

72-26  
50-275  
50-323



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ventura Fish and Wildlife Office  
2493 Portola Road, Suite B  
Ventura, California 93003

In Reply Refer To: PAS 749.807.1104

September 10, 2003

James R. Hall, Senior Project Manager  
Spent Fuel Office, MSO-13D13  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

**Subject:** Species list for the proposed Diablo Canyon independent spent fuel storage installation project (Docket Nos: 72-26, 50-275, 50-323)

Dear Mr. Hall:

This letter responds to your request dated August 14, 2003, and received in our office on August 19, 2003, for information on listed threatened or endangered species which may be present in vicinity of the proposed Diablo Canyon independent spent fuel storage installation project. The U.S. Nuclear Regulatory Commission (NRC) is currently reviewing a licence application from Pacific Gas and Electric Company to construct and operate a spent fuel storage facility on site at the Diablo Canyon Power Plant in San Luis Obispo County, California. As part of the environmental review, the NRC is considering the potential impact of the proposed action on federally listed species, in accordance with the Endangered Species Act of 1973, as amended (Act).

The enclosed list of species fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Act. The NRC, as the Federal licencing agency for the project, has the responsibility to review the proposed activities and determine whether any listed species may be affected. If the project is a construction project<sup>1</sup> which may require an environmental impact statement, the NRC has the responsibility to require a biological assessment to make a determination of the effects of the action on the listed species or critical habitat. If the NRC 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

<sup>1</sup> "Construction project" means any major Federal action which significantly affects the quality of the human environment designed primarily to result in the building of structures such as dams, buildings, roads, pipelines, and channels. This includes Federal actions such as permits, grants, licenses, or other forms of Federal authorizations or approval which may result in construction.

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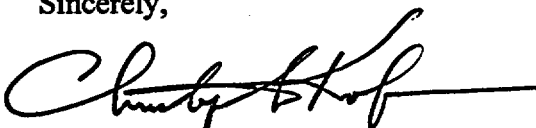
7 of the Act. Informal consultation may be used to exchange information and resolve conflicts with respect to threatened or endangered species or their critical habitat prior to a written request for formal consultation. During this review process, the NRC may engage in planning efforts but may not make 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.

If you have any questions, please contact Chris Kofron of my staff at (805) 644-1766.

Sincerely,

  
for Catrina Martin  
Deputy Field Supervisor

Enclosure

**ENDANGERED, THREATENED, PROPOSED, AND CANDIDATE SPECIES  
THAT MAY OCCUR IN THE VICINITY OF THE PROPOSED DIABLO CANYON  
INDEPENDENT SPENT FUEL STORAGE INSTALLATION PROJECT,  
SAN LUIS OBISPO COUNTY, CALIFORNIA**

Amphibians

California red-legged frog	<i>Rana aurora draytonii</i>	T
California tiger salamander	<i>Ambystoma californiense</i>	PT

Fish

Tidewater goby	<i>Eucyclogobius newberryi</i>	E
Steelhead trout*	<i>Oncorhynchus mykiss</i>	*T, CH

Invertebrates

Morro shoulderband snail (=banded dune snail)	<i>Helminthoglypta walkeriana</i>	E, CH
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	T, CH

Plants

Morro manzanita	<i>Arctostaphylos morroensis</i>	T
Indian Knob mountainbalm	<i>Eriodictyon altissimum</i>	E

**Key:**

- E - Endangered
- T - Threatened
- CH - Critical Habitat
- PT - Taxa proposed for listing as threatened

\* The National Marine Fisheries Service is the responsible agency for the steelhead.