



United States Department of the Interior




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July 7, 2022

Memorandum

To: Rebecca Thompson
Bureau of Reclamation
Interior Region 9 - Columbia Pacific Northwest
1150 North Curtis Road
Boise, Idaho 83706-1234

From:  Craig Rowland, Acting State Supervisor, Oregon Fish and Wildlife Office
Portland, Oregon **BRENDAN WHITE**
Digitally signed by BRENDAN WHITE
Date: 2022.07.07 11:23:00 -07'00'

Subject: Letter of Concurrence on the Proposed Scoggins Dam Geotechnical Field Exploration Project

Dear Ms. Thompson:

This document transmits the U.S. Fish and Wildlife Service's (Service) response to a request for informal consultation, for the proposed Scoggins Dam geotechnical field exploration project in southwestern Washington County, Oregon. Your memo dated June 24, 2022, and accompanying attachment were received by our office on June 28, 2022. The Bureau of Reclamation (Reclamation) has made a "may affect, not likely to adversely affect" determination for the threatened northern spotted owl (*Strix occidentalis caurina*) (NSO) and the threatened marbled murrelet (*Brachyramphus marmoratus*) (MAMU). Our review and comments regarding this determination are provided pursuant to section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). There is no designated critical habitat for either species in the action area.

PACIFIC REGION 1

IDAHO, OREGON*, WASHINGTON,
AMERICAN SAMOA, GUAM, HAWAII, NORTHERN MARIANA ISLANDS

*PARTIAL

Based upon the information in the memo and attachments, the Service's site visit, and our analysis of habitat affected by the proposed project, we feel that a "no effect" determination is more appropriate for MAMU, because the project area contains no suitable MAMU habitat.

Background

Reclamation is planning to conduct geotechnical field exploration on their managed land at Scoggins Dam and adjacent to its reservoir, Henry Hagg Lake (project area). The purpose of the field exploration is to provide subsurface characterization of soils and bedrock at two general locations: (1) on the downstream side of Scoggins Dam; and (2) in forest patches adjacent to the east side of Henry Hagg Lake where native soil and rock may be used to provide material for the future dam modifications. The results of this field exploration will be to inform Reclamation's final design for safety modifications proposed for Scoggins Dam.

It is unknown whether NSO occur in the project area, however the possibility exists due to the project area being within the species' mapped range. Therefore, Reclamation natural resources staff and Service biologists evaluated the habitat in the project area through several site visits in May and June 2022. Biologists found the project area to contain little to no suitable nesting habitat for NSO, but we did find suitable roosting and foraging habitat.

Proposed Action

The proposed activities include borehole (drilling) methods and surface geophysical seismic refraction surveys at multiple locations around Scoggins Dam and Reclamation-managed lands around Henry Hagg Lake. This work is anticipated to start on or after July 16th, 2022 (which is after the critical breeding season for NSO ends) and will conclude before the critical breeding season for NSO starts on March 1st, 2023.

A total of 139 boreholes are proposed and the total estimated ground disturbance would be confined to a 1-foot diameter disturbance circle associated with each of the 139 boreholes and grading up to 5 work areas on the downstream side of the dam where there is no habitat. Total drilling ground disturbance would approximate 109 square feet. The grading activity would create safe access work areas on sloped and uneven terrain, for total of 28,749.60 square feet of grading disturbance.

For the seismic refraction surveys, approximately 2.88 miles of temporary and non-ground disturbing transects are proposed. These surveys will involve placing recording devices connected by a wireline or cable on undisturbed ground surface. A single strike from a sledgehammer will be made on a metal plate (which will be placed at intervals along the transects) to create a seismic source. The seismic waves created by the strike will then be analyzed as they travel through the subsurface.

Reclamation has incorporated several conservation measures into the proposed action to minimize and avoid potential impacts to listed species. Measures include:

- No work will be conducted in the project area between March 1st and July 15th (which is the critical breeding season for NSO and partially overlaps with the critical breeding season for MAMU).
- No new roads will be constructed. Where bore locations are in dense forest with no access, the locations would be either moved to an accessible opening or omitted from drilling.
- There will be very minimal impact to understory vegetation and soils from equipment used to perform the drilling activities; no mature trees will be removed.

Analysis

The potential for effects to the NSO is dependent on their presence in the project area. While it is unknown whether NSO occupy the project area, there is suitable roosting and foraging habitat present at varying levels.

In the case of potential disturbance from drilling and seismic refraction surveys in the late breeding season for NSO (July 16th through September 30th), any roosting or foraging adults or juveniles that may be present would likely be able to move away from the disturbance, whether because of the noise or because of the presence of people within their habitat. Because contiguous forest exists outside the project boundaries and action area which NSO could utilize for foraging, the proposed action would be unlikely to result in individuals having reduced opportunities for foraging. Thus, any effects to NSO would be insignificant, because they could not be meaningfully measured, detected, or evaluated.

Conclusion

Based upon the information in the memo and attachments, the Service's site visit, and our analysis of the effects of the proposed project, we concur with your determination that the proposed action "may affect, not likely to adversely affect" NSO for the following reasons: 1) disturbance from drilling activities and seismic refraction surveys will not occur in the critical breeding season (March 1st to July 15th); 2) if NSO happens to be roosting, foraging or dispersing in the project area, they would likely move away from the disturbance without any detrimental effects; 3) activities associated with the project will not affect any suitable habitat for NSO.

This concludes our concurrence letter pursuant to section 7(a)(2) of the Endangered Species Act. As provided in 50 C.F.R. 402.16, reinitiation of consultation is required and shall be requested by Reclamation or by the Service, where discretionary Federal involvement or control over the action has been retained or is authorized by law and: (1) if information reveals that effects of the action may affect listed species or critical habitat in a manner or to an extent not considered in this consultation; (2) if the action is subsequently modified in a manner that causes an effect to listed species or critical habitat that was not considered in this letter of concurrence; or (3) if a new species is listed or critical habitat is designated that may be affected by this action.

Thank you for your coordination on this project and for your concern for the conservation of the northern spotted owl. If you have any questions regarding this consultation, please contact Elise Brown of my staff at (503) 231-6179.

cc: **Bergin Parks** bparks@usbr.gov
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