

**United States Department of the Interior
U.S. Fish and Wildlife Service
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AESO/SE
02-21-03-F-0046 R1

April 9, 2004

Ms. Elaine Zieroth
Forest Supervisor
Apache-Sitgreaves National Forest
P.O. Box 640
Springerville, Arizona 85938-0640

RE: Awtrey (formerly Coleman) and Marks Ditch Diversion Repair

Dear Ms. Zieroth:

Thank you for your request for reinitiation of consultation with the U.S. Fish and Wildlife Service pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), as amended (Act). Your March 25, 2004, request for formal consultation was received on March 29, 2004. This biological opinion is based on our review of the March 25, 2004, biological assessment and evaluation, the April 28, 2003, biological opinion on the proposed action, telephone conversations with Bill Wall and Terry Meyers of your staff, and other sources of information. The proposed action is to provide temporary repairs to two diversion structures and provide reasonable maintenance activities until a complete restructuring of the diversion can be completed at a later date. The two diversion structures are located on the Blue River, in Greenlee County, Arizona (Figures 1-3).

The proposed action was completed last year and effects to listed species were addressed in a biological opinion dated April 28, 2003. A copy of the April 28, 2003, biological opinion is included for your reference. Delays in the projects implementation now necessitate extending the duration of the proposed action through April 30, 2005. The proposed action modifies the timeframe in which work may occur from April 12, 2003 – April 12, 2004 to April 12, 2003 – April 30, 2005. At issue are impacts that may result from the proposed project on loach minnow (*Tiaroga cobitis*) and its critical habitat, spikedace (*Meda fulgida*) critical habitat, and Chiricahua leopard frogs (*Rana chiricahuensis*). In addition, the Forest determined that the proposed action will not jeopardize the continued existence of the Mexican gray wolf (*Canis lupus baileyi*) and is not likely to adversely affect spikedace, razorback suckers (*Xyrauchen texanus*), or bald eagles (*Haliaeetus leucocephalus*). We concur that the proposed action is not likely to adversely affect spikedace, razorback suckers, or bald eagles and that the project will

not jeopardize the continued existence of the Mexican gray wolf. Details for these concurrences remain the same as those in the provided in Appendix A of the April 28, 2003, biological opinion.

Consultation History

- February 05, 2002 – Forest Service contacted the Fish and Wildlife Service concerning work to diversion structures in the Blue River.
- April 03, 2002 – Meeting with Forest Service, U.S. Army Corps of Engineers, and U.S. Fish and Wildlife Service to discuss unauthorized repairs to diversion structures on the Blue River.
- November 22, 2002 – Letter from the U.S. Fish and Wildlife Service to the Forest Service concerning the Blue River diversions, repair, and maintenance.
- April 09, 2003 – Received a draft Biological Assessment and Evaluation (BAE) for the Coleman and Marks ditch diversion repair project.
- April 15, 2003 – Received final BAE including a request for an expedited consultation and requested that a draft biological opinion not be sent. We also encouraged the Forest Service to coordinate the review of this project with the Arizona Game and Fish Department.
- April 28, 2003 – A final biological opinion was sent to the Apache-Sitgreaves National Forest concerning the Coleman and Marks Ditch Diversion Repair.
- March 29, 2004 – Received a final BAE for reinitiation of the Awtrey (formerly Coleman) and Marks Ditch Diversion Repair. The Forest was unable to complete a permanent structure for irrigation by April 12, 2004. Therefore, the Forest is proposing to do the same action as proposed in 2003 again this year (April 2004 – May 1, 2005). The Forest anticipates that a permanent structure will be completed between June 2004 and November 2004. This permanent structure will require additional consultation.

BIOLOGICAL OPINION

We believe that the biological opinion remains the same as the April 28, 2003 biological opinion for the proposed action. The description of the proposed action remains the same except for the timeframe in which the work may occur. The original opinion only allowed for one year of work (April 12, 2003- April 12, 2004). The proposed action will add another year of work to the proposed project (April 12, 2003 – May 1, 2005). The status of the species, environmental baseline, effects of the action, cumulative effects, and conclusions remain the same as the April 28, 2003, biological opinion. We believe that the incidental take statement remains the same;

however, the amount or extent of take will occur yearly for 2004 as well. Therefore, the reasonable and prudent measures and associated terms and conditions remain the same as in the April 28, 2003 biological opinion and shall be implemented in 2004 and 2005 if the project is not complete.

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.

The Fish and Wildlife Service appreciates the Forest Service's efforts to identify and minimize effects to listed species from this project. For further information please contact Jennifer Graves (x232) or Debra Bills (x239). Please refer to the consultation number, 02-21-03-F-0046, in future correspondence concerning this project.

Sincerely,

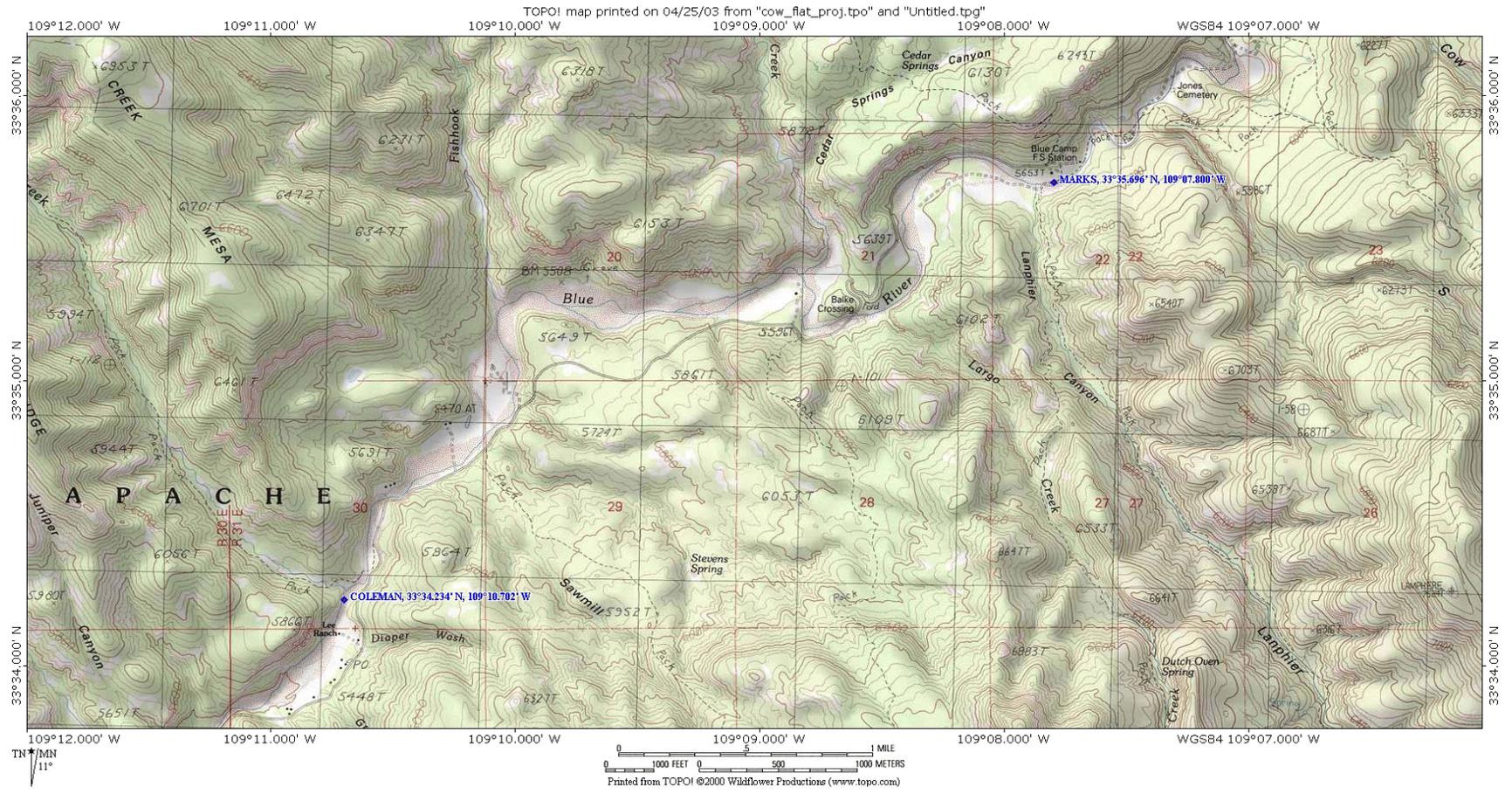
/s/ Steven L. Spangle
Field Supervisor

Enclosure

cc's w/o enclosure:

Regional Director, Fish and Wildlife Service, Albuquerque, NM (ARD-ES)
Field Supervisor, Fish and Wildlife Service, Albuquerque, NM
Project Leader, Fisheries Resources Office, Pinetop, AZ
District Ranger, Alpine Ranger District, Alpine, AZ

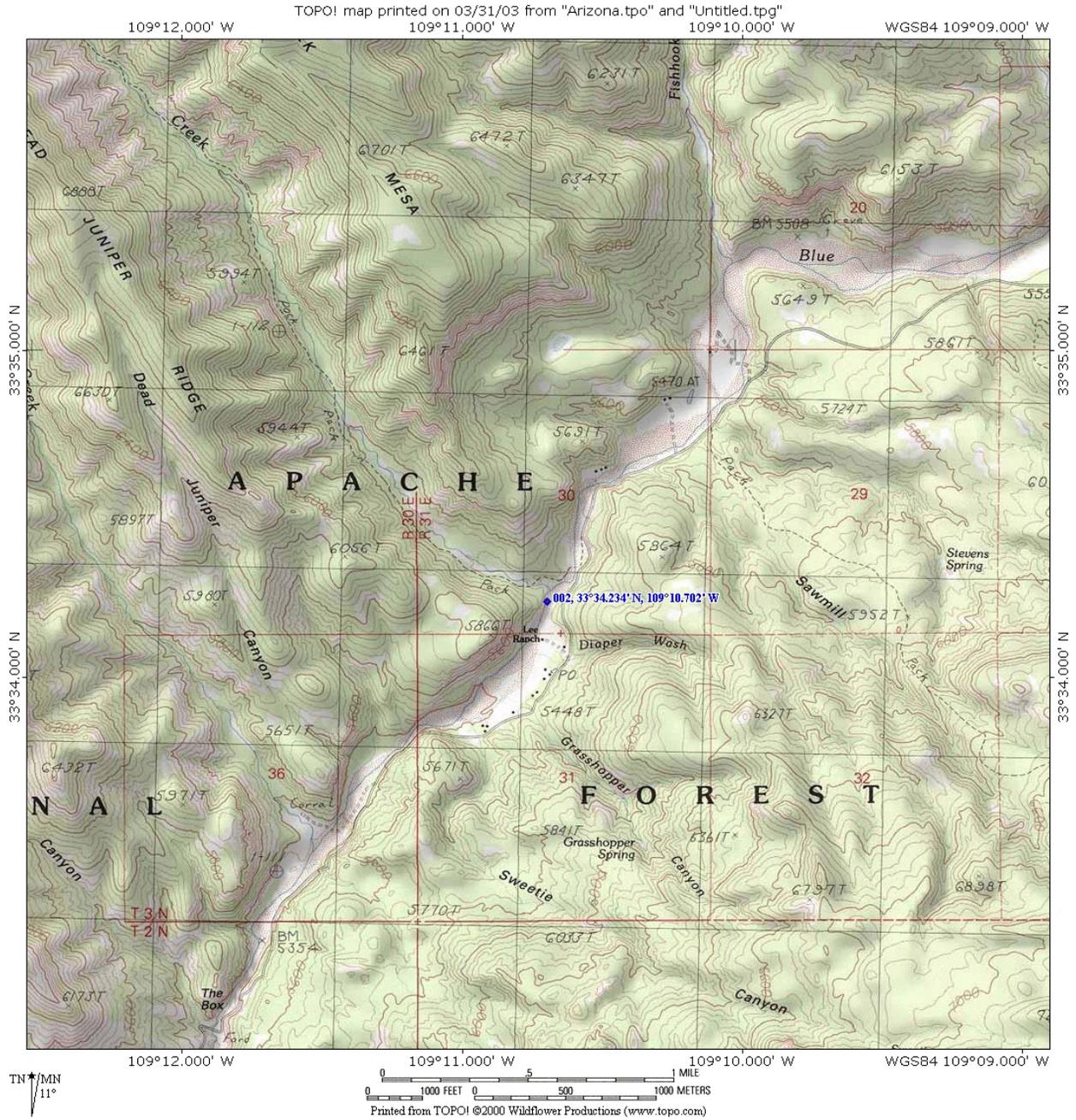
Bob Broscheid, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ



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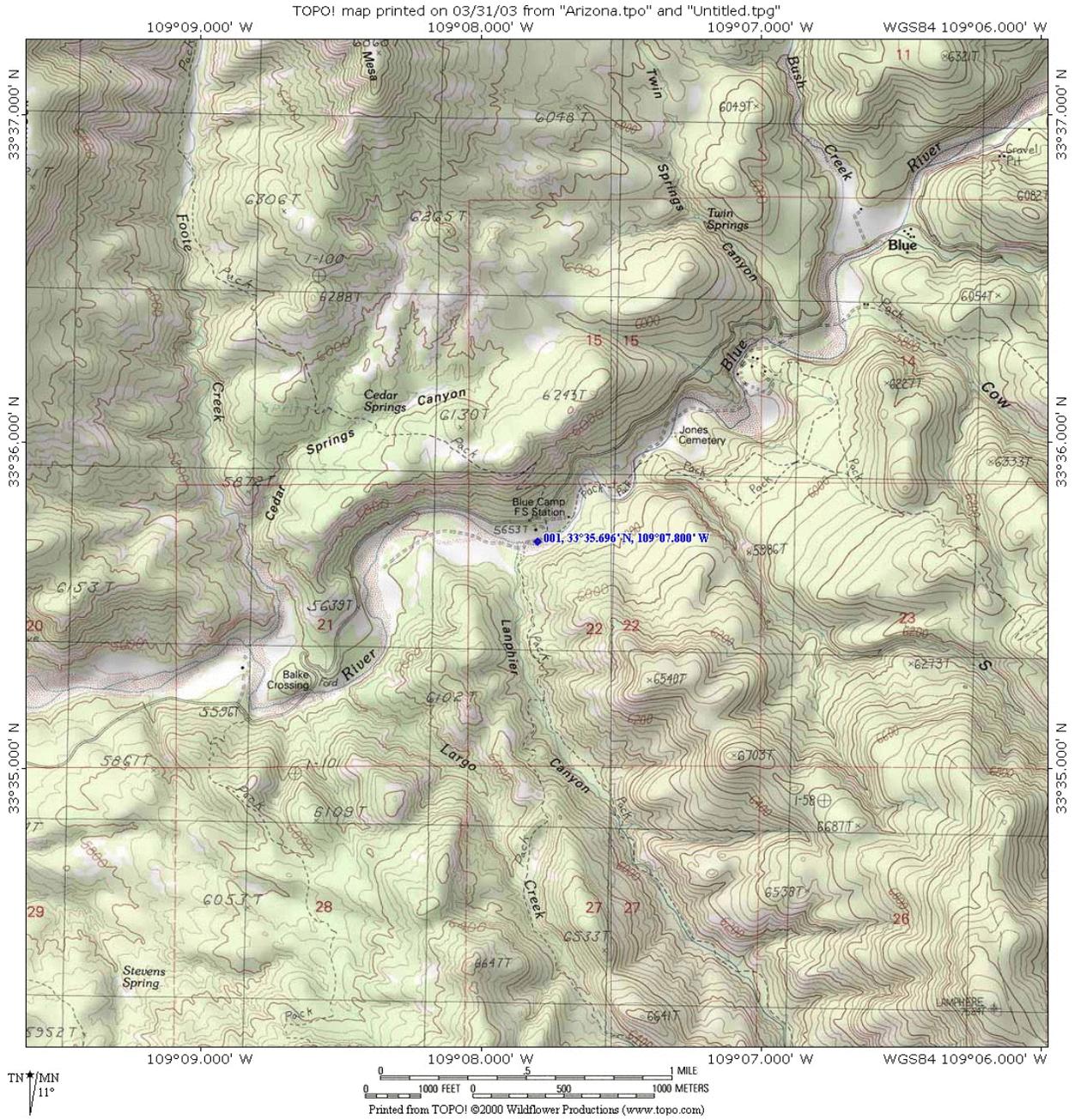
Figure 1: Marks and Awtreys diversions

Figure 2: Awtrey Diversion



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Figure 3: Marks Diversion



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