



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

IN REPLY REFER TO:
81440-2010-CPA-0045

February 12, 2010

David Foote, ASLA
Care of: Firma
1034 Mill Street
San Luis Obispo, California 93401

Subject: Notice of Intent to Adopt a Negative Declaration for the Geotechnical and Hydrogeologic Study at Santa Rosa Creek Beach Related to a Proposed Desalinization Plant, Cambria, San Luis Obispo County, California

Dear Mr. Foote:

We are responding to your correspondence, received in our office on January 14, 2010, requesting comments on the negative declaration for the proposed geotechnical and hydrogeologic study at Santa Rosa Creek Beach related to evaluating the potential for a desalinization plant in Cambria, San Luis Obispo County, California. The study area includes a portion of the Santa Rosa Creek Beach that is within Hearst San Simeon State Park and the adjacent San Luis Obispo County Beach that is contiguous with Shamel Park. The applicant, Cambria Community Services District (CCSD), proposes to drill a maximum of three monitoring wells (6 to 8 inches in diameter). A submersible pump would be lowered into the test well to pump over a 72-hour period, while monitoring the groundwater levels in the nearby wells. The wells would be buried under 3 feet of sand and uncovered using hand tools for sampling. The initial construction period would take place over a 3-week period and the monitoring wells would remain in the ground for a maximum period of 2 years, at which time the wells would be removed using a rotasonic rig or a hollow-stem auger. If a hollow-stem auger is used for removal, only the top 10-feet of the well casing would be removed, capped, and filled with native materials. Additionally, 6 to 7 core samples (4 to 6-inch diameter) would be taken using a rotasonic rig above the mean-high-tide line. The coring would be conducted over a 2 to 3 week period.

In general, hydraulic testing would not be conducted within 50 feet of the Santa Rosa Creek Lagoon mouth, unless the creek is flowing at greater than the estimated test flow. Equipment would be removed from the beach at the end of each work day and stored at the CCSD wastewater treatment plant off of Heath Lane. The equipment would consist of a rotasonic rig and/or a hollow-stem auger that is track-mounted or has rubber tires, one support vehicle to supply the coring tubes, and an all-terrain vehicle and/or small four-wheel drive truck. Access would be limited to areas above the mean-high tide line. Staging areas would be within the existing parking lot and paved area of Shamel Park.

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The U.S. Fish and Wildlife Service's (Service) responsibilities include administering the Endangered Species Act of 1973, as amended (Act), including sections 7, 9, and 10. Section 9(a)(1)(B) of the Act and its implementing regulations prohibit the taking of any federally listed endangered or threatened fish or wildlife species. Section 3(18) of the Act defines take to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Service regulations (50 CFR 17.3) define harm to include significant habitat modification or degradation which actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Harassment is defined by the Service as an intentional or negligent action that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. The Act provides for civil and criminal penalties for the unlawful taking of listed species. Exemptions to the prohibitions against take may be obtained through coordination with the Service in two ways. If a project is to be funded, authorized, or carried out by a Federal agency and may affect a listed species, the Federal agency must consult with the Service, pursuant to section 7(a)(2) of the Act. If a proposed project does not involve a Federal agency but may result in the take of a listed animal species, the project proponent should apply to the Service for an incidental take permit, pursuant to section 10(a)(1)(B) of the Act.

The project would affect the upper portion of the beach area, which consists of a central-foredune plant community. The initial study states that the federally endangered tidewater goby (*Eucyclogobius newberryi*) and threatened California red-legged frog (*Rana aurora draytonii*) and steelhead trout (*Oncorhynchus mykiss*) are known to occur within Santa Rosa Creek. However, the initial study does not indicate whether any surveys for listed species have been performed. Steelhead are under the jurisdiction of the National Marine Fisheries Service and, as such, will not be further discussed herein. Our assessment of the proposed project does not constitute a full review of potential effects to species listed pursuant to the Act. To assist the CCSD in adequately evaluating the proposed project from the standpoint of fish and wildlife protection, we offer the following comments and recommendations.

We are concerned about potential impacts of the project on both the California red-legged frog and tidewater goby. According to the California Natural Diversity Database (CNDDDB 2010), the closest occurrence of California red-legged frog is within 1 mile of the beach. If drilling activities occur within the Santa Rosa Creek Lagoon or the area surrounding it, impacts to this species may occur. California red-legged frogs use a variety of habitat types, which include various aquatic systems, riparian, and upland habitats. California red-legged frog breed in aquatic habitats; larvae, juveniles and adult frogs have been collected from streams, creeks, ponds, marshes, sag ponds, deep pools and backwaters within streams and creeks, dune ponds, lagoons and estuaries (Service 2002). At any time of the year, juvenile and adult California red-legged frogs may move from breeding sites. They can be encountered living within streams at distances exceeding 1.8 miles from the breeding site and have been found up to 100 feet from water in adjacent dense riparian vegetation for up to 77 days (Rathbun *et al.* 1993). Dispersing California red-legged frogs have been documented to move overland for more than 2 miles in northern Santa Cruz County "without apparent regard to topography, vegetation type, or riparian

corridors" (Bulger et al. 2003). Under such circumstances, California red-legged frogs could disperse through the project area when they move overland between aquatic habitats and could be impacted both directly and indirectly by the project activities. The applicant does not propose any measures in the initial study that would avoid or minimize impacts to this species.

The tidewater goby is known to exist within the lagoon outflow area of Santa Rosa Creek, up to 2 miles upstream (CNDDDB 2010), and could be impacted by any stormwater runoff, erosion, or actions directly related to the construction activities within the project site. The initial study states that if creek flows are high enough, testing could be conducted within the 50-foot lagoon buffer. The applicant does not propose any avoidance or minimization measures in the initial study that would reduce the impacts to this species.

In summary, we are concerned that the subject project, as proposed, could result in impacts to the California red-legged frog, and tidewater goby. Therefore, we recommend that you address these potential effects through further analysis prior to adoption of the negative declaration and the start of any of the proposed project activities. Please note that despite the incorporation of any mitigation measures developed pursuant to CEQA, any take of listed species that could result from the proposed project would require exemption from the take prohibitions of section 9 of the Act pursuant to section 7 or authorization pursuant to section 10 of the Act. Because the proposed project is also tied to the proposed Cambria desalinization plant, we recommend that impacts arising from the activities related to the full build-out of the water diversion and desalinization infrastructure also be evaluated.

Only listed species receive protection under the Act. However, sensitive species should be considered in the planning process in the event they become listed or proposed for listing prior to project completion. We recommend that you review information in the California Department of Fish and Game's CNDDDB. You can contact CDFG at (916) 324-3812 for information on other sensitive species that may occur in this area. We appreciate the opportunity to provide comments on the proposed project. If you have any questions regarding these comments, please contact Heather Abbey of our staff at (805) 644-1766, extension 290.

Sincerely,



Chris Dellith
Senior Biologist

cc:

Mathew McGoogan, National Marine Fisheries Service
Bruce Henderson, U.S. Army Corps of Engineers
Deb Hillyard, California Department of Fish and Game

REFERENCES CITED

- Bulger, J.B., N.J. Scott, and R.B. Seymour. 2003. Terrestrial activity and conservation of adult California red-legged frogs (*Rana aurora draytonii*) in coastal forests and grasslands. *Biological Conservation* 110(2003):85-95.
- [CNDDDB] California Natural Diversity Data Base. 2010. Element occurrence reports for *Rana aurora draytonii* and *Eucyclogobius newberryi*. Rarefind: A database application for the California Dept. of Fish and Game, Natural Heritage Division data, California Natural Diversity Data Base, Sacramento.
- Jennings, M.R., M.P. Hayes. 1994. Amphibian and reptile species of special concern in Cal. Report prepared for the Calif. Dept. of Fish and Game, Inland Fisheries Division, Rancho Cordova, Cal. 255 pp.
- Rathbun, G.B., M.R. Jennings, T.G. Murphey, and N.R. Siepel. 1993. Status and ecology of sensitive aquatic vertebrates in lower San Simeon and Pico Creeks, San Luis Obispo County, California. U.S. Fish and Wildlife Service, National Ecology Research Center, San Simeon, CA. Prepared for the California Dept. of Parks and Recreation. 103 pp.
- [Service] U.S. Fish and Wildlife Service. 2002. Recovery plan for the California red-legged frog (*Rana aurora draytonii*). U.S. Fish and Wildlife Service, Portland, Oregon. viii + 173 pp.