

APPENDIX B

**U.S. Fish and Wildlife Service
Letter of Concurrence**

JUN 04 2018



United States Department of the Interior
FISH AND WILDLIFE SERVICE

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Army Corps of Engineers
201 North Third Avenue
Walla Walla, Washington 99362

Subject: Heise-Roberts Levee Rehabilitation, Jefferson and Madison Counties, Idaho
(01EIFW00-2018-I-1319)

This letter responds to the Army Corps of Engineers' (Corps) request for the U.S. Fish and Wildlife Service's (Service) concurrence on effects of the subject action to species and habitats listed under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.; [Act]). The Corps' request dated May 8, 2018, and received by the Service May 15, 2018, included a biological assessment entitled *Heise-Roberts Levee Rehabilitation Project (Assessment)* dated May 2018. Information contained in the Assessment is incorporated here by reference.

Through the Assessment, the Corps determined the subject action may affect, but is not likely to adversely affect Ute ladies'-tresses (*Spiranthes diluvialis*) and yellow-billed cuckoo (*Coccyzus americanus*). The Service concurs with the Corps' determination and presents our rationale below.

The Corps also determined the subject action would have no effect to Canada lynx (*Lynx Canadensis*) and North American wolverine (*Gulo gulo luscus*). The regulations implementing section 7 of the Act do not require the Service to review or concur with no effect determinations. However, the Service does appreciate being informed of your determination for these species.

PROPOSED ACTION

The Corps proposes to authorize the placement of 9,300 cubic yards of riprap and 8,200 cubic yards of quarry spalls discontinuously along approximately 3,850 linear feet at eight locations over an 8 mile stretch of the South Fork of the Snake River between Heise and Roberts. The proposed action would restore the levees to the as-was condition, which includes reconstructing portions of the levees, replacing armoring on the riverward side, and excavating a toe and reinforcing the structures. The proposed action would place rock both below and above the ordinary high water mark (OHWM). Approximately eight trees and surrounding shrubs will be removed at two of the locations (17-4 and 17-5). Rock will be dumped on the levee and then placed with an excavator from the top of the levee. The proposed action would occur between

September 15 and October 31, 2018. A complete description of the proposed action, including conservation measures, is detailed in the Assessment (pp. 1-6).

SPECIES AND HABITAT PRESENCE IN THE ACTION AREA

Yellow-billed cuckoo

The action area contains suitable breeding habitat for yellow-billed cuckoo and observations have occurred in the adjacent habitat. While yellow-billed cuckoo are a rare summer visitor to Idaho, the South Fork of the Snake River has had consistent observations and is assumed to be used yearly for yellow-billed cuckoo breeding. Yellow-billed cuckoo primarily breed from June to August and, as neo-tropical migrants, could be present in Idaho from May to mid-September.

Ute ladies'-tresses

In eastern Idaho there are six known elemental occurrences (EO) of Ute ladies'-tresses. These primarily occur along the South Fork of the Snake River in riparian and wet meadow habitats on alluvial substrates and cobble deposits. Between Heise and Roberts, where the action area occurs, there are two EOs: EO 6 Annis Island and EO 7 Railroad Island and Twin Bridges Island. EO 6 is directly adjacent to sites 17-4 and 17-5; however, Ute ladies'-tresses have not been observed in the area of proposed ground disturbance and after a site visit it appears the area of ground disturbance does not contain habitat which typically supports Ute ladies'-tresses. While the action area may have supported Ute ladies'-tresses in the past, the dynamic nature of the South Fork of the Snake River has changed the potential habitat at sites 17-4 and 17-5 to mostly open water. Therefore, while the action area is adjacent to EO 6, it does not contain suitable Ute ladies'-tresses habitat and they are not anticipated to be present in the areas of ground disturbance.

POTENTIAL IMPACTS AND EFFECTS FROM THE PROPOSED ACTION

Yellow-billed Cuckoo

The proposed action could disturb and temporarily displace yellow-billed cuckoo as a result of the levee repair and construction activity. Noise and overall disturbance from the presence of project personnel and the noise and vibration of the equipment could result in yellow-billed cuckoo avoidance of the action area. However, these effects are highly unlikely to occur, as the proposed action would occur when yellow-billed cuckoo are not expected to be in the action area. Therefore, the Service anticipates effects to individual yellow-billed cuckoo from the proposed action to be discountable.

The proposed action could alter yellow-billed cuckoo habitat. However, effects to yellow-billed cuckoo from changes to habitat caused by the proposed action area anticipated to be unmeasurable. This is due to the limited area of habitat removal (approximately eight trees which are anticipated to be removed by hydrologic activity regardless of this proposed action), adjacent high quality habitat, and limited suitable habitat in the action area. Therefore, the Service

anticipates effects to yellow-billed cuckoo from changes to habitat as a result of the proposed action to be insignificant.

Ute ladies'-tresses

The proposed action could have direct effects to Ute ladies'-tresses in the form of destruction from construction activities. However, Ute ladies'-tresses have not been observed on the riverside of the levee associated with EO 6 or within the area of proposed ground disturbance. Further, while this habitat in the past had the potential to support Ute ladies'-tresses, the dynamic nature of the South Fork of the Snake River has modified the riparian habitat and substrate such that it no longer is suitable for Ute ladies'-tresses. Therefore, the Service anticipates effects to Ute ladies'-tresses from the proposed action to be discountable.


CONCURRENCE

Based on the Service's review of the Assessment, we concur with the Corps' determination that the proposed action outlined in the Assessment may affect, but is not likely to adversely affect yellow-billed cuckoo and Ute ladies'-tresses. These concurrences are based on the project design features, available adjacent high quality habitat, the condition of the action area, and species occurrences and behaviors in the action area, which reduce the potential impacts to insignificant and discountable levels.

This concludes informal consultation. Further consultation pursuant to section 7(a)(2) of the Act is not required. Reinitiation of consultation on this action may be necessary if new information reveals effects of the action that may affect a listed species or designated critical habitat in a manner or to an extent not considered in the Assessment, the action is subsequently modified in a manner that causes an effect to a listed species that was not considered in the analysis, or a new species is listed or critical habitat is designated that may be affected by the proposed action.

Thank you for your continued interest in endangered species conservation. If you have any questions regarding this consultation, please contact Evan Ohr of this office at Evan_Ohr@fws.gov or (208) 237-6975 ext. 115.

Sincerely,

acting for

Gregory M. Hughes
State Supervisor

cc: ACOE, Walla Walla (Tice)
USFWS, Boise (Holder)