

INTERAGENCY CONSULTATION

Harris, Melissa M

From: Rivera, Patricia L
Sent: Tuesday, March 13, 2012 7:21 AM
To: Harris, Melissa M
Subject: RE: ITA Request - Terminal Dam

Melissa,

I reviewed the proposed action to perform geotechnical and geophysical investigations at the Terminal Dam Facility which consists of the Reservoir and two earthen embankment dams, the Northeast Auxiliary Dam and Terminal Dam (also known as South Dam). The purpose of the investigation is to collect geotechnical data of the dam embankments and their foundations, and geophysical data on the Green Valley Fault mapped in the vicinity of the Terminal Dam Facility. The proposed investigations are part of Reclamation's current Safety of Dams Study of Terminal Reservoir.

The proposed action does not have a potential to affect Indian Trust Assets. The nearest ITA is Lytton Rancheria approximately 21 miles SW of the project location.

Patricia Rivera
Native American Affairs Program Manager
Bureau of Reclamation
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Sacramento, California 95825
(916) 978-5194 (Office)
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United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Region
Central California Area Office
7794 Folsom Dam Road
Folsom, CA 95630-1799

IN REPLY REFER TO:

CC-402
ENV-6.00

MAR 30 2012

Mr. Ryan Olah
Chief, Coast Bay Branch
U.S. Fish and Wildlife Service
2800 Cottage Way, Suite W-2605
Sacramento, California 95825

Subject: Request for Concurrence With a Not Likely to Adversely Affect Determination for the Geotechnical and Geophysical Investigations for the Solano Project (Project), Terminal Reservoir

Dear Mr. Olah:

The purpose of this letter is to request U.S. Fish and Wildlife Service (Service) concurrence with the Bureau of Reclamation's not likely to adversely affect determination pursuant to Section 7(a)(2) of the Endangered Species Act with regard to the above referenced action and its impacts on the California Red-legged Frog (CRLF).

Proposed Action

Geotechnical and geophysical investigations are planned to investigate Terminal Reservoir and its two embankment dams, the Northeast Auxiliary Dam and Terminal Dam and their foundations, and the Green Valley Fault. Geophysical investigations of the Green Valley Fault will be divided into two phases, surface mapping and geophysical surveys. These activities will take place on the approximately 230 acres surrounding Terminal Reservoir. The Project Area will be accessed primarily from Reservoir Lane and the operations and maintenance road surrounding Terminal Reservoir. Surface mapping consists of examining the ground, within the Project Area, for fault trace evidence.

The proposed investigations are part of Reclamation's current Corrective Action Study of Terminal Reservoir. Branches of the Green Valley Fault lie in the vicinity of Terminal Reservoir. The proposed action would provide geologic information as to fault activity in the area and the possible risk posed to Terminal Reservoir, its two embankment dams and appurtenant structures. Information obtained from these field studies will be used to devise safety improvements if determined to be necessary.

Action Area

The Terminal Reservoir is a 92 acre-foot reservoir formed by 2 earthen embankment dams. Terminal Reservoir is part of the Project, and is fed by the Putah South Canal with water impounded by the Monticello Dam at Lake Berryessa. The Project is on the boundary between the rural and residential environment (see Enclosures 1 and 2). The Terminal Reservoir occupies Reclamation land and is adjacent to land used for cattle grazing. The agricultural land surrounding Terminal Reservoir is infrequently accessed for operations and maintenance and requires approval of private land owners. Residential homes are nearby.

Species and Determinations

Critical habitat for the CRLF is located within and adjacent to the Project Area (see Enclosure 2), and the entire site is potentially suitable habitat due to its close proximity to critical habitat, permanent standing water and streams, and undeveloped grasslands in close proximity to sources of permanent water. A documented occurrence of CRLF is listed in the California Natural Diversity Database within the Project Area. Suitable breeding habitat is also present within or near the Project Area in areas of permanent and seasonally standing water.

Reclamation has analyzed the potential for the proposed action to affect listed, proposed and candidate species, and designated and proposed critical habitat. Reclamation has determined that the proposed action *'may affect, but is not likely to adversely affect'* CRLF and CRLF designated critical habitat. Reclamation has determined that there will be no effect on any other listed, proposed, or candidate threatened or endangered species or on designated or proposed critical habitat.

Due to the nature of the proposed action, the activities cannot be located outside suitable habitat for CRLF. The following Best Management Practices will be implemented to limit impacts to the CRLF.

All onsite staff will receive mandatory Environmental Awareness Training Program prior to working on the Project site. The program will include CRLF species identification information and photographs, an explanation of Federal laws protecting these listed species, and employee's personal responsibility to avoid the take of listed species. All employees will acknowledge that they have received and read the training, and this documentation will be kept on file and will be available on request.

The proposed action will occur during the dry season of 2012, sometime between May 1 and October 31. All work will be conducted during daylight hours: 7:00 am to 7:00 pm. No lights will be left on and no noise will occur outside of these hours, and no trash will be left open to serve as an attractant to wildlife species.

Areas recognized as providing suitable breeding habitat for CRLF within the Project Area will not be used as staging areas. Upon Project completion all equipment will be removed, leaving

minimal evidence of the action or ground disturbance. Suitable and critical habitat for CRLF will not be permanently impacted by the proposed action.

Access to wetted areas, including wetlands and ponds, will be by foot-traffic only; all-terrain vehicles (ATVs) will not enter any wetted area except at preexisting road crossings. Vehicle access will be limited to existing paved and dirt roads. Construction of access roads is not required. Off-road travel and transportation of equipment will be by foot and light-footprint ATVs. All traffic will travel at or less than 15 miles per hour within the Project Area.

No planned vehicle fueling or maintenance will occur within the Project Area. If unexpected vehicle fueling or maintenance is required and relocation is not feasible, these activities will occur at least 50 feet from any wetted area or on a paved surface.

Each exploratory drilling hole will be backfilled with cement grout or finished as an observation well. Each hole resulting from the Cone Penetrometer Tests (CPT) will be covered with dirt to prevent attracting CRLF. No holes, either from the exploratory drilling or CPT, will be left uncovered overnight. Equipment will be located so that no clearing of vegetation will be required, unless approved by a biologist.

If at any time a CRLF or any other listed species is discovered within the Project Area, the individual will not be disturbed and at least a 25 foot buffer zone will be observed. If work cannot continue without disturbing the individual, work will stop immediately and the onsite Project Manager will be immediately informed. The animal will be allowed to move out of the area on its own volition or a Service-approved biologist will be consulted prior to any further action.

The Service will be notified within one working day of the discovery of any injured or dead CRLF identified within the Project Area.

Reclamation requests your written concurrence with this determination within 30 days. Thank you for your attention to this matter. If you have any questions, please contact Ms. Melissa Harris at 916-989-7162 or e-mail MMHarris@usbr.gov.

Sincerely,

/s/ MICHAEL R. FINNEGAN

Michael R. Finnegan
Area Manager

Enclosures – 2

cc: See next page.

cc: Ms. Michelle Tovar
U.S. Fish and Wildlife Service
2800 Cottage Way
Sacramento, California 95825

WBR:MHarris;jtaylor:3/29/12::916-989-7162

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Attachment 1: Project Area

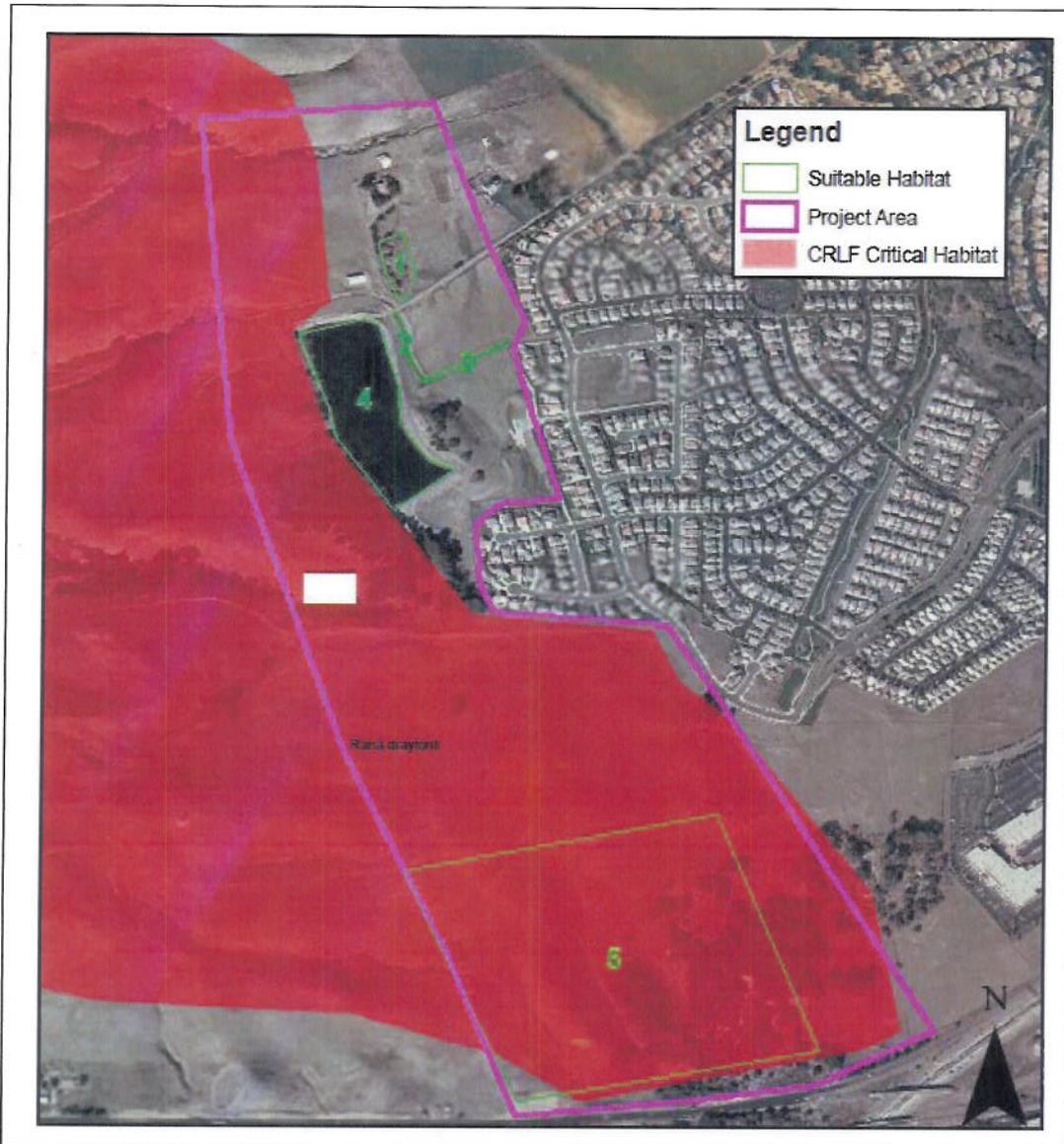


Attachment 2: California red-legged frog habitat with Project Area

Suitable Habitat within the Project Area

ID	Habitat Description	Suitability for CRLF
1	Pond	Suitable for all life stages
2	Slow-moving creek	Suitable for all life stages
3	Creek	Suitable for adults and as movement corridor
4	Terminal Reservoir, some areas of emergent vegetation	Possibly suitable for all life stages
5	Pond	Suitable for all life stages, documented occurrence

Suitable and Critical Habitat within the Project Area



Harris, Melissa M

From: Williams, Scott A
Sent: Tuesday, May 01, 2012 7:57 AM
To: Harris, Melissa M
Cc: McElhinney, Douglas S; BOR MPR Cultural Resources Section
Subject: Proposed Geologic and Seismotectonics Investigations, Terminal Reservoir (11-MPRO-264)

RE: National Historic Preservation Act (NHPA) Section 106 Compliance for the Proposed Geologic and Seismotectonics Investigations, Terminal Reservoir, Solano County, California

Project No: 11-MPRO-264

Melissa:

The project proposes geologic and seismotectonics field investigations around the perimeter of the Terminal Reservoir, located northwest of Fairfield, in Solano County, California. The permitting of this project constitutes an undertaking as defined by Section 301(7) of the NHPA (16 U.S.C. § 470 *et seq.*), as amended. As a result, Reclamation continued the Section 106 process as outlined in the regulations at 36 CFR Part 800.

Reclamation is proposing geologic and seismotectonics field investigations that will involve drilling 14 holes (11 on Reclamation land, 2 below the dam on private land, and 1 to the east of the reservoir on private land), all of which will be approximately 8.5 inches in diameter. No clearing of brush, construction of access roads, or clearing, grading or placement of fill for drill pads will be required. The proposed project includes eight drill holes, and three cross-hole triplet seismic holes on Reclamation land along the unpaved operation, and maintenance road around the reservoir. This maintenance road also crosses the dam and dike along the reservoir rim. The three holes on private land are situated in two open fields (pasture) adjacent to the reservoir. Two of the drill holes on private land, DH-12-2 and DH-12-12, are located approximately 50 feet downhill (southwest) of the downstream toe of Terminal Dam. Drill hole DH-12-6 is also located on private land, approximately 100 feet northeast of the 10-foot-high earthen berm that runs parallel to the dam axis.

Reclamation staff (Scott A. Williams) completed an archaeological survey of the project area on February, 22, 2012. No cultural materials were identified in the project APE, with the possible exception of Terminal Dam itself. Reclamation will assume National Register of Historic Places (NRHP) eligibility for the Terminal Dam under Criterion A for its association with providing a reliable water source for the residential development of the city of Vallejo. As a part of the next phase of work (when specific modifications to the facility are identified), Reclamation will formally evaluate the eligibility of Terminal Dam to the NRHP and investigate any relationship and effect to the Solano project, as a whole.

Due to the magnitude, nature, and extent of the action and the low likelihood for affecting any cultural resource, Reclamation did not pursue Native American consultation, pursuant to 36 CFR § 800.4(b)(1). Eleven of the fourteen drill holes will be placed on the modern road around the reservoir. Only three of the 8.5-inch bore holes will be placed in pastures, at the base of dam structures. Reclamation will seek Native American consultation in the next phase of work, when specific modifications to the facility are identified with more potential for ground disturbance. Reclamation has already contacted (January 21, 2012) the Native American Heritage Commission (NAHC) and requested a Native American Contact List and any additional information including sacred sites in or near the project APE. Due to a lack of response, the NAHC was contacted again on March 5, 2012. No response other than acknowledgement of receipt has been received to date.

Reclamation initiated consultation with the California State Historic Officer (SHPO) on March 21, 2012 seeking concurrence with a finding of no adverse effect to historic properties for this undertaking pursuant to 36

CFR § 800.5(b). Pursuant to the regulations at 36 CFR §800.5(c), if California State Historic Preservation Officer (SHPO) has 30 days from receipt to review an agency finding. The SHPO received the consultation package on March 22, 2012 and has yet to respond to Reclamations request for review and comment. If after 30 days the SHPO has not responded, the regulations state that "...the agency official shall then carry out the undertaking in accordance with paragraph (d)(1) of this section [§800.5(c)(1)]. Because the SHPO has failed to comment on Reclamation's finding within the period of time provided to them pursuant to the Section 106 regulations, Reclamation may conclude the Section 106 process with no additional consideration.

This email memo is intended to convey the conclusion of the Section 106 process for this undertaking. Although the project may go forward with no additional review from Section 106, Reclamation shall continue to seek concurrence on our finding from the SHPO. If, at some point, the SHPO reenters the consultation process and has comments or concerns regarding this action, Reclamation will seek to resolve these concerns while the project is being implemented. In addition, in the event of an inadvertent discovery Reclamation may have additional Section 106 obligations pursuant to the Post Review Discovery portion of the regulations at §800.13. Although very unlikely, if human remains are identified during implementation of this action, the project shall be halted immediately and the Reclamation Mid-Pacific Regional Archaeologist contacted immediately to discuss how to proceed.

Please retain a copy of this memo with the administrative record for this project. This memo fulfills our obligations and commitments to Section 106 as discussed in the Finding of no adverse effects to historic properties for this action.

Sincerely,

Scott A. Williams, M.A. Archaeologist
Bureau of Reclamation, Mid-Pacific Region
2800 Cottage Way, MP-153
Sacramento, CA 95825
916-978-5042

LITERATURE CITED

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