



United States Department of the Interior

Fish and Wildlife Service
Arizona Ecological Services Office
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In reply refer to:

AESO/SE
02EAAZ00-2018-I-1115
22410-2007-I-0221

August 10, 2018

Mr. Mark Sando
District Ranger
Globe Ranger District, Tonto National Forest
7680 South Six Shooter Canyon Road
Globe, Arizona 85501

Dear Mr. Sando:

Thank you for your correspondence of July 19, 2018, received electronically the same day. This letter documents our review of Haystack Butte Grazing Allotment Range Improvements (Group B), in Gila County, Arizona, in compliance with section 7 of the Endangered Species Act of 1973 (ESA) as amended (16 U.S.C. 1531 et seq.). Your letter concluded that the proposed project may affect, but is not likely to adversely affect the endangered southwestern willow flycatcher (*Empidonax traillii extimus*) (flycatcher). We concur with your determination and provide our rationale below.

DESCRIPTION OF THE PROPOSED ACTION

The Tonto National Forest proposes authorization of new water developments to increase the distribution of the currently authorized livestock numbers within the Haystack Grazing Allotment along the upper Salt River near Gleason Flat. Within the River, Upper River, and Cottonwood pastures, one new water well will be drilled; existing waterlines extended; and several new above ground water tanks and troughs will be added to supplement the existing water system. Any needed maintenance to existing stock tanks, trick tanks, or springs shall occur prior to any new enhancement installation. Specific well locations will be determined after seismic testing is completed. A complete description of the proposed action is found in the July 2018, biological assessment and accompanying maps and field notes sent to our office the same day, as well as the May 2018 Sedow and Haystack Butte Allotment Range Improvements Final Environmental Assessment.

Conservation Measures

- Improvements to the fences along the Salt River in the River and Cottonwood Pastures will be completed so that they effectively prevent cows from accessing the River floodplain.
- Within the next three years the flycatcher habitat will be evaluated for suitability within the River and Cottonwood Pastures.
- If possible, flycatcher habitats in the River Pasture will be surveyed at least once during the second half of the breeding season during the nesting period prior to the upcoming allotment National Environmental Protection Act (NEPA) analysis. This may not be possible due to rugged terrain, hike time, and summer temperatures.

DETERMINATION OF EFFECTS

We concur with your determination that the proposed action may affect, but is not likely to adversely affect the flycatcher for the following reasons:

- Because none of the developments, seismic testing, or its construction will occur within flycatcher habitat and will be greater than 2.0 kilometers from flycatcher habitat, we do not anticipate any direct or indirect effects to flycatchers or its habitat.
- Because cattle distribution and concentration will be greater than 2.0 kilometers from flycatcher habitat following the developments (supporting the 2002 Flycatcher Recovery Plan Cowbird Appendix recommendations minimizing landscape effects), we anticipate any increase in flycatcher nest parasitism due to cattle concentration will be insignificant and discountable.
- The ongoing grazing, following the water developments, will not change the proposed conservative grazing strategies, nor overall conclusions reached in our 2008 concurrence (33 Grazing Allotments: 22410-2007-I-0221).

Certain project activities may also affect species protected under the Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. sec. 703-712) and/or bald and golden eagles protected under the Bald and Golden Eagle Protection Act (Eagle Act). The MBTA prohibits the intentional taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when authorized by the FWS. The Eagle Act prohibits anyone, without a FWS permit, from taking (including disturbing) eagles, and including their parts, nests, or eggs. If you think migratory birds and/or eagles will be affected by this project, we recommend seeking our Technical Assistance to identify available conservation measures that you may be able to incorporate into your project.

For more information regarding the MBTA and Eagle Act, please visit the following websites. More information on the MBTA and available permits can be retrieved from [FWS Migratory Bird Program web page](#) and [FWS Permits Application Forms](#). For information on protections for bald eagles, please refer to the FWS's National Bald Eagle Management Guidelines (72 FR 31156) and regulatory definition of the term "disturb" (72 FR 31132) published in the Federal Register on June 5, 2007, as well at the Conservation Assessment and Strategy for the Bald Eagle in Arizona ([Southwestern Bald Eagle Management Committee website](#)).

In keeping with our trust responsibilities to American Indian Tribes, by copy of this letter we are notifying Tribes that may be affected by this proposed action and encourage you to invite the Bureau of Indian Affairs to participate in the review of your proposed action. We also encourage you to coordinate the review of this project with the Arizona Game and Fish Department.

Thank you for your continued coordination. No further section 7 consultation is required for this project at this time. Should project plans change, or if information on the distribution or abundance of listed species or critical habitat becomes available, this determination may need to be reconsidered. In all future correspondence on this project, please refer to consultation number 02EAAZ00-2018-I-1115.

If you require further assistance or you have any questions, please contact Greg Beatty or the Field Supervisor at 602-242-0210.

Sincerely,

Acting Field Supervisor

cc (electronic):

Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ
Assistant Field Supervisor, Fish and Wildlife Service, Phoenix, AZ (Attn: G. Beatty)
Honorable Chairman, Ronnie Lupe, White Mountain Apache Tribe, Whiteriver, AZ (Attn: C. Dale)
Honorable Chairman, Terry Rambler, San Carlos Apache Tribe, San Carlos, AZ (Attn: T. Stevens)
Director, Environmental Programs, Bureau of Indian Affairs, Phoenix, AZ