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U.S. Fish and Wildlife Service
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In Reply Refer To:
AESO/SE
02-21-05-I-0828
02-21-05-F-0086
02-21-03-M-0207
02-21-88-F-0114

November 30, 2005

Memorandum

To: Field Office Manager, Bureau of Land Management, Tucson, Arizona

From: Field Supervisor

Subject: Proposed Reconstruction of the Hereford Bridge, San Pedro Riparian National Conservation Area, Cochise County, Arizona

Thank you for your request for formal consultation with the U.S. Fish and Wildlife Service (FWS) pursuant to section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act). Your request was dated November 28, 2005, and was received by us via facsimile on November 29, 2005. At issue are impacts that may result from the proposed reconstruction of the Hereford Bridge over the San Pedro River within the San Pedro Riparian National Conservation Area (SPRNCA) in Cochise County, Arizona (proposed action). The proposed action may affect the endangered Huachuca water umbel (*Lilaeopsis schaffneriana* var. *recurva*) (umbel), and umbel critical habitat.

In your November 28, 2005, memorandum and in a September 22, 2005, memorandum received by us on November 1, 2005, you requested our concurrence that the proposed action is not likely to adversely affect the endangered southwestern willow flycatcher (*Empidonax traillii extimus*) (flycatcher). We concur that the proposed action is not likely to adversely affect the flycatcher; the rationale for concurrence is provided in Appendix A.

This biological opinion is based on information contained in: (1) Stantec Consulting Inc.'s (Stantec) September 14, 2005, *Biological Assessment for Hereford Bridge at San Pedro Riparian National Conservation Area – Cochise County Highway and Floodplain Department* (BA) prepared on behalf of your agency; (2) Stantec's September 14, 2005, *Environmental Assessment (EA No. AZ-420-2005- 015 – Right of Way Serial Case No. AZA 33053 for the Hereford Bridge Rebuild at the San Pedro Riparian National Conservation Area – Cochise County Highway and Floodplain Department* (EA) prepared on behalf of your agency; (3) an August 5, 2005, meeting among U.S. Fish and Wildlife Service (FWS), Bureau of Land Management (BLM), Stantec, and Cochise County staff; (4) various electronic mail messages exchanged between you and my staff during August, September, and October 2005; (5) the 2002 and 2004 *Huachuca Water Umbel (Lilaeopsis schaffneriana* var. *recurva*) Fort Huachuca Monitoring and San Pedro Riparian National Conservation Area [Engineering and Environmental Consultants, Inc (EEC) 2004]; (6)

our August 2002 *Southwestern Willow Flycatcher Recovery Plan* (Recovery Plan); and (7) other published and unpublished sources of information. A complete administrative record is on file at the Arizona Ecological Services Office (AESO).

BIOLOGICAL OPINION

Consultation History

March 24, 2005: We transmitted our final *Biological Opinion - Hereford Bridge Collapse Emergency Consultation* (File numbers AESO/SE: 02-21-03-M-0207 and CL2003482) (Bridge Collapse BiOp) to you.

August 5, 2005: We met with your staff and staff from Stantec and Cochise County to discuss the proposed action, including concerns related to conservation of flycatchers and water umbel.

August 12, 2005: Your and my staff traveled to the Hereford Bridge to examine habitat for flycatcher and umbel.

October 1, 2005: We received your September 22, 2005, request for concurrence with your determination that implementation of the proposed action may affect, but is not likely to adversely affect the flycatcher and umbel.

October 26, 2005: My staff informed your staff via electronic mail that we could not concur with your “may affect, not likely to adversely affect” determination for umbel based on measurable, though temporary, effects on umbel critical habitat.

November 2, 2005: My staff provided your staff with an electronic version of the draft biological opinion to secure an early review. Your staff replied on November 3, 2005, stating that the document was accurate.

November 3, 2005: We received, via electronic mail, your updated information on the absence of umbel at the project site. Your staff also stated that the electronic draft biological opinion was accurate, and requested that we forego the transmittal of a draft biological opinion and proceed directly to a final biological opinion.

November 16, 2005: My staff informed your staff via electronic mail that we will require a request for formal consultation prior to issuance of a biological opinion on the proposed action’s effects on umbel.

November 29, 2005: We received your November 28, 2005, request for formal consultation on the proposed action’s effects on umbel.

Description of the Proposed Action

The proposed action consists of the reconstruction of a one-lane, 260-foot long steel truss bridge over the San Pedro River at Charleston Road. The new bridge will utilize the existing abutments, and new piers will replace the existing structures. The bridge will be prefabricated off-site and moved into place via crane. Complete descriptions of the proposed action are found in your EA and BA, which are incorporated herein via reference.

Status of the Species and Environmental Baseline

Management of the SPRNCA is guided by the *San Pedro River Riparian Management Plan*, which, in turn, tiers to and incorporates the *Safford District Resource Management Plan* via reference. This consultation constitutes a reinitiation of formal consultation on each planning effort. We therefore incorporate the umbel Status of the Species and Environmental Baseline sections of the draft *Reinitiated Biological and Conference Opinion on the effects of the Safford Resource Management Plan* (File numbers 02-21-05-F-0086 and 02-21-88-F-0114) herein via reference

Effects of the Proposed Action

The umbel was formerly found to occur at the bridge site, but has not been detected since the time of the bridge collapse (EEC 2004). Mark Fredlake of your staff visited the site on October 31, 2005, but did not detect the species within the project site; the closest patch of umbel is situated approximately 700 meters upstream.

Umbel critical habitat will likely be adversely affected by the proposed removal of the existing bridge pier. While small in magnitude and temporary in duration, the limited excavation around the pier's base to allow it to be sawn and cut below grade amounts to an effect on the physical habitat for umbel at the project site. Specifically, the proposed action will have an impact on Primary Constituent Element 2 of critical habitat, which refers to a "stream channel that is relatively stable, but subject to periodic flooding that provides for rejuvenation of the riparian plant community and produces open microsites for *Lilaeopsis* expansion". It must be noted that the proposed action will not alter the hydrograph or large-scale fluvial function of the San Pedro River. More importantly, removal of the pier below grade will result in a net increase in potential umbel critical habitat; natural substrate will occupy the small area currently displaced by the abandoned pier, and the river will be able to meander at the site. The umbel patch that Fredlake (pers. comm. 2005) noted approximately 700 meters upstream is but one potential source for recolonization of the site

Cumulative Effects

Cumulative effects include the effects of future State, Tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act.

The effects of actions considered cumulative to the Hereford Bridge replacement were analyzed in the aforementioned draft *Reinitiated Biological and Conference Opinion on the effects of the Safford Resource Management Plan* as well as in our August 23, 2002, biological opinion on activities authorized, funded, or carried out by the Department of the Army at and near Fort Huachuca, Arizona (File numbers 02-21-02-F-0229 and 02-21-02-F-0266). These biological opinions' respective Cumulative Effects analyses are incorporated herein by reference

Conclusion

After reviewing the current status of umbel, the environmental baseline for the action area, the effects of the proposed action and the cumulative effects, it is our biological opinion that the

proposed action is not likely to jeopardize the species or adversely modify or destroy critical habitat. In making our determination we considered the following:

- The status of umbel appears to be stable within its known range in the U.S. and Mexico, including areas upstream of the Hereford Bridge and within the SPRNCA. The umbel's baseline (status within the action area), as described in EEC 2002 and 2004 and by Fredlake (pers. comm.), appears similarly stable. We anticipate habitat at the project site will remain suitable for colonization by umbel and may support the species in the future.
- The proposed action will affect critical habitat in the short term through the substrate disturbance associated with partial pier excavation and removal in order to benefit critical habitat in the long term via the creation of increased area of natural substrate and a less-confined fluvial system. The magnitude of these effects, both adverse and positive, is anticipated to be small.

INCIDENTAL TAKE STATEMENT

Sections 7(b)(4) and 7(o)(2) of the Act do not apply to listed plant species. However, protection of listed plants is provided to the extent that the Act requires a Federal permit for removal or reduction to possession of endangered plants from areas under Federal jurisdiction, or for any act that would remove, cut, dig up, or damage or destroy any such species on any other area in knowing violation of any regulation of any State or in the course of any violation of a State criminal trespass law. Neither incidental take nor recovery permits are needed from us for implementation of the proposed action.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information.

We recommend that the BLM continue to work with Fort Huachuca to monitor the status of umbel and its critical habitat in the SPRNCA.

In order that we are kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, we request notification of the implementation of any conservation recommendations.

REINITIATION NOTICE

This concludes formal consultation on the proposed reconstruction of the Hereford Bridge over the San Pedro River within the SPRNCA. 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 retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded (not applicable to this consultation); (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 not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action.

We appreciate your efforts to identify and minimize effects from this project. If we can be of further assistance, please contact Jason Douglas at (520) 670-6150, (x226); or Sherry Barrett at (x223).

/s/ Steven L. Spangle

cc: ARD-ES, Fish and Wildlife Service, Albuquerque, NM
Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ
San Pedro RNCA Manager, Bureau of Land Management, Sierra Vista, AZ
Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ
Regional Manager, Arizona Game and Fish Department, Tucson, AZ
Kathy Meadows, Stantec Consulting, Inc. Tucson, AZ

Literature Cited

Engineering and Environmental Consultants, Inc (EEC). 2004. Huachuca Water Umbel (*Lilaeopsis schaffneriana* var. *recurva*) Fort Huachuca Monitoring and San Pedro Riparian National Conservation Area. Prepared for Directorate of Installation Support, U.S. Army Garrison, Fort Huachuca, Arizona.

Engineering and Environmental Consultants, Inc (EEC). 2002. Huachuca Water Umbel (*Lilaeopsis schaffneriana* var. *recurva*) Fort Huachuca Inventory Report. Prepared for Directorate of Installation Support, U.S. Army Garrison, Fort Huachuca, Arizona.

Fredlake, M. 2005. Personal communication via electronic mail between M. Fredlake, Wildlife Biologist, San Pedro Riparian National Conservation Area and J. Douglas, Arizona Ecological Services Field Office.

Appendix A: Concurrence for Southwestern Willow Flycatcher

Background

Management of the SPRNCA is guided by the *San Pedro River Riparian Management Plan*, which, in turn, tiers to and incorporates the *Safford District Resource Management Plan* via reference. The project area is a flycatcher migration corridor, and exhibits nominal flycatcher breeding habitat. In July 2005, a pair of flycatchers were found to have constructed a nest approximately 100 meters upstream from the bridge site. By early August, and subsequent to a spate of high discharges, the nest failed and was abandoned.

Effects Determination

We concur with your determination that the proposed action may affect, but is not likely to adversely affect, the flycatcher. The effects of the proposed action are discountable in that flycatchers are unlikely to occupy the project site during the period where in- and near-channel work is being conducted. The effects are insignificant in that the proposed action will not measurably diminish native woody plant species composition, nor will it affect the 2005 flycatcher nest site. The bases for these findings are as follows:

- The in-channel components of the proposed action will be conducted during the non-breeding, non-migration seasons in November 2005 through May 2006 with final actions being completed in November 2006. This will avoid affecting the site of the flycatcher nest that was documented in July and August 2005.
- The bridge alignment contains no flycatcher habitat at present; it is occupied primarily by Johnson grass (*Sorghum halepense*) that invaded the site following wildfire and the clearing associated with removing the original, failed Hereford Bridge in 2003 and 2004.
- The construction area limits will be chain-link fenced to prohibit entry into and disturbance of adjacent flycatcher habitat, and a full-time biological monitor will be assigned to monitor all activities. This will also avoid affecting the 2005 flycatcher nest site.
- The project site will be revegetated with native woody species such as cottonwood (*Populus* spp.) and/or willow (*Salix* spp.) following cessation of ground-disturbing activities. This may minimize the post-project reinvasion of the site by Johnson grass and hasten the transition back to native woody vegetation.