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U.S. Fish and Wildlife Service
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02-21-01-F-0189

April 4, 2003

Mr. John C. Bedell
Forest Supervisor
Apache-Sitgreaves National Forests
P.O. Box 640
Springerville, Arizona 85938-0640

Dear Mr. Bedell:

Thank you for your November 5, 2002, request to convert the Pleasant Valley conference opinion for the recently listed Chiricahua leopard frog (*Rana chiricahuensis*) (67 FR 40790, June 13, 2002) to a biological opinion. The Pleasant Valley conference opinion was based on our review of the proposed reauthorization of livestock grazing on the Pleasant Valley Allotment on the then proposed threatened Chiricahua leopard frog. As requested in your February 26, 2001, letter, the conference was conducted following the procedures for formal consultation. Following §402.10(d) of the Federal regulations implementing the Endangered Species Act of 1973, as amended: If no significant new information is developed regarding the effects of the proposed project on the species, and no significant changes are made to the proposed project, the Fish and Wildlife Service may, upon written request by the action agency, adopt the opinion issued at the conclusion of the conference as the biological opinion for formal consultation when the species is listed. Accordingly, we have determined that it is appropriate to adopt the biological opinion rendered in the conference as the biological opinion for formal consultation based on the information in your November 5, 2002, letter and telephone conversations with Terry Myers. However, by this letter we modify the incidental take statement as explained below.

Recent court cases have brought attention to many biological opinions. The courts have specified that two standards must be met in biological opinions. The Fish and Wildlife Service, together with the action agency, must determine that 1) a listed species occurs or is reasonably certain to occur in the project area during some portion of the proposed action, and 2) take will or is reasonably certain to result from the action under consultation.

We do not believe that the presence of Chiricahua leopard frogs on this allotments was documented as reasonable certain in the Biological Assessments and Evaluations (BAEs) and in the conference opinion. Surveys for Chiricahua leopard frogs have not been conducted on the this allotment specifically for this species. However, it is our understanding that the monitoring plan proposed for this allotment includes surveys for the Chiricahua leopard frog. We strongly encourage the Forest to keep this in the monitoring plan and conduct these surveys for this species. The following briefly describes the status of the Chiricahua leopard frog in the vicinity of the allotment for background information. Please note that the distances are rough approximations obtained from maps and survey data.

Available information on Chiricahua leopard frogs on the allotment does not meet the guidance set in the grazing guidance criteria which would allow us to conclude the species is likely to be present. We believe that the grazing guidance criteria for likely to be occupied sites and site specific information can help to determine with reasonable certainty where Chiricahua leopard frogs occur on those areas that have not been surveyed. According to the 2002 grazing guidance criteria, likely to be occupied habitat for the Chiricahua leopard frog includes: 1) currently suitable habitat where the frog has been documented within the last 10 years, but is apparently now absent or 2) suitable habitat that is (a) within 1 mile overland of occupied habitat, (b) within 3 miles along an ephemeral or intermittent drainage from occupied habitat, or (c) within 5 miles along a perennial stream from occupied habitat.

The Pleasant Valley Allotment lies entirely within the Lower San Francisco River 5th code watershed, on the south side of the San Francisco River, just upstream of the confluence with the Blue River. According to the BAE, the length of the Blue River adjacent to the Pleasant Valley Allotment is occupied by Chiricahua leopard frogs. Although there have been no systematic evaluation of the suitability of habitats in the riparian systems within the Allotment, suitable habitat may occur in portions of the perennial flowing waters of the San Francisco River watershed, the Dix Creek subwatershed, and small portions of the non-perennial Coal Creek and White Rock Canyon subwatersheds. Additional suitable habitat may also occur within lentic habitats associated with pools, these are often associated with springs and seeps, and are found primarily along Dix Creek including Hamilton Spring, Blue Holes Spring, The Hole Spring, and at least two unnamed springs at the confluences of Lone Sycamore Gulch and Red Tank Canyon. With respect to the Blue River system in its entirety, Chiricahua leopard frogs have been located as far north as the Jackson Box area, and as far south as Juan Miller Crossing. The species was located in the Blue River Watershed during the early 1970s and 1980s from sites upstream of the Allotment along the mainstem of the Blue River and upper tributaries. In 1997, Forest Service personnel observed a die-off of leopard frogs approximately six miles above the confluence with the San Francisco River, at Juan Miller crossing on the Blue River. Most recently, the species was collected and photographed approximately 17 miles upstream of the Allotment along the mainstem Blue River. Further upstream of the allotment, Chiricahua leopard frogs were found in 2002 at Coleman Creek, a tributary of the Blue River, by Arizona Game and Fish Department (AZGFD). The species has not been reported in the mainstem San Francisco River from 1995 to the present, however, they are extant in the mainstem San Francisco in New Mexico.

The distance from this allotment to a known occupied location would be greater than those cited in the grazing guidance, and we cannot conclude with reasonable certainty that the species is present on the allotment.

We also conclude that the incidental take statement for above mentioned opinion needs to be modified to be in accordance with the court's view of biological opinion standards. Therefore, the following language on the Amount of Extent of Take beginning on page 82 of the conference opinion.

I. AMOUNT OR EXTENT OF TAKE

The Pleasant Valley Allotment likely supports frogs, as frogs have been found in this area in the past, and no regular, repeated surveys have been completed recently. However, although some of this allotments is likely occupied, the lack of survey data and the distance from known locations does not lead to guidance criteria expectation of occupied, nor allow us to conclude that take will occur. This determination is consistent with other biological opinions concerning Chiricahua leopard frogs in the area. A recent biological opinion (the Blue/San Francisco Rivers Grazing Biological Opinion) concluded that take of Chiricahua leopard frogs was expected to occur on those allotment along the Blue River (Wildbunch and Pigeon allotments) but that take of Chiricahua leopard frogs on an allotment (Hickey Allotment) below the confluence of the Blue and San Francisco rivers was not reasonably certain to occur. This determination was based on the known presence of frogs along the length of the Blue River and the uncertainty of the presence of frogs along the lower portion of the San Francisco River. However, if this species is subsequently identified in the action area of the Pleasant Valley allotment this determination may need to be reconsidered.

In addition, Terms and Conditions 3.1 through 5.5 beginning on page 84 of the conference opinion will be deleted.

Please note the reinitiation clause remains the same. Reinitiation of formal consultation is required if the amount or extent of incidental take is exceeded, if new information reveals effects of the action that may impact listed species or critical habitat in a manner or to an extent not considered in this opinion, if the action is subsequently modified in a manner or to an extent that causes an effect to the listed species or critical habitat that was not considered in this opinion, or if a new species is listed or critical habitat designated that may be affected by this action.

As stated in our July 18, 2002, letter to you, we believe that other sections of this opinion may no longer be current. We still believe that the best remedy to this would be reinitiation of this consultation to address these concerns. If the Forest has any questions or concerns about the reinitiation process or would like further information please do not hesitate to contact us.

Mr. John C. Bedell

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We appreciate your cooperation and patience in this process. If we can be of further assistance, please contact Jennifer Graves (x232) or Debra Bills (x239) at the Arizona Ecological Services Field Office.

Please refer to number 02-21-01-F-0189 in future correspondence concerning this consultation.

Sincerely,

/s/ Steven L. Spangle
Field Supervisor

cc: Regional Director, Fish and Wildlife Service, Albuquerque, NM (ARD-ES)
District Ranger, Clifton Ranger District, Clifton, AZ

John Kennedy, Arizona Game & Fish Department, Phoenix, AZ

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PLEASANT VALLEY ALLOTMENT



