phone conversation. Please advise us if we have overlooked any issue of concern or otherwise erred in our analysis. If you require any additional information, please call me at (951) 695-5310.

Attachment

bc: SCAO-1500