



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

Ecological Services
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003



IN REPLY REFER TO:
08EVEN00-2020-TA-0014

October 10, 2019

Alaina McCurdy
U.S. Environmental Protection Agency
William Jefferson Clinton West Building
1301 Constitution Avenue, Northwest
Room # 6210G
Washington, D.C. 20004

Subject: Status of Consultation for the City of Morro Bay Water Reclamation Facility Project

Dear Ms. McCurdy:

We are responding to your request, received in our office on July 29, 2019, for our concurrence with your determination that the proposed City of Morro Bay Water Reclamation Facility project (Project) may affect, but is not likely to adversely affect the federally threatened California red-legged frog (*Rana draytonii*), federally endangered tidewater goby (*Eucyclogobius newberryi*), and federally endangered Morro shoulderband snail (*Helminthoglypta walkeriana*). The Project occurs within critical habitat for California red-legged frog, and you have determined that the project may affect, but is not likely to adversely affect critical habitat for the California red-legged frog. We received sufficient information to initiate consultation on September 10, 2019. This request includes information from our email correspondence between September 10 and September 18, 2019. Your request and our response are made pursuant to section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.).

We do not concur with your determination that the Project may affect, but is not likely to adversely affect the California red-legged frog and its critical habitat. Our determination is based on the proximity of suitable aquatic habitat to the project site, the possibility of California red-legged frogs using Drainage 3 as a dispersal corridor, and the permanent loss of 7.1 acres of upland and dispersal habitat within California red-legged frog critical habitat unit SLO-3. Because we do not concur with your determination, the Environmental Protection Agency must initiate formal consultation with us on the Project's potential effects to the California red-legged frog and its critical habitat, or work with the applicant to avoid adverse effects. Your formal consultation request should include all information required to initiate formal consultation, as described by 50 CFR 402.14(c). The regulations that implement section 7 allow the U.S. Fish and Wildlife Service (Service) up to 90 days to conclude formal consultation with your agency

and an additional 45 days to prepare our biological opinion (unless we mutually agree to an extension).

We request the following information to aid in our analysis of effects of the Project to the California red-legged frog:

- An estimate of how much riparian vegetation will be permanently removed and how much will be temporarily disturbed along Morro Creek in order to install the pipeline bridge.
- A description of the fence surrounding the Water Reclamation Facility building located north of the northern terminus of South Bay Boulevard, and whether it may be permeable to California red-legged frogs.
- A description of the detention ponds associated with the Water Reclamation Facility, and any measures planned to prevent California red-legged frogs from entering the ponds.
- A description of the nighttime lighting installed around the Water Reclamation Facility, and any measures to reduce its visibility.

As a reminder, the Act requires that, after the initiation of formal consultation, the lead Federal agency may make no irreversible or irretrievable commitment of resources that could preclude the formulation or implementation of reasonable and prudent alternatives to avoid jeopardizing the continued existence of endangered or threatened species or destroying or modifying critical habitat [section 7(d)].

We concur with your determination that the Project may affect, but is not likely to adversely affect the Morro shoulderband snail if the following recommended measures are incorporated into the project description. We recommend that the Project proponent not use silt fencing to exclude Morro shoulderband snail from work areas. Snails can become entangled or trapped in silt fencing that is not properly installed and maintained, and this presents the possibility of harm to the snails. Work areas should still be clearly delineated with flagging and stakes to limit the boundaries of work areas. If silt fencing must be used for other reasons during Project construction, additional avoidance measures may be necessary to avoid harm to the snail. Please contact our office for further guidance regarding additional measures if silt fencing is necessary. We also recommend implementing the following measures to avoid impacts to the snail:

- A Service-approved biologist will survey for Morro Bay shoulderband snails no more than 48 hours before initial ground-disturbing, vegetation-clearing, or construction-staging activities that occur on dune land or Baywood fine sand substrates.
- The Service-approved biologist will monitor all construction activities occurring on dune land or Baywood fine sand substrates.
- If Morro Bay shoulderband snails are located during pre-activity surveys or monitoring of subsequent Project activities, the Service will be contacted and activities will halt until it is determined what actions may be necessary to avoid adverse effects to snails.

We request more information to better assess your determination that the Project may affect, but is not likely to adversely affect the tidewater goby. Please provide:

- Information and a map of the location of the ocean outfall from which brine produced by the treatment center would be discharged. Is the reduction in water volume proposed to be sent to the ocean outfall anticipated to change the surface hydrology in the vicinity of Morro Creek, its tributaries, or other areas where freshwater meets ocean water?
- Information on whether the injection wells are expected to change the hydrology of surface water in the vicinity of the proposed injection well fields. Is there any potential for injection of reclaimed water to change the volume, speed or direction of surface water, including in Morro Creek, its tributaries, or other areas where freshwater meets ocean water?
- Information on whether there is any potential for hydrologic and other local habitat changes associated with the Project to alter the frequency with which the lagoon at the ocean terminus of Morro Creek is breached by the ocean.

Thank you for your coordination with the Service on this Project. If you have any questions or concerns about this consultation or the consultation process in general, please contact Danielle Fagre at (805) 677-3339, or by electronic mail at danielle_fagre@fws.gov.

Sincerely,



Leilani Takano
Assistant Field Supervisor