



United States Department of the Interior

FISH AND WILDLIFE SERVICE
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In Reply Refer to:
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SEP 13 2016

Memorandum

To: Program Manager, San Joaquin River Restoration Program,
Mid-Pacific Regional Office, Bureau of Reclamation, Sacramento, California

From: Assistant Field Supervisor, San Francisco Bay-Delta Fish and Wildlife Office,
Sacramento, California *Jan A. White*

Subject: Informal Consultation Under Section 7(a)(2) of the Endangered Species Act on
the San Joaquin River Restoration Program's Porterville Irrigation District In-
Lieu Service Area Project, Tulare County, California.

This memorandum is in response to the U.S. Bureau of Reclamation's (Reclamation) August 26, 2016, request for informal consultation with the U.S. Fish & Wildlife Service (Service) for the proposed San Joaquin River Restoration Program's (SJRRP) Porterville Irrigation District (PID) In-Lieu Service Area Project (proposed project). This document is issued under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

Reclamation's email request for informal consultation was received by the Service on August 26, 2016. At issue are the effects of the proposed project on the federally-listed as endangered San Joaquin kit fox (*Vulpes macrotis mutica*). Reclamation has requested the Service's concurrence with a determination that the proposed project is not likely to adversely affect the San Joaquin kit fox.

The Service's response is based on: 1) the email requesting informal consultation dated August 26, 2016; 2) the SJRRP *Porterville Irrigation District In-Lieu Service Area Project Biological Assessment* (DBA), August 2016; 3) a site visit made on July 8, 2014; and, 4) additional information on file at the San Francisco Bay-Delta Fish and Wildlife Office and Sacramento Fish and Wildlife Office. As an Implementing Agency in the SJRRP, the Service has been working closely with Reclamation since early 2008 on project planning and development of avoidance and minimization measures for federally-listed species.

Background

In 1988, a coalition of environmental groups, led by the Natural Resources Defense Council (NRDC) filed a lawsuit, entitled *NRDC, et al., v. Kirk Rodgers, et al.*, challenging the renewal of long-term water service contracts between the United States and the Friant Contractors. On September 13, 2006, after more than 18 years of litigation, the Settling Parties, including NRDC, Friant Water Users Authority, and the United States Departments of the Interior and Commerce, agreed on the terms and conditions of the Stipulation of Settlement in *NRDC, et al., v. Kirk Rodgers, et al.*, (Settlement) subsequently approved by the U.S. Eastern District Court of California on October 23, 2006. Public Law 111-11 authorizes and directs the Secretary of the Interior to implement the Settlement. The Settlement establishes two primary goals:

Restoration Goal – To restore and maintain fish populations in “good condition” in the main stem San Joaquin River below Friant Dam to the confluence of the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish.

Water Management Goal – To reduce or avoid adverse water supply impacts on all of the Friant Division long-term contractors that may result from the Interim and Restoration flows provided for in the Settlement.

In accordance with the Settlement, the SJRRP is being implemented by Reclamation, the Service, National Marine Fisheries Service, the State of California Department of Water Resources, and the State of California Department of Fish and Wildlife (CDFW). The SJRRP Implementing Agencies completed the SJRRP Programmatic Environmental Impact Statement/Report (PEIS/R) and related documents, including the SJRRP Biological Opinions (BOs), in 2012.

Part III of Title X, Subtitle A of Public Law 111-11 (Part III) authorizes Reclamation to provide financial assistance to local agencies within the Central Valley Project of California for the planning, design, environmental compliance, and construction of local facilities to bank water underground or to recharge groundwater to reduce, avoid, or offset the quantity of expected water supply impacts to Friant Division long-term contractors caused by Restoration Flows authorized by Public Law 111-11. Because the Part III Guidelines were in development at the time of preparation of the SJRRP PEIS/R, potential actions in accordance with Part III were not included as an element of the alternatives analyzed in the PEIS/R and SJRRP BOs.

The release of Restoration Flows would reduce annual surface water deliveries to Friant Division water contractors, potentially placing greater stress on the region’s groundwater basins and the region’s agricultural economy. The proposed action would contribute to achieving the Settlement Water Management Goal by reducing, avoiding, or offsetting the quantity of expected water supply impacts to Friant Division long-term contractors caused by the release of Restoration Flows by facilitating groundwater banking and recharge activities by local districts in accordance with Part III. Therefore, Reclamation is proposing to provide partial funding for construction of the Proposed Action, in accordance with Part III.

Project Description

The PID proposes to construct two new distribution facilities as part of an in-lieu groundwater recharge program. The proposed facilities will serve two areas of the PID, identified as Service Area 1 and Service Area 2, which do not currently have infrastructure to receive surface water deliveries. Increasing the PID area that can take surface water deliveries will allow the PID to utilize more of its Friant Division Central Valley Project contract water supply instead of transferring water out of the District. It will also allow the District, and potentially other Friant districts, to capture additional wet year water supplies available under various programs and will help to offset water supply impacts caused by the San Joaquin River Restoration Settlement.

Service Area 1

Service Area 1 is an area of about 1,450 acres within the District boundary that does not currently have access to surface water. Proposed facilities for Service Area 1 include one new turnout on the Wood-Central Ditch, approximately 1.75 miles of new service lateral, and a number of service connection points enabling landowners to link their irrigation systems to the PID system. Two additional turnouts on the Wood-Central Ditch are included as optional project components to be installed at some point in the future.

The new service lateral will consist of pipelines constructed of either reinforced concrete or plastic, with diameters ranging from 18 to 48 inches, installed a minimum of 3 feet below grade. The design capacity for the new lateral would be approximately 22 cfs. The lateral will start about 400 feet north of Road 200's crossing of the Wood-Central Ditch, and will travel north along Road 200 for 0.75 mile to the southeastern corner of Road 200 and Avenue 160. Here, the preferred route will continue north along Road 200 for 0.5 mile, then west along Avenue 164 for 0.5 mile, before terminating at the southeastern corner of Road 196 and Avenue 164. An alternate route would head west along Avenue 160 for 0.5 mile, then north along Road 196 for 0.5 mile, before reaching the same terminus. Service connection points along the facility will be provided to growers at approximately every quarter of a mile.

The proposed turnout will be installed at the origin of the new service lateral. It will include a metal trash rack, slide gate, flow measurement structure, canal rip rap, and potentially other improvements to the canal prism. Two additional turnouts may be installed at some point in the future. One would be located about 700 feet east, and a third about 400 feet west, of Road 196's crossing of the Wood-Central Ditch.

Up to six staging areas 1 to 2 acres in size may be used during construction. The size, location, and unique identification number of each staging area are presented below.

The action area for the Service Area 1 project site consists of the disturbance corridor associated with service lateral construction, work zones surrounding the proposed and potential turnouts, and the six staging areas, and encompasses approximately 37 acres.

Service Area 2

Service Area 2 is an area of about 720 acres within the PID boundary that does not currently have access to surface water. Proposed facilities for Service Area 2 include approximately 2.5

miles of new service lateral, and a number of service connection points enabling landowners to link their irrigation systems to the PID system. A 2-acre detention basin is included as an optional project component.

The new service lateral may vary between open channel and piped sections depending on hydraulics, land acquisition, topography of the land, and pipe costs. Piped sections will utilize reinforced concrete or PVC pipe with diameters ranging from 12 to 24 inches, and will have a minimum cover depth of 3 feet. Open channel will be approximately 4 feet deep with no flatter than 2:1 side slopes for a total width around 16 feet. The design capacity for the new lateral will be approximately 8 cfs. The preferred route will originate from the Poplar Ditch pipeline at an existing turnout structure at Road 204, and will travel 0.5 mile south along the west side of the Tule River Intertie to Avenue 140. From this location, it will head east and west. To the west, the lateral will run approximately 0.5 mile to serve growers west of the Tule River Intertie. To the east, the lateral will siphon under the Tule River Intertie and serve growers located between the Tule River Intertie and Road 208. Two 0.25 mile spurs will extend from the Avenue 140 segment of the lateral south along Road 206 and Road 208. Under an alternate design, the lateral would originate from the Poplar Ditch pipeline at an existing turnout structure at Road 208, and would travel 0.5 mile south along Road 208, at which point the lateral would intersect the preferred route along Avenue 140 and would be configured as described above. Five service connection points are currently proposed along the facility.

Under current project design, the new service lateral will consist mostly of piped sections, with open channel limited to an existing V-ditch running south along the west side of the Tule River Intertie on the preferred route. However, if final design calls for a predominantly open channel system, a detention basin will be required at the downstream end of the system to catch excess water. If necessary, this basin would be constructed at the southwest corner of Road 200 and Avenue 140, and would be about 2 acres in size.

Up to five staging areas 2-3 acres in size may be used during construction.

The action area for the Service Area 2 project site consists of the disturbance corridor associated with service lateral construction, work zones associated with turnout and basin construction, and the five staging areas, and encompasses approximately 36 acres.

Conservation Measures

The following conservation measures, which are consistent with the SJRRP Conservation Strategy and *U.S. Fish And Wildlife Service Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance* (USFWS 2011), will be implemented to avoid and minimize potential impacts associated with the implementation of the proposed action:

1. A Service-approved biologist will conduct pre-construction surveys for San Joaquin kit fox no fewer than 14 days and no more than 30 days prior to the onset of any ground disturbing activity. If San Joaquin kit fox or their dens are detected at any time, all

construction activities associated with the project will be halted immediately. The project will be placed on hold until formal consultation with the Service is completed.

2. An employee education program will be conducted. The program will consist of a brief presentation by a Service-approved biologist. The program will include the following: a description of the San Joaquin kit fox and its habitat needs; a report of San Joaquin kit fox occurrence in the project area; an explanation of the status of the species and its protection under the Act; and a list of measures being taken to reduce impacts to the species during project construction. A fact sheet conveying this information will be prepared for distribution to construction personnel.
3. Project-related vehicles will observe a daytime speed limit of 15-mph throughout the site in all project areas, except on state and federal highways; after dark, the speed limit will be reduced to 10-mph. Off-road traffic outside of designated Project Areas will be prohibited.
4. Work at night (30 minutes after sunset to 30 minutes before sunrise) will not be allowed.
5. To prevent inadvertent entrapment of San Joaquin kit fox or other animals during construction, all excavated, steep-walled holes or trenches more than 2 feet deep will be covered with plywood or similar materials at the end of each work day. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks will be installed. Before such holes or trenches are filled, they will be inspected for trapped animals.
6. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for San Joaquin kit fox before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a San Joaquin kit fox is discovered inside a pipe, that section of pipe should not be moved until the Service or CDFW have been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.
7. All food-related trash items such as wrappers, cans, bottles, and food scraps will be disposed of in securely closed containers and removed daily from the project site.
8. No firearms will be allowed on the project site.
9. No pets will be permitted on the project site to prevent harassment, mortality of San Joaquin kit fox, or destruction of dens.
10. Use of rodenticides in the project area will not be allowed.

11. Sightings of San Joaquin kit fox will be reported to the California Natural Diversity Database.

Conclusion

Based on our review of the information provided in the proposed project BA, discussions between the Service and representatives from Reclamation, the Service concurs that the proposed SJRRP's PID In-Lieu Service Area Project is not likely to adversely affect the San Joaquin kit fox. This determination has been made due to the low suitability of habitat and the implementation of the above described conservation measures. The agricultural fields located on the project site and surrounding agricultural lands planted primarily in orchards, offer no suitable denning habitat for San Joaquin kit fox. In the unlikely event that a San Joaquin kit fox may be using the project area as dispersal habitat, implementation of the conservation measures will eliminate or reduce any potential impact to a transient San Joaquin kit fox.

This concludes our review of your proposed action and no further coordination with us under the Act is necessary at this time. Please note, however, that this letter does not authorize take of listed species. Section 9 of the Act prohibits the "take" (e.g., harm, harass, pursue, injure, kill) of federally-listed wildlife species. Therefore, unless new information reveals effects of the proposed project that may affect listed species in a manner or to an extent not considered, or a new species or critical habitat is designated that may be affected by the proposed project, no further action pursuant to the Act is necessary.

Any questions or comments regarding this memorandum should be directed to Rocky Montgomery, Senior Biologist, Watershed Planning at (916) 978-5463.

cc:

Ms. Kathy Norton, US Army Corps of Engineers, Sacramento, California
Ms. Maria Rea, National Marine Fisheries Service, Sacramento, California
Mr. Gerald Hatler, California Department of Fish and Wildlife, Fresno, California
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Literature Cited

U.S. Fish and Wildlife Service. 2011. *Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance*. Sacramento, California. January.