
APPENDIX D

**US FISH AND WILDLIFE SERVICE UPDATED
FEDERALLY-LISTED AND CANDIDATE SPECIES LIST**



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United States Department of the Interior

Pacific Southwest Region FISH AND WILDLIFE SERVICE

Nevada Fish and Wildlife Office

1340 Financial Blvd., Suite 234

Reno, Nevada 89502

Ph: (775) 861-6300 ~ Fax: (775) 861-6301



February 14, 2012
File No. 2012-SL-0096

Memorandum

To: Field Manager, Humboldt River Field Office, Winnemucca District Office,
Bureau of Land Management, Winnemucca, Nevada (Attn: G. Lynch)

From: State Supervisor, Nevada Fish and Wildlife Office, Reno, Nevada

Subject: Updated Species List Request for Winnemucca District Office's Resource
Management Plan/Environmental Impact Statement for Humboldt, Washoe,
Pershing, Churchill, and Lyon Counties, Nevada

In response to your memorandum received on January 30, 2012, the following federally-listed and candidate species may occur in the subject project area:

- Desert dace (*Eremichthys acros*), threatened
- Lahontan cutthroat trout (*Oncorhynchus clarkii henshawi*), threatened
- Elongate mud meadows springsnail (*Pyrgulopsis notidicola*), candidate
- Greater sage-grouse (*Centrocercus urophasianus*), candidate
- Soldier Meadows cinquefoil (*Potentilla basaltica*), candidate

This response fulfills the requirements of the Fish and Wildlife Service (Service) to provide a list of species pursuant to section 7(c) of the Endangered Species Act of 1973 (ESA), as amended, for projects that are authorized, funded, or carried out by a Federal agency. Candidate species receive no legal protection under the ESA, but could be proposed for listing in the near future. Consideration of these species during project planning may assist species conservation efforts and may prevent the need for future listing actions.

Your proposed project is located within a potential metapopulation for Lahontan cutthroat trout (LCT), and as such, the area may be necessary for the species' recovery. The Northwestern Geographic Management Unit (GMU) Team and Humboldt GMU Team have been formed to facilitate the restoration and recovery of LCT populations in this area. The Northwestern GMU

Team and Humboldt GMU Team are evaluating areas within these basins which could support LCT. Although a self-sustaining population of LCT may not currently be present in the project area, under the ESA, completed projects should not preclude future recovery and survival of this species. We recommend that projects be reviewed for all direct and indirect impacts that they may have on riparian and aquatic habitats as they relate to LCT, and that you consult with the Service accordingly under section 7 of the ESA.

Greater sage-grouse are known to occur within and/or near the project area; therefore, we recommend that you analyze potential impacts from this project on the species to ensure that the proposed action does not exacerbate further decline of the species. On March 23, 2010, the Service's 12-month status review finding for the species was published in the Federal Register (75 FR 13910). We determined that the greater sage-grouse warrants the protection of the ESA but that listing the species at this time is precluded by the need to address higher priority species first. The greater sage-grouse has been placed on the candidate list for future action, meaning the species does not receive statutory protection under the ESA, and States will continue to be responsible for managing the species. The Western States Sage and Columbian Sharp-tailed Grouse Technical Committee, under direction of the Western Association of Fish and Wildlife Agencies, has developed and published guidelines to manage and protect greater sage-grouse and their habitats in the Wildlife Society Bulletin (Connelly *et al.* 2000). We ask that you consider incorporating these guidelines

(<http://www.ndow.org/wild/conservation/sg/resources/guidelines.pdf>) into the proposed project. On a more local level, the Sage Grouse Conservation Plan (Plan) for Nevada and Portions of Eastern California was completed in June 2004. The Plan is available online at: <http://www.ndow.org/wild/conservation/sg/plan/SGPlan063004.pdf>. We encourage you to adopt all appropriate management guidance from this Plan as you analyze and implement your proposed action and to engage your local State and Federal wildlife biologists early in the project planning process.

The Nevada Fish and Wildlife Office no longer provides species of concern lists. Most of these species for which we have concern are also on the Animal and Plant At-Risk Tracking List for Nevada (At-Risk list) maintained by the State of Nevada's Natural Heritage Program (Heritage). Instead of maintaining our own list, we adopted Heritage's At-Risk list and are partnering with them to provide distribution data and information on the conservation needs for at-risk species to agencies or project proponents. The mission of Heritage is to continually evaluate the conservation priorities of native plants, animals, and their habitats, particularly those most vulnerable to extinction or in serious decline. In addition, in order to avoid future conflicts, we ask that you consider these at-risk species early in your project planning and explore management alternatives that provide for their long-term conservation.

For a list of at-risk species by county, visit Heritage's website (<http://heritage.nv.gov>). For a specific list of at-risk species that may occur in the project area, you can obtain a data request form from the website (<http://heritage.nv.gov/forms.htm>) or by contacting the Administrator of

Heritage at 901 South Stewart Street, Suite 5002, Carson City, Nevada 89701-5245, (775) 684-2900. Please indicate on the form that your request is being obtained as part of your coordination with the Service under the ESA. During your project analysis, if you obtain new information or data for any Nevada sensitive species, we request that you provide the information to Heritage at the above address.

Furthermore, certain species of fish and wildlife are classified as protected by the State of Nevada (<http://www.leg.state.nv.us/NAC/NAC-503.html>). You must first obtain the appropriate license, permit, or written authorization from the Nevada Department of Wildlife (NDOW) to take, or possess any parts of protected wildlife species. Please visit <http://www.ndow.org> or contact NDOW at (775) 688-1500.

If bald eagles (*Haliaeetus leucocephalus*) and/or golden eagles (*Aquila chrysaetos*) occur in the project area or within 10 miles of the proposed project area boundary, we recommend you analyze project impacts to the affected individuals, their habitats, and regional populations. While the bald eagle has been removed from the Federal list of threatened and endangered species (August 8, 2007; 72 FR 37346), it remains classified as endangered by the States of Nevada and California. Further, the bald eagle along with the golden eagle continues to be protected under the Bald and Golden Eagle Protection Act of 1940 (BGEPA), as amended (16 U.S.C. 668-668d) and the Migratory Bird Treaty Act of 1918 (MBTA), as amended (16 U.S.C. 703 *et seq.*). Both the BGEPA and the MBTA prohibit take as defined as pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, disturb, or otherwise harm eagles, their nests, or their eggs. Under the BGEPA, “disturb” means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: 1) injury to an eagle, 2) decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior. On September 11, 2009 (74 FR 46836), the Service set in place rules establishing two new permit types: 1) take of bald and golden eagles that is associated with, but not the purpose of, the activity; and 2) purposeful take of eagle nests that pose a threat to human or eagle safety. We recommend you coordinate with State and Federal wildlife officials early in the planning process to ensure compliance with State and Federal regulations and to develop a survey protocol to evaluate the potential risk and the likelihood of take of eagles. If take is reasonably anticipated to occur, we recommend you develop a Bird Conservation Strategy (BCS) in coordination with State wildlife agencies and the Service. A BCS is intended to avoid, minimize, or mitigate impacts to these species.

Based on the Service’s conservation responsibilities and management authority for migratory birds under the MBTA, we are concerned about potential impacts the proposed project may have on migratory birds in the area. Given these concerns, we recommend that any land clearing or other surface disturbance associated with proposed actions within the project area be timed to avoid potential destruction of bird nests or young, or birds that breed in the area. Such destruction may be in violation of the MBTA. Under the MBTA, nests with eggs or young of

migratory birds may not be harmed, nor may migratory birds be killed. Therefore, we recommend land clearing be conducted outside the avian breeding season. If this is not feasible, we recommend a qualified biologist survey the area prior to land clearing. If nests are located, or if other evidence of nesting (*i.e.*, mated pairs, territorial defense, carrying nesting material, transporting food) is observed, a protective buffer (the size depending on the habitat requirements of the species) should be delineated and the entire area avoided to prevent destruction or disturbance to nests until they are no longer active.

Because wetlands, springs, or streams are present in the vicinity of the project area, we ask that you be aware of potential impacts project activities may have on these habitats. Discharge of fill material into wetlands or waters of the United States is regulated by the U.S. Army Corps of Engineers (ACOE) pursuant to section 404 of the Clean Water Act of 1972, as amended. We recommend you contact the ACOE's Regulatory Section, [300 Booth Street, Room 3060, Reno, Nevada 89509, (775) 784-5304] regarding the possible need for a permit.

Please reference File No. 2012-SL-0096 in future correspondence concerning this species list. If you have any questions regarding this correspondence or require additional information, please contact me or James Harter at (775) 861-6300.

Sincerely,



Edward D. Koch
State Supervisor