United States Department of the Interior

FISH AND WILDLIFE SERVICE
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May 24, 2007

Cons. # 22420-2007-I-0067

Memorandum

To: State Director, Bureau of Land Management, New Mexico State Office, Santa Fe, New Mexico

From: Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, Albuquerque, New Mexico

Subject: Request for Concurrence on the New Mexico Association of Counties Wildfire Risk Reduction Grant Program in New Mexico

Thank you for your May 1, 2007, Biological Assessment (BA) for New Mexico Association of Counties Wildfire Risk Reduction Grant Program in New Mexico (Wildfire Grant Program). The Wildfire Risk Reduction Program for Rural Communities was established in 2005 under the National Fire Plan to assist communities throughout New Mexico in reducing their risk from wildland fire. The New Mexico Association of Counties (NMAC), a nonprofit community foundation, has partnered with the Bureau of Land Management (BLM) to administer the NMAC Wildfire Grant Program and distribute awards.

You also determined the Wildfire Grant Program "may affect is not likely to adversely affect" the Chiricahua leopard frog (*Rana chiricahuensis*), bald eagle (*Haliaeetus leucocephalus*), least tern (interior population) (*Sterna antillarum*), piping plover (*Charadrius melodus*), southwestern willow flycatcher with critical habitat (*Empidonax traillii extimus*), Mexican spotted owl with critical habitat (*Strix occidentalis lucida*), Rio Grande silvery minnow with critical habitat (*Hybognathus amarus*), Gila trout (*Oncorhynchus gilae*), loach minnow with critical habitat (*Tiaroga cobitis*), spikedace with critical habitat (*Meda fulgida*), Gila chub with critical habitat (*Gila intermedia*), Pecos gambusia (*Gambusia nobilis*), Pecos bluntnose shiner with critical habitat (*Notropis simus pecosensis*), Arkansas River shiner (*Notropis girardi*) (native population), Chihuahua chub (*Gila nigrescens*), Colorado pikeminnow (*Ptychocheilus lucius*), razorback sucker (*Xyrauchen texanus*), Zuni fleabane (*Erigeron rhizomatus*), Kuenzler hedgehog cactus (*Echinocereus fendleri* var. *kuenzleri*), Todsen's pennyroyal with critical habitat (*Hedeoma todsenii*), Sacramento prickly poppy (*Argemone pleiacantha spp. pinnatisecta*), Sacramento Mountains thistle (*Cirsium vinaceum*), and Pecos sunflower (*Helianthus paradoxus*). You requested concurrence with these determinations.

You also determined the Wildfire Grant Program "may affect is not likely to adversely affect" the following candidate species: Zuni bluehead sucker (*Catostomus discobolus yarrowi*) and yellow-billed cuckoo (*Coccyzus americanus*). These candidate species receive no statutory protection under the Endangered Species Act of 1973, as amended (Act). The Service encourages cooperative conservation efforts for these species because they are, by definition, species that may warrant future protection under the Act. Candidate species can be treated as if they are proposed for listing for purposes of conducting conferencing. We applaud your efforts to consider candidate species when making natural resource decisions.

Finally, you determined that the proposed action "may affect is not likely to adversely affect" the experimental nonessential populations of the Mexican gray wolf (*Canis lupus baileyi*) and the Northern aplomado falcon (*Falco femoralis septentrionalis*).

The program targets at-risk communities by offering seed money to help defray the costs of community wildfire protection projects. For the first 2 years, the Wildfire Grant Program has primarily funded projects for the development of Community Wildfire Protection Plans (CWPP), a prerequisite to all other activities. In 2007 and beyond, priority will be given to projects that request funding for hazardous fuel reduction, wildfire prevention, and community outreach activities that are identified in completed CWPPs. All projects are on non-federal lands in New Mexico. Funded projects must be completed within 12 months of award acceptance.

BLM New Mexico State Office provides between $250,000 and $500,000 annually to the NMAC through an assistance agreement as funding becomes available. NMAC designed, and now administers, the Wildfire Grant Program by receiving applications annually by March 1, reviewing project proposals and making awards in early April. Awards are limited to $50,000 per project. BLM will provide technical assistance but does not participate in ranking or selecting projects other than meeting criteria that projects are in proximity to and will benefit BLM managed lands. The BLM State Office Wildlife Biologist will review each proposed project for compliance with the conservation measures and with the section 7 effects determinations. BLM will coordinate with U.S. Fish and Wildlife Service (Service) concerning the projects under review.

The status of CWPPs statewide will vary from year to year as more communities and counties complete the planning process. New Mexico State Forestry maintains a web site where completed plans can be found (http://www.emnrd.state.nm.us/FD/FireMgt/cwpps.htm). Typical project descriptions recommend thinning, pruning, chipping and slash disposal in pinyon-juniper stands and other mixed conifer and deciduous stands near homes and structures to alter fire behavior and the ladder fuel structure. Mechanical methods using machines and hand tools may be used as well as prescribed fire in some areas and burning of slash piles. Mowing of fine fuels and maintaining grass lawns is also recommended.

The Wildfire Grant Program may community wildfire protection planning, hazardous fuel reduction, and wildfire education, prevention, and outreach programs. This information is detailed in the biological assessment, which is hereby incorporated by reference (BLM 2007).

Additionally, you have proposed a variety of general and species-specific conservation measures to reduce potential effects to be insignificant and discountable. We list the general conservation measures below, whereas the specific conservation measures are hereby incorporated by reference (BLM 2007).

The following conservation measures are part of your proposed action and apply to all projects funded under the Wildfire Grant Program:

1. All applicable Conservation Measures will be applied to areas with unsurveyed suitable habitat for federally protected species until a survey has been conducted by qualified personnel to clear the area for the treatment activity;

2. In addition to these measures and the species-specific measures, use Best Management Practices in all areas with known federally protected species or habitat (Page 2-10 of the BLM 2004 Fire and Fuels EA at: http://www.nm.blm.gov/nmso/fire_plan_amendment/docs/final_docs_7604/Chapter2ea61404.pdf)

3. Protection of known locations of habitat occupied by federally listed and candidate species will be achieved by development of fuel reduction projects to incorporate these conservation measures that apply to all projects, riparian and aquatic conservation measures, listed plant conservation measures, and species-specific conservation measures to minimize effects to federally protected species and their habitats within, adjacent to, and downstream from the proposed project sites;

4. All recipients of the NMAC grants will be briefed and educated about listed and candidate species and the importance of minimizing impacts to individuals and their habitats;

5. Equipment staging areas and fueling areas should be located outside of listed species habitats, and preferably in locations that are already disturbed. The potential for indirect effects to listed species or their habitat from the site location of staging areas (e.g., if an area is within the water flow pattern, there may be indirect effects to aquatic habitat or species located off-site) must also be considered in project design and implementation;

6. Use of motorized vehicles during burning or other fuels reduction activities in suitable or occupied habitat of listed species will be restricted, to the extent feasible, to existing roads, trails, washes, and temporary fuel breaks or site-access routes. If off-road travel is deemed necessary, any cross-country travel paths will be surveyed for federally protected species prior to use and will be closed and rehabilitated after the burning or fuels reduction project is completed;

7. All fire management protocols to protect federally protected species will be coordinated with local fire suppression agencies that conduct fire suppression on non-federal lands to

ensure that the agency knows how to minimize impacts to federally protected species in the area;

8. These and species-specific Conservation Measures would be implemented for projects occurring in riparian or upslope/upstream habitats, to minimize effects of these actions to federally protected fish species; and

9. Seedings, pole plantings and related projects to increase herbaceous or cover will use locally adapted native species. Use of exotic species is to be avoided.

The following conservation measures are part of your proposed action and apply to all projects that occur within riparian or aquatic habitats:

10. No permanent or temporary road construction would be allowed within the boundaries of Grant Program project areas;

11. No equipment use will be allowed in perennial channels, and intermittent channels with water, except at crossings that already exists. Vehicle and heavy equipment use in drainage bottoms, including in both riparian and non-riparian areas, that drain into listed fish habitat will be restricted;

12. Thinning and any other type of mechanical treatment of vegetation in drainage bottoms will follow Best Management Practices (BMPs) in all treatment areas (Page 2-10 of the BLM 2004 Fire and Fuels EA at: http://www.nm.blm.gov/nmso/fire_plan_amendment/docs/final_docs_7604/Chapter2ea61404.pdf);

13. No pile or jackpot burning in ephemeral, intermittent, or perennial channels. Pile and jackpot burning adjacent to channels (ephemeral, intermittent, or perennial) that flow into listed fish habitat will be positioned with adequate buffer distances from the channel;

14. Any plans for burning in listed fish habitats will be developed so as to minimize ash input into listed fish habitats. Activities to consider in the effort to minimize ash input: prescribe burn WUI areas in multiple year phases; prescribe burn WUI areas early enough (fall or early spring burning) to allow vegetation growth prior to summer rains; protect key riparian areas; minimize fire in riparian areas;

15. Fire line and/or skid trail construction in drainages that flow into listed fish habitat will be designed so as to reduce erosion and sediment flow;

16. To minimize the cumulative effect of livestock grazing in areas that have been burned or treated, livestock will not be allowed in the treated area of the watershed that flows into the listed fish habitat until the area has recovered enough to control ash and sediment produced by the treatment; and

17. No machinery used for vegetation removal or firebreak preparation would be allowed within 1/4 mile of standing or flowing water in the river channel. Vegetation removal needed for the construction of firebreaks within 1/4 mile of standing or flowing water would be removed using hand tools, but would require reinitiation of consultation with FWS in potential and/or occupied habitats. Any material removed during the construction of firebreaks would be pushed away from the river channel and never into the channel itself.

The following conservation measures are part of your proposed action and apply to all projects that have known locations and unsurveyed habitat of all federally protected plants

18. Surveys for federally protected and sensitive plant populations and habitats will be completed prior to implementation of the Grant Program projects;

19. No staging of equipment or personnel will be permitted within 100 meters of identified individuals or populations of federally protected and sensitive plant populations, nor will off-road vehicles be allowed within the 100-meter buffer area, unless necessary for firefighter or public safety or the protection of property, improvements, or other resources. One of the primary threats to many of these plant species is trampling or crushing from personnel and vehicles;

20. No prescribed burning, slash pile burning or chemical treatments will be implemented within 100 meters of identified locations or unsurveyed suitable habitat for federally protected and sensitive plant populations unless specifically designed to maintain or improve the existing population;

21. Utilize minimum impact tactics to minimize disturbance of vegetation and soils;

22. Slash would not be piled on, drug across, or lopped and scattered onto either actively growing or dormant listed plants; and

23. Persons working within the limited range of listed plants would be trained to identify the species and report occurrences to BLM personnel.

We concur that the proposed action "may affect, is not likely to adversely affect" the Chiricahua leopard frog, bald eagle, least tern, piping plover, southwestern willow flycatcher with critical habitat, Mexican spotted owl with critical habitat, Rio Grande silvery minnow with critical habitat, Gila trout, loach minnow with critical habitat, spikedace with critical habitat, Gila chub with critical habitat, Pecos gambusia, Pecos bluntnose shiner with critical habitat, Arkansas River shiner, Chihuahua chub, Colorado pikeminnow, razorback sucker, Zuni fleabane, Kuenzler hedgehog cactus, Todsen's pennyroyal with critical habitat, Sacramento prickly poppy, Pecos sunflower, Sacramento Mountains thistle, Zuni bluehead sucker, and yellow-billed cuckoo. Your incorporation of the conservation measures will ensure that effects from the proposed action are insignificant and discountable.

Finally, we concur with your determination that the proposed action "may affect is not likely to adversely affect" the experimental nonessential populations of the Mexican gray wolf and the Northern aplomado falcon because your incorporation of conservation measures will ensure that effects from the proposed action are insignificant and discountable.

This concludes section 7 consultation with the Service for the New Mexico Association of Counties Wildfire Risk Reduction Grant Program in New Mexico. If monitoring or other information results in additional modification of the project, consultation with the Service should be reinitiated. Please contact the Service to verify that the above determinations and concurrence are still valid if: 1) future surveys find proposed, threatened or endangered species in areas where they have not been previously observed; 2) the proposed project is changed or new information reveals effects of the actions to the listed species or their habitat to an extent not considered in these evaluations; or 3) a new species is listed that may be affected by the proposed activities. Please let us know if we can be of further assistance. If you have any questions, please contact Eric Hein at the letterhead address or at (505) 761-4735.

Wally Murphy

cc:
Director, New Mexico Department of Game and Fish, Santa Fe, New Mexico
Director, New Mexico Energy, Minerals, and Natural Resources Department, Forestry Division, Santa Fe, New Mexico