



In Response Reply To:
FWS/R8/MB&SP/

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Pacific Southwest Region
2800 Cottage Way, Suite W-2606
Sacramento, California 95825



JUN 08 2015

The U.S. Fish and Wildlife Service (Service) is inviting federally-recognized Indian Tribes to consult with the Service on a government-to-government basis regarding issues related to our plans to propose regulations to authorize incidental take of migratory birds under the Migratory Bird Treaty Act (MBTA) under certain circumstances. The proposed changes may affect the religious, traditional, and cultural values and practices of tribes.

Under the MBTA, the Service can permit the take of migratory birds for a variety of purposes. In addition to regulating such purposeful take, the Service interprets the MBTA as applying to take that occurs incidental to, and which is not the purpose of, an otherwise lawful activity. On a limited basis, we have authorized such incidental take in certain situations through special use permits described in 50 CFR 21.27.

We are now considering establishing a system to permit incidental take using approaches that could include: 1) a general conditional authorization by limited industry sectors that adhere to appropriate standards for protection and mitigation of incidental take of migratory birds; 2) individual permits, as our resources allow, authorizing incidental take from particular projects or activities not covered by the general authorization; and 3) development of memoranda of understanding with Federal agencies, as resources allow, authorizing incidental take from those agencies' operations and activities.

The rulemaking would establish standards to ensure that incidental take of migratory birds are appropriately mitigated. Such mitigation may include requiring measures to avoid or minimize take or securing compensation for bird mortality that cannot be avoided or minimized through best practices or technologies. The Service believes this approach will benefit bird conservation and has published a notice of intent (attached) to prepare a programmatic environmental impact statement under the National Environmental Policy Act.

We invite your input regarding the pertinent issues we should address and alternatives to our proposed approach for authorizing the incidental take of migratory birds. We have identified several areas where tribal input would be most helpful. The identified topics are not intended to limit the scope of tribal input, only provide a starting place for discussion. We would like to know how migratory birds and their habitats:

- Support holistic traditional life, lifeways, and heritage activities;
- Are elements in landscape quality, and intact landscapes for places, names, songs, calendars;
- Are associated with linguistic landmarks, sacred geography, or place-based ceremonies;
- Are an attributes of wilderness, solitude, quiet or natural sounds, and dark for meditation or ceremony; and
- Are important to traditional education associated with place-based stories, names, history, practices, skills, and language words;
- Are included in Traditional Ecological Knowledge

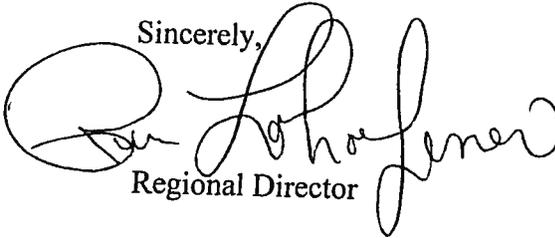
We are also asking for input on how we should evaluate and address impacts to migratory birds and their habitats.

The Service is interested in comments your tribe may have on our plans to propose new regulations and requests your input. We believe this will give both Tribal governments and the Service enough time to meet, discuss, exchange information, and address concerns raised. We intend to continue this dialogue throughout the incidental take regulation development process, which we hope to complete in the fall of 2016.

We look forward to working with you to promote the conservation of migratory birds while ensuring the protection of Tribal lands, trust resources, rights, and cultural and religious values.

If you have questions or need clarification on any of the information we have provided, please contact Mr. Eric Davis, Assistant Regional Director, Migratory Birds & State Programs, by phone (916) 978-6189 or email at Eric_Davis@fws.gov.

Sincerely,



Regional Director

Enclosure:

Migratory Bird Permits: Notice of Intent to Prepare a Programmatic Environmental Impact Statement