

2-21-01-F-254R1

**SUMMARY:** REINITIATION OF BIOLOGICAL OPINION: LITTLE PICKET AND MADRONE PRESCRIBED FIRE PROJECT: NEW TIMELINES, ADDITIONAL ACRES FOR 2002

**Date of Opinion:** March 29, 2002

**Action Agency:** National Park Service: Chiricahua National Monument and Fort Bowie National Historic Site, Willcox, Arizona.

**Project:** The Chiricahua National Monument (CNM) proposes prescribed fire in a mosaic pattern to be used over 2,856 acres in the Little Picket and Madrone burn units. These acres contain both ignited acres and Maximum Management Areas (MMAs) acres to be used for personnel to guide the fire as it burns within prescription in parts of the landscape. The CNM is on the east flank of the northern part of the Chiricahua Mountains in Cochise County, Arizona. The ignitions will occur in two specific areas, at separate times of the year.

**Listed/Proposed Species and Critical Habitat Affected:** Lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*) (LLNB). The CNM requested concurrence with their determination that the proposed action is not likely to adversely affect the Mexican spotted owl (*Strix occidentalis lucida*) (MSO).

**Biological Opinion:** The Service determined that effects from the proposed action are not likely to jeopardize the continued existence of the LLNB, and concurred that the proposed action is not likely to adversely affect the MSO.

**Incidental Take Statement:**

Level of take anticipated: Take in the form of acres of reduced food resources is anticipated for the LLNB.

Reasonable and Prudent Measures: The biological opinion presents several measures for reducing incidental take. The most important measures are adopted from the CNM's proposed action. Implementation of these measures through the terms and conditions is mandatory.

Terms and Conditions: Mandatory terms and conditions are included for all species to implement the reasonable and prudent measures. They include measures to reduce incidental take such as modifying actions that result in take of individual animals, careful implementation of the prescribed fire, having a Resource Advisor on site and education of project personnel, and monitoring of take and habitat loss.

**Conservation Recommendations:** Conservation measures are recommended for LLNB. Suggested measures include implementation of recovery tasks, clarification of a species range or distribution, further studies into the effects of fire, and other related matters.

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In Reply Refer To:

AESO/SE

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March 29, 2002

Memorandum

To: Superintendent, Chiricahua National Monument and Fort Bowie National Historic Site

From: Field Supervisor

Subject: Reinitiation of Little Picket and Madrone Prescribed Fire Project: New Timelines and Additional Acreage for 2002

This memorandum responds to your February 11, 2002, memorandum and updated biological assessment requesting reinitiation of consultation, pursuant to section 7 of the Endangered Species Act of 1973, as amended, on effects from the Little Picket and Madrone Prescribed Fire project, with new timelines and additional acreage for burning in 2002, on the endangered lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*) (LLNB). You also requested concurrence that the proposed new timelines and additional acreage are not likely to adversely affect the threatened Mexican spotted owl (*Strix occidentalis lucida*) (MSO). We concur with your determination and provide our rationale in Appendix A of this document. Critical habitat is not designated for the LLNB; therefore, none will be affected. Critical habitat was designated on February 1, 2002, for the MSO (66 FR 8530), but this project will not occur in or affect MSO critical habitat located in the Chiricahua National Monument (CNM).

This reinitiated biological opinion was prepared using information from the original October 4, 2001, Biological Opinion on Little Picket/Madrone Prescribed Fire project; your February 11, 2002, memorandum outlining the new timelines and additional acreage you propose for 2002 burning; site visits; and our files. Literature cited in this biological opinion is not a complete bibliography of all literature available on the affected species, nor is it a complete review of the effects of prescribed fire on these species. A complete administrative record of this consultation is on file in our Phoenix office.

#### **CONSULTATION HISTORY**

The U.S. Fish and Wildlife Service (Service) issued the original Biological Opinion for this prescribed fire on October 4, 2001. We received your February 11, 2002, memorandum requesting reinitiation due to new timelines and additional acreage in the implementation of the Little Picket and Madrone Prescribed Fire Project and your updated biological assessment, on February 13, 2002.

## **BIOLOGICAL OPINION**

### **DESCRIPTION OF PROPOSED PROJECT**

The CNM proposes to change the time frame for prescribing burning and increase the number of acres to be burned from that described in the project description for the previous biological opinion. The CNM received more funding for prescribed burning this year than anticipated, and additional upland vegetation (549 acres) is being added to the burn units. This will increase the acres ignited, but not the perimeter of the entire planned project area, nor will the additional acres be lesser long-nosed bat habitat.

Acres in the Little Picket burn unit will increase from 389 acres to 1,030 acres. The original 222 acres in the Madrone burn unit will stay the same. The total ignited acres will now be 1,252 acres. The timing of the prescribed burn will be changed from June 15, 2001 through November 30, 2001, to March 1, 2002 through November 30, 2002. All other parameters remain the same as described in the October 4, 2001, Biological Opinion.

### **STATUS OF THE SPECIES**

#### **Lesser long-nosed bat (LLNB)**

The status of the lesser long-nosed bat (originally, as *Leptonycteris sanborni*; Sanborn's long-nosed bat) has remained the same as described in the October 4, 2001, biological opinion.

### **ENVIRONMENTAL BASELINE**

The environmental baseline remains the same as described in the October biological opinion. No roosts have been located within the project area or within the CNM boundaries. The nearest large (greater than 1,000 bats) LLNB roost known is the Keyser Mine Tunnel (T16S, R30E, Sec 33), about two miles east of the southeastern corner of the CNM. Another large roost is known to be seven miles east of the CNM (at a lower elevation on private land), and a third, smaller roost is known to be six miles north of CNM at the very northern end of the Chiricahua Mountains (AGFD 2001).

### **EFFECTS OF THE PROPOSED ACTION**

Analysis of effects in the October 2001 biological opinion are still valid in terms of the general discussion of fire and burning activities on the lesser long-nosed bat. The addition of new acreage proposed for burning is not likely to alter effects to lesser long-nosed bat because the additional acres to be burned are in additional vegetation that was surveyed and found not to support agave or saguaros. The burn units were not burned in 2001 because of funding and a temporary moratorium on burning by the National Park Service. The new timing will include the additional acreage. Because the CNM supports a very small amount of LLNB habitat (mostly agave) at the northeastern limit of the species' range, the timing of the burn is not likely to alter LLNB behavior, should any be in the area.

## **CUMULATIVE EFFECTS**

Cumulative effects are those adverse effects of future non-Federal (State, local government, and private) actions that are reasonably certain to occur in the project area. Future Federal actions would be subject to the consultation requirements established in section 7 of the Act and, therefore, are not considered cumulative to the proposed project. Effects of past Federal and private actions are considered in the Environmental Baseline. Cumulative effects remain the same as those described in the October 4, 2001, Biological Opinion.

## **CONCLUSION**

After reviewing the current status of the LLNB, the environmental baseline for the action area, the effects of the new timelines and additional acreage, and cumulative effects, it is the Service's biological opinion that the effects from the proposed new timelines and additional acreage are not likely to jeopardize the continued existence of the LLNB. Critical habitat has not been designated for the lesser long-nosed bat; thus, none will be affected. We present this conclusion for the following reasons:

1. Large roosts are not known to occur in the CNM, and surveys have been carefully conducted and were monument-wide.
2. The project area in which burning will occur covers a very small area at the northeastern edge of the species' range, compared to the total available lands and food resources in the full range of the LLNB, and the additional acres to be burned are in vegetation that does not support food sources or habitat for the LLNB.
3. The proposed action is expected to result in reduced risk of catastrophic, stand-replacing wildfire that could result in significant erosion and a loss of habitat for agave.

## **INCIDENTAL TAKE STATEMENT**

Section 9 of the Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering (50 CFR 17.3). Harass is defined in the same regulation by the Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns that include, but are not limited to, breeding, feeding, or sheltering. Incidental take is defined as take of a listed animal species that is incidental to, and not the purpose of, the carrying out an otherwise lawful activity conducted by the Federal agency or the applicant. Under the terms of

sections 7(b)(4) and 7(o)(2) of the Act, taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this incidental take statement.

The measures described below are non-discretionary, and must be undertaken by the CNM so that they become binding conditions of any grant or permit issued to any applicant, permittee, or contractor, as appropriate, in order for the exemption in section 7(o)(2) to apply. The CNM has a continuing duty to regulate the activity covered by this incidental take statement. If the CNM (1) fails to assume and implement the terms and conditions or (2) fails to require any applicant, permittee, or contractor to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the Coronado must report the progress of the action and its impact on the species to the Service as specified in the incidental take statement [50 CFR 402.14(i)(3)].

#### **AMOUNT OR EXTENT OF TAKE**

The Service anticipates no change in the incidental take of LLNB from the October 4, 2001, Biological Opinion.

#### **EFFECT OF THE TAKE**

In this Biological Opinion, the Service finds that this level of anticipated take is not likely to jeopardize the continued existence of the lesser long-nosed bat.

#### **REASONABLE AND PRUDENT MEASURES**

Reasonable and prudent measures remain the same as described in the October 4, 2001, Biological Opinion.

#### **TERMS AND CONDITIONS**

Terms and conditions remain the same as described in the October 4, 2001, Biological Opinion.

#### **CONSERVATION RECOMMENDATIONS**

Conservation recommendations remain the same as described in the October 4, 2001, Biological Opinion.

#### **DISPOSITION OF DEAD OR INJURED LISTED ANIMALS**

Upon locating a dead or injured threatened or endangered animal, initial notification must be made to the Service's Division of Law Enforcement, Federal Building, Room 105, at 26 North McDonald, Mesa, Arizona (480) 835-8289 within three working days of its finding. Written

notification must be made within five calendar days and include the date, time, and location of the animal, a photograph, and any other pertinent information. Care must be taken in handling injured animals to ensure effective treatment and care, and in handling dead specimens to preserve biological material in the best possible condition. If feasible, the remains of intact specimens of listed animal species shall be submitted to educational or research institutions holding appropriate State and Federal permits. If such institutions are not available, the information noted above shall be obtained and the carcass left in place. Arrangements regarding proper disposition of potential museum specimens shall be made with the institution prior to implementation of the action. Injured animals should be transported to a qualified veterinarian by a qualified biologist. Should any treated listed animal survive, the Service should be contacted regarding the final disposition of the animal.

### REINITIATION

This concludes reinitiation for the CNM Little Picket and Madrone Prescribed Fire project. 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 adversely 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 a 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 this action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation, if it is determined that the impact of such taking will cause an irreversible and adverse impact to the species. Any questions or comments should be directed to Thetis Gamberg (520) 670-4619 or Sherry Barrett (520) 670-4617 of my Tucson staff.

/s/ David L. Harlow

cc: Regional Director, Fish and Wildlife Service, Albuquerque, NM (ARD-ES)  
Field Supervisor, fish and Wildlife Service, Albuquerque, NM

Director, Arizona Game and Fish Department, Phoenix, AZ  
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**APPENDIX A**

**Mexican spotted owl (MSO)**

The concurrence for MSO remains the same as described in the October 4, 2001, Biological Opinion.