



United States Department of the Interior

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In Reply Refer to
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February 10, 2021

Kathy Norton
Senior Project Manager
U.S. Army Corps of Engineers
1325 J Street, Room 1350
Sacramento, California 95814
Kathy.Norton@usace.army.mil

Subject: Informal Consultation on the Sand Creek Bridge Replacement Project, Fresno County, California

Dear Kathy Norton:

This letter is in response to the U.S. Army Corps of Engineers (Corps) November 13, 2020, request for initiation of informal consultation with the U.S. Fish and Wildlife Service (Service) on the proposed Sand Creek Bridge Replacement Project (Project) in Fresno County. Your request was received by the Service on November 16, 2020. At issue are the Project's effects on the federally-listed Central California Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*; CTS) and San Joaquin kit fox (*Vulpes macrotis mutica*; kit fox). This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

The County of Fresno (applicant) proposes to replace the functionally obsolete two-lane Sand Creek Bridge with a wider two-lane bridge that meets current standards. The federal action on which we are consulting is the issuance of a Department of the Army Permit for the Project. Pursuant to 50 CFR 402.12(j), you submitted a biological assessment for our review and requested concurrence with the findings presented therein. These findings presented the determination that the Project may affect, but is not likely to adversely affect (NLAA) the California tiger salamander and San Joaquin kit fox.

The Corps has requested initiation of informal consultation under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act). Our response is based on the following information: (1) a letter requesting initiation of informal consultation received on November 16, 2020; (2) A biological assessment prepared by De Novo Planning Group dated August 2016; and (3) other information available to the Service.

Project Description

The proposed Project is located in Fresno County at the Sand Creek Bridge on Ennis Road, located near Hummingbird Road. The proposed Project consists of replacing the functionally obsolete two-lane bridge with a new two lane bridge that meets current standards. The new bridge will be a cast-in-place pre-stressed concrete box girder bridge with a seat type abutment on spread footings.

The proposed Project is located on Sand Creek, and this creek will be directly impacted with the construction of this Project. The applicant proposes to temporarily impact 0.01 acre and permanently impact 0.016 acre of Sand Creek with the construction of this Project. Sand Creek in this location is vegetated by an oak woodland, shrubs, and annual grasses.

A reconnaissance level survey was conducted on December 18, 2015. Additional surveys were conducted on April 5, May 10, and June 15, 2016, with the interest of identifying federally listed plant species during their blooming period and raptors during their nesting season. No sign of listed species were observed in any surveys conducted.

Although the proposed Project area occurs within the range of the San Joaquin kit fox, it does not contain suitable habitat for the species. There are no recorded occurrences of the species in the California Natural Diversity Database (CNDDDB) within 10 miles of the action area. No individuals or sign of the species was identified during any field surveys. Nonetheless, small mammals which may serve as a prey base or source of potential dens have been observed in the action area, and habitat directly outside of the action area may be suitable for kit fox. Therefore, conservation measures have been proposed to avoid any impacts to San Joaquin kit fox.

California tiger salamander have been documented approximately 1.4 miles to the west of the action area and within the Sand Creek drainage. There is a very well documented presence of CTS within the 527 acre Sand Creek Conservation Bank, which contains 23 acres of naturally occurring vernal pools and vernal swales and is approximately 4.5 miles southwest of the action area. However, the action area, including Sand Creek, does not contain appropriate aestivation or aquatic breeding habitat. The action area lacks small mammal burrows, and lacks an active ground squirrel population that could maintain suitable burrows for CTS. The action area does not contain suitable aquatic breeding habitat given that the stream is an intermittent fast flowing stream during the rainy season. The stream has steep banks and lacks pools or other still waters. CTS do not breed in fast flowing ephemeral streams such as Sand Creek, and there are no indications that CTS disperse up the Sand Creek drainage through the action area. This is in part due to the topography being very steep and indicative of a fast flowing drainage basin. The fast flowing stream and tributaries in combination of the steep topography would likely act as a natural barrier to the species. Given the steep terrain, fast flowing streams, lack of occurrences within the action area, and lack of upland and appropriate aquatic habitat within the action area it is unlikely that the species will occur.

Conservation Measures

The following procedures and protocols will be implemented to avoid and minimize potential effects to federally listed species and their habitats during proposed Project activities:

- 1) Project-related vehicles will observe a daytime speed limit of 20-mph throughout the site in all Project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. No night time construction will occur. Off-road traffic outside of designated Project areas will be prohibited.
- 2) To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of the Project, all excavated, steep-walled holes or trenches more than 2-feet deep should be covered at the close of each working day by plywood or similar materials. 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 should be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the Service and the California Department of Fish and Wildlife (CDFW) will be contacted.
- 3) Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. 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 kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the Service has been consulted.
- 4) All food-related trash items such as wrappers, cans, bottles, and food scraps will be disposed of in securely closed containers and removed at least once a week from the construction or Project area.
- 5) No firearms will be allowed in the Project area.
- 6) No pets, such as dogs or cats, will be permitted in the Project area to prevent harassment, mortality of kit foxes, or destruction of dens.
- 7) A representative will be appointed by the Project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program and their name and telephone number will be provided to the Service.
- 8) An employee education program will be conducted. The program should consist of a brief electronic presentation of kit fox and CTS biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and/or agency personnel involved in the Project. The program will include the following: A description of the San Joaquin kit fox and CTS and their habitat needs; a report of the occurrence of kit fox and CTS in the Project area; an explanation of the status of the species and their protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during Project construction and implementation. A fact sheet conveying this information will be prepared for distribution to anyone working in the Project area.
- 9) Upon completion of the proposed Project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, pipeline corridors, etc. should be re-contoured if necessary, and revegetated to promote restoration of the area to pre-Project conditions. An area subject to "temporary" disturbance means any area that is disturbed during the Project, but after Project completion will not be subject to further disturbance and has the potential to be revegetated. Appropriate methods and plant species used to revegetate such areas should be determined on a site-specific basis in consultation with the Service, CDFW, and revegetation experts.

- 10) In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or the Service should be contacted for guidance.
- 11) New sightings of kit fox will be reported to the CNDDDB. A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed should also be provided to the Service at the address below.
- 12) A biologist will be retained to conduct a preconstruction survey and to monitor during construction activities.

Conclusion

The Service concurs with your determination that the Project may affect, but is not likely to adversely affect the California tiger salamander and San Joaquin kit fox. Our concurrence with NLAA for this Project is based on the design of the proposed Project in relation to species habitat and the commitment of the Corps and the applicant to adhere to the proposed conservation measures. Because the action area does not contain suitable habitat for federally listed species, adverse impacts to species are not anticipated. Additionally, conservation measures will be put in place to avoid the risk of direct or indirect effects to these species.

No further coordination with the Service under the Act is necessary at this time. Please note, however, this letter does not authorize take of listed species. As provided in 50 CFR §402.14, initiation of formal consultation is required where there is discretionary federal involvement or control over the action (or is authorized by law) and if: 1) new information reveals the effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this review; 2) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this review; or 3) a new species is listed or critical habitat designated that may be affected by the action.

If you have questions regarding this action, please contact Matthew Nelson (matthew_nelson@fws.gov), Fish and Wildlife Biologist, or me (patricia_cole@fws.gov), at the letterhead address or at (916) 414-6701 or (916) 414-6544 respectively.

Sincerely,



Tim Ludwick
Acting Chief, San Joaquin Valley Division

ec:

Craig Bailey, California Department of Fish and Wildlife, Fresno, CA
Alexis Rutherford, Fresno County, Fresno, CA