

Online review of my first draft



United States Department of the Interior

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****TELEFAX**TELEFAX**TELEFAX****

Date: 11-8-96

Number of pages (including cover): 4

TO: Jim Lewis
FWS - Reg 2

FAX No.: 64

FROM: Online
SOUTHWEST REGIONAL SOLICITOR'S OFFICE
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*Jim -
I will be
downtown
picking up
2
A new motions
in the Catron Co.
Case & will
stop by to deliver
if you are still
there. Bw*

The information contained in this facsimile message is attorney-client privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and destroy the fax copy you inadvertently received. Thank you.

Letter to AF - permits

First, we are unfortunately unable to issue a scientific permit to you for such studies within such a short time frame. As you will note from the enclosed copy of the regulations concerning scientific permits, the procedure will require some form of public notice and comment. However, we will be happy to assist you in completing the application process as quickly as possible.

With regard to your request for the telemetry information, we are providing you with this information to assist in protecting the Sonoran pronghorn antelope and minimizing take of the species from any form including possible harassment. Please be aware that the absence. . . (A)

The frequencies of the subject animals (B)

The frequencies are not provided to allow the Air Force to conduct other research (C)

In September, you submitted a biological assessment and a request for the initiation of formal consultation concerning the possible effects of ongoing military activities at the Barry M. Goldwater Air Force Range on the Sonoran pronghorn antelope to the Arizona Ecological Services Field Office. My staff will be responding to your request as soon as time and personnel commitments will allow; however, we must inform you that neither this letter nor the conveyance of the frequency information is to be construed as release from the agency's obligations pursuant to Section 7 of the Endangered Species Act including Section 7(d) regarding the irreversible or irretrievable commitment of resources prior to the completion of consultation.

Colonel David White

Dear Colonel White:

This letter responds to your November 6, 1996, phone request ^{for a scientific permit pursuant to ESA} for the transmitter frequencies of two radio-collared Sonoran pronghorn antelope (*Antilocapra americana sonoriensis*) that periodically use the High Explosive Hill (HEH) on the South Tactical Range of Barry M. Goldwater Air Force Range. You indicated the transmitter frequencies would aid in ^{avoiding the take of antelope} determining the absence or presence of antelope during ground surveys that precede aerial bombing or strafing training missions. The next mission is scheduled for November 12. Knowledge of the transmitter frequencies would aid Air Force efforts to ^{minimize} avoid "take" of these endangered antelope. If endangered antelope are found on the impact area it is our understanding that you will cancel the mission or divert the mission to another HEH site.

insert new #

The frequencies are not provided to allow the Air Force to conduct other research on these antelope because such studies would duplicate the ongoing research by personnel of the Arizona Game and Fish Department. Such duplicative research ^{could} constitute another form of "take" that would be a violation of the Endangered Species Act (Act). The Act defines take as meaning to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

I am happy to assist you in protecting the Sonoran pronghorn antelope. The frequencies of the subject animals are 148.190 for antelope number 14 and 148.270 for animal number 17. They were radio-collared by Arizona Game and Fish Department personnel. Please coordinate your monitoring and record keeping with John Herbert of that Department who provided us with the transmitter frequencies. Such coordination will minimize disturbance of these animals and supplement John's data. He can be contacted by phone at (520) 342-0091.

B

Please be aware that the absence of a radio signal will not guarantee that "take" of antelope could not occur. Only a small portion of the antelope herd is radio-collared. Also, a transmitter could malfunction and the animal could be present without a signal evidencing its location. As you noted, a ground survey by personnel with binoculars will also be necessary.

A

~~This letter also does not constitute permission to make an irreversible or irretrievable commitment of resources with respect to the Air Force training mission which is now under formal consultation (See Act section 7(4)(d)).~~

↑
activities

We are unable to issue a permit for your antelope monitoring activities on such short notice. Our endangered species personnel are on a retreat and will not return to the office until November 12, the date of your next training mission. However, we will initiate the permitting process as soon as possible.

As soon as time and personnel commitments allow my staff will be responding to the Air Force's biological assessment of affects of ongoing military activities at the Barry

M. Goldwater Air Force Range which was submitted to our Phoenix Field Office in
September.

Sincerely,

Regional Director

enc: Permit application ?

Endangered Species Act ?

Permit guidance ?

TOTAL P.04

11/08/96 FRI 13:48 [TX/RX NO 5284]