

## Chapter 4

# Consultation and Coordination

Reclamation coordinated with BT&C; North State Resources, an environmental consulting firm; and the Anthropological Studies Center at Sonoma State University during preparation of this EA. BT&C provided trail design information for the description of the proposed action and has been involved in the trail planning efforts. North State Resources conducted a delineation of waters of the United States, including wetlands, in the study area and assisted with preparation of the EA. Sonoma State University conducted a cultural resources survey of the study area and provided supporting information for the cultural resources analysis in the EA.

Agencies and parties that were contacted during development of this EA include:

- CDFG,
- USFWS,
- U.S. Bureau of Land Management,
- Napa County Parks and Open Space District, and
- the U.S. Army Corps of Engineers.

Sonoma State University contacted the Wintun Environmental Agency, Yocha Dehe Wintun Nation, Cortina Band of Indians, and Wintun/Patwin Representative Kesner Flores by letter on January 12, 2010, and conducted follow-up phone calls the following week. All responded that they had no concerns or comments about the project; however, all wanted to be contacted if any cultural resources or human remains were identified. Reclamation entered into consultation with the California State Historic Preservation Officer (SHPO) on a finding of “no historic properties affected” as outlined in the 36 CFR Part 800 regulations describing the Section 106 process. The consultation package was sent to the SHPO on July 13, 2010. On July 22, 2010, the SHPO concurred with Reclamation's determinations, and Reclamation received the SHPO consensus letter on July 26, 2010.

Reclamation submitted a letter to the USFWS on October 25, 2010, to request concurrence with a “may affect, but not likely to adversely affect” determination for the valley elderberry longhorn beetle. The USFWS responded in a letter dated November 29, 2010, that it concurs with the effects determination. Implementation of conservation measures, as identified in this EA, would ensure the proposed action does not adversely affect the beetle. A copy of the letter is included in Appendix A.

## **Chapter 5**

# **Compliance with Environmental Statutes**

This section provides a summary of the federal environmental statutes applicable to the proposed action. Applicable environmental laws, regulations, and executive orders, as well as management plans, were taken into consideration during preparation of this EA.

### ***National Environmental Policy Act***

The proposed action is located on federal land at Lake Berryessa managed by Reclamation. Under NEPA, Reclamation serves as the lead agency. This EA was prepared in compliance with NEPA, the CEQ NEPA regulations, Department of Interior Manual, and Reclamation's NEPA Handbook.

### ***Clean Water Act, as Amended***

Section 404 of the Clean Water Act identifies conditions for which a regulatory permit is required for projects that result in the placement of dredged or fill material into waters of the United States. Section 401 identifies conditions for which a water quality certification is required for federal permits. Section 402 establishes the National Pollutant Discharge Elimination System program and requires compliance with storm water permits. The proposed action could result in the placement of fill material into waters of the U.S. and potential effects on water quality, which would require compliance with Sections 401, 402, and 404 of the Clean Water Act.

### ***Endangered Species Act of 1973, as Amended***

Prior to any federal action, Section 7 of the Endangered Species Act requires that the agency taking the action determine if any listed species could be affected by the proposed action and consult with the USFWS or the National Marine Fisheries Service if listed species may be affected. Based on a list of species obtained from the USFWS and an evaluation of the proposed action, Reclamation has determined that the valley elderberry longhorn beetle may be affected by the proposed action, but it is not expected to be adversely affected.

### ***Migratory Bird Treaty Act***

Migratory birds that may nest or otherwise use the habitats in the study area and vicinity are protected under the Migratory Bird Treaty Act. Construction activities could affect nests, eggs, young, or individuals of migratory birds. Under the act, taking, killing, or possessing migratory birds is unlawful. The proposed action incorporates measures to minimize the potential for adverse effects to migratory birds and is in compliance with this act.



***Clean Air Act, as Amended***

The Clean Air Act requires any federal entity engaged in an activity that may result in the emission of air pollutants to comply with all applicable air pollution control laws and regulations (federal, state, or local). Measures will be incorporated into contractor specifications, as appropriate, to ensure that compliance with federal, state, or local laws and regulations are achieved. The proposed action is in compliance with this act.

***National Historic Preservation Act of 1966, as Amended***

The National Historic Preservation Act requires federal agencies to identify significant cultural resources that may be affected by an action and to consult with the Advisory Council on Historic Preservation and the SHPO concerning effects on significant cultural resources. No historic properties would be affected by the proposed action.

***Indian Trust Assets***

It is the policy of the federal government to identify, conserve, and protect Indian Trust resources. This policy has been outlined in a Department of the Interior Order, a Departmental Manual supplement, and a memorandum from Reclamation's Commissioner detailing Reclamation's Indian Trust policy. No Indian Trust assets are expected to be affected by the proposed action.

***Executive Order 11988, Floodplain Management***

Executive Order 11988 requires federal agencies to avoid, to the extent possible, adverse effects associated with human occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development whenever there is a practicable alternative. The proposed action would not involve development in a floodplain and is in compliance with this executive order.

***Executive Order 11990, Protection of Wetlands***

Executive Order 11990 prescribes wetlands policy for all agencies managing federal lands, sponsoring federal projects, or providing federal funds to state or local projects. The order requires federal agencies to follow "avoidance-mitigation-preservation" procedures and provides the opportunity for public input before proposing new construction in wetlands. The study area contains two small wetlands, and the proposed action includes measures to avoid the wetlands to the extent feasible and comply with terms of a Section 404 permit if avoidance is not feasible. The proposed action is in compliance with this executive order.

***Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations***

Executive Order 12898 established environmental justice as a federal agency priority, and all federal agencies were directed to make environmental justice part of their mission. The proposed action would not disproportionately affect low-income or minority communities that may recreate at Lake Berryessa. The

North End Trail would be open to all visitors. The proposed action is in compliance with this executive order.

***Executive Order 13112, Invasive Species***

Executive Order 13112 requires federal agencies to use relevant programs and authorities to prevent the introduction of invasive plant species. The proposed action includes measures to prevent the introduction, spread, or reestablishment of invasive plant species and to restore old segments of the trail that would not be used for the new trail. Invasive plants would be removed along the new trail alignment, and disturbed areas would be restored to a natural state. The proposed action is in compliance with this executive order.

## Chapter 6

# List of Environmental Commitments

Implementation of the proposed action would result in minimal adverse environmental effects. The North End Trail is an existing trail that is deteriorating and unsafe for public use. Rehabilitation of the trail would occur in the same area as the existing trail, encompassing segments of the existing trail while relocating some segments to improve public safety. Nonetheless, potential adverse effects were identified for biological resources (valley elderberry longhorn beetle and migratory nesting birds), cultural resources (undiscovered resources and human remains), and water quality (sediment and other pollutants). The following mitigation or conservation measures will be implemented to reduce adverse impacts on these resources:

### **Mitigation Measure 1. Valley Elderberry Longhorn Beetle Conservation Measures**

Reclamation will implement the following conservation measures to prevent adverse impacts on the valley elderberry longhorn beetle or its host plant, the elderberry shrub:

- The elderberry shrub will be flagged or fenced by a biologist according to the elderberry survey that was conducted by Reclamation to ensure easy identification.
- Maintenance crews will be briefed on the need to avoid the elderberry shrub.
- No vehicles will enter within a 20-foot buffer zone of the elderberry drip line.
- If possible, construction activities within 100 feet of elderberry shrubs will occur only between July through February, avoiding the season of emergence (March to June) of the valley elderberry longhorn beetle.

### **Mitigation Measure 2. Nesting Migratory Bird Avoidance Measures**

Construction activities, including vegetation removal and other activities that could disturb nesting birds, should be scheduled during the non-nesting period (September to February). Removal of vegetation and potential nesting substrate (e.g., bushes, trees, grass, buildings, and burrows), in particular, should be scheduled prior to the onset of the nesting season (March 15) to help preclude nesting.

If activities cannot be scheduled during the non-nesting period, the following measures are recommended to protect nesting migratory birds:



- A qualified biologist should conduct pre-construction surveys no more than 2 weeks prior to the initiation of construction in the proposed trail alignment (based on the final design) and a 500-foot corridor along the trail (250 feet on each side of the trail) to ensure that no nests of migratory birds would be disturbed during construction. The survey should focus on suitable trees and other vegetation that could provide nest sites.
- Any observed breeding or nesting activity should be documented, and the location(s) of active nest site(s) should be recorded. If no breeding or nesting activity is documented, no further action is necessary during the nesting season.
- If an active nest is found, a construction-free buffer zone should be established around the nest. The size of the buffer zone shall be determined by a qualified biologist in consultation with the USFWS.
- The buffer zone should remain in place until either the end of the nesting season (end of August) or a qualified biologist determines that the nest is no longer active.

### **Mitigation Measure 3. Cultural Resource Protection Measures**

Prior to construction activities, the work crews and their supervisors should undergo a training program that describes how to recognize archaeological remains and the protocol that should be carried out if suspected resources are uncovered. If cultural resources are discovered during construction, work in the vicinity of the find should be halted, and the Reclamation archaeologist should be contacted to assess the find. Additional measures may be identified to protect or recover the resource based on the direction of the archaeologist.

If human remains are encountered during construction of the trail, work should halt in the area of the discovery, and the appropriate federal official should be notified immediately. At the same time, the Reclamation archaeologist should be contacted to evaluate the situation. If the remains are of Native American origin, or if funerary objects, sacred objects, or items of cultural patrimony are encountered, Reclamation will follow the guidelines and requirements of the Native American Graves Protection and Repatriation Act of 1990 and the Archaeological Resources Protection Act of 1979 as amended.

### **Mitigation Measure 4. Water Quality Protection Measures**

The appropriate permits will be obtained prior to construction to ensure compliance with the Clean Water Act and protection of water quality during construction. A Section 404 permit would be necessary for fill of wetlands and drainages (waters of the United States) and would likely consist of coverage under a Nationwide Permit. Water quality certification in compliance with Section 401 of the Clean Water Act would also be necessary. Coverage under the state General Permit as part of the National Pollutant Discharge Elimination System program (Section 402 of the Clean Water Act) would also be required.

Compliance with the terms and conditions of these permits will ensure adequate protection of water quality in the drainages and Lake Berryessa.

The BMPs and other measures identified in the SWPPP should satisfy the requirements of the other applicable permits. The BMPs should be consistent with EPA's storm water BMPs for construction. The plan will need to be kept on the construction site at all times and will be implemented throughout the construction phase. Typical BMPs may include, but may not be limited to:

- use of erosion control measures that use sediment traps, barriers, covers, or other methods approved by the RWQCB;
- recommendations for mulching, seeding, or other suitable erosion stabilization measures as approved by the RWQCB;
- plans for appropriate deposition and storage of excavated and stockpiled material;
- requirements for refueling vehicles away from drainages and Lake Berryessa; and
- covering all stockpiles of fill material during extended periods of rain.

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U.S. Fish and Wildlife Service

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# Appendix A.

U.S. Fish and Wildlife Service Letter,  
November 29, 2010

U.S. Fish and Wildlife Service  
Department of the Interior  
Washington, D.C. 20540



## 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:  
81420-2011-I-0075-1

NOV 29 2010

### Memorandum

To: Area Manager, Central California Area Office, Bureau of Reclamation,  
Folsom, California

From: *FOL* Assistant Field Supervisor, Endangered Species Program, Sacramento Fish and  
Wildlife Office, Sacramento, California *Chp Nager*

Subject: Informal Endangered Species Consultation on the Proposed Realigning and  
Construction of the North End Trail at Lake Berryessa, Napa County, California

This is in response to your October 25, 2010, request for the U.S. Fish and Wildlife Service's (Service) concurrence that your proposed action may affect, but is not likely to adversely affect the threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*). The Bureau of Reclamation is proposing the construction of a 7 mile long trail along the northwest shore of Lake Berryessa in Napa County, California. The new trail will be constructed in the same area as an existing trail and will include segments of the existing trail. The purpose of construction is for public recreation use and will assist the Bureau of Reclamation in developing a trail system at the Lake. Our response is based on the October 25, 2010, memorandum from the Bureau of Reclamation, and other information available to the Service. This memorandum is issued under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

The action area was surveyed for elderberry plants (*Sambucus* sp.), the host plant for the valley elderberry longhorn beetle. One elderberry plant with one stem between 1-3 inches was found within 100 feet of the project area. No exit holes were found on the elderberry stem. The Bureau of Reclamation is proposing to implement the following conservation measures:

1. The elderberry shrub will be flagged or fenced by a biologist according to the elderberry survey that was conducted by the Bureau of Reclamation, to ensure easy identification.
2. Maintenance crews will be briefed on the need to avoid this plant.
3. No vehicles will enter within a 20 foot buffer zone of the elderberry drip line.
4. If possible, construction activities within 100 feet of elderberry bushes will occur only between July through February, avoiding the season of emergence (March to June) of the valley elderberry longhorn beetle.



Because of the implementation of the above conservation measures, the absence of exit holes on the elderberry plant, and the overall degraded health and appearance of the plant, the Service concurs with the Bureau of Reclamation's determination that the proposed project may affect, but is not likely to adversely affect the valley elderberry longhorn beetle.

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.

Please address any questions or concerns regarding this response on the proposed Realignment and Construction of the North End Trail at Lake Berryessa, to Casey Collins, or Ryan Olah, acting Forest and Foothills Branch Chief, at (916) 414-6600, or via email at Casey\_Collins@fws.gov.