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DEC 15 2010

Mr. James E. Tillman
State Conservationist
U.S.D.A. Natural Resource Conservation Service
Federal Building
355 East Hancock Avenue
Athens, GA 30601

Re: FWS Log No.: 41460-2011-I-0047

Dear Mr. Tillman:

Thank you for your letter and enclosures of October 7, 2010, requesting our review of the Natural Resources Conservation Service's (NRCS) document titled "NRCS- GA Practices Effects on Threatened and Endangered Species (T&E)." This document contains a decision matrix designed to ensure Endangered Species Act (ESA) compliance for programs authorized by the 2008 Farm Bill. The matrix will be used by NRCS personnel to: (1) determine if effects to federally-listed species may or would occur as a result of implementation of any Georgia NRCS conservation management practices (CMPs) found in the Georgia NRCS Field Office Technical Guide (FOTG) and (2) exclude CMPs from further ESA consultation-related reviews based on a programmatic "no effect or not likely to adversely affect" determination for those practices. The decision matrix lists all of the standardized CMPs used by NRCS to implement on-the-ground projects that are intended to provide a net environmental benefit after completion. It is our understanding that these are all of the CMPs that apply to the proposed ESA compliance process. Your letter identified 20 of these CMPs as having "no effect" (NE), 51 "may affect, not likely to adversely affect" (NLAA), and 68 "may adversely affect" (MAA) federally listed species. Some CMPs were given more than one effect determination due to where and how they would be applied. Based on this information, you asked for our concurrence with your determinations (Table 1). The following constitutes the comments of the U.S. Department of the Interior provided in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

The information you provided identified 103 NRCS CMPs that were evaluated by staff from NRCS and representatives of the Ecological Services Field office in Georgia for their potential effects on federally-listed species. Upon this review, NRCS and the FWS agreed that two additional CMPs should be added: practice #441 (irrigation system – micro-irrigation), and practice #443 (irrigation surface and subsurface). We also identified other changes needed for the matrix.

For practice code 360 (closure of waste impoundment), the effects determination has been changed from NE to NLAA and MAA. For practice code 442 (irrigation system sprinkler surface and subsurface), the effects determination has been changed from NE to NLAA and MAA. For practice code 436 (irrigation reservoir), the effects determination was changed to include NLAA and MAA. For practice code 313 (waste storage facility), the effects determination was changed to include MAA. The final determinations included 105 CMPs for Georgia, 18 NE, 56 NLAA, and 73 MAA. All changes from your original request were coordinated with Mr. Keith Wooster of your staff and are reflected in the enclosed revised matrix. The 73 MAA practices will be reevaluated at a later date to determine if it is possible to develop minimization measures to reduce impacts to a level of "NLAA" or if incidental take authorization should be pursued.

One of the changes is that several irrigation practices have been changed to MAA and X³ in the Lower Flint River watershed (see page 5 of the practice effects document). We have also made minor changes to some of the wording in the "Guidance Document for Endangered Species Act Compliance in Georgia" – the corrected version is enclosed.

Based on the information we were provided and based on your commitment to implement the procedures identified in the ESA compliance process, we support your determination that the 18 CMPs identified in the enclosed revised matrix will have "no effect" (Table 1) on federally listed species. We also concur with your determination that the 56 CMPs identified in the enclosed revised matrix are NLAA federally-listed species. In view of this, we believe that the requirements of section 7 of the ESA have been fulfilled. NRCS's obligations under section 7 must be reconsidered if, (1) new information reveals that the proposed action may affect listed species in a manner or to an extent not previously considered, (2) the proposed action is subsequently modified to include activities which were not considered during this consultation, or (3) new species are listed or there is critical habitat designated that might be affected by the proposed action. Therefore, we ask that NRCS personnel follow the guidelines in the procedural guidance document closely.

Because NRCS implements or provides support for about 1400 projects per year, we believe that NRCS and the Service should meet annually to review and discuss the types of projects funded, the issues encountered while implementing this matrix, and to verify that the intent of the consultation matrix is being achieved and to identify needs for improvements. It is important to note that field personnel and District Conservationists should receive training to help them understand how to apply the matrix, their responsibilities under the ESA, and to help them recognize the presence of listed species and their habitats, and opportunities for conservation and/or recovery.

We appreciate the opportunity to assist NRCS on this action and look forward to working with you to identify avoidance and minimization measures for the remaining 73 CMPs. We also appreciate the efforts of your biologist, Mr. Keith Wooster, in helping complete this consultation. If you have any questions, or if we can be of further assistance, please contact biologist Robert Brooks of our Coastal Georgia office at 912-832-8739.

Sincerely,



Sandra S. Tucker
Field Supervisor

