

Appendix L Special-Status Species and Biological Opinion



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 PORTOLA ROAD, SUITE B
VENTURA, CA 93003
PHONE: (805)644-1766 FAX: (805)644-3958

Consultation Tracking Number: 08EVEN00-2014-SLI-0437
Project Name: HDC

August 08, 2014

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project.

To Whom It May Concern:

The enclosed list identifies species listed as threatened and endangered, species proposed for listing as threatened or endangered, designated and proposed critical habitat, and species that are candidates for listing that may occur within the boundary of the area you have indicated using the U.S. Fish and Wildlife Service's (Service) Information Planning and Conservation System (IPaC). The species list fulfills the requirements under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the species list should be verified after 90 days. We recommend that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists following the same process you used to receive the enclosed list. Please include the Consultation Tracking Number in the header of this letter with any correspondence about the species list.

Due to staff shortages and excessive workload, we are unable to provide an official list more specific to your area. Numerous other sources of information are available for you to narrow the list to the habitats and conditions of the site in which you are interested. For example, we recommend conducting a biological site assessment or surveys for plants and animals that could help refine the list.

If a Federal agency is involved in the project, that agency has the responsibility to review its proposed activities and determine whether any listed species may be affected. If the project is a major construction project*, the Federal agency has the responsibility to prepare a biological assessment to make a determination of the effects of the action on the listed species or critical habitat. If the Federal agency determines that a listed species or critical habitat is likely to be adversely affected, it should request, in writing through our office, formal consultation pursuant to section 7 of the Act. Informal consultation may be used to exchange information and resolve conflicts with respect to threatened or endangered species or their critical habitat prior to a

written request for formal consultation. During this review process, the Federal agency may engage in planning efforts but may not make any irreversible commitment of resources. Such a commitment could constitute a violation of section 7(d) of the Act.

Federal agencies are required to confer with the Service, pursuant to section 7(a)(4) of the Act, when an agency action is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat (50 CFR 402.10(a)). A request for formal conference must be in writing and should include the same information that would be provided for a request for formal consultation. Conferences can also include discussions between the Service and the Federal agency to identify and resolve potential conflicts between an action and proposed species or proposed critical habitat early in the decision-making process. The Service recommends ways to minimize or avoid adverse effects of the action. These recommendations are advisory because the jeopardy prohibition of section 7(a)(2) of the Act does not apply until the species is listed or the proposed critical habitat is designated. The conference process fulfills the need to inform Federal agencies of possible steps that an agency might take at an early stage to adjust its actions to avoid jeopardizing a proposed species.

When a proposed species or proposed critical habitat may be affected by an action, the lead Federal agency may elect to enter into formal conference with the Service even if the action is not likely to jeopardize or result in the destruction or adverse modification of proposed critical habitat. If the proposed species is listed or the proposed critical habitat is designated after completion of the conference, the Federal agency may ask the Service, in writing, to confirm the conference as a formal consultation. If the Service reviews the proposed action and finds that no significant changes in the action as planned or in the information used during the conference have occurred, the Service will confirm the conference as a formal consultation on the project and no further section 7 consultation will be necessary. Use of the formal conference process in this manner can prevent delays in the event the proposed species is listed or the proposed critical habitat is designated during project development or implementation.

Candidate species are those species presently under review by the Service for consideration for Federal listing. Candidate species should be considered in the planning process because they may become listed or proposed for listing prior to project completion. Preparation of a biological assessment, as described in section 7(c) of the Act, is not required for candidate species. If early evaluation of your project indicates that it is likely to affect a candidate species, you may wish to request technical assistance from this office.

Only listed species receive protection under the Act. However, sensitive species should be considered in the planning process in the event they become listed or proposed for listing prior to project completion. We recommend that you review information in the California Department of Fish and Wildlife's Natural Diversity Data Base. You can contact the California Department of Fish and Wildlife at (916) 324-3812 for information on other sensitive species that may occur in this area.

[*A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological

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evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.]

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: HDC

Official Species List

Provided by:

Ventura Fish and Wildlife Office
2493 PORTOLA ROAD, SUITE B
VENTURA, CA 93003
(805) 644-1766

Expect additional Species list documents from the following office(s):

Carlsbad Fish and Wildlife Office
2177 SALK AVENUE - SUITE 250
CARLSBAD, CA 92008
(760) 431-9440
<http://www.fws.gov/carlsbad/>

Consultation Tracking Number: 08EVEN00-2014-SLI-0437

Project Type: Transportation

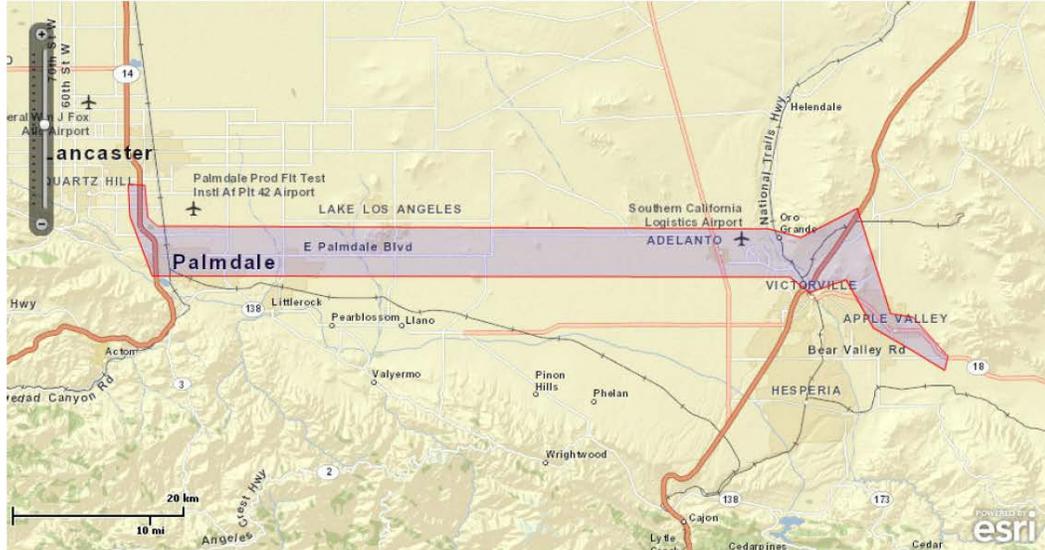
Project Description: New 63 Mile Freeway between Palmdale and Apple Valley



United States Department of Interior
Fish and Wildlife Service

Project name: HDC

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-117.1178062 34.4732289, -117.1219943 34.4584202, -117.1659396 34.4804977, -117.2133181 34.5031353, -117.248337 34.5540472, -117.2953036 34.5406434, -117.3204658 34.556863, -118.1364952 34.5579581, -118.1653788 34.6209886, -118.1674387 34.6547723, -118.146187 34.6535014, -118.1423075 34.6198302, -118.1298792 34.6107886, -117.3479968 34.607712, -117.3063363 34.5988187, -117.2338836 34.6292315, -117.1912773 34.5185017, -117.1624381 34.5145414, -117.1178062 34.4732289)))

Project Counties: Los Angeles, CA | San Bernardino, CA

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United States Department of Interior
Fish and Wildlife Service

Project name: HDC

Endangered Species Act Species List

There are a total of 15 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Amphibians	Status	Has Critical Habitat	Condition(s)
California red-legged frog (<i>Rana draytonii</i>) Population: Entire	Threatened	Final designated	
Birds			
California condor (<i>Gymnogyps californianus</i>) Population: Entire, except where listed as an experimental population below	Endangered	Final designated	
Least Bell's vireo (<i>Vireo bellii pusillus</i>) Population: Entire	Endangered	Final designated	
Southwestern Willow flycatcher (<i>Empidonax traillii extimus</i>) Population: Entire	Endangered	Final designated	
Crustaceans			
Riverside fairy shrimp (<i>Streptocephalus woottoni</i>) Population: Entire	Endangered	Final designated	

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Vernal Pool fairy shrimp (<i>Branchinecta lynchi</i>) Population: Entire	Threatened	Final designated	
Fishes			
Mohave Tui chub (<i>Cula bicolor ssp. mohavensis</i>) Population: Entire	Endangered		
Flowering Plants			
California Orcutt grass (<i>Orcuttia californica</i>)	Endangered		
Cushenbury buckwheat (<i>Eriogonum ovalifolium var. vineum</i>)	Endangered	Final designated	
Cushenbury oxytheca (<i>Oxytheca parishii var. goodmaniana</i>)	Endangered	Final designated	
Parish's daisy (<i>Erigeron parishii</i>)	Threatened	Final designated	
San Fernando Valley Spineflower (<i>Chorizanthe parryi var. fernandina</i>)	Candidate		
Slender-Horned spineflower (<i>Dodecahema leptoceras</i>)	Endangered		
Spreading navarretia (<i>Navarretia fossalis</i>)	Threatened	Final designated	
Reptiles			
Desert tortoise (<i>Gopherus agassizii</i>) Population: U.S.A., except in Sonoran Desert	Threatened	Final designated	

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United States Department of Interior
Fish and Wildlife Service

Project name: HDC

Critical habitats that lie within your project area

The following critical habitats lie fully or partially within your project area.

Birds	Critical Habitat Type
Southwestern Willow flycatcher (<i>Empidonax traillii extimus</i>) Population: Entire	Final designated

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Carlsbad Fish and Wildlife Office
2177 SALK AVENUE - SUITE 250
CARLSBAD, CA 92008
PHONE: (760)431-9440 FAX: (760)431-5901
URL: www.fws.gov/carlsbad/

Consultation Tracking Number: 08ECAR00-2014-SLI-0500
Project Name: HDC

August 08, 2014

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project.

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, and proposed species, designated critical habitat, and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having

similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: HDC

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Consultation Tracking Number: 08ECAR00-2014-SLI-0500

Project Type: Transportation

Project Description: New 63 Mile Freeway between Palmdale and Apple Valley

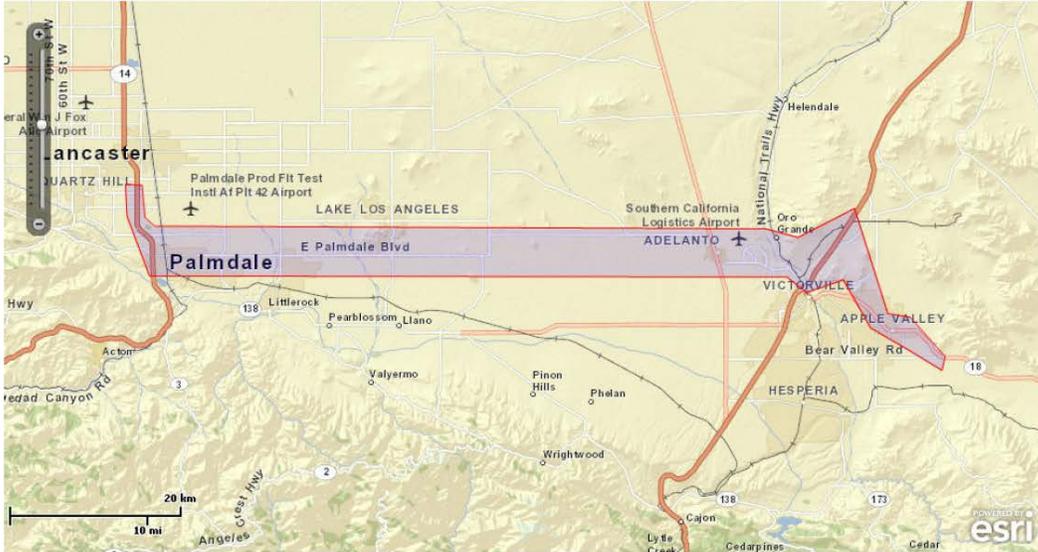
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Project Counties: Los Angeles, CA | San Bernardino, CA

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Endangered Species Act Species List

There are a total of 2 threatened or endangered species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Birds	Status	Has Critical Habitat	Condition(s)
Southwestern Willow flycatcher <i>(Empidonax traillii extimus)</i> Population: Entire	Endangered	Final designated	
Flowering Plants			
Cushenbury oxytheca (<i>Oxytheca parishii</i> var. <i>goodmaniana</i>)	Endangered	Final designated	

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Critical habitats that lie within your project area

The following critical habitats lie fully or partially within your project area.

Birds	Critical Habitat Type
Southwestern Willow flycatcher (<i>Empidonax traillii extimus</i>) Population: Entire	Final designated

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