

Appendix H
Endangered Species Compliance



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846



In Reply Refer To:
08ESMF-2012-I-0614

JAN 28 2013

Memorandum

To: Anastasia T. Leigh, Regional Environmental Officer, U.S. Bureau of Reclamation, Sacramento, California

From: *for* Eric Tattersall, Deputy Assistant Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California *Ryan Clark*

Subject: Informal Consultation Under Section 7(a)(2) of the Endangered Species Act for the Yountville Recycled Water Expansion Project Phase 1, Napa County, California

This memorandum is in response to the U.S. Bureau of Reclamation (Bureau) July 26, 2012, memorandum requesting consultation with the U.S. Fish and Wildlife Service (Service) on the proposed Yountville Recycled Water Expansion Project Phase 1 (proposed Project) in the Town of Yountville, Napa County, California (Reclamation file MP-150, ENV-7.00). Your request for consultation was received in our office on July 27, 2012. At issue are the effects of the proposed Project on the federally threatened California red-legged frog (*Rana draytonii*). This Project is not within any designated critical habitat for the frog; therefore critical habitat will be unaffected by the Federal action. This document is issued under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

Project Background and Description

As per the Clean Water Act, municipalities that discharge pollutants into waters of the United State must obtain a permit under the National Pollutant Discharge Elimination System (NPDES) program. The proposed Project allows the Town of Yountville to meet NPDES requirements by decreasing the pollutant discharge load through expanded recycled water system capabilities. Currently, wastewater is treated at the Yountville Joint Treatment Plant to provide recycled water mainly for irrigation purposes. The proposed Project is the first of three distinct and independent phases designed to extend the distribution of recycled water to potential users and offset river water and groundwater requirements.

In addition, the Town of Yountville has identified 3 tiers of recycled water users: Tier 1 is comprised of the existing users of recycled water; Tier 2 includes identified potential users that will begin receiving recycled water upon completion of the proposed Project; and Tier 3 users are yet to be identified, but will begin receiving recycled water upon completion of Phases 2 and

3 of the Yountville Recycled Water Expansion Project. Tier 2 users to be serviced by the proposed Project include the Beringer, Herrick Ranch, and Silverado West vineyards, as well as the Town's Veteran's Memorial Park.

Existing 6-inch diameter polyvinyl chloride (pvc) mainline carries water from the Recycled Water Pump Station at the Yountville Joint Treatment Plant to various vineyards eastward along Silverado Trail (Figure 1). The proposed Project involves the installment of approximately 6,100 feet of 8-inch diameter, and 1,190 feet of 6-inch pvc pipeline that will tie Tier 2 users to the existing 6-inch diameter mainline. The alignment of the pipeline to the Tier 2 vineyards is located along unpaved, vineyard service roads, while the Veteran's Memorial Park will be connected via an alignment along the shoulder of Washington Street. The recycled water will take the place of river water and groundwater that is currently collected in existing storage ponds.

Pipelines will be installed using an open-trench construction design. The open-trench method involves vegetation clearing, grading, and excavation, along with shoring of the trench before the new bedding sand and pipeline is set in place. The trench is then backfilled with native materials and engineered aggregate, and the ground surface is restored. The trench is approximately 4- to 5- feet in depth and at least 3-feet in width. Dewatering of the trench may be required in some places.

The proposed Project also involves the upgrading of pumps, motors, and other system pressurization equipment at the existing Yountville Recycled Water Pump Station. Construction of the proposed Project is anticipated to take eight months to complete, from April to November, 2013.

According to the initiation material (i.e., initiation memo, Biological Services Report, Environmental Assessment excerpts) provided to the Service by the Bureau, unknown frog species have been spotted within the storage ponds at the Beringer and Silverado West storage ponds in 2011. However, the proposed Project will not alter the physical layout or the hydrological regime of these ponds, other than to provide a new pipeline to them. The nearest reported occurrence record for the California red-legged frog in the California Natural Diversity Data Base is a record from 2003 at Oak Moss Creek, about 8.7 miles to the east of the proposed Project action area.

The Town of Yountville has proposed the following measures to avoid and minimize impacts to the California red-legged frog while working within 50 feet of the vineyard storage ponds:

- Ground-disturbing construction activities shall be limited to the period between April 1 and November 1.
- A qualified biologist shall conduct a pre-construction survey immediately before construction begins at any time within 50 feet of the storage ponds. The biologist will remain on-site during construction within 50 feet of a storage pond.
- If a California red-legged frog is encountered during construction, all construction activities will cease until the animal moves away of its own volition. Construction will

not recommence until it has left the construction area. The Service shall be contacted for direction on how to proceed if a California red-legged frog presence halts construction.

- Prior to construction, a Service-approved biologist will train all construction personnel regarding the habitats, identification, and required practices for dealing with special-status species.
- All construction activities will occur between the hours occurring one half-hour after sunrise until one half-hour before sunset. Vehicle usage shall be restricted to existing roadways and staging areas.
- Vehicle fueling and maintenance, as well as any other construction equipment, will occur at least 65 feet from any riparian habitat or water body.

Concurrence Determination

The proposed Project area is not located within the designated critical habitat for the California red-legged frog. The Yountville Joint Treatment Plant and Recycled Water Pump Station facilities do not provide habitat for the California red-legged frog. Therefore, improvements to equipment at these facilities as a result of the proposed Project would have no effect on the California red-legged frog. Similarly, the proposed Project pipeline configurations are along frequently used roadways and access ways that are unlikely to provide suitable habitat for the California red-legged frog. Conversely, the vineyard storage ponds within the action area may provide suitable habitat for the California red-legged frog.

The Service concurs with your determination that the proposed Yountville Recycled Water Expansion Project Phase 1, may affect, but is not likely to adversely affect the California red-legged frog. Our concurrence is based on the fact that within the project area, only the vineyard storage ponds provide reasonable habitat for the California red-legged frog. Because these ponds provide limited cover and foraging opportunities, along with the fact that the closest known occurrence is 8.7 miles from the project area, it is unlikely that they would be used by a California red-legged frog. Furthermore, the physical properties of each pond will not be altered by the proposed Project. However, because unspecified frogs have been seen within two of the storage ponds, the proposed avoidance and minimization measures must be followed.

Unless new information reveals effects of the proposed action that may affect listed species in a manner or to an extent not considered; or the project is modified in a manner that causes an effect to the listed species that was not considered; or a new species or critical habitat is designated that may be affected by the proposed action, no further action pursuant to the Act, is necessary.

If you have any questions regarding this response on the proposed Yountville Recycled Water Expansion Project Phase 1 Project, please contact Harry Kahler, Biologist, or Ryan Olah, Coast Bay/Forest Foothills Division Chief, at the letterhead address, telephone (916) 414-6600, or electronic mail at Harry_Kahler@fws.gov or Ryan_Olah@fws.gov.

cc:

Doug Kleinsmith, Bureau of Reclamation, Sacramento, CA

Appendix I

Cultural Resources Compliance Memo



KLEINSMITH, DOUGLAS <dkleinsmith@usbr.gov>

Fwd: Yountville Recycled Water Expansion Project (Project), conclusion of the Section 106 process

Williams, Scott <sawilliams@usbr.gov>
To: DOUGLAS KLEINSMITH <dkleinsmith@usbr.gov>

Wed, Jan 23, 2013 at 10:55 AM

—— Forwarded message ——

From: **Williams, Scott** <sawilliams@usbr.gov>
Date: Wed, Jan 23, 2013 at 10:31 AM
Subject: Yountville Recycled Water Expansion Project (Project), conclusion of the Section 106 process
To: Carrie Lukacic <Carrie.Lukacic@ghd.com>, DAVID WHITE <dwhite@usbr.gov>, gwadsworth@yville.com, BOR MPR Cultural Resources Section <ibr2mprdculturalresources@usbr.gov>

National Historic Preservation Act (NHPA) Section 106 Consultation for the Yountville Recycled Water Expansion Project, Yountville, Napa County, California (12-CCAO-044)

Carrie and David,

The proposed undertaking to provide grant funding for the Yountville Recycled Water Expansion Project near Yountville was determined to be the type of undertaking that had the potential to cause effects to historic properties pursuant to 36 CFR §800.3. As a result, Reclamation continued the Section 106 process as outlined in the regulations at 36 CFR Part 800.). The expenditure of Federal funds constitutes an undertaking pursuant to Section 301(7) of the NHPA (16 U.S.C. 470) as amended which requires compliance with Section 106 of the NHPA. The town of Yountville is proposing the excavation of 5.67 miles of trench (4 feet wide by a maximum of 6 feet deep) and the excavation of two 20-foot-deep pits (facilitating drilling under Highway 29 and the Napa Railroad) for the purpose of installing two segments of a 36-inch waste water pipe. Segment 1 is located on the west side of the Napa River beginning at the Yountville Wastewater Treatment Plant and extending 2.09 miles to Beringer Pond. Segment 2 includes two branches; one begins on the east side of the Napa River at a private driveway at Silverado Vineyards and extends south for approximately 3.12 miles (16,473 feet) and empties into an irrigation pond. At approximately the 2.27 mile (12,000 foot) mark of the first branch, the second branch connects with the main line along Silverado Trail and extends northeast for 0.38 mile (2,050 feet) along a private driveway at Stagg's Leap Vineyard.

In an effort to identify historic properties, the Anthropological Study Center (ASC), on behalf of the city or Yountville, reviewed a comprehensive records search completed at the Northwest Information Center,

California Historical Resources Information System (Erickson 2012:15). No previously known cultural resources were identified in the APE. In addition, the ASC completed ground surface and subsurface investigations on behalf of the town of Yountville. One multi-component site was identified in the APE with prehistoric and earthen levee components (ASC-41-11-02). Historic research and archaeological test excavation was completed within the APE and is reported within the enclosed document. It was determined that neither the redeposited prehistoric component nor the historic-era levee components of ASC-41-11-02 are eligible for inclusion in the National Register of Historic Places (NRHP). Reclamation concurs with this determination.

Also, on behalf of the town of Yountville and at the request of Reclamation, Far Western Anthropological Research Group completed a buried site sensitivity model and subsurface testing investigation to further identify the potential for subsurface deposit. This investigation included a review of relevant background information, development of a buried site sensitivity model, and field testing and analysis. The detailed model, methods, and findings of the investigation are described within the enclosure. The investigation concluded "it is unlikely that a large, substantial, and/or intact buried prehistoric archaeological site is located within the Phase 1 new pipeline alignment [current undertaking]." No further archaeological identification efforts were recommended. Reclamation has determined that a reasonable and good faith effort for identification of historic properties within the APE has been met and concurs with the recommendation.

In a letter dated June 16, 2011, the Native American Heritage Commission failed to identify any resources within their sacred lands file; however, they did provide a Native American Contact List. Reclamation submitted letters to one federally recognized tribe (three individuals) to invite their assistance in identifying the presence of, or concerns regarding, sites of religious and cultural significance pursuant to 36 CFR § 800.3(f) (2) and 36 CFR § 800.4(a)(4). In addition, Reclamation submitted letters to two non-federally recognized Native Americans to inquire if they have any knowledge of, or concerns with, historic properties in the area, and to identify issues relating to the undertaking's potential effects on those historic properties pursuant to 36 CFR § 800.4(a)(3). The only response received to date was from the Federated Indians of Graton Rancheria (October 23, 2012) stating the project area is not within their traditional territory.

Reclamation initiated consultation with the California State Historic Preservation Officer (SHPO) on October 17, 2013 seeking concurrence with the determinations that the multi-component site ASC 41-11-02 is not eligible for the NRHP under criteria A, B, C, or D. Additionally, Reclamation requested concurrence with the finding that the undertaking results will result in No Historic Properties Affected pursuant to 36 CFR § 800.4(d)(1).

The CA SHPO responded on December 11, 2012 (BUR_2012_1113_001). The SHPO advised Reclamation to expand the APE to include the Napa Railroad as they believed it could be affected by the project, but also stated that they would agree to No Adverse Affect finding with the information already provided. SHPO advised that the Napa Railroad is included in the APE and that it should be assumed eligible for the purposes of this undertaking and that they could concur with a finding of no adverse effect.

The SHPO concurred with our determination of eligibility for site ACS-41-11-02, agreeing that the site is not eligible for listing on the National Register of Historic Places. SHPO also advised implementing archaeological monitoring "due to the frequency of prehistoric sites in the general project area."

Reclamation responded on December 20, 2012. Reclamation stated that an appropriate level of effort was implemented to identify historic properties for this undertaking and our finding of effect was adequately supported with documentation submitted to them on November 9, 2012. It was also stated that Reclamation has consistently defined the APE in a similar manner based on the scale and nature of the undertaking and has determined that the proposed undertaking. Reclamation determined that the boring, 10-15 feet under the Napa Railroad, to install a buried pipeline has no potential to affect the site and the APE should not be expanded to include it. In regards to monitoring, we explained that Reclamation does not regularly employ archaeological monitors as a means of identifying historic properties, but rather prefers to assess the potential for buried sites in advance when possible and then determine whether archaeological monitoring may be appropriate. Reclamation maintains that the previously submitted buried site sensitivity model and subsurface testing investigation constitute a reasonable and good faith effort to address the potential for buried archaeological sites. Should a post-review discovery be made, Reclamation will follow the process detailed at 36 CFR § 800.13(b). We requested SHPO to re-consider their comments in light of our responses and concur with our finding of No Historic Properties Affected.

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 December 21, 2012 and has yet to respond to Reclamation's 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. Reclamation will maintain of finding of No Historic Properties Affected and does not require monitoring during construction.

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

3/14/13

DEPARTMENT OF THE INTERIOR Mail - Fwd: Yountville Recycled Water Expansion Project (Project), conclusion of the Section 106 process

obligations and commitments to Section 106 as discussed in the Finding of No Historic Properties
Affected 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

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12-CCAO-44 Yountville Response to SHPO 12-20-12.pdf
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