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United States Department of the Interior

FISH AND WILDLIFE SERVICE

Upper Columbia River Basin Field Office
11103 E. Montgomery Drive, Suite #2
Spokane, WA 99206

December 12, 1995

Carolyn Haass
TWRS NEFA Document Manager
Department of Energy
PO Box 550 MSIN S7-51
Richland, Washington 99352-0550

FWS Reference: 1-9-96-SP-028

Dear Ms. Haass:



This is in response to your letter dated November 8, 1995, and received by the Fish and Wildlife Service (Service) on November 14, 1995. Enclosed is a list of listed threatened and endangered species, and candidate species (Attachment A), that may be present within the area of the proposed Tank Waste Remediation System in Benton County, Washington. The list fulfills the requirements of the Service under Section 7(c) of the Endangered Species Act of 1973, as amended (Act). We have also enclosed a copy of the requirements for Department of Energy (DOE) compliance under the Act (Attachment B).

Should the biological assessment determine that a listed species is likely to be affected (adversely or beneficially) by the project, the DOE should request Section 7 consultation through this office. If the biological assessment determines that the proposed action is "not likely to adversely affect" a listed species, the DOE should request Service concurrence with that determination through the informal consultation process. Even if the biological assessment shows a "no effect" situation, we would appreciate receiving a copy for our information.

Candidate species are included simply as advance notice to federal agencies of species which may be proposed and listed in the future. However, protection provided to candidate species now may preclude possible listing in the future. If early evaluation of your project indicates that it is likely to adversely impact a candidate species, the DOE may wish to request technical assistance from this office.

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In addition, please be advised that federal and state regulations may require permits in areas where wetlands are identified. You should contact the Seattle District of the U.S. Army Corps of Engineers for federal permit requirements and the Washington State Department of Ecology for state permit requirements.

The Service has provided scoping comments in a letter addressed to Mr. Don Alexander and Mr. Geoff Tallent, dated March 16, 1994. The letter from you requesting information on the presence of threatened and endangered plant and animal species also invited the Service to identify any additional issues and concerns which should be addressed in this EIS. While it is difficult to provide meaningful comments prior to the release of the draft EIS, we make the following suggestions.

An EIS recently released by DOE developed several accident scenarios, but risk assessment was conducted only for human exposure. A risk assessment of environmental impacts from the accidental release of hazardous substances was not developed. We encourage the authors to ensure that risk assessment of environmental impacts in accident scenarios be included in this EIS.

We were informed in a recent briefing that the EIS proposes to conduct mitigation under a sitewide plan. The Biological Resources Mitigation Strategy (BRMiS), which is currently under development, has been plagued with delays and funding cuts throughout its existence. Even though the current draft of the BRMiS document is approaching completion, support for the project from various DOE programs has not been assured, and funding for implementation has not been acquired. The Service strongly recommends that the EIS commit to development and implementation of a project-specific Mitigation Action Plan in the event that the BRMiS has not been completed by the time facility construction is initiated.

Our previous letter addressed several habitat impact and mitigation issues. During the above mentioned briefing, we were informed that decisions regarding borrow sites would be made under the Hanford Remedial Action EIS. We recommend that the TWRS EIS commit to provide compensatory mitigation for any impacts to natural resources at the borrow sites even though the sites themselves have not been identified yet.

Finally, please note that Hanford issues are being handled out of our Upper Columbia River Basin Field Office in Spokane, Washington. Please send future correspondence and documents to this office.

Your interest in endangered species is appreciated. If you have additional questions regarding your responsibilities under the Act, please contact Linda Hallock at 509-921-0160, or about our comments, Liz Block at 509-765-6125.

Sincerely,

Robert J. Hallock

for Philip Laumeyer
Field Supervisor

LH

Enclosures

SE/DOE/FWS 1-9-96-SP-028/Benton

c: WDFW, Region 1

WNHP, Olympia

ATTACHMENT A

LISTED AND PROPOSED ENDANGERED AND THREATENED SPECIES
AND CANDIDATE SPECIES WHICH MAY OCCUR
IN THE VICINITY OF THE
TANK WASTE REMEDIATION SYSTEM PROJECT
IN BENTON COUNTY, WASHINGTON
T13N R26E

FWS Reference: 1-9-96-SP-028

LISTED

Bald eagle (*Haliaeetus leucocephalus*) - Wintering bald eagles may occur in the vicinity from about October 31 through March 31. A communal roost site is known to occur in Section 6.

Major concerns that should be addressed in your biological assessment of project impacts to these listed species are:

1. Level of use of the project area by listed species.
2. Effect of the project on listed species' primary food stocks and foraging areas in all areas influenced by the project.
3. Impacts from project construction and implementation (e.g. increased noise levels, increased human activity and/or access, loss or degradation of habitat) which may result in disturbance to listed species and/or their avoidance of the project area.

DESIGNATED

None

PROPOSED

None

CANDIDATE

The following candidate species may occur in the vicinity of the project:

CATEGORY 2

Ferruginous hawk (*Buteo regalis*)
Fringed myotis (bat) (*Myotis thysanodes*)
*Loggerhead shrike (*Lanius ludovicianus*)
Northern sagebrush lizard (*Sceloporus graciosus graciosus*)
Olive-sided flycatcher (*Contopus borealis*)
Pale Townsend's (= western) big-eared bat (*Plecotus townsendii pallescens*)
Small-footed myotis (bat) (*Myotis ciliolabrum*)

Western burrowing owl (*Athene cunicularia hypugea*)
Western sage grouse (*Centrocercus urophasianus phaios*)
Yuma myotis (bat) (*Myotis yumanensis*) ..

*This species was erroneously omitted from the November 15, 1994
Animal Notice of Review

ATTACHMENT B

FEDERAL AGENCIES' RESPONSIBILITIES UNDER SECTIONS 7(a) AND 7(c)
OF THE ENDANGERED SPECIES ACT OF 1973, AS AMENDED

SECTION 7(a) - Consultation/Conference

Requires:

1. Federal agencies to utilize their authorities to carry out programs to conserve endangered and threatened species;
2. Consultation with FWS when a federal action may affect a listed endangered or threatened species to ensure that
.. any action authorized, funded, or carried out by a federal agency is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. The process is initiated by the federal agency after it has determined if its action may affect (adversely or beneficially) a listed species; and
3. Conference with FWS when a federal action is likely to jeopardize the continued existence of a proposed species or result in destruction or an adverse modification of proposed critical habitat.

SECTION 7(c) - Biological Assessment for Construction Projects

Requires federal agencies or their designees to prepare a Biological Assessment (BA) for construction projects only. The purpose of the BA is to identify any proposed and/or listed species which is/are likely to be affected by a construction project. The process is initiated by a federal agency in requesting a list of proposed and listed threatened and endangered species (list attached). The BA should be completed within 180 days after its initiation (or within such a time period as is mutually agreeable). If the BA is not initiated within 90 days of receipt of the species list, please verify the accuracy of the list with our Service. No irreversible commitment of resources is to be made during the BA process which would result in violation of the requirements under Section 7(a) of the Act. Planning, design, and administrative actions may be taken; however, no construction may begin.

To complete the BA, your agency or its designee should: (1) conduct an onsite inspection of the area to be affected by the proposal, which may include a detailed survey of the area to determine if the species is present and whether suitable habitat exists for either expanding the existing population or potential reintroduction of the species; (2) review literature and scientific data to determine species distribution, habitat needs, and other biological requirements; (3) interview experts

including those within the FWS, National Marine Fisheries Service, state conservation department, universities, and others who may have data not yet published in scientific literature; (4) review and analyze the effects of the proposal on the species in terms of individuals and populations, including consideration of cumulative effects of the proposal on the species and its habitat; (5) analyze alternative actions that may provide conservation measures; and (6) prepare a report documenting the results, including a discussion of study methods used, any problems encountered, and other relevant information. Upon completion, the report should be forwarded to the Upper Columbia River Basin Field Office, 11103 E Montgomery Drive, Suite 2, Spokane, WA 99206.

* "Construction project" means any major federal action which significantly affects the quality of the human environment (requiring an EIS), designed primarily to result in the building or erection of human-made structures such as dams, buildings, roads, pipelines, channels, and the like. This includes federal action such as permits, grants, licenses, or other forms of federal authorization or approval which may result in construction.

TWRS AND PRI DISTRIBUTION/ACTION SHEET

LETTER #

NOTE: IF THIS ACTION IS IMPROPERLY ASSIGNED, PLEASE NOTIFY
DOE-RL/CCC. PATTY DEATON 376-2145 (G223b)

195-PRI-416

				I	A	W					I	A	W	ALT LTR #			
OFFICE OF ASSISTANT MANAGER FOR TANK WASTE REMEDIATION SYSTEM (TWR)							PROGRAM INTEGRATION DIVISION (PRI)										
JE KINZER - ASSIST MGR										WF EDWARDS-ACT DIR							ACTION #
CP BADER ACT DP AST MGR										DH ALEXANDER - MGR							
RE GERTON - TECH/SAF/CHR										- MGR							
DL VIETH - TECH OPER																	ACTION DUE
DD WODRICH - TECH CHAR										LB McCLURE - SEC							
- PROG ASST																	KEYWORD
OTHER:							PROGRAM TEAM										
							SK ABDERREZAO							FILE CODE			
WJ TAYLOR										SD BRADLEY							
L ERICKSON										CC HAASS							REMARKS
GH SANDERS										SC JOHNSON							
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