



United States Department of the Interior

Fish and Wildlife Service

Arizona Ecological Services Office

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In reply refer to:

AESO/SE

April 11, 2016

Dear Interested Party:

We are sending you this letter to offer our assistance in helping you to comply with section 7 of the Endangered Species Act (Act) of 1973, as amended, during emergency events such as wildland fire. The Act's section 7 regulations (50 CFR 402.05) provide for emergency consultations during "situations involving acts of God, disasters, casualties, national defense or security emergencies, etc." During any emergency situation, our primary objective is to provide recommendations for minimizing adverse effects to listed species without impeding response efforts. During emergency events including wildfires, *protecting human life must come first every time*. Consequently, we will not recommend measures for protection of listed species or their critical habitat if these constraints place human lives in danger.

This letter is intended to clarify when you need to enter into section 7 consultation, and how the consultation process affects your ability to respond to emergency events. There is no need to consult on the emergency itself; consultation is conducted on the agency response to the emergency and is handled in an expedited manner.

Typically, the Federal action agency contacts the U.S. Fish and Wildlife Service (FWS) by telephone if an emergency event is determined to be in proximity to listed species or critical habitat. This contact can be by telephone to the Arizona Ecological Services Office in Phoenix, or the office (Flagstaff or Tucson) or biologist who works with your office. If you do not know the appropriate contact, please use the numbers or emails we have provided at the end of this letter. *You should not delay your response to the emergency for this contact*. The contact should be as soon as possible, after responding to the emergency. Upon contact, you will be provided an emergency consultation number by FWS. At that time, please provide us with as much detail as possible about the location and severity of the emergency and your response. If you have specific information regarding impacts to listed species or their habitats, please provide this information to us. Subsequent calls to FWS can add or update information as appropriate. At this initial contact and throughout the emergency response, we will provide recommendations to avoid or minimize impacts to listed species and their habitats. If your agency distributes news releases on the emergency, please include us on your distribution list.

As soon as practical after the emergency event is under control, we recommend that you initiate consultation if you determine that your emergency response may affect listed species (or habitat) and/or critical habitat. If you determine that adverse effects to a listed species are necessary to control a fire, save lives or property, and ensure that field crews can safely and effectively do their job, we strongly recommend that you respond appropriately to the emergency and contact

FWS as soon as possible to discuss effects to listed species that may have occurred. If incidental take of a listed species occurs during the emergency event, we will provide an incidental take statement for your emergency actions in a biological opinion developed at a later date. The biological opinion will contain an evaluation of whether and how our recommendations were incorporated during the emergency. It is important to note that take or other adverse effects resulting from the emergency itself (such as a wildfire) are not attributable to the Federal action agency. Rather, incidental take by the Federal agency could only occur as a result of the response to the emergency. Because the incidental take statement is after-the-fact, reasonable and prudent measures are not included in the biological opinion for the emergency actions unless ongoing actions will result in incidental take.

In order to streamline the consultation process and assist us in updating the baseline for any affected species, we have developed forms to report actions taken during suppression activities, conservation measures that were implemented, and effects to species and/or critical habitat. These forms may be used to replace a biological assessment for an emergency fire response by the Forest Service or for reporting by the Bureau of Land Management and are available from us on our website at http://www.fws.gov/southwest/es/arizona/ESA_Guidance.htm

Although emergency response is addressed by emergency consultation procedures as described above, in some cases the program by which emergencies are handled could be the subject of programmatic consultation. Such consultation may reduce or eliminate the need for you to consult with us on each and every emergency response that may affect listed species or critical habitat. We encourage you to work with us determine whether a programmatic approach would assist with streamlining this process.

We also continue to work with many of our Federal partners to provide technical assistance and coordination prior to recurrent emergency events such as developing species-specific conservation measures. In addition, for any wildfire response, we recommend you consider implementing the following general measures if compatible with firefighter and public safety, the first priority in every fire management activity. We also recognize that you must set priorities among protecting human communities and community infrastructure, other property and improvements, and natural and cultural resources based on the values to be protected, human health and safety, and costs of protection. However, if these measures can be implemented, effects to listed species and their habitats will often be much reduced. We may recommend additional measures, or modifications of the measures below, during emergency consultation, if required.

1. All personnel on the fire should be informed about listed species and the importance of protecting their habitats and minimizing take. This is best identified in the incident management objectives.
2. Resource Advisors should be designated to coordinate natural resource concerns including listed species and other resources. Aspects could include: identify protective measures endorsed by the Incident Commander; survey prospective campsites, aircraft landing, and fueling sites; and perform other duties necessary to ensure adverse effects to listed species and their habitats are minimized. Resource Advisors and monitors should be on call at all times during the fire season.

3. Whenever possible, crew camps, equipment staging areas, and aircraft landing and fueling areas should be located outside of listed-species habitats, and preferably in locations that are previously disturbed. If camps must be located in listed-species habitat, the Resource Advisor should be consulted to ensure habitat damage and other effects to listed species are minimized and documented.

4. To avoid unintentionally spreading aquatic invasive species during fire operations, we recommend implementing "Operational Guidelines for Aquatic Invasive Species Prevention and Equipment Cleaning"

(http://gacc.nifc.gov/swcc/swcg/operations/memorandums/documents/2009/aquatic_invasive_species_in_swa_012909.pdf), Interagency Standards for Fire and Fire Aviation Operations (Redbook) guidelines, or your agency-specific guidelines.

5. The effectiveness of suppression activities and listed species mitigation measures should be evaluated after a fire. Procedures should be revised as needed.

6. Burned area emergency rehabilitation (BAER) activities should be consulted on independently unless these activities are truly considered emergency actions. We encourage monitoring the effectiveness of these actions after major fires.

We look forward to working with you in your planning activities and responses to any emergency situations, thereby helping to conserve species. If you have any questions, please contact Brenda Smith (brenda_smith@fws.gov) at (928) 556-2157 for actions in northern and central Arizona, Mary Richardson (mary_richardson@fws.gov) at (602) 242-0210 for actions in the Apache-Sitgreaves National Forest, and Jean Calhoun (jean_calhoun@fws.gov) at (520) 670-6150 (x223) for actions in southern Arizona.

Sincerely,



acting for
Steven L. Spangle
Field Supervisor

cc: Regional Director, Fish and Wildlife Service, Albuquerque, NM (ARD-ES)
Regional Director, Fish and Wildlife Service, Albuquerque, NM
(Deputy Regional Fire Management Coordinator)
Field Supervisor, Fish and Wildlife Service, Albuquerque, NM
Assistant Field Supervisor, Fish and Wildlife Service, Flagstaff, AZ
Assistant Field Supervisor, Fish and Wildlife Service, Phoenix, AZ
Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ
Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ