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DUE
DATE

United States Government

Department of Energy
Rocky Flats Office

ACTION

DIST LTR ENC

- ENJAMIN, A.
- RETZKE, J.C.
- URLINGAME, A.H.
- OPP, B.D.
- ROUCHER, D.W.
- AVIS, J.G.
- VERED, J.E.
- ERRERA, D.W.
- ERRIS, L.R.
- RAIKOR, F.J.
- RANCIS, G.E.
- WOODWIN, R.
- MANNI, B.J.
- HEALY, T.J.
- DEKER, E.H.
- ENS, J.P.
- ERSH, J.M.
- IRBY, W.A.
- IRIEG, D.
- UESTER, A.W.
- EE, E.M.
- MAJESTIC, J.R.
- MARX, G.E.
- MATHEWS, T.A.
- MEURENS, B.E.
- MORGAN, R.V.
- PIZZUTO, V.M.
- POTTER, G.L.
- RAFFELL, B.F.
- RANDLIN, N.B.
- SWANSON, E.R.
- WEBB, J.S.
- WILKINSON, P.R.
- WILSON, J.M.
- YOUNG, E.R.
- ZANE, J.C.

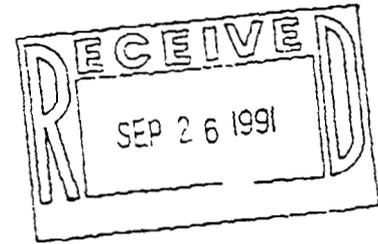
memorandum

SEP 25 1991

ERD:BKT:8029

South Interceptor Ditch (SID) Maintenance and Repair

Thomas E. Lukow, Director,
Waste Management and Environment Division



This memorandum is in response to letters WMED:JR:6721 and 91-RF-5984 regarding the South Interceptor Ditch (SID) maintenance and repair. We are concerned that removing cattails and other vegetation along the length of the SID prior to consultation with the U.S. Fish and Wildlife Service (FWS) per the Fish and Wildlife Coordination Act (FWCA) and the Migratory Bird Treaty Act (MBTA) and with the Colorado Division of Wildlife per the FWCA could leave DOE RFO open to liabilities under these statutes. In addition, a recent report submitted to DOE RFO from EG&G Rocky Flats, Inc.'s NEPA Division entitled "Threatened and Endangered Species Evaluation, Rocky Flats Plant Site" indicates the presence of potential habitat for threatened or endangered species and species of concern to the State of Colorado. Several of these species, including the Diluvium Lady's Tresses (*Spiranthes diluvialis*) which is proposed for listing, could occur in or near wetlands at the RFP.

Knowing that the wetlands along the SID provide potential habitat for several of these candidate, threatened and endangered species, DOE RFO will need to conduct a biological study to verify the presence or absence of these species. (Note that this biological study is not a biological assessment as defined by the Endangered Species Act.) The design of the biological study will need to be submitted to the FWS for review and concurrence. Also, a biologist from the FWS will need to make a site visit to observe the habitat and species present along the SID. In addition to the species compliance list located in EG&G's report, the FWS has produced a list of additional species including candidate, threatened and endangered species. Depending on their habitat locations, the biological study will need to address a subset of the species contained on these two lists. Additional factors requiring consideration are the flowering period of plants (e.g., late July to early October for the Diluvium Lady's Tresses) and the time period of usage by mobile species including birds, mammals and amphibians relative to the timing of the biological survey. Verifying the presence or absence of these species is critical for complying with the Endangered Species Act (ESA).

Information necessary for the FWS and the Colorado Division of Wildlife to perform their consultations per the MBTA and FWCA include a description of the resource, definition of the impact and alternatives for mitigating the impacts. This information will be included in a report to be submitted to the agencies. After submission of the report, the agencies will conduct a site visit. Upon completion of the site visit and review of the report, they will render a written opinion on the proposed project.

Reviewed for Addressee
Corres. Control RFP

7-27-91 *am*

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Thus, prior to removing cattails and other vegetation along the SID, it is strongly recommended that all aspects of compliance are completed for the ESA, MBTA and FWCA.

For specific information regarding compliance with these statutes and the list of candidate, threatened and endangered species, contact Bruce Thatcher of my staff at ext. 3532.



Frazer R. Lockhart
Director
Environmental Restoration Division

cc:
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R. Schassburger, DOE/RFO
B. Thatcher, DOE/RFO
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