

Raynes, Scott

From: Montoya, Anna
Sent: Thursday, January 06, 2011 2:55 PM
To: Powell, Jane; Bowdidge, Lynn; DiSalvo, Rick; Kaiser, Linda; Nelson, Jody
Cc: rc-rocky.flats; Raynes, Scott
Subject: Reinitiation of Endangered Species Act (ESA) Section 7 Consultation for the Rocky Flats Site correspondence to Susan Linner
Attachments: Reinitiation of ESA Section 7 Consultation for RFS_1-6-11.pdf

Attached is your copy of the transmittal letter for the Reinitiation of Endangered Species Act (ESA) Section 7 Consultation for the Rocky Flats Site correspondence to Susan Linner, dated January 6, 2011.

Submitted on behalf of Scott Surovchak.

Anna Montoya
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**Department of Energy
Office of Legacy Management**

January 6, 2011

Ms. Susan C. Linner
Colorado Field Supervisor
c/o Alison Deans Michael
USFWS/Colorado Field Office
P.O. Box 25486, DFC (MS65412)
134 Union Boulevard, Suite 670
Denver, Colorado 80225-0486

Subject: Reinitiation of Endangered Species Act (ESA) Section 7 Consultation for the Rocky Flats Site (RFS)

Dear Ms. Linner,

According to the ESA Section 7(a)(2) and its implementing regulations (50 CFR Part 402.16), the U.S. Department of Energy (DOE) Office of Legacy Management (LM) is writing this letter to formally reinitiate the ESA Section 7 Consultation with the U.S. Fish and Wildlife Service (USFWS) for the following reason:

New Species is listed or critical habitat designated that may be affected by the identified.

The USFWS issued a Final Rule on the Revised Critical Habitat for the Preble's Meadow Jumping Mouse (PMJM) in Colorado on December 15, 2010 (Federal Register Vol. 75, No. 240). The Final Rule included 1,108 acres designated as Unit 6, which includes the Rocky Flats National Wildlife Refuge (NWR) and the RFS, together formerly known as the Rocky Flats Environmental Technology Site (RFETS).

Background information:

The former RFETS property occupied approximately 6,200 acres. The USFWS issued a Programmatic Biological Opinion (PBO) on selected activities that may occur at the RFETS on April 5, 2004. The RFETS has been successfully closed, and most of the activities that were assessed in the 2004 PBO have been completed.

The cleanup and closure of RFETS was completed via a cleanup agreement under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); a Compliance Order on Consent under the Resource Conservation and Recovery Act

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(RCRA); and the Colorado Hazardous Waste Act (CHWA). Under the Final Corrective Action Decision/Record of Decision (CAD/ROD) for Rocky Flats issued on September 29, 2006, two Operable Units (OUs) were established within the boundaries of the RFETS: the Central OU (COU) and the Peripheral OU (POU). An OU is a grouping of individual hazardous substance sites into a single administrative unit for purposes of efficiently managing cleanup activities. The COU (now referred to as the RFS) is centrally located within the former RFETS boundary and occupies approximately 1,300 acres. The COU consolidated areas that required additional remedial or corrective actions and also considered the practicalities of future land management. The CAD/ROD determined that the appropriate response actions for the COU were institutional controls, physical controls, and continued operation of groundwater treatment systems and groundwater and surface water monitoring. Implementation of the CAD/ROD is regulated under the Rocky Flats Legacy Management Agreement (RFLMA) (February 2007 and subsequent amendments). RFLMA is a Federal Facility Agreement and Consent Order under CERCLA, RCRA, and the CHWA.

The POU surrounds the COU and includes the remaining, generally unaffected portions of the former RFETS property, approximately 4,900 acres. The final CAD/ROD indicated that conditions in the POU are suitable for unrestricted use, and no response action was required. Transfer of jurisdiction and control of most of the land in the POU by DOE to the USFWS was completed on July 12, 2007, for use as a wildlife refuge pursuant to the Rocky Flats NWR Act of 2001 (Public Law [PL] 107-107).

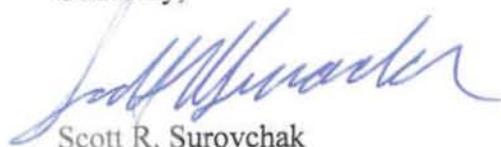
Consultation request:

LM would like to use the opportunity of the requirement for reinitiation of consultation as directed in 50 CFR Part 402.16 to both address the newly designated critical habitat within the COU, as well as update and consult on activities that are required under the RFLMA.

Because the reinitiation of consultation and resultant Programmatic Biological Assessment (PBA) and PBO is expected to be a process that may cover several months, the DOE LM asks that the USFWS acknowledge that we have begun reinitiation of Section 7, and that allowed activities addressed in the 2004 PBO and associated amendments to the PBA since that time are valid until such time as the consultation process is complete. We propose to continue to implement the 2004 PBO and continue in the consultation process. Implementation of interim actions will not make any irreversible or irretrievable commitments of resources. We expect to complete a consultation package during calendar year 2011, which will address changes in site operations activities and effects of the actions, any changes in species' status, an environmental baseline, and cumulative effects since the initial PBO was approved.

Please contact me at 720-377-9682 if you have any questions.

Sincerely,



Scott R. Surovchak
Site Manager

Susan Linner

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JKN/abm

cc: (electronic)

J. Powell, DOE

L. Bowdidge, Stoller

R. DiSalvo, Stoller

L. Kaiser, Stoller

J. Nelson, Stoller

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File: RFS 145.15(a)