

From: [Yilma, Haimanot](#)
To: [Terry Quesinberry](#)
Cc: [Natalie Gates](#); [Hester, Amy L.](#); [Charlene Bessken](#)
Subject: RE: Follow Up for the Proposed Dewey-Burdock Insitu Recovery Project, Fall River and Custer Counties, South Dakota
Date: Monday, September 09, 2013 2:25:00 PM
Attachments: [image002.png](#)
[image003.png](#)

Mr. Quesinberry,

Thank you for your prompt response. We understand the formal Section 7 consultation does not address requirements of other federal acts such as Migratory Bird Treaty Act and/or Bald and Golden Eagle projection act. We have considered both of these acts during the development of our NEPA documents and have properly addressed the requirements of these acts in our final assessments.

Thank you again.

Sincerely,

Haimanot Yilma

From: Terry Quesinberry [mailto:terry_quesinberry@fws.gov]
Sent: Monday, September 09, 2013 11:51 AM
To: Yilma, Haimanot
Cc: Natalie Gates; Hester, Amy L.; Charlene Bessken
Subject: RE: Follow Up for the Proposed Dewey-Burdock Insitu Recovery Project, Fall River and Custer Counties, South Dakota

Ms. Yilma,

I can confirm that no formal or informal Section 7 consultation is required based upon your determination and we have no records of any federally listed species in the area of the project. Please be aware that this does not apply to migratory birds or bald and golden eagles protected under the Migratory Bird Treaty Act and/or the Bald and Golden Eagle Protection Act.

Terry Quesinberry

Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
Ecological Services
South Dakota Field Office
Phone: (605) 224-8693, x234
FAX: (605) 224-9974
terry_quesinberry@fws.gov

From: Yilma, Haimanot [mailto:Haimanot.Yilma@nrc.gov]
Sent: Monday, September 09, 2013 10:08 AM
To: Terry Quesinberry
Cc: Natalie Gates; Hester, Amy L. (amy.hester@swri.org)
Subject: RE: Follow Up for the Proposed Dewey-Burdock Insitu Recovery Project, Fall River and Custer

Counties, South Dakota

Dear Mr. Quesinberry,

During the public comment period on the draft SEIS, the NRC received several public comments stating that we should have initiated formal Section 7 consultation with the Fish and Wildlife Service to determine impacts on listed threatened and endangered species. Based on our draft and final SEIS assessments, the proposed action would not affect federally listed threatened, endangered, or candidate species or critical habitat. Therefore, NRC staff concluded that no FWS biological opinion or formal Section 7 consultation is required.

Based on the information you provided below, we understand that a federal agency is not required to consult with FWS if the agency has determined an action will not affect listed species or critical habitat. We are confirming with you that our original assessment that no formal Section 7 consultation is required has not changed and is accurate. We are doing so in order to appropriately address the public comments we have received on this issue.

Sincerely,

Haimanot Yilma

From: Terry Quesinberry [mailto:terry_quesinberry@fws.gov]
Sent: Wednesday, September 04, 2013 2:35 PM
To: Yilma, Haimanot
Cc: Natalie Gates
Subject: RE: Follow Up for the Proposed Dewey-Burdock Insitu Recovery Project, Fall River and Custer Counties, South Dakota

Ms. Yilma,

As our FAQ on consultation indicates ([Endangered Species Program | What We Do | Consultations | Frequently Asked Questions](#)) your determination of "no effect" or "will not affect" does not require concurrence.

Must a Federal agency consult with the Services (i.e., receive concurrence) if it determines: a) no effect; b) beneficial effect; or c) not likely to adversely affect?

A Federal agency is not required to consult with the Services if it determines an action will not affect listed species or critical habitat. A Federal agency is required to consult if an action "may affect" listed species or designated critical habitat, even if the effects are expected to be beneficial. In many cases, projects with overall beneficial effects still include some aspects that will adversely affect individuals of listed species and such adverse effects require formal consultation. If an agency determines that its action is not likely to adversely affect listed species or critical habitat, it can request the concurrence of the Services with this determination. If the Services agree, consultation is concluded with a concurrence letter

Terry Quesinberry

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From: Yilma, Haimanot [mailto:Haimanot.Yilma@nrc.gov]
Sent: Wednesday, September 04, 2013 11:50 AM
To: Terry_Quesinberry@fws.gov
Subject: FW: Follow Up for the Proposed Dewey-Burdock Insitu Recovery Project, Fall River and Custer Counties, South Dakota

FYI

From: Terry_Quesinberry@fws.gov [mailto:Terry_Quesinberry@fws.gov]
Sent: Monday, August 27, 2012 2:30 PM
To: Amy Hester
Cc: Yilma, Haimanot; James Prikryl
Subject: Re: Follow Up for the Proposed Dewey-Burdock Insitu Recovery Project, Fall River and Custer Counties, South Dakota

Amy,

I do not have any updates/changes to the species you have listed. I expect that you will also address potential wetland impacts in the draft SEIS.

Thanks,

Terry Quesinberry

Fish and Wildlife Biologist
US Fish and Wildlife Service
South Dakota Ecological Services Office
Pierre, SD
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 Amy Hester <ahester@swri.org>

Amy Hester
<ahester@swri.org>

08/27/2012 12:45 PM

To "terry_quesinberry@fws.gov"
<terry_quesinberry@fws.gov>
cc Haimanot Yilma <haimanot.yilma@nrc.gov>, James Prikryl <jprikryl@swri.org>
Subject Follow Up for the Proposed Dewey-Burdock Insitu Recovery Project, Fall River and Custer Counties, South Dakota

Mr. Quesinberry,

This email is to follow up on the attached March 29, 2010 letter that your office sent

to the Nuclear Regulatory Commission (NRC) regarding federally threatened or endangered species of concern for the proposed Dewey-Burdock in-situ recovery facility. The 2010 letter identified two endangered species, the whooping crane and black-footed ferret, and a candidate species, the Greater sage-grouse, that could potentially occur in the counties where the proposed project is located. As part of our independent analysis, NRC staff reviewed available Fish and Wildlife Service (FWS) documents and websites and determined that the Sprague's pipit (*Anthus spragueii*) is also a candidate bird species that could occur in the counties where the proposed project is located. We would like to confirm whether there are any additional species that the FWS has identified for this proposed project.

Based on our initial assessment, NRC staff determines that a biological assessment or Section 7 consultation under the Endangered Species Act are not warranted for this proposed project because no adverse effects to federally threatened, endangered, or candidate species are expected. The bases for our determination will be provided in the draft SEIS.

Thank you for providing any updated information you may have that should be included in the draft SEIS.

Amy Hester
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(See attached file: *FWS letter from 2010 pdf.pdf*)