



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2943 Portola Road, Suite B
Ventura, California 93003



IN REPLY REFER TO:
PAS 643.690.1732

April 8, 2004

Stephen L. Kashiwada, Chief
Division of Operations and Maintenance
Department of Water Resources
1416 Ninth Street, P.O. Box 942836
Sacramento, California 94236-0001

Subject: Temporary Operations Guidelines for Water Releases from Pyramid Dam into Piru Creek, Los Angeles County, California

Dear Mr. Kashiwada:

We are writing in response to your proposed temporary operations guidelines, dated February 25, 2004, and received in our office on March 1, 2004, which describe how water would be released from Pyramid Dam over the next year. These temporary operations guidelines would be in effect until March 2005 when permanent operations should be finalized and implemented. Your guidelines address the timing and volume of water to be released into Piru Creek, including measures to avoid incidental take of the endangered arroyo toad (*Bufo californicus*).

In brief, you propose the following (a more detailed and comprehensive description is contained in your letter and proposal):

1. You would gradually ramp up stream releases to 25 cubic feet per second (cfs) by April 1 and keep them constant through June 15, although natural storm flows in excess of 25 cfs may be passed through Pyramid Dam during this time. This measure would prevent the unnatural release of excessive flows (greater than 25cfs) during the arroyo toad breeding season when eggs and tadpoles could potentially be washed away.
2. Water deliveries to United Water Conservation District (UWCD) would be made either June 16 through August 31 or November 1 through February 28, provided that total stream releases do not exceed 35 cfs between June 16 and August 31.
3. You would release all large flood flows as they occur, to the extent practicable. Large flood flows are those in excess of 1,000 cfs on upper Piru Creek. Safety considerations would not allow for releases greater than 18,000 cfs. Dam releases may lag actual storm flow peaks in time somewhat due to the limitations involved with obtaining inflow data and employee availability.

4. Water advanced to UWCD could be recouped any time of the year, but only from flows less than 1,000 cfs on upper Piru Creek.
5. You acknowledge that we have recommended a two-week period of very low flows (less than 3 cfs) to occur sometime during the summer months, between June 15 and September 15. This would help to reduce populations of exotic species that prey on arroyo toads, such as bullfrogs and crayfish. The two-week low release period would be subject to CEQA compliance and approval from Division of Water Resources (DWR) legal staff.
6. Test releases of the Pyramid Dam radial gate need to be conducted, which may increase flows by up to 50 cfs for short periods of time. However, these test releases would not be conducted during the most sensitive portion of the arroyo toad breeding season, March 15 through June 15, except in case of an emergency.

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 prohibits the taking of any federally listed endangered or threatened species. Section 3(18) 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 behavior 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 consultation for projects with Federal involvement pursuant to section 7 or through the issuance of an incidental take permit under section 10(a)(1)(B) of the Act.

We do not expect that your temporary proposal would result in take of the arroyo toad. We are predicating this evaluation on the assumption that you will be, to the extent possible, returning to "natural flows" starting next year (i.e., releasing water as it comes in or inflow = outflow), as we have discussed in the past. However, we have the following concerns, clarifications, and suggestions:

1. During a storm event, we strongly recommend that you release flood flows in excess of 1,000 cfs on upper Piru Creek as soon as possible. The greater the time between a natural inflow peak and the equivalent release from the dam, the smaller the resulting flood flows will be on lower Piru Creek where arroyo toads are found. A release delay results in a bimodal stream flow peak downstream where both peaks are moderated, rather than a single, strong stream flow peak that would have more scouring power. As we have previously stated, streambed scouring is important in maintaining suitable arroyo toad

habitat. In other words, a release lag-time separates the flows from the upper and lower watersheds, instead of allowing precipitation from the entire watershed to drain at the same time.

2. We also strongly recommend that appropriate steps are taken to allow for the two-week (or longer) low flow period. Exotic species have become an increasing threat to the arroyo toad population and a low flow period would likely eliminate some of their numbers. We recommend the low flow period begin after July 15 to allow for any late-developing arroyo toad tadpoles to complete metamorphosis. Additionally, we recommend the low flow period match the two driest weeks (or longer) of the season, including zero flows, if no water enters Pyramid Reservoir for a given period of time.

We look forward to continuing our discussions with you regarding the management of Pyramid Dam releases and how to avoid take of the arroyo toad. Please be aware that this letter does not authorize the take, in any manner, of any threatened or endangered species. If it comes to your attention that any of your actions are likely to result in the take of a listed species, these actions should cease and the Service should be contacted.

If you have any questions regarding this matter, please contact Creed Clayton of my staff at (805) 644-1766.

Sincerely,

/s/ Rick Farris

Rick Farris

Acting Division Chief

Santa Barbara/Ventura/Los Angeles