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# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

Nevada Fish and Wildlife Office

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March 8, 2007

File Nos. 1-5-07-SP-482

1-5-07-SP-070

Mr. Ned B. Larson, Project Director  
Nevada Rail Project  
Office of Civilian Radioactive Waste Management  
Department of Energy  
1551 Hillshire Drive  
Las Vegas, Nevada 89134-6321

**RECEIVED BY OCRWM CCU****DATE: 03/12/2007**

Dear Mr. Larson:

Subject: Species List for U.S. Department of Energy Yucca Mountain Rail Line for the Mina Corridor in Lyon, Mineral, Esmeralda, and Nye Counties and the Caliente Corridor in Lincoln and Nye Counties, Nevada

This responds to your letter dated January 29, 2007, requesting information on listed and proposed threatened and endangered species, and critical habitat that might occur within the Department of Energy's (DOE) proposed Mina Corridor, which would require rail track construction between Wabuska and Yucca Mountain, in Lyon, Mineral, Esmeralda, and Nye counties, Nevada. Also included is an updated species list for the Caliente Corridor, which would require rail track construction from near Caliente, Lincoln County, Nevada to Yucca Mountain, Nye County, Nevada. Each species list is presented separately below.

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 sensitive species list for Nevada maintained by the State of Nevada's Natural Heritage Program (Heritage). Instead of maintaining our own list, we adopted Heritage's sensitive species list and are partnering with them to provide distribution data and information on the conservation needs for sensitive 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. Consideration of these sensitive species and exploring management alternatives early in the planning process can provide long-term conservation benefits and avoid future conflicts.

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For a list of sensitive species by county, visit Heritage's website at [www.heritage.nv.gov](http://www.heritage.nv.gov). For a specific list of sensitive species that may occur on the property, you can obtain a data request form from the website or by contacting 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 Act. During project analyses, 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.

### Mina Corridor

The following federally listed species may occur in the project area:

- Desert tortoise (*Gopherus agassizii*) (Mojave population), threatened
- Southwestern willow flycatcher (*Empidonax traillii extimus*), endangered
- Bald eagle (*Haliaeetus leucocephalus*), threatened
- Railroad Valley springfish (*Crenichthys nevadae*), threatened
- Lahontan cutthroat trout (*Oncorhynchus clarki henshawi*), threatened
- Yellow-billed cuckoo (*Coccyzus americanus*) (Western U.S. DPS), candidate

No designated critical habitat occurs in the project area. This response fulfills the requirement of the Fish and Wildlife Service (Service) to provide information on federally listed species pursuant to section 7(c) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.), for projects that are authorized, funded, or carried out by a Federal agency. The yellow-billed cuckoo is a candidate species that receives no legal protection under the Act, but could be proposed for listing in the near future. Consideration of candidate species during project planning may assist species conservation efforts and may prevent the need for future listing actions.

We are concerned that the project may impact the Amargosa toad (*Bufo nelsoni*), a species listed as sensitive under the Heritage Program and as a protected species under Nevada State law. A conservation agreement and strategy for the Amargosa toad and co-occurring sensitive species in the Oasis Valley of Nye County was established in September 2000 (available at [http://www.fws.gov/nevada/es/esa/candidate\\_cons.html](http://www.fws.gov/nevada/es/esa/candidate_cons.html)). The agreement outlines specific conservation measures which will identify and reduce or eliminate threats to the species, enhance habitat, and maintain a properly functioning ecosystem for the species of Oasis Valley. Successful implementation of the measures in the conservation agreement and strategy must continue in order to preclude the need to list the Amargosa toad under the Act. Given that your project may directly or indirectly affect the Amargosa toad and its habitat, we encourage you to support the conservation of this sensitive species by ensuring that your project is consistent with the goals and objectives of the agreement and strategy.

The pygmy rabbit (*Brachylagus idahoensis*) may also occur within the proposed project area, and could be affected. In Nevada, the Bureau of Land Management (BLM) includes this species on their sensitive species list. Also BLM State Director for Nevada has directed all Field Office staff to make it a priority to address the pygmy rabbit in all of their upcoming Land Use Plan revisions. On May 20, 2005, the Service published a non-substantial 90-day finding determination on a petition to list the pygmy rabbit as threatened or endangered under the Act. Though the pygmy rabbit is not currently a federally-listed species, we continue to monitor the species' status, and we remain concerned about impacts to pygmy rabbit populations. Draft survey guidelines have been developed for this species and are available upon request from the Nevada Fish and Wildlife Office. We encourage you to survey the proposed project area for pygmy rabbits prior to any ground-disturbing activities and to consider the needs of this species as you complete project planning and implementation.

#### Caliente Corridor

The following federally listed species may occur in the project area:

- Desert tortoise (*Gopherus agassizii*) (Mojave population), threatened
- Southwestern willow flycatcher (*Empidonax traillii extimus*), endangered
- Bald eagle (*Haliaeetus leucocephalus*), threatened
- Ute lady's tresses (*Spiranthes diluvialis*), threatened
- Yellow-billed cuckoo (*Coccyzus americanus*) (Western U.S. DPS), candidate

No designated critical habitat occurs in the project area. This response fulfills the requirement of the Service to provide information on federally listed species pursuant to section 7(c) of the Act, for projects that are authorized, funded, or carried out by a Federal agency. The yellow-billed cuckoo is a candidate species that receives no legal protection under the Act, but could be proposed for listing in the near future. Consideration of candidate species during project planning may assist species conservation efforts and may prevent the need for future listing actions.

We are concerned that the project may impact the Amargosa toad (*Bufo nelsoni*), a species listed as sensitive under the Heritage Program and as a protected species under Nevada State law. A conservation agreement and strategy for the Amargosa toad and co-occurring sensitive species in the Oasis Valley of Nye County was established in September 2000 (available at [http://www.fws.gov/nevada/es/esa/candidate\\_cons.html](http://www.fws.gov/nevada/es/esa/candidate_cons.html)). The agreement outlines specific conservation measures which will identify and reduce or eliminate threats to the species, enhance habitat, and maintain a properly functioning ecosystem for the species of Oasis Valley. Successful implementation of the measures in the conservation agreement and strategy must continue in order to preclude the need to list the Amargosa toad under the Act. Given that your project may directly or indirectly affect the Amargosa toad and its habitat, we encourage you to support the conservation of this sensitive species by ensuring that your project is consistent with the goals and objectives of the agreement and strategy.

The pygmy rabbit (*Brachylagus idahoensis*) may also occur within the proposed project area, and could be affected. In Nevada, BLM includes this species on their sensitive species list. Also BLM State Director for Nevada has directed all Field Office staff to make it a priority to address the pygmy rabbit in all of their upcoming Land Use Plan revisions. On May 20, 2005, the Service published a non-substantial 90-day finding determination on a petition to list the pygmy rabbit as threatened or endangered under the Act. Though the pygmy rabbit is not currently a federally-listed species, we continue to monitor the species' status, and we remain concerned about impacts to pygmy rabbit populations. Draft survey guidelines have been developed for this species and are available upon request from the Nevada Fish and Wildlife Office. We encourage you to survey the proposed project area for pygmy rabbits prior to any ground-disturbing activities and to consider the needs of this species as you complete project planning and implementation.

We are also concerned that the proposed project could potentially impact the sage grouse (*Centrocercus urophasianus*) as habitat for this species occurs in areas within the proposed project area. The sage grouse is a species of heightened concern. The Western States Sage and Columbian Sharp-tailed Grouse Technical Committee, under the direction of the Western Association of Fish and Wildlife Agencies, has developed and published guidelines to manage and protect sage grouse and their habitats in the Wildlife Society Bulletin (Connelly *et al.* 2000). We recommend that these guidelines be used in the planning process to provide further conservation for this species. These guidelines are available at [http://sagemap.wr.usgs.gov/docs/sage\\_grouse\\_guide-lines.pdf](http://sagemap.wr.usgs.gov/docs/sage_grouse_guide-lines.pdf). Additionally, the Sage Grouse Conservation Plan for Nevada and Portions of Eastern California was completed in June 2004. The Plan is available online at: <http://www.ndow.org/wild/sg/plan/index.shtm>. We encourage you to adopt all appropriate management guidance from this Plan as you implement your proposed action.

The Williams combleaf (*Polyctenium williamsiae*), a species listed as critically endangered by the State of Nevada, may occur in the vicinity of the project and could potentially be affected. For this species, no member of its kind may be removed or destroyed at any time by any means except under special permit issued by the State Forester (Nevada Revised Statutes 527.270). A conservation agreement is being developed to facilitate and guide the long-term conservation and management of Williams combleaf. Additionally, a management plan is currently being drafted which will include all existing data, information from field surveys, and monitoring protocols. If successful, the management plan, together with a long-term conservation agreement, should preclude the need to list Williams combleaf under the Act, and potentially allow the State of Nevada to delist the species. Should the terms of the conservation agreement not be accomplished, the Service may, in the future, determine that listing under the Act is necessary to provide long-term protection for the species.

#### Both Corridors

Our agency also holds conservation responsibilities and management authority for migratory birds under the Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 et. seq.).

Projects should be evaluated for potential impacts to migratory birds in the area. Under the MBTA, nests (nests with eggs or young) of migratory birds may not be harmed, nor may migratory birds be killed. Such destruction may be in violation of the MBTA. Therefore, we recommend land clearing, or other surface disturbance associated with proposed projects, be conducted outside the avian breeding season to avoid potential destruction of bird nests or young, or birds that breed in the area. 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 washes are present within the vicinity of the project, we ask that you be aware of potential impacts that project activities may have on these areas. Discharge of fill material into wetlands or waters of the United States is regulated by the U.S. Army Corps of Engineers (Corps) pursuant to section 404 of the Clean Water Act of 1972, as amended. We recommend you contact the Corps' Regulatory Section at 321 North Mall Drive, Suite L-101, St. George, Utah 84790-7314, (435) 986-3979, regarding the possible need for a permit.

Please reference File No. File No. 1-5-07-SP-482 in future correspondence concerning this species list. If you have any questions regarding this correspondence or require additional information, please contact Christiana Manville in our Southern Nevada Field Office at (702) 515-5230.

Sincerely,



for Robert D. Williams  
Field Supervisor