

**APPENDIX C - 2008 U.S. FISH AND WILDLIFE SERVICE
LETTER OF CONCURRENCE**



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825

In reply refer to:
81420-2008-I-0044-2

JAN 15 2008

Mr. Francis C. Piccola
Chief, Planning Division
U.S. Army Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

Subject Planned Deviation from the Water Control Plan, Isabella Dam and Lake,
Kern County, California

Dear Mr. Piccola:

The U.S. Fish and Wildlife Service (Service) has reviewed your draft Environmental Assessment (EA) for the Planned Deviation from the Water Control Plan, Isabella Dam and Lake, Kern County, California (project). The draft EA addresses the extension of the emergency deviation from March 20, 2007 to September 30, 2013, and possibly for additional years thereafter, if necessary, until a permanent solution is implemented for the dam. The Service has reviewed the: 1) November 2007, draft EA for the project; 2) the U.S. Army Corps of Engineers (Corps) August 24, 2007, letter to the Service requesting concurrence with a may affect not likely to adversely affect determination for the proposed deviation in dam operations at Lake Isabella, Kern County, California; 3) the Service's December 4, 2007, letter to the Corps requesting additional information on the effects of the project on federally-listed species (Service Reference No. 81420-2008-I-0044); and 4) other information available to the Service. Our response is prepared pursuant to the Endangered Species Act of 1973, as amended.

The purpose of the emergency deviation was to lower the lake level to a safe and acceptable elevation/capacity based upon recent results of the Corps seismic investigations. The Corps has concluded that the Isabella Lake Dam could fail during a low intensity earthquake or maximum credible earthquake event, thus releasing uncontrollable amounts of water and flooding of communities downstream of the lake. Until the probability of dam failure is verified and ascertained during the on-going investigation, the deviation has been initiated as an interim risk reduction measure rather than a permanent solution to satisfy dam safety requirements. The project includes restricting lake levels at or below 2585.5 feet.

During earlier discussions, the Corps requested that the project be considered a separate project from the Conservation Plan for the Long-term Operation of Isabella Dam and Reservoir project.

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However, since that request, the Service has reviewed your November 2007, draft EA for the project, which was received in our office on December 6, 2007. After review of your project description and additional information in our files, we have determined that the effects of your proposed action (emergency deviation) have been fully addressed in our previous biological opinion on the Conservation Plan for the Long-term Operation of Isabella Dam and Reservoir project.

Thus, the 2000, biological opinion and 2005, amendment (Service Reference No. 1-1-99-F-0216 and 1-1-05-F-0067, respectively) for the Conservation Plan for the Long-Term Operation of Isabella Dam and Reservoir are in full force and effect. The actions proposed and addressed in our previous biological opinions were anticipated to mimic historical operations without restrictions. This gives the operators flexibility to manage water levels within broad deviations based on water year type, runoff, demand, etc. The Corps has determined that the only anticipated difference compared to current operations is that releases could be higher than normal (i.e. 3,000 cfs verses 1,500 cfs) and commence earlier in the season so that the Corps can control runoff that is higher than normal without encroaching into the restricted pool. The Service recommends that the Corps continue to monitor populations of southwestern willow flycatchers, least Bell's vireos, and other sensitive species around the reservoir to document any changes to the populations that may occur. We believe this proposed deviation (increased releases) would not impact habitat for the willow flycatcher in a way not previously considered in our biological opinions. Therefore, there is no need to re-consult under the Endangered Species Act, as amended, on the project for the federally-endangered southwestern willow flycatcher (*Empidonax traillii extimus*) and its designated critical habitat and the federally-endangered least Bell's vireo (*Vireo bellii pusillus*).

Additionally, in Section 4.3.2 of the EA, reference is made to federally-listed species occurrences within the project area from a document dated, May 16, 1996. To ensure the quality of the biological information used in your analysis it is the policy of the Service that species lists be updated every 90 days. A current species list can be created from our website: www.fws.gov/sacramento.

Thank you for a chance to comment on the project. If you have any questions or concerns, please contact Stephanie Rickabaugh, at (916) 414-6600.

Sincerely,



Peter A. Cross
Deputy Assistant Field Supervisor

cc:

Mario Parker, Corps, Sacramento, California

Donald Lash, Corps, Sacramento, California