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In Reply Refer To:

AESO/SE
02-21-89-F-0078-R3
02-21-01-F-0109-R2

March 10, 2005

Memorandum

To: Superintendent, Organ Pipe Cactus National Monument

From: Field Supervisor

Subject: Reinitiation of Formal Consultation and Conferencing – General Management Plan and North Puerto Blanco Drive

This memorandum is in response to your February 9, 2005, request for reinitiation of consultation and conferencing on the project to widen North Puerto Blanco Drive and to implement the General Management Plan for Organ Pipe Cactus National Monument (OPCNM). Your request was received by us February 14, 2005, and was made pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), as amended (ESA). At issue are the impacts to the endangered Sonoran pronghorn (*Antilocapra americana sonoriensis*, pronghorn), lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*, bat), and cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*, pygmy-owl), and its proposed critical habitat. Our original biological and conference opinions for the projects were issued on October 29, 2002 (North Puerto Blanco Drive) and June 26, 1997 (General Management Plan). We issued a first reinitiation of the North Puerto Blanco Drive opinion on January 27, 2004. The General Management Plan opinion was reinitiated on November 16, 2001 (R1), and April 7, 2003 (R2). This document is the second reinitiation of the North Puerto Blanco Drive opinion and the third reinitiation of the General Management Plan opinion. Herein we revise specific sections of those opinions. Sections not addressed or revised herein remain as presented in the last reinitiation.

BIOLOGICAL OPINION

DESCRIPTION OF PROPOSED ACTION – REVISIONS

To protect Sonoran pronghorn during the critical first few months of fawn survival, the following closures to public use from March 15 to July 31 of each year were included as conservation measures within the proposed actions for opinions since the November 16, 2001, reinitiation on the General Management Plan:

General Management Plan

1. Closure of Pozo Nuevo Road at its intersection with Puerto Blanco Drive.
2. Closure of Bates Well Road at the northern OPCNM boundary.
3. Closure of North Puerto Blanco Drive at a point approximately 5.1 miles from the Visitor's Center and also at its intersection with Pozo Nuevo Road.
4. Closure of backcountry use west of State Route 85 and north of North Puerto Blanco Drive.

North Puerto Blanco Drive:

1. North Puerto Blanco Drive at the end of the two-way section. A locked gate and signage will be used at points of closure and other appropriate points.
2. Bates Well Road and Pozo Nuevo roads will also be closed and backcountry access restricted to those areas east of State Route (SR) 85 and south of North Puerto Blanco Drive.

Since the closures were implemented, Sonoran Pronghorn recovery team members have discussed and evaluated the timing of the closures, and in particular, the need for closures during wet winters and springs when forage conditions are good. On February 10, 2005, the recovery team agreed that when spring forage conditions are good, such as this year, pronghorn are in good condition and are unlikely to be stressed or otherwise much affected by the minimal public use that occurs primarily along roadways within the pronghorn's range in Arizona. In such years, the public use closure should be revised to April 30-July 15, rather than March 15-July 15. The team further recommended that in the future the team would meet in January of each year and assess the need for public closures. If forage conditions are anticipated to be good, the team would recommend the April 30-July 15 closure; however, if inadequate forage was likely to lead to stressful conditions, then the March 15-July 15 closure would be recommended. OPCNM proposes to revise their public closures in accordance with these recovery team recommendations. No other revisions to the North Puerto Blanco Drive project or General Management Plan are proposed.

STATUS OF THE SPECIES/ENVIRONMENTAL BASELINE

Sonoran Pronghorn

The status of the Sonoran pronghorn has improved since the date of the last reinitiation (January 27, 2004, on the North Puerto Blanco Drive project). As described in that and previous opinions and reinitiations, a devastating drought and other factors caused an estimated 79 percent decline in the U.S. population from 2000 to 2002. Since then, several key recovery actions have been implemented, including establishment of forage enhancement plots, construction of a semi-

captive breeding facility, stocking of the breeding facility with pronghorn from Sonora and Arizona, and construction of pronghorn waters. In addition, precipitation in 2003-2005 was adequate for ample forage and excellent fawn production. The U.S. population increased from an estimated 21 in December 2002 to 58 in December 2004. An additional seven adult pronghorn and, as of this writing, 5-6 newborn fawns are in the semi-captive breeding facility. The populations east of Highway 8 in Sonora and in the Pinacate region increased from an estimated 260 to 625, and 25 to 59, respectively, over the same period.

Improvements in the status of the pronghorn have occurred despite increasing activity by border enforcement agencies, smugglers, and undocumented immigrants. Many new trails and routes have been created in Cabeza Prieta National Wildlife Refuge, in particular, but also in Organ Pipe Cactus National Monument.

Lesser Long-Nosed Bat

The status of the bat remains similar to that described in our October 29, 2002, North Puerto Blanco Drive opinion (the 2003 General Management Plan opinion referred back to the 1997 opinion in regard to the bat). In 2004, blooming and fruiting of the columnar cacti in OPCNM occurred sparsely and into October, which is longer than usual. Apparently scarce food supplies were expected to result in fewer bats and limited reproductive success; however, average June exit counts at the Copper Mountain roost on OPCNM were nearly 24,000; similar to previous June counts back to 2000. Exit counts remained unusually high through July and August, at a time when bats are typically moving out of OPCNM. The bats may have responded to the abnormal cacti flower and fruit crop by subsisting on *Agave deserti* pollen (2004 OPCNM ESA monitoring report to the Fish and Wildlife Service). In July 2004, immigrant trash and debris were found near the mouth of the Copper Mountain roost (Tibbitts, pers. comm. 2004). Although there was no evidence they disturbed the bats, the potential exists for immigrants to cause abandonment of this roost, which is the largest known maternity roost in the U.S. Immigrants that took shelter and built a fire in the Bluebird Mine on Cabeza Prieta National Wildlife Refuge caused abandonment of that roost for two years.

Cactus Ferruginous Pygmy-Owl

On June 28, 2004, the District Court for Arizona remanded the decision to list the pygmy-owl back to the Fish and Wildlife Service. There has not yet been a decision by the FWS on how we will proceed. However, for now the Arizona population is listed as endangered with proposed critical habitat. In 2004, there were six sites, nine adults, and 11 young pygmy-owls in the Altar Valley; three sites, three adults, and no young in northwestern Tucson; and seven sites, seven adults, and no young known in OPCNM. Pygmy-owls may have disappeared from southern Pinal County, and none were found in Cabeza Prieta National Wildlife Refuge. Meaningful numbers of pygmy-owls may exist on the Tohono O'odham Reservation, but survey data are lacking for us to assess the species' status there.

EFFECTS OF THE PROPOSED ACTION

Sonoran Pronghorn

The proposed revision in the closure would expose pronghorn on OPCNM in the vicinity of the closures (which are all west of State Route 85) to public use in the form of vehicles traveling on the otherwise closed routes and hikers on trails that begin along the closed routes. Such use would occur up to April 30 (rather than be terminated on March 15) of 2005, and in other years when the recovery team deems spring forage conditions will likely be good. In such years, visitors are attracted to OPCNM by displays of flowers, and visitation use is higher than in drier years. We do not know the absolute use rates, but you estimated in your February 9 memorandum that “traditional public use in OPCNM is about 10 percent of the total human presence from January to June”. Smugglers, illegal immigrants, and law enforcement make up the other 90 percent of human use, which occurs both on and off of roads. As described in our biological opinions and reinitiations for the North Puerto Blanco Drive project and the General Management Plan, Sonoran pronghorn are known to flee from vehicles and people on foot, which affects habitat use patterns. However, the increase in the U.S. population since 2002, occurred in spite of increasing levels of illegal activities and law enforcement response. The excellent forage conditions since 2002, combined with the success of recovery actions, have allowed pronghorn to thrive despite the increased disturbance levels. Permitting visitor use from March 15 to April 30 on roads and trails west of SR 85 is not expected to significantly increase human presence or disturbance during this period, and good forage conditions combined with recovery actions should minimize the effects of any increased stress caused by elevated human presence. Visitors will still be restricted from using roads and trails in the range of the pronghorn from April 30 to July 15, which is typically the hottest, driest, and most stressful period for pronghorn and is most critical for fawn survival. In dry years, visitor use would not be authorized from March 15 to July 15.

Cumulative Effects

As described above, smuggler and illegal immigrant activity has continued to increase within the range of the pronghorn. However, the pronghorn population has increased in spite of this elevated human presence. We are in consultation with the Border Patrol’s Yuma and Tucson Sectors about their law enforcement responses, which although affect these illegal activities, are Federal actions, the effects of which are not considered cumulative effects.

Lesser Long-Nosed Bat

The only known roost site for the bat is a maternity roost located east of SR 85, an area that is unaffected by the route and trail closures. Use of roads and trails east of SR 85 by visitors from April 30-July 15 would occur during the period when bats are present and foraging in OPCNM in that area. However, most use would occur during the day and presence of a small number of vehicles and people after dark is not expected to affect foraging activities. The only other effects of the proposed actions (loss of foraging habitat due to construction in the North Puerto Blanco Drive project) are unaffected by the revised closures.

Cumulative Effects

See the Sonoran pronghorn “Cumulative Effects” for recent changes.

Cactus Ferruginous Pygmy-Owl

Pygmy-owls are likely to be nesting during April when visitation would be allowed east of SR 85 during years with good forage for pronghorn. Pages 53-55 of our October 29, 2002, North Puerto Blanco Drive opinion contain a description of how human activities and disturbance can affect nesting pygmy-owls. Although there is some potential for greater disturbance to any nesting pygmy-owls near routes or trails in the area affected by the closure change, we believe these effects are unlikely to be realized for the following reasons. First, no pygmy-owls are currently known near the affected routes and trails (from the January 27, 2004, reinitiation on the North Puerto Blanco Drive opinion, and our files). Secondly, any increased disturbance by recreationists would be a relatively small increment over the existing use by smugglers, illegal immigrants, and law enforcement, which form the environmental baseline in regard to human disturbance. Finally, the closures would only be waived in years with good forage. These are years when conditions will be good for not only pronghorn, but also prey items for pygmy-owls. Like pronghorn, pygmy-owls are likely to do well in such years despite a slight increase in human use.

The action areas of the two projects are contained within proposed critical habitat unit 5. The constituent element potentially affected by the revised closure is constituent element 5, which consists of habitat elements configured and human activity levels minimized so that unimpeded habitat use, based on pygmy-owl behavior patterns (typical flight distances, activity level tolerance, etc.) can occur during dispersal and within home ranges. The increment of human disturbance resulting from the change in route closures is not expected to affect habitat use during dispersal or within home ranges for the reasons described in the previous paragraph. Note that this analysis and our biological opinion does not rely on the regulatory definition of “destruction or adverse modification” of critical habitat at 50 C.F.R. 402.02. Instead, we have relied upon the statutory provisions of the ESA to complete this analysis with respect to critical habitat.

Cumulative Effects

See the pronghorn “Cumulative Effects” above. At the current level, the cumulative effects of illegal activities are much greater than effects of visitors to OPCNM.

CONCLUSIONS

Sonoran Pronghorn

After reviewing the current status of the Sonoran pronghorn, the environmental baseline for the action area, the effects of the proposed actions, and the cumulative effects, we reaffirm our

biological opinions that the proposed actions are not likely to jeopardize the continued existence of the Sonoran pronghorn. No critical habitat has been designated for this species, therefore, none will be affected. Our conclusion is based on the rationales give in our previous biological opinions and reinitiations on these actions, and the following:

1. The route and trail closures west of SR 85 would remain in effect during dry years from March 15-July 15, and every year from April 30-July 15. These periods are the most critical for fawn survival.
2. The Sonoran pronghorn has prospered since 2002 despite increasingly high levels of human use in the form of off and on-road vehicle and foot travel by smugglers, illegal immigrants, and law enforcement. Visitor use during March 15-April 30 is expected to be a relatively minor addition to this human use, and is not expected to significantly stress pronghorn or affect fawn survival.
3. The Sonoran pronghorn recovery team would determine when the March 15-April 30 closures would be waived, and they would make that determination based on anticipated spring forage conditions.

Lesser Long-nosed Bat

After reviewing the current status of the lesser long-nosed bat, the environmental baseline for the action area, the effects of the proposed actions, and the cumulative effects, we reaffirm our biological opinions that the proposed actions are not likely to jeopardize the continued existence of the lesser long-nosed bat. No critical habitat has been designated for this species, therefore, none will be affected. Our conclusion is based on the rationales given in our previous biological opinions and reinitiations on these actions, and the following:

1. Revising the route closures west of SR 85 would have no effect on potential disturbance at the only known maternity roost at OPCNM, which is located east of SR 85.
2. The anticipated slight increase in human use of bat foraging habitat west of SR 85 during March 15-April 30 is not expected to affect foraging behavior.

Cactus Ferruginous Pygmy-Owl

After reviewing the current status of the pygmy-owl, the environmental baseline for the action area, the effects of the proposed actions, and the cumulative effects, we reaffirm our biological opinions that the proposed actions are neither likely to jeopardize the continued existence of the pygmy-owl, nor likely to result in destruction or adverse modification of its proposed critical habitat. Our conclusion is based on the rationales given in our previous biological opinions and reinitiations on these actions, and the following:

1. No pygmy-owls are currently known from the vicinity of the proposed closures.
2. The increment of human disturbance caused by revising the closures is expected to be small especially when compared to current illegal human use and associated law enforcement.
3. The closures would only be waived in years with good forage for pronghorn, which are also times likely to be good for pygmy-owl breeding, despite a slight increase in human disturbance.

Thank you for your cooperation and assistance throughout this consultation process. Any questions or comments should be directed to Jim Rorabaugh (x238) or Sherry Barrett (520) 670-6150 (x223) of my staff.

/s/ Steven L. Spangle

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