United States Department of the Interior

FISH AND WILDLIFE SERVICE
Arcata Fish and Wildlife Office
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Arcata, California, 95521
Phone: (707) 822-7201 FAX: (707) 822-8411

In Reply Refer To:
AFWO
81331-2009-I-0097

Ms. Jane M. Hicks
Chief, Regulatory Branch
Department of the Army
San Francisco District, Corps of Engineers
1455 Market Street
San Francisco, CA 94103-1398

Subject: Informal Consultation on the California Department of Fish and Game 2009 - 2013 Fisheries Restoration Grant Program (AFWO file number 8-14-2009-3663)

This letter responds to your March 17, 2009, letter requesting U.S. Fish and Wildlife Service's (Service) concurrence with your effect determinations for the California Department of Fish and Game (CDFG) 2009 – 2013 fisheries restoration grant program, which is implemented under a Regional General Permit (RGP) issued by the Army Corps of Engineers (ACOE). This response is prepared in accordance with section 7 of the Endangered Species Act of 1973, as amended (Act).

You have determined that the proposed RGP for the fisheries restoration grant program may affect but is not likely to adversely affect the endangered California freshwater shrimp (*Syncaris pacifica*), Least Bell's vireo (*Vireo bellii pusillis*), California tiger salamander (*Ambystoma californiense*), and the threatened California red-legged frog (*Rana aurora draytonii*), northern spotted owl (*Strix occidentalis caurina*) and marbled murrelet (*Brachyramphus marmoratus*). The listed ranges of the California freshwater shrimp, Least Bell's vireo, and California tiger salamander, do not include any counties in the jurisdictional area of the Arcata Fish and Wildlife Office (AFWO). Therefore, the freshwater shrimp, Least Bell's vireo, and California tiger salamander, will not be discussed further in this consultation. This consultation is both specific to the proposed projects included in the CDFG Negative Declaration for 2009, and programmatic for proposed projects in years 2010-2013, and will only discuss project related effects to the northern spotted owl, marbled murrelet, California red-legged frog, and another federally listed species not mentioned in your request but present in our area of jurisdiction, the endangered tidewater goby (*Eucyclogobius newberryi*).

This consultation is based on the mitigation measures associated with the projects included in the 2009 Negative Declaration provided by CDFG on April 22, 2009, telephone conversations between Gary Flosi of CDFG and Ken Hoffman of my staff, and project design criteria outlined in the California Salmonid Stream Habitat Restoration Manual (Manual).

The Manual contains a complete description of the procedures used to implement restoration projects. A complete administrative record is on file in this office.

Concurrence

We concur with your determination that the RGP for the Fisheries Restoration Grant Program may affect but is not likely to adversely affect the northern spotted owl. Our determination is based on the following factors:

1. The proposed action will not affect suitable northern spotted owl habitat; it will not remove, degrade, or downgrade suitable northern spotted owl habitat. As a result, direct injury or mortality of owls is not likely.

2. CDFG will implement a limited operating period (LOP) with no operations until after July 9 for projects occurring in or near (0.25 mile) suitable habitat to avoid disturbance of nesting owls or their young, which may result from noise or human activity prior to dispersal of young.

We do not concur with your determination that the RGP for the Fisheries Restoration Grant Program may affect but is not likely to adversely affect the marbled murrelet. We believe the proposed projects will have no effect on the marbled murrelet. Our determination is based on the following factors:

1. The proposed action will not affect marbled murrelet; it will not remove, degrade, or downgrade suitable marbled murrelet habitat. As a result, direct injury or mortality of murrelets is not likely.

2. Restoration work within 0.25 mile of occupied or unsurveyed suitable marbled murrelet habitat will not occur from March 24 through September 15 to avoid disturbance of nesting marbled murrelets or their young, which may result from noise or human activity during the breeding season.

We do not concur with your determination that the RGP for the Fisheries Restoration Grant Program may affect but is not likely to adversely affect the California red-legged frog. We believe the projects proposed for 2009 will have no effect on the California red-legged frog. Our determination is based on the following factor:

1. The actions proposed for 2009 are not located within the portion of Mendocino County where the AFWO believes California red-legged frogs exist. As a result, direct injury or mortality of California red-legged frogs is not likely, nor is removal, or degradation of suitable red-legged frog habitat likely in 2009.

For projects proposed under the RGP in years 2010 – 2013, and located outside the area considered by the AFWO as likely to contain California red-legged frogs (see the enclosed map), our above determination applies. Projects proposed under the RGP in years 2010 – 2013 that are located within the area considered by the AFWO to be likely to contain California red-legged

frogs must be consulted on individually, prior to the completion of the CDFG Negative Declaration for that year.

The AFWO has also determined that the projects proposed for 2009 under the RGP for the Fisheries Restoration Grant Program may affect but are not likely to adversely affect the tidewater goby, due to the distance of the 2009 projects from known tidewater goby populations (see enclosed map) and suitable habitat. Projects proposed under the RGP in years 2010 – 2013 that are located within the areas known by the AFWO, or shown on the enclosed map, to contain tidewater goby populations must be consulted on individually, prior to the completion of the CDFG Negative Declaration for that year.

Conclusion

This concludes informal consultation on the CDFG Fisheries Restoration Grant Program projects associated with the ACOE's 2009 - 2013 RGP. Unless new information reveals that the proposed actions; (1) may affect listed species in a manner or to an extent not considered in your correspondence, (2) the action is modified in a manner that causes an effect on the listed species or critical habitat not considered in your correspondence, or (3) 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. Contact staff biologist Ken Hoffman at (707) 822-7201 if you should have further questions regarding this consultation.

Sincerely,

Randy A. Brown
Acting Field Supervisor

cc:
CDFG, Eureka, California
FWS, Sacramento
FWS, Ventura

U.S. Fish & Wildlife Service

California Red-Legged Frog (*Rana aurora draytonii*)

Proposed Range Definition for Mendocino County

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rcata, California
urrent to: May 2009
asemap (Date): 2000-2009
ile:N:\Public\Goldsmith\CRLF\CRLF Range Map 4.mxd

SCALE: 1:220,000

0 0.5 1 2 3 4 Miles

0 1 2 4 6 8 Kilometers

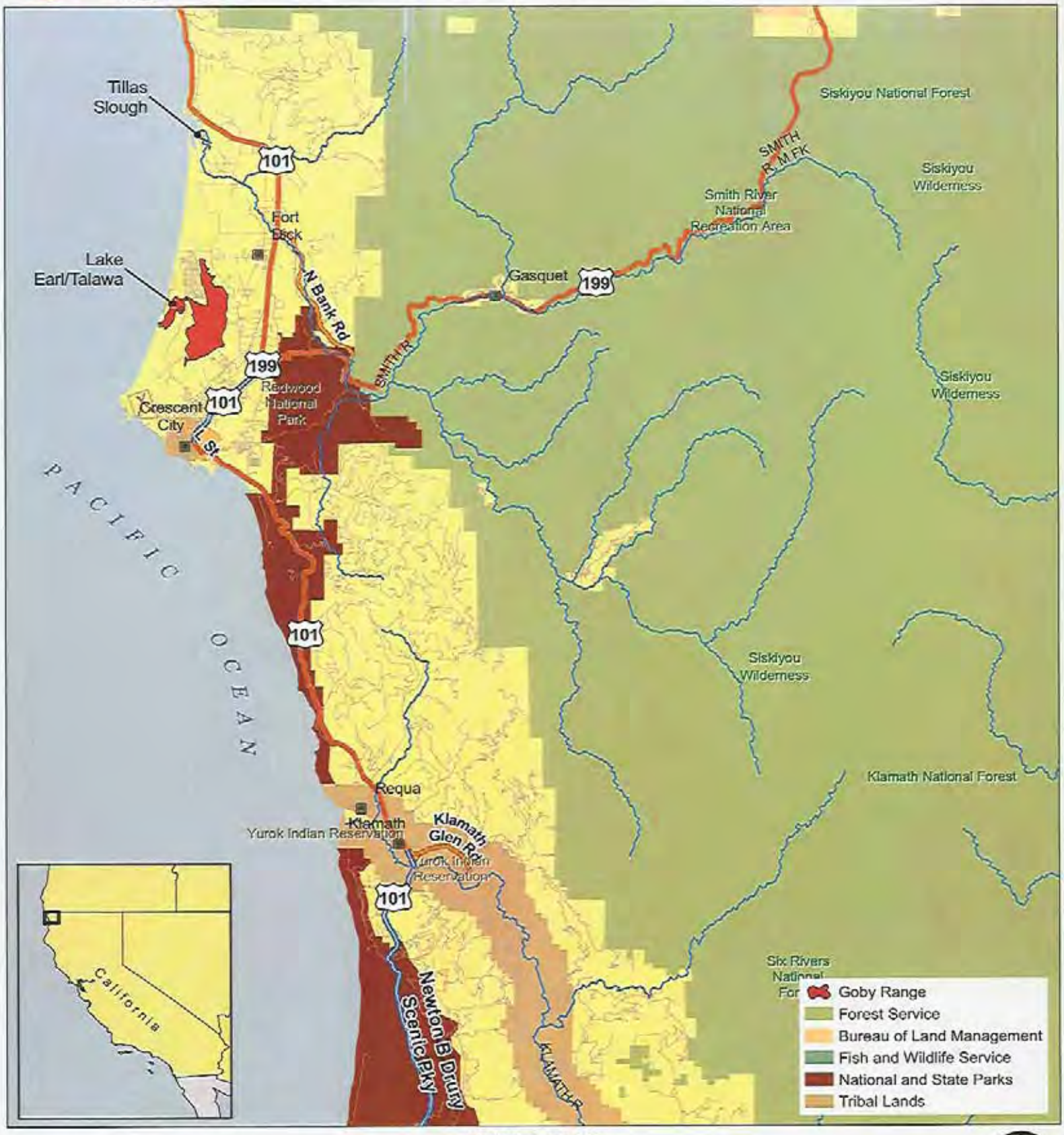
CRLF Proposed Boundary

UTM Zone 1
NAD 1983

U.S. Fish & Wildlife Service

Tidewater Goby (*Eucyclogobius newberryi*)

Proposed Range Definition for Del Norte County



SCALE: 1:220,000

0 1 2 4 6 8 Miles

0 1.5 3 6 9 12 Kilometers

UTM Zone 10
NAD 1983

Produced by the Arcata Fish and Wildlife Office
Arcata, California
Current to: May 2009
Basemap (Date): 2000-2009
File:N:\Public\Goldsmith\Tidewater Goby\DNT Consultation Map.mxd

U.S. Fish & Wildlife Service

Tidewater Goby (*Eucyclogobius newberryi*)

Proposed Range Definition for Humboldt County

Produced by the Arcata Fish and Wildlife Office
Arcata, California
Current to: May 2009
Basemap (Date): 2000-2009
File:N:\Public\Goldsmith\Tidewater Goby\HUM Consultation Map.mxd

SCALE: 1:310,000

0 1 2 4 6 8 Miles

0 1.5 3 6 9 12 Kilometers

UTM Zone 10
NAD 1983

U.S. Fish & Wildlife Service

Tidewater Goby (*Eucyclogobius newberryi*)

Proposed Range Definition for Mendocino County

SCALE: 1:310,000

0 1 2 4 6 8 Miles

0 1.5 3 6 9 12 Kilometers

Produced by the Arcata Fish and Wildlife Office
Arcata, California
Current to: May 2009
Basemap (Date): 2000-2009
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UTM Zone 10
NAD 1983