



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
Carlsbad Fish and Wildlife Office  
6010 Hidden Valley Road, Suite 101  
Carlsbad, California 92011



In Reply Refer To:  
FWS-LA-10B0117-10F0215-R001

**JAN 13 2012**

Mr. Thomas Contreras  
U.S. Forest Service  
Angeles National Forest  
701 North Santa Anita Avenue  
Arcadia, California 91006-2725

Subject: Request for Concurrence for the Amended Tehachapi Renewable Transmission Project, Los Angeles County, California

Dear Mr. Contreras:

This letter responds to your request dated November 22, 2011, and received November 25, 2011, regarding proposed changes to the Tehachapi Renewable Transmission Project. We received updated information regarding the proposed changes in an email on December 19, 2011. On July 31, 2010, we issued a non-jeopardy biological opinion (biological opinion) for this project for the federally endangered arroyo toad (*Anaxyrus californicus*) and the federally threatened desert tortoise (*Gopherus agassizii*) and California red-legged frog (*Rana draytonii*). We also found that the project was not likely to adversely affect the federally endangered southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus* "vireo"), and California condor (*Gymnogyps californianus*) or the federally threatened coastal California gnatcatcher (*Polioptila californica californica* "gnatcatcher") and Santa Ana sucker (*Catostomus santaanae*) or their designated and proposed critical habitats. These determinations were made in accordance with section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). In your November 25, 2011, and December 19, 2011, correspondence, you described changes to the proposed action and requested concurrence that these changes are not likely to adversely affect the vireo, gnatcatcher, or gnatcatcher designated critical habitat.

The project involves the issuance of a special use permit by the Angeles National Forest to facilitate the construction and operations and maintenance of the Tehachapi Renewable Transmission Project. The proposed changes will result in increased ground disturbances to vireo and gnatcatcher habitats. You also proposed some deviations from the conservation measures in the biological opinion. The proposed changes or clarifications are as follows:

- Conservation measures 6 and 9 in the biological opinion indicate that construction activities that produce noise meeting or exceeding 60 dBA will not occur within 500 feet of an active vireo or southwestern willow flycatcher nest or 300 feet of an active gnatcatcher nest. However, you indicate that some well-used public roads within 500 feet of active vireo nests or 300 feet of active gnatcatcher nests may need to be used for the project. Consistent with measures 6 and 9, you also note that construction activities may occur within the buffers identified above if the activities do not meet or exceed 60 dBA.
- The amount of vireo occupied habitat permanently impacted will increase from 0.83 to 1.62 acres, and the amount of vireo occupied habitat temporarily impacted will increase from 1.31 to 3.05 acres. For gnatcatcher, permanent impacts to occupied habitat will increase from 2.58 to 2.85 acres, but temporary impacts to occupied habitat will decrease from 5.86 to 5.04 acres. Permanent impacts to gnatcatcher designated critical habitat will increase from 4.4 to 20.41 acres, with 5.1 of the 20.41 acres in areas such as disturbed/developed land, water, and agricultural communities that do not contain the primary constituent elements of designated critical habitat. Temporary impacts to gnatcatcher designated critical habitat will increase from 42.84 to 51.29 acres.

We concur that the use of well-used public roads by construction vehicles is not likely to result in any adverse effects to vireo or gnatcatcher even if this use results in noise levels above 60 dBA and/or occurs within 500 feet or 300 feet of vireo or gnatcatcher nest sites. The use of construction vehicles on roads that already experience regular vehicle use is not anticipated to substantially increase noise levels above ambient conditions. We agree that as long as noise levels are kept below 60 dBA, alteration of buffer sizes for construction activities is consistent with the conservation measures in the biological opinion and does not require any additional analysis.

We also concur that the proposed changes to habitat impacts are not likely to result in adverse effects to the vireo or gnatcatcher. The proposed modifications will generally result in small increases in impacts to vireo and gnatcatcher habitat that are spread over long and linear areas such that any vireo and gnatcatcher territories within the area of increased impacts will experience only a minor decrease in available habitat, which is not expected to substantially interfere with essential breeding, feeding, and sheltering activities. In addition, the temporary ground disturbance will be restored, and the permanent ground disturbance will be offset based on the ratios and parameters described in the biological opinion.

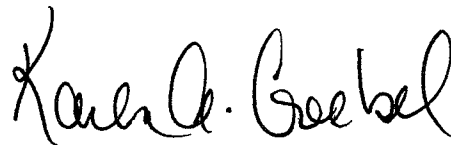
Finally, we concur that the proposed modifications will not adversely affect gnatcatcher critical habitat. While permanent impacts to gnatcatcher designated critical habitat will increase from 4.4 acres to 20.41 acres, only 3.55 of the 20.41 acres occur within coastal sage scrub habitat, and these impacts will be widely distributed over 8.47 miles of the

linear project. For example, the largest area of permanent impacts to coastal sage scrub will occur as a result of an access road that will impact 0.63 acre of degraded coastal sage scrub. Thus, the impacts, which will result primarily from dirt access roads and utility towers affecting annual grassland and small patches of coastal sage scrub, is not anticipated to significantly impact the stated function of the 17,552-acre Unit 9 of gnatcatcher critical habitat to maintain core populations of gnatcatchers and provide connectivity between Unit 9 and adjacent units in Orange, Los Angeles, and Riverside counties. In addition, permanent impacts in gnatcatcher designated critical habitat will be offset within gnatcatcher designated critical habitat, resulting in no net decrease in the ability of Unit 9 to support gnatcatcher populations and provide connectivity.

This concludes section 7 Endangered Species Act consultation on the revised project. Although this determination concludes informal consultation, obligations under section 7 of the Act should be reconsidered if new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not previously considered or this action is subsequently modified in a manner that was not considered in this assessment.

If you have any questions, please contact Jesse Bennett of my staff at 760-431-9440, extension 305.

Sincerely,

A handwritten signature in black ink, reading "Karen A. Goebel". The signature is written in a cursive, flowing style.

Karen A. Goebel  
Assistant Field Supervisor