



United States Department of the Interior

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In Reply Refer To:
AESO/SE
2-21-92-F-213

July 18, 1996

Charles R. Bazan
Forest Supervisor
Tonto National Forest
2324 East McDowell Road
Phoenix, Arizona 85006

Dear Mr. Bazan:

This letter constitutes an amendment to the February 14, 1994, biological opinion on the Management Plan for the Dos S Unit of the Sunflower Allotment (2-21-92-F-213). The Opinion was previously amended on October 2, 1996. The U.S. Fish and Wildlife Service received your letter dated July 9 1997, requesting reinitiation of section 7 consultation, on July 10, 1997. Your letter and subsequent telephone conversations contained ample information to determine the reason for reinitiation and the possible effects on the endangered Gila topminnow (*Poeciliopsis occidentalis occidentalis*). All information in the original biological opinion regarding the project description, effects of the action, incidental take, and others, remain in effect unless specified below.

Amendment to Biological Opinion

The biological opinion assessed the effects of livestock grazing and of management actions at Mud Springs. The allowed level of incidental take under circumstance #3 of the Amendment to the Biological Opinion (October 2, 1996) was exceeded on June 26, 1997. This requires reinitiation of formal consultation, as required by 50 CFR 402.16.

The extent of incidental take was exceeded when the water level in the drinker dropped more than six inches below the lowest lip of the drinker. Diminution in water flow from the springbox was the apparent cause for the drop in the water level.

Your actions of moving the fish from the drinker to the largest pothole, was appropriate. This action was covered by the previous biological opinion. You also contacted the Service immediately, as required by the opinion.

Constructing the new drinker and the additional fence is consistent with the proposed action and may be done at any time. Replacing the pipe from the springbox to the drinker was also part of the proposed action. However, because the allowed incidental take was exceeded, and replacing the pipe could cause additional take, reinitiation was necessary.

Incidental Take

Take may occur during replacement and maintenance of the pipe, springbox, and drinker through loss of habitat or harassment. All Gila topminnow found in the pipe, springbox, or drinker may be subject to take from this action.

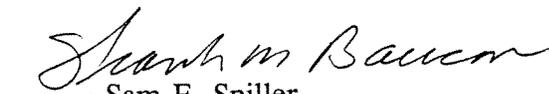
The reasonable and prudent measures remain the same. The Terms and Conditions remain the same except for the following:

- 1.8. The existing springbox, pipeline, and trough at Mud Springs shall remain unaltered for at least four years following the release of topminnow into the potholes. Maintenance and replacement of the system are allowed as necessary to maintain the system and Gila topminnow population. *All Gila topminnow found during maintenance and replacement of the drinker, pipe, and springbox will be placed in pothole number 1 (nearest the springbox).*

This concludes the amendment to the biological opinion 2-21-92-F-213. The original biological opinion remains in effect, except for the parts replaced by this amendment. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) 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 opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

We appreciate your continuing management of this important Gila topminnow site and your implementation of the terms and conditions of the biological opinion. We look forward to working with you and the Arizona Game and Fish Department in augmenting this population with the appropriate Gila topminnow stock. If you have any questions or concerns about this consultation or the consultation process in general, please contact Doug Duncan or Angie Brooks.

Sincerely,


w/ Sam F. Spiller
Field Supervisor

cc: Regional Director, Fish and Wildlife Service, Albuquerque, NM (GMA)(ES)
Director, Arizona Game and Fish Department, Phoenix, AZ
District Ranger, Tonto National Forest, Mesa, AZ