

Appendix F

USFWS Letter of Concurrence



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846



In Reply Refer To:
81420-2011-I-0244-2

JUN 30 2011

Mr. James Richards
Office of Biological Sciences and Permits
California Department of Transportation
P.O. Box 23660
Oakland, California 94623-0660

Subject: Informal Consultation on the Proposed Interstate 80 Integrated Corridor Mobility Project, Alameda and Contra Costa Counties, California (Caltrans EA 04-3A7761 and 04-3A7771)

Dear Mr. Richards:

This letter responds to your December 17, 2010, letter requesting informal consultation and written concurrence for the proposed Interstate 80 Integrated Corridor Mobility (I-80 ICM) Project from the Carquinez Bridge south to Powell Street in Alameda and Contra Costa counties, California. The U.S. Fish and Wildlife Service (Service) received your letter on December 21, 2010, and was assigned the Service File Number 81420-2011-I-0244. The proposed action involves the incorporation of Intelligent Transportation System equipment – active traffic management gantries, variable advisory speed signs, changeable message signs, closed-circuit television cameras, system detection stations, adaptive ramp metering, variable message signs, and conduit and pull boxes for electrical and communications cables – in multiple locations along I-80 and the addition of High Occupancy Vehicle (HOV) bypass lanes at three on-ramps. The consultation concerns the possible effects of the proposed action on the threatened California red-legged frog (*Rana draytonii*), threatened Alameda whipsnake (*Masticophis lateralis euryxanthus*), endangered salt marsh harvest mouse (*Reithrodontomys raviventris*), and endangered California clapper rail (*Rallus longirostris obsoletus*). This letter is issued under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act).

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) legislation (23 U.S.C. 327) allows the Secretary of the U.S. Department of Transportation acting through the Federal Highway Administration (FHWA) to establish a Surface Transportation Project Delivery Pilot Program, whereby a State may assume the FHWA responsibilities under the National Environmental Policy Act (NEPA) for environmental review, agency consultation and other action pertaining to the review or approval of a specific project. Caltrans assumed these responsibilities for the FHWA on July 1, 2007 through a Memorandum of Understanding (MOU) within the State of California (http://www.dot.ca.gov/ser/downloads/MOUs/nepa_delegation/sec6005mou.pdf).

The Service issued a notification of data deficiencies letter on May 6, 2011. Caltrans provided a response to the notification on June 10, 2011, addressing the deficiencies and providing the requested information for the Service to fully evaluate the effects of the proposed action on listed species. The action area is defined in 50 CFR §402.02, as “all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.” For the purposes of the proposed action the Service considers the action area to comprise 52.14 acres, encompassing the entire 24.70-acre project footprint including all construction access, staging areas, vehicle parking, turnouts, and construction work zones as specified by Caltrans and submitted to the Service in the December 15, 2011, biological assessment, and associated email and phone correspondence. The action area extends approximately 19.5 miles from post-mile (PM) Ala 1.99 to PM CC 3.49 and includes approximately 3.11 acres of California red-legged frog habitat, 4.43 acres of Alameda whipsnake habitat, and 2.63 acres of salt marsh harvest mouse and California clapper rail habitat.

The proposed action has been designed to minimize disturbance to sensitive habitats and is confined to several small, discrete locations throughout the I-80 ICM corridor with finite areas of disturbance. The majority of work will occur on existing pavement or within the shoulder of the mainline. As a result of the August 9, 2010, field visit attended by the Service, Caltrans and the biological consultant, an evaluation of noise levels on California clapper rails was incorporated into the biological assessment and conservation measures were evaluated, refined and incorporated into the project design to ensure the project did not result in take of listed species. The Service has reviewed the submitted project description provided in the December 15, 2011 biological assessment, supporting documentation, and evaluation of project effects, and concurs with your determination that the project effects on California red-legged frog, Alameda whipsnake, salt marsh harvest mouse, and California clapper rail will be insignificant and/or discountable.

The Service concurs that the proposed action is not likely to adversely affect the California red-legged frog and Alameda whipsnake because of the following: (1) construction activities within or adjacent to identified California red-legged frog and Alameda whipsnake habitat will be restricted to the dry season from April 15 and October 15 to avoid interfering with California red-legged frog breeding activities and when frogs are more likely to remain close to aquatic sources, and which corresponds to the seasonal active period for whipsnakes when they are not confined to subterranean hibernacula; (2) the project – drilling for gantry foundations and posts for the project devices, installation of electric cabinets and their footings, ramp metering and widening for HOV lanes, and trenching for electrical and communication conduits – has been designed to occur predominately within paved roadways, thereby minimizing disturbance to California red-legged frog and Alameda whipsnake habitat; (3) the potential for harming California red-legged frogs and Alameda whipsnakes would be minimized by conducting preconstruction surveys prior to vegetation clearing or ground disturbing activities, clearing vegetation within sensitive habitat using hand tools, employing Service-approved biological monitors within identified California red-legged frog and Alameda whipsnake habitat, incorporating environmental awareness training and stop work protocols if listed species are identified within the active construction areas, incorporating environmental sensitive area and wildlife exclusion fencing to prevent workers from entering or disturbing vegetated habitats and minimizes the potential for frogs and snakes to enter the work site, and restricting the use of erosion control devices that use plastic or synthetic mono-filament netting to minimize the potential for frogs and snakes to become entangled or trapped; and (4) the degradation of water

quality or spills within sensitive habitat would be avoided with the implementation of best management practices and spill prevention measures.

The Service concurs that the proposed action is not likely to adversely affect the salt marsh harvest mouse and California clapper rail because of the following: (1) no pile driving will occur at any of the gantry locations within the southern portion of the action area adjacent to salt marsh habitat; (2) staging areas and directional drilling in the vicinity of salt marsh habitat will be restricted to the east side of the frontage road (immediately west of I-80) away from salt marsh habitat, which will prevent workers from opportunistically parking adjacent to such habitat; (3) installation of anti-predator perching devices on project structures near suitable salt marsh harvest mouse and California clapper rail habitat that could provide predatory bird perches, such as close-circuit television and variable advisory speed signs; (4) directing night-lighting away from salt marsh habitat by placing lights on the west side of the freeway pointing eastward; (5) restricting work adjacent to suitable California clapper rail habitat (i.e., ATM 1, ATM 8 and RGD 85) to the non-breeding season from September 1 to January 31; (6) preventing the degradation of water quality or spills within sensitive habitat by implementing best management practices and spill prevention measures; and (7) requiring Service-approved biological monitors to be present during work conducted adjacent to potential salt marsh harvest mouse and California clapper rail habitat, conducting preconstruction California clapper rail surveys each morning prior to the start of daily work, and incorporating environmental awareness training and stop work protocols if listed species are identified within the active construction areas.

This concludes informal consultation on the proposed I-80 ICM Project in Contra Costa and Alameda counties, California. Therefore, unless new information reveals effects of the proposed action that may affect listed species in a manner or to an extent not considered, or a new species is listed, no further action pursuant to the Act is necessary. If you have questions concerning this letter in reference to the proposed I-80 ICM Project, please contact Jerry Roe or Ryan Olah Coast Bay/Forest Foothills Division Chief, at the letterhead address (916) 414-6600.

Sincerely,



for Eric Tattersall
Deputy Assistant Field Supervisor

cc:

Frances Malamud-Roam, California Department of Transportation, Oakland, California
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