



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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

June 17, 1999

Rob Rossi
750 Pismo Street
San Luis Obispo, California 93401

Subject: Santa Margarita Ranch, San Luis Obispo County, California

Dear Mr. Rossi:

The U.S. Fish and Wildlife Service (Service) appreciated the opportunity to meet with you on June 3, 1999, in Morro Bay to learn more about your proposed activities on the Santa Margarita Ranch. After this meeting, Kate Symonds, staff biologist with the Service's Ventura Fish and Wildlife Office, informed you that the potential exists for several federally threatened and endangered species to occur in the vicinity of your property and asked whether assessments have been made regarding the potential for your proposed vineyard and other activities to affect federally listed species. You indicated that surveys and habitat assessments have been completed and that your proposed activities would avoid any sensitive species and their habitats. However, we have not had the opportunity to review the survey results, habitat assessments, or any documentation on your proposed activities as they relate to biological resources. Agricultural activities are not exempt from review under the Federal Endangered Species Act of 1973, as amended (Act). Therefore, to assist you in determining your potential need for compliance with the Act, we recommend you contact us at your earliest convenience to initiate this process.

The Service's responsibilities include administering the Act, including sections 7, 9, and 10. Section 9 of the Act prohibits the taking of any federally listed endangered or threatened species. The definition of "take" includes to harass, harm, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Service regulations (50 CFR 17.3) define "harm" to include "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." Anyone who engages in a take would be subject to prosecution under section 9 of the Act. Such taking may occur only under the authority of the Service pursuant to section 7 (if the action is funded, permitted or implemented by a Federal agency) or through a section 10(a)(1)(B) permit, as mandated in the Act.

If further analysis indicates that the proposed activities may result in incidental take, which is defined as take that is incidental to, but not the purpose of, the carrying out of an otherwise lawful activity, the project proponent should contact the Service immediately. Section 7 of the Act requires Federal agencies to consult with the Service on proposed actions which may affect threatened or endangered species. If an action is likely to adversely affect a listed species, formal consultation with the Service is initiated by the action agency; a biological opinion is then issued by the Service. Should the proposed project have adverse impacts to listed species, any Federal agency involved in the permitting, licensing, funding, or any other aspect of this project may be required to consult with the Service prior to the implementation of the project.

If a Federal nexus does not exist for the proposed project, an exception to the Federal prohibition against take of a listed species may be authorized by the Service through an incidental take permit issued pursuant to section 10(a)(1)(B) of the Act. To qualify for the permit, the project proponent would need to submit an application to the Service together with a habitat conservation plan (HCP) that describes, among other things, how the impacts of the proposed taking of federally listed species would be minimized and mitigated and how the plan would be funded. A complete description of the requirements for an HCP can be found at 50 CFR 17.32.

Federally listed species that may occur in the vicinity of Santa Margarita Ranch include the threatened California red-legged frog (*Rana aurora draytonii*), which has been found in a tributary to Santa Margarita Lake and reportedly from nearby Tassajara Creek, as well as dozens of locations in the vicinity of the Morro Bay watershed and other drainages in San Luis Obispo County. California red-legged frogs are known to travel up to two miles between ponds and riparian habitats and use upland habitats, such as grasslands and oak woodlands, for their movements. Therefore, if this species occurs in the vicinity of your property, we believe that activities that affect the creeks, including any pumping of groundwater, or ground disturbance to or modification of vegetation in the surrounding upland habitats could result in take of California red-legged frogs.

Although we do not have specific information on the occurrence of federally listed species on the Santa Margarita Ranch, other species that may occur in the vicinity include the endangered least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), California condor (*Gymnogyps californianus*), bald eagle (*Haliaeetus leucocephalus*), arroyo toad (*Bufo microscaphus californicus*) and the threatened vernal pool fairy shrimp (*Branchinecta lynchi*). The Camatta Canyon amole (*Chlorogalum purpureum* var. *reductum*), a plant that has recently been proposed as threatened, is found nearby on the Los Padres National Forest. The California tiger salamander (*Ambystoma californiense*) is a candidate for listing as threatened or endangered and is known from the upper Salinas watershed, of which Santa Margarita Ranch is a part. For concerns related to compliance with the Act for effects to southern steelhead (*Onchorynchus mykiss*), we recommend you contact Anthony Spina of the National Marine Fisheries Service at (562) 980-4045.

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We look forward to reviewing any documents related to your proposed activities and the site's biological resources. We are also available to meet with you to discuss any potential impacts to listed species and the need for compliance with the Act for the species for which the Service has responsibility. If you have any questions regarding this matter, please contact Kate Symonds of my staff at (805) 644-1766.

Sincerely,



Diane K. Noda
Diane
Field Supervisor

cc: Ellen Carroll, Department of Planning and Building, County of San Luis Obispo
Chuck Marshall, California Department of Fish and Game
Bob Stafford, California Department of Fish and Game
Anne McMahon, Congressional Representative Lois Capps
Anthony Spina, National Marine Fisheries Service