

Clements, John

From: Robertson, Mark <mark_robertson@fws.gov>
Sent: Monday, July 15, 2013 4:37 PM
To: Clements, John; Hayes, John
Cc: Bob Kibler; Ward,Rick
Subject: Re: FW: NEPA Consultation from U.S. Nuclear Regulatory Commission

John/John,

In looking at the site and the potential for species to be present or impacted by the proposal, a lingering question remains for the Snake River physa snail. For all other species, the distance to potential habitat is sufficiently far that one could reasonably conclude that impacts would be difficult to discern. However, because the snail relies on higher quality water in free-flowing sections of the Snake River and has been found in the general vicinity of the site within this river reach, I believe it would be prudent to evaluate the potential for leaching of hazardous materials into the Snake River, or via overland flow (e.g., to Castle Creek) and then into the Snake River. If, after a review of the current situation (existing data and permit restrictions) and this proposal, you believe there would be no potential for hazardous materials to enter the Snake River, then you may opt to determine that the proposal would have no effect on the Snake River physa snail.

If you determine that your proposal would have no effect on any of the species identified in the species list, then section 7 consultation is not necessary; documenting your effect determinations for your record should suffice to note Endangered Species Act compliance. However, if your proposal "may affect" a species, whether beneficially or negatively, then section 7 consultation would be warranted.

Give me a call if you would like to discuss this further.

On Fri, Jul 12, 2013 at 2:37 PM, Clements, John <John.Clements@nrc.gov> wrote:

Mark,

Thank you for the information on the Section 7 process. I left a voice mail message for you, but it should be easy enough to give you an overview of our project as a response to this email. As noted earlier, we have a licensee that is proposing to dispose of materials at U.S. Ecology (Grand View), and we are in the process of completing an Environmental Assessment. Since the disposal site is at U.S. Ecology in Owyhee County, I referred to the web-site you provided to determine if any candidate, proposed, and listed species or proposed and designated critical habitat species were present in Owyhee. What I noted was that there were several species indicated for Owyhee that were either candidate (Columbia Spotted Frog, Greater Sage-Grouse, Yellow-Billed Cuckoo), threatened –DCH (Bull Trout), endangered (Bruneau Hot Springsnail, Snake River Physa), or proposed – PCH (Slickspot Peppergrass).

I think that brings me to the next step of the process, which is determining whether or not a proposed action may affect those species or their habitats. To further elaborate on the proposal at hand, our licensee wishes to send waste material to U.S. Ecology for treatment and disposal. However, there are no proposals to change the currently permitted site boundaries or disposal area boundaries. It is also worth noting, that in the EA development, I reviewed documentation from U.S. Ecology's current Hazardous Waste Facility Siting License Application for disposal Cell 16. Their application included previous consultations with the U.S. Fish and Wildlife Service and the Idaho Department of Fish and Game. I am attaching those correspondences to this email for references.

We are certainly trying to cover all of the requirements as a Federal agency, but this may be a case where it is not necessary to complete the entire Section 7 consultation process. Since U.S. Ecology's operating boundaries are not changing beyond the currently permitted areas would it be reasonable to consider the assessments performed for their current permits to be sufficient? Any input you may have on the process going forward would be much appreciated.

If a phone conversation is easier, I can be reached at 301-415-5878. I am also going to be out of the office next week, so I would ask that you keep the Project Manager for this site in the loop as well. His name is Jack Hayes. His email is john.hayes@nrc.gov, and he can be reached at 301-415-5928.

Thank You,

John Clements

From: Robertson, Mark [mailto:mark_robertson@fws.gov]
Sent: Friday, July 12, 2013 3:29 PM
To: Clements, John
Cc: Ward,Rick; Bob Kibler
Subject: Re: FW: NEPA Consultation from U.S. Nuclear Regulatory Commission

John,

Thanks for your bringing the FWS into the loop on this proposal. Official correspondence would go to Brian Kelly, State Supervisor; see my contact information for the rest of the address.

However, prior to sending a consultation letter, it might be appropriate to get a better understanding of the status of your proposal and whether there are indeed aspects of the project that would require our involvement. Certainly, if there are Endangered Species Act issues that need to be addressed (e.g., S7 consultation), we will be available, but we may also be able to provide some technical assistance associated with some of our other authorities (e.g., Migratory Bird Treaty Act, Clean Water Act, environmental contaminants, etc.).

If you have not already done so, I recommend you go to our web-page and get an official species list (<http://www.fws.gov/idaho/agencies.htm>). With that list in hand, and if you could forward a summary of your proposal, a phone conversation may enable us to better ascertain the appropriate next steps. Bob Kibler (208-378-5255) may be able to help you with the species list if our web-site isn't clear enough.

Feel free to use me as your initial point of contact for the time being, and don't hesitate to give me a call if you would like to have an initial discussion or need some additional information.

On Fri, Jul 12, 2013 at 10:58 AM, Clements, John <John.Clements@nrc.gov> wrote:

Mr. Robertson,

I am a Health Physicist with the U.S. Nuclear Regulatory Commission (NRC), and I am currently working on an Environmental Assessment related to a proposal from one of our licensees to dispose of materials at the U.S. Ecology site in Grand View, ID. The NRC is required to initiate a consultation per the National Environmental Policy Act (NEPA) and Section 7 of the Endangered Species Act. Through initial consultations with the Idaho Fish and Wildlife Information System (IFWIS) Office and Idaho Department of Fish and Game, it appears that you may be the appropriate contact person. As such, we would like to mail a consultation letter within the next few weeks. Could you provide us with the appropriate contact information for that letter? If you are not the correct contact person, it would be much appreciated if you could refer us to the proper individual.

Thank You,

John Clements

From: Ward, Rick [mailto:rick.ward@idfg.idaho.gov]

Sent: Friday, July 12, 2013 12:50 PM

To: Clements, John

Subject: RE: NEPA Consultation from U.S. Nuclear Regulatory Commission

John,

The Idaho Department of Fish and Game manages a database of occurrence data for listed and candidate species under an agreement with the US Fish and Wildlife Service. That comprises part of the IFWIS data you refer to. We are generally the clearinghouse for such data. Section 7 consultation is conducted by the US Fish and Wildlife Service if listed or candidate species are potentially impacted by the proposed project. If I understand your request correctly, your starting point in Idaho would be with the USFWS. The individual to contact here is Mark Robertson (208-378-5287, mark_robertson@fws.gov). Please let me know if I've misunderstood your request. Thank you.

Rick

Rick Ward

Environmental Staff Biologist

Idaho Department of Fish and Game

Southwest Region

3101 S. Powerline Rd.

Nampa, ID 83686

(208)475-2763 – **NEW NUMBER**

Fax: (208)465-8467

<http://fishandgame.idaho.gov>

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Idaho Fish and Wildlife Office

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email: mark_robertson@fws.gov

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Clements, John

From: Kibler, Bob <bob_kibler@fws.gov>
Sent: Tuesday, July 16, 2013 11:36 AM
To: Clements, John
Cc: Hayes, John
Subject: Re: FW: NEPA Consultation from U.S. Nuclear Regulatory Commission

John:

Your notes accurately captured the contents of our conversation. Please feel free to contact me in the future if you have further questions or require additional assistance.

On Fri, Jul 12, 2013 at 4:38 PM, Clements, John <John.Clements@nrc.gov> wrote:

Bob,

Thank you for taking the time to discuss listed species as they relate to an NRC licensee proposal to dispose of materials at the U.S. Ecology site near Grand View, Idaho. As a follow up to our phone conversation, I wanted to make sure my understanding of the species analysis was accurate. This is what I have from my notes:

Columbia Spotted Frog – The Columbia Spotted Frog is typically found at higher elevations. The U.S. Ecology site is flat and at a lower elevation than the typical Columbia Spotted Frog habitat, so there should be no potential for exposure from the site. There should be no effect to the Columbia Spotted Frog.

Greater Sage-Grouse – The Greater Sage-Grouse typically inhabits large tracts of land with contiguous areas of sagebrush. The soil at the U.S. Ecology site has been disturbed and would most likely not be habitable by the Greater Sage-Grouse. There should be no effect to the Greater Sage-Grouse.

Yellow-Billed Cuckoo – The Yellow-Billed Cuckoo generally prefers large tracts of land including low-level riparian areas (inhabited by trees and shrubs such as the Cottonwood or Willow). Since the disposal site soils have been disturbed and cleared, the Yellow-Billed Cuckoo would not likely inhabit the area. There should be no effect to the Yellow-Billed Cuckoo.

Bull Trout – There are no known Bull Trout in the Snake River, and they are generally found in the Bruneau River system. Trout would have to migrate upstream to enter an area in the vicinity of the U.S. Ecology site. There should be no effect to the Bull Trout.

Bruneau Hot Springsnail – The Bruneau Hot Springsnail is typically found in a limited area within the Bruneau River Watershed, and the U.S. Ecology Site is not in close enough proximity to the Bruneau River to expect the presence of the Bruneau Hot Springsnail. There should be no effect to the Bruneau Hot Springsnail.

Snake River Physa – The Snake River Physa is found in the Snake River. While the Snake River is in the vicinity of the U.S. Ecology site, the appropriate barriers and containment of wastes within the site should prevent the migration of waste toward the river. There should be no effect to the Snake River Physa.

Slickspot Peppergrass – The Slickspot Peppergrass is typically found in areas devoid of vegetation and in very small soil inclusions with higher salt content than surrounding soils. The Slickspot Peppergrass would not likely reform in thin soil layers where soil has been disturbed, and would not likely be found within the disposal area of U.S. Ecology. There should be no effect to the Slickspot Peppergrass.

We also discussed that the containment barriers built into the disposal site itself should prevent migration of wastes into other areas that may include the above listed species.

As I understand it, our conversation should conclude the necessary Section 7 Endangered Species Act consultation for the purpose of our licensee's proposal to dispose of materials at the U.S. Ecology site near Grand View, ID.

Again, I appreciate your assistance, and please feel free to contact myself or Jack Hayes, if you have any additional comments.

Thank You,

John Clements

From: Kibler, Bob [mailto:bob_kibler@fws.gov]

Sent: Friday, July 12, 2013 4:46 PM

To: Clements, John

Subject: Re: FW: NEPA Consultation from U.S. Nuclear Regulatory Commission

Hi John:

If you would like, you may give me a call and I can walk through each of the species with you to ensure your justifications and determinations are appropriate. Shouldn't take too long given your explanation of the action.

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