



United States Department of the Interior

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In reply refer to:

AESO/SE

02EAAZ00-2014-I-0335 (R002)

March 21, 2018

Memorandum

To: Field Manager, Lake Havasu Field Office, Bureau of Land Management,
Lake Havasu City, Arizona

From: Field Supervisor

Subject: Request for Reinitiation of Informal Consultation under Section 7 of the Endangered Species Act Regarding Pacific Gas and Electric Topock Compressor Station AESO/SE 02EAAZ00 Final Groundwater Remedy

Thank you for your correspondence received by us on December 1, 2017, requesting reinitiation of informal consultation on the Pacific Gas and Electric Final Groundwater Remedy 2014 Programmatic Biological Assessment (PBA; CH2M Hill 2014) to address the presence of hexavalent chromium from the Topock Compressor Station in groundwater in San Bernadino County, California and Mohave County, Arizona, in compliance with section 7 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 et seq.). This request for reinitiation and amendment to the existing 2014 concurrence is to address an update of the impact assessment based on the on the Final (100%) Groundwater Basis of Design (BOD), an update of the action area, updates on the federal listing status of the Sonoran desert tortoise (*Gopherus morofkai*) and western yellow-billed cuckoo (*Coccyzus americanus*) and its proposed critical habitat, and to update the schedule for conducting western yellow-billed cuckoo surveys. These updates are described in the 2017 Addendum to the 2014 Programmatic Biological Assessment for Pacific Gas and Electric Topock Compressor Station Final Groundwater Remedy that you submitted with your request for reinitiation of consultation.

In your original 2014 consultation (02EAAZ00-2014-I-0335), you determined the action was not likely to adversely affect the following species listed under the ESA: southwestern willow flycatcher (*Empidonax traillii extimus*), Yuma clapper rail (*Rallus longirostris yumanensis*), Mojave desert tortoise (*Gopherus agassizii*), razorback sucker (*Xyrauchen texanus*), and bonytail (*Gila elegans*) and its critical habitat in the Colorado River. We concurred with your findings at the time and provided a memorandum to you on July 7, 2014. On November 30, 2016 you requested reinitiation for consultation and an amendment to the 2014 consultation (02EAAZ00-2014-I-0335 R001) that determined this project was not likely to adversely affect the northern Mexican gartersnake (*Thamnophis eques megalops*). We concurred with your finding at the time and provided a memorandum to you on January 31, 2017. Project activities, including updates described in the current request for reinitiation, will continue to be implemented in conformance

with the requirements and conservation measures of the 2014 PBA, 2014 consultation, and 2016 amendment to that consultation. Therefore, our previous analyses and conclusions stand with regard to these species.

In your 2014 consultation you requested and received our concurrence with a finding of not likely to jeopardize the Sonoran desert tortoise (*Gopherus morofofcai*), a species that was a candidate for listing at the time. However, in October 2015 we determined that listing the Sonoran desert tortoise was not warranted (80 FR 60321-60335). Therefore, consultation on this species is no longer required and will not be addressed further in this consultation.

You also requested in your 2014 consultation our concurrence with a finding of not likely to jeopardize the western yellow-billed cuckoo (*Coccyzus americanus*), a species that was proposed at the time for listing as threatened under the ESA. We concurred with your finding at the time and provided a memorandum to you on July 7, 2014. Since the 2014 PBA, the federal listing status of the western yellow-billed cuckoo changed from proposed to threatened on October 3, 2014 (79 FR 59991-600380) and critical habitat was proposed for this species on December 2, 2014 (79 FR 71373-71375). In this request for reinitiation, you have requested an amendment to the 2014 consultation to reflect this change in status and determined the project may affect, but is not likely to affect the western yellow-billed cuckoo and its proposed critical habitat. We concur with your determinations and provide our rationale below.

Description of the Proposed Action

A complete description of the proposed action was included with your June 2014 request for consultation, 2016 Memorandum requesting reinitiation of informal consultation, 2016 Technical Memorandum Biological Assessment of the northern Mexican gartersnake (*Thamnophis eques megalops*) for the Pacific Gas and Electric Topock Compressor Station Final Groundwater Remedy, and 2017 Addendum to the 2014 Programmatic Biological Assessment for Pacific Gas and Electric Topock Compressor Station Final Groundwater Remedy. The proposed action under this request is the implementation of the final groundwater remedy over a period of 50 years and, once the remedy is complete, the removal of facilities associated with the proposed action. The primary means to address the chromium is through the use of several well systems that allow containment of the chromium plume, control movement of groundwater to the treatment wells, and treatment wells where chemicals that convert the hexavalent chromium to trivalent chromium would be injected into the groundwater. This process requires monitoring wells and surface structures for storing chemicals and fresh water, piping associated with the wells and storage structures, power supplies, evaporation ponds, roads, construction equipment storage, and support buildings within the action area to be constructed, operated, and maintained. Removal of facilities once the remediation is complete will require decommissioning of wells and removal of some or all of the facilities and restoration of the land to its previous condition. The proposed action also contains considerable site and species related conservation actions that are designed to minimize the loss of on-site vegetation, reduce the risk of disturbance to migrating or resident wildlife including threatened and endangered species, and, as noted above, restoration actions for the site.

In your 2017 Addendum that accompanied this request for reinitiation, you indicated that the action area from the 2014 PBA has been updated and combined with that of the Pacific Gas and Electric Topock Soils Investigation, which is covered under a separate consultation (December 27, 2012 extension of the remedial and investigative actions consultation [22410-2006-I-0333]). Although under separate consultations, the allowable habitat disturbance amounts and impacts are accounted together for both consultations. The action area was increased in certain areas to accommodate design changes for the Final 100% BOD, whereas areas known to not be required for the project were removed. You also indicated that design changes for the Final 100% BOD are consistent with project activities described in the 2014 PBA (CH2M Hill 2014) and will continue to be implemented in conformance with the requirements and conservation measures of the 2014 consultation and 2016 amendment. Changes to the action area and project design will not result in increases to the currently allowed disturbance of current floodplain, historical floodplain, or upland habitats. As a result, no new effects to federally-listed species are anticipated from these changes.

DETERMINATION OF EFFECTS

We concur with your determination that the proposed action may affect, but is not likely to adversely affect the western yellow-billed cuckoo or its proposed critical habitat for the following reasons:

- Incidental detections of western yellow-billed cuckoos in the project area have occurred during annual protocol surveys for southwestern willow flycatchers between 2005 and 2014. An individual cuckoo was detected in three consecutive years between 2008 and 2010 and again in 2014 from the same survey location within the western portion of Topock Marsh in Arizona. As required by the 2014 PBA, protocol-level surveys for cuckoos were conducted in 2014 and 2015. No cuckoos were detected during protocol surveys in 2014. During 2015 surveys, a single, but unconfirmed, auditory cuckoo observation was made in Arizona when cuckoos could be expected to be transient and migrating through the area. Collectively, these observations indicate that potentially suitable cuckoo nesting habitat occurs along the western and southern margins of Topock Marsh. However, previous surveys have not detected nesting cuckoos within the project area. Because of the status of cuckoos in the action area and that effects of the action remain unchanged from the 2014 PBA, the potential for effects is insignificant.
- Pre-project surveys will be conducted between May 1 and September 30 for all work planned in or near potential cuckoo habitat. If nesting cuckoos are detected, construction activities will be halted and the USFWS immediately consulted to determine an appropriate response to avoid impacts.
- Construction and development activities that use heavy equipment should be completed prior to May 15. The use of any heavy equipment in or near western yellow-billed cuckoo habitat after May 15 will be required to be reassessed and additional conservation measures may be considered.

- Protocol-level surveys will continue to be conducted in and adjacent to potential cuckoo habitat, adopting the same survey schedule (every 3 years) identified for southwestern willow flycatchers in the 2014 PBA.
- Proposed critical habitat for the western yellow-billed cuckoo includes Topock Marsh in the Arizona portion of the action area and both the Arizona and California sides of the Colorado River north of Interstate 40. Primary Constituent Elements (PCEs) of cuckoo proposed critical habitat include dense riparian woodlands with mixed stands of willow (*Salix* spp.) and cottonwood (*Populus fremontii*), mesquite (*Prosopis* spp.)-thorn-forest vegetation, or a combination of these that contain habitat for nesting and foraging in contiguous or nearly contiguous patches (USFWS 2014). Tamarisk (*Tamarix* spp.) may also be a component of breeding habitat, but there is usually a native riparian tree component within the occupied habitat used by cuckoos for nesting and foraging (Carstensen et al. 2015). These areas are typically found along dynamic riverine systems that encourage germination and growth of riparian vegetation as well as support the large insect prey of cuckoos (USFWS 2014). Although the PCEs of cuckoo proposed critical habitat are present within the Arizona portion of the action area (i.e., Topock Marsh, Sacramento Wash), they are currently absent within the California portion of the action area and, given current hydrological management of the Colorado River are unlikely to develop. All project activities are outside of potential nesting habitat for cuckoos. The nearest activity to potential nesting habitat is a monitoring well that is more than 250 feet away. Outside of potential nesting habitat, ongoing and future project activities within the action area are not expected to appreciably alter the PCEs of cuckoo proposed critical habitat. Therefore, we anticipate that effects to proposed western yellow-billed cuckoo proposed critical habitat will be insignificant.
- Future project activities will continue to be conducted in accordance with established mitigation measures presented in the 2014 PBA (CH2M Hill 2014), which will help to avoid, reduce, and mitigate operational and construction impacts to the biological environment within the action area. With these measures in place, we expect effects to western yellow-billed cuckoos and its proposed critical habitat to be insignificant.

Conclusion

After reviewing the actions addressed in the 2014 consultation, 2016 amendment, and in the current 2017 amendment and request for reinitiation to include effects to the western yellow-billed cuckoo and its proposed critical habitat, we concur that the project as described may affect, but is not likely to adversely affect this species or adversely modify its proposed critical habitat. The conservation measures that are listed have been cooperatively developed with the Arizona Ecological Services Office of the U. S. Fish and Wildlife Service and are designed to attenuate actions that “may adversely affect” listed species or their critical habitats, thus rendering the actions “not likely to adversely affect” species or critical habitats at the programmatic level.

Thank you for your continued coordination. No further section 7 consultation is required for this project at this time. Should project plans change, or if additional information on the distribution or abundance of listed species or critical habitat becomes available, this determination may need to be reconsidered. In all future correspondence on this project, please refer to consultation number 02EAAZ-2014-I-0335 (R002). Should you require further assistance or if you have any questions, please contact Kevin Russell, Carrie Marr, or me at (602) 242-0210.

A handwritten signature in black ink that reads "Steven L. Spangle" with a stylized flourish at the end.

Steven L. Spangle

cc: Refuge Manager, Havasu National Wildlife Refuge, Fish and Wildlife Service, Needles, CA
Field Supervisor, Ventura Fish and Wildlife Office, Ventura, CA
Field Manager, Lake Havasu Field Office, Bureau of Land Management, Lake Havasu City,
AZ
Senior Terrestrial Biologist, Pacific Gas and Electric, Fresno, CA

Literature Cited

- Carstensen, D., D. Ahlers, and D. Moore. 2015. Yellow-billed cuckoo study results – 2014, Middle Rio Grande from Los Lunas to Elephant Butte Reservoir, New Mexico. Prepared for Albuquerque Area Office, Bureau of Reclamation, Albuquerque, New Mexico. Technical Service Center, Fisheries and Wildlife Resources Group, Bureau of Reclamation, Denver, Colorado, USA.
- CH2M Hill. 2014. Programmatic Biological Assessment for Pacific Gas and Electric Topock Compressor Station Final Groundwater Remedy. April 28.
- U. S. Fish and Wildlife Service (USFWS). 2014. Endangered and threatened wildlife and plants: Designation of Critical Habitat for western distinct population segment of the yellow-billed cuckoo; Proposed rule. Federal Register Volume 79 Number 192.