



United States Department of the Interior

FISH AND WILDLIFE SERVICE
New Mexico Ecological Services Field Office
2105 Osuna NE
Albuquerque, New Mexico 87113
Phone: (505) 346-2525 Fax: (505) 346-2542

September 26, 2007

Cons. # 22420-2007-I-0126

Vicki Loucks, Biological Resource Program Manager
National Nuclear Security Administration
Los Alamos Site Office
Los Alamos, New Mexico 87544

Dear Ms. Loucks:

This letter responds to your August 13, 2007, Biological Assessment (BA) requesting informal consultation for expanding the footprint of the Chemistry and Metallurgy Research facility at Los Alamos National Laboratory (LANL), Los Alamos, New Mexico to the east for additional lay down areas and to construct and operate a cement plant. According to the BA, the proposed project would develop an additional lay down area for storage of soil spoils and staged equipment as well as construction and operation of a cement plant to provide concrete for the construction work. The total project area covers 141.76 acres. Your letter requesting consultation for the proposed project and its effects on the threatened Mexican spotted owl (owl) (*Strix occidentalis lucida*) and the bald eagle (*Haliaeetus leucocephalus*) was received by the U.S. Fish and Wildlife Service (Service) on August 15, 2007. LANL has determined that the proposed project "may affect, is not likely to adversely affect" the owl and the bald eagle.

According to the Federal Register (50 CFR Part 7, 2007), the Service removed the bald eagle from the Federal list of Threatened and Endangered Wildlife, effective August 8, 2007. Due to this decision, consultation under Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 *et seq.*) is not required for the bald eagle. Therefore, impacts to the bald eagle from the proposed project will not be evaluated further in this letter.

According to the BA, the following Reasonable and Prudent Alternatives would be implemented to lessen the impact from the proposed project:

- Keep disturbance and noise to a minimum at the site.
- Areas of lowest tree density should be used when choosing any access routes.
- No cutting of trees larger than 8 inches diameter at chest height would take place in the canyon or on the canyon rim.
- Trees on the canyon rims would be retained to provide a screen for the canyon habitat.
- No thinning of trees smaller than 8 inches diameter or ground clearing would take place in the canyons until the areas are surveyed.
- There are no protected activity centers (PACs) within the project area.
- Seasonal occupancy surveys for owls would be conducted before construction would commence.

COR-BA-9/28/2007-51622

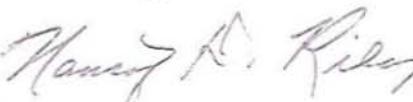
- Final lighting of the facilities and roads will be kept at a minimum to limit the lighting of the surrounding forest and canyon.
- Appropriate erosion and runoff controls would be employed to reduce erosion and limit sedimentation.
- Excessive parking areas, off-road travel, materials storage areas, and crossing of streams must be avoided.
- All exposed soils would be re-vegetated with native seed mix as soon as construction is completed.
- All trees planted in association with construction would be native species for this elevation and forest type.
- All equipment maintenance and fueling must be completed at least 100 feet from stream channel.
- New temporary staging areas will be rehabilitated using native vegetation.

We find that your proposed action and associated activities would conform with the Mexican Spotted Owl Recovery Plan (U.S. Fish and Wildlife Service 1995) because owl prey habitat would be retained or only temporarily impacted. Surveys conducted to protocol did not detect owls in the project area. For these reasons and the information listed above, the Service concurs with your determination that the proposed action "may affect, is not likely to adversely affect" the owl.

This concludes consultation for the Chemistry and Metallurgy Research Facility Replacement project. Please contact the Service if: (1) new information reveals effects of the agency action that may affect the species to an extent not considered in this consultation; (2) the agency action is subsequently modified in a manner that causes an effect to the species that was not considered by the proposed action, (3) owls are detected within the project area, and (4) a new species is listed or critical habitat designated that may be affected by the proposed project.

We appreciate the thorough analyses provided in the BA and your efforts to protect endangered and threatened species. If we can be of further assistance, please contact Lynn Gemlo of my staff at (505) 761-4726.

Sincerely,


for Wally Murphy
Field Supervisor

cc:

Director, New Mexico Department of Game and Fish, Santa Fe, New Mexico
Director, New Mexico Energy, Minerals, and Natural Resources Department, Forestry Division,
Santa Fe, New Mexico