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MCAS EL TORO
SSIC NO. 5090.3

United States Department of the Interior
Fish and Wildlife Service
Ecological Services
Carlsbad Fish and Wildlife Office
2730 Loker Avenue West
Carlsbad, California 92008

AUG 0 6 1999

Joseph Joyce
Base Realignment and Closure Environmental Coordinator
U.S. Marine Corps
Headquarters Marine Corps Air Station, El Toro
P.O. Box 95001
Santa Ana, California 92709-5001

Re: Request for Mitigation Relief at Landfill Sites 2 & 17 at Marine Corps Air Station, El Toro, Orange County, California

Dear Mr. Joyce:

This letter is in response to your letter of April 29, 1999, requesting relief for mitigation of impacts to the federally threatened coastal California gnatcatcher (*Polioptila californica californica*, "gnatcatcher") associated with the final closure and remediation of landfill sites 2 and 17 on Marine Corps Air Station El Toro (MCAS El Toro).

We previously issued a biological opinion (1-6-97-F-14) that addressed interim emergency remediation actions for landfills 2 and 17. Specifically, the biological opinion addressed installation of a fence around the landfill sites, removal of surface and subsurface debris, limited grading of stream banks with placement of rip-rap along severely eroded sections to reduce erosion of landfill material, placement of debris collected from the stream channel at a central location at each landfill site, widening of access roads, and construction of staging areas and field office facilities along Magazine Road. Total maximum anticipated coastal sage scrub habitat impacts associated with the above measures were 3.63 acres for site 2 and 6.12 acres for site 17.

As part of the biological consultation, one of the measures agreed upon to minimize the effect of landfill remediation activities on the gnatcatcher included the following:

> "Habitat disturbed by the removal of debris, placement of rip-rap, and/or the road widening shall be compensated for by revegetation/restoration of disturbed/cleaned sites at a ratio of two acres restored coastal sage scrub for each acre of habitat that is disturbed.
>
> a. The restoration plan shall be developed as part of the formal consultation on the emergency remedy and subject to Service approval. If the final Installation Restoration Program (IRP) precludes an adequate on-site restoration option, then off-site restoration shall be implemented."

Term and Condition 1.4 of the biological opinion required the Department of Navy (Navy) or Marine Corps to submit a revegetation plan for the remediation project for our approval within 4

months of issuance of the biological opinion, and revegetation for the remediation project was to commence within 1 year of commencement of the biological opinion.

In letter dated October 7, 1997, from Michael Stroud, of the Navy, we were asked to reconsider the schedule for planning and implementation of the revegetation committed to in the biological opinion because the landfill areas were in a high state of disturbance and were likely to remain so for "several months due to the regulatory approval phases required for the final remediation Record of Decision and for closure (remediation) design, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act." However, the Navy further detailed in this letter that they anticipated that the protective function of long-term landfill caps would not be compatible with coastal sage scrub restoration, and revegetation would likely need to be directed to adjacent, disturbed sections of MCAS El Toro. Nevertheless, the Navy proposed that all planning for and implementation of revegetation be accomplished coincidentally with the development and design of the final closure remedy for IRP sites 2 and 17, which they did not anticipate completing until 1999.

In response to this request and follow-up telephone calls by John Lovio of Navy's Southwest Division, Will Miller of our office requested of Mr. Lovio via electronic mail on December 5, 1997, that areas be identified that are not anticipated to be affected by the capping of the landfills, and that a revegetation plan be prepared for those areas that could be implemented within, or as close as possible to, the stipulated time frames. To our knowledge, the Navy or Marine Corps have yet to respond to this request, nor has the Navy or Marine Corps carried out, the previously agreed to, commitment to revegetate with coastal sage scrub to minimize the effects of landfill remediation on the gnatcatcher.

We remain uncertain whether additional impacts to the gnatcatcher are likely in association with the final IRP for landfills 2 and 17, but we expect that the Navy or Marine Corps will fulfill their responsibilities pursuant to section 7 of the Endangered Species Act of 1973, as amended, should such impacts be identified. As discussed at our August 25, 1998, meeting, we are willing to consider the conservation of coastal sage scrub afforded through disposal of the 1,033-acre parcel of MCAS El Toro as an alternative measure that will contribute to the minimization of the long-term impacts to the gnatcatcher. Nevertheless, please clarify the extent of habitat and gnatcatcher impacts associated with the final remediation action and the extent of restored habitats, if any, so that we can properly evaluate your request.

Once we receive a complete description of the final remediation action plan for landfills 2 and 17, we will provide you with a prompt response to your request for relief. Should you have any questions, or wish to discuss this proposal further, please contact William Miller of our office at (760) 431-9440.

Sincerely,

Jim A. Bartel
Assistant Field Supervisor