



# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Ventura Fish and Wildlife Office  
2493 Portola Road, Suite B  
Ventura, California 93003

IN REPLY REFER TO:  
81440-2011-EC-0016

June 3, 2011

Thomas M. Skaug, Engineering Geologist  
Department of Toxic Substance Control  
8800 Cal Center Drive  
Sacramento, California 95826

Subject: Comments on Santa Susana Field Laboratory Group 9 Remedial Investigation Report, Simi Hills, Ventura County, California

Dear Mr. Skaug:

In an electronic mail (email) correspondence dated May 2, 2011, we received a notice of public comment period for the Santa Susana Field Laboratory (SSFL) Group 9 Remedial Investigation Report (Group 9 RI Report). The Department of Toxic Substance Control's (DTSC) Group 9 RI Report summarizes the results of chemical investigations performed in the Group 9 Reporting Area at SSFL, which includes portions of Area II, III, IV, and southern undeveloped areas of the site.

The U.S. Fish and Wildlife Service's (Service) responsibilities include administering the Endangered Species Act of 1973, as amended (Act), including sections 7, 9, and 10. Section 9 of the Act and its implementing regulations prohibit the taking of any federally listed endangered or threatened species. Section 3(19) of the Act defines take to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Service regulations (50 CFR 17.3) define harm to include significant habitat modification or degradation which actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Harassment is defined by the Service as an intentional or negligent action that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. The Act provides for civil and criminal penalties for the unlawful taking of listed species. Exemptions to the prohibitions against take may be obtained through coordination with the Service in two ways: through interagency consultations for projects with Federal involvement pursuant to section 7 of the Act or through the issuance of an incidental take permit under section 10(a)(1)(B) of the Act.

The Migratory Bird Treaty Act (16 U.S.C. 703-712) prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Department of the Interior. While the MBTA has no provision for allowing take, we recognize that some birds may be killed at structures such as communications



towers even if all reasonable measures to avoid it are implemented. The Service's Division of Law Enforcement carries out its mission to protect migratory birds not only through investigations and enforcement, but also through fostering relationships with individuals and industries that actively seek to eliminate their impacts on migratory birds. Although individuals or companies cannot be absolved from liability under the MBTA if they follow these recommended guidelines, the Division of Law Enforcement and Department of Justice have used enforcement and prosecutorial discretion in the past regarding individuals or companies who have made good faith efforts to avoid the take of migratory birds.

The federally listed species listed below have the potential to occur within SSLF and associated undeveloped areas:

- Branton's milkvetch (*Astragalus brauntonii*), Endangered, critical habitat onsite;
- Lyon's pentachaeta (*Pentachaeta lyonii*), Endangered;
- Riverside fairy shrimp (*Streptocephalus woottoni*), Endangered;
- Least Bell's Vireo (*Vireo bellii pusillus*), Endangered;
- Quino checkerspot butterfly (*Euphydryas editha quino*), Endangered;
- Coastal California gnatcatcher (*Polioptila californica californica*), Threatened;
- California red-legged frog (*Rana draytonii*), Threatened, critical habitat onsite;
- Vernal pool fairy shrimp (*Branchinecta lynchi*), Threatened;
- Spreading navarretia (*Navarretia fossalis*), Threatened;
- California Orcutt grass (*Orcuttia californica*), Threatened;
- Conejo dudleya (*Dudleya abramsii* subsp. *parva* [=*D. parva*]), Threatened;
- Santa Monica Mountains live-forever (*D. cymosa* subsp. *ovatifolia* [inclusive of *D. cymosa* subsp. *agourensis*]), threatened; and
- Marcescent dudleya (*D. cymosa* subsp. *marcescens*), Threatened.

The organization of the remedial investigation into 11 separate RI groups, presumably with 11 separate Remedial Investigations, Feasibility Studies, Remedial Action Plans, etc., is so complex that the level of effort required to adequately review the trajectory of this cleanup is prohibitive. The Service is interested in engaging with DTSC to provide guidance on evaluating risk to federally listed species and migratory birds to ensure that the project actions and eventual remedy are protective of Service trust resources. **We request a meeting or conference call with DTSC to discuss how to efficiently coordinate with you on the cleanup of this site.**

From our preliminary review of the Ecological Risk Assessment (ERA) and sections referenced therein, we have the following comments:

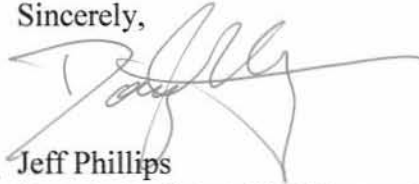
- The text in Section 1.1.3.1 (Scope) does not appear to correlate with Figure 1.1-4 (RI Group Boundaries). Section 1.1.3.1 states in the last paragraph on page 1-8, "The Group 9 Reporting Area consists of approximately 16 acres within the southern portion and extending into the central portion of Area II, where most investigative activities were conducted." Figure 1.1-4 shows Group 9 as spanning 182 acres. This large discrepancy caused significant confusion as to the scope of the Group 9 RI Report.

- The ERA does not adequately evaluate risk to all federally listed species that may occur within the Group 9 area. We recommend that you complete an assessment of the potential for the federally listed species described above to occur within the Group 9 area. Any species with the potential to occur within Group 9 now or in the future should be evaluated in the ERA. The Service has been working with EPA during their radiological survey of Area IV and the surrounding undeveloped lands and has information about the occurrence of federally listed species that we can provide to DTSC to assist with this assessment.
- We recommend that risk to federally-listed species be evaluated at the individual level as opposed to the population level to ensure consistency with the provisions of the Act. We recommend basing toxicity reference values (TRVs) on no observed adverse effect levels (NOAEL) when making risk management decisions for threatened and endangered species (sufficient for evaluating risk to individuals). Toxicity above a NOAEL may be considered to cause “take” as defined in the Act and described above.
- The Conceptual Site Model of Ecological Exposure at the Group 9 sites, shown in Figure 1.5-4 is unclear. It appears as though Figure 1.5-4 attempts to identify exposure pathways while simultaneously conveying how those exposure pathways are evaluated (i.e., qualitatively vs. quantitatively). Furthermore some of the boxes are shaded, but no legend is presented that describes the meaning of the shading. We recommend simplifying this diagram to only show the exposure pathways so that reviewers can easily determine whether or not all of the appropriate pathways have been identified or separate this into two separate figures.
- From our crude understanding of Figure 1.5-4 it appears as though some relevant exposure pathways may have been overlooked. Our recommendations for Figure 1.5-4 are as follows:
  - Terrestrial Plants – root contact with groundwater is a complete pathway
  - Terrestrial Plants – it does not appear as though the pathway for uptake of contaminated groundwater is displayed in the model
  - Terrestrial Invertebrates – ingestion of biota is a complete pathway
  - Terrestrial Invertebrates – ingestion of sediment is a complete pathway
  - Terrestrial Invertebrates – dermal contact with surface water is a complete pathway
  - Terrestrial Invertebrates – ingestion of surface water is a complete pathway
  - Hermit Thrush – dermal contact with surface water is a potentially complete pathway
  - Deer Mouse – Inhalation of dust and/or volatile emissions is a complete pathway
  - Deer Mouse –dermal contact with surface water is a potentially complete pathway
  - Bobcat – dermal contact with surface water is a complete pathway
  - Mule Deer – dermal contact with surface water is a complete pathway
  - Benthic Invertebrates – Ingestion of biota is a complete pathway
  - Great Blue Heron – Dermal contact with sediment is a complete pathway
  - Great Blue Heron – Dermal contact with surface water is a complete pathway
  - Include pathways associated with the direct ingestion and dermal contact with soil

- The receptor category “aquatic organisms” is too general and we recommend further divided into appropriate receptor classes
- Amphibians should be represented as a receptor class

We appreciate the opportunity to review the Group 9 RI Report and are available to discuss our comments in detail to ensure that risks to federally protected species are fully characterized. If you have questions about these comments, please contact Jenny Marek of our staff at (805) 644-1766 ext. 325.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Phillips", written over a horizontal line.

FOR

Jeff Phillips

Deputy Assistant Field Supervisor