



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
3636 N CENTRAL AVENUE, SUITE 900
PHOENIX, ARIZONA 85012-1939

September 25, 2017

Steve Spangle
Field Supervisor, Arizona Ecological Services
U.S. Fish and Wildlife Service
Phoenix, Arizona 85021

Dear Mr. Spangle:

I am writing in regards to our ongoing consultation pursuant to section 7 of the Endangered Species Act regarding Consultation No. 02EAAZ00-2015-1-0660 and 02EAAZ00-2015-CPA-0021. During our interagency consultation, your office requested clarification as to whether the applicant, El Dorado Holdings Inc., will carry out the no Federal action alternative described in Appendix I of the biological evaluation we submitted to your office on May 26, 2017 in the event the Corps decides to not reinstate the Department of the Army (DA) permit. In response, El Dorado Holdings provided the Corps with the enclosed letter dated September 14, 2017, for your consideration during the consultation. El Dorado Holding's letter indicates they will develop the property whether they have a DA permit or not. The no Federal action alternative described in Appendix I will occur in the event the Corps decides to not reinstate the DA permit. I hope this clarifies the Corps' position regarding the no Federal action alternative.

With this clarification on the certainty of the no Federal action alternative and very limited federal control and responsibility of the Corps' section 404 Clean Water Act permit authority over the proposed development project, we believe the views expressed in your letter dated October 14, 2016, incorrectly characterizes the direct and indirect effects of the proposed federal action. As such, we request that you retract that letter.

Finally, we hereby reiterate our determination that the proposed Federal action within the onsite action area will not affect listed species or designated critical habitat, and the proposed action at the offsite compensatory mitigation area may affect, but is not likely to adversely affect the yellow-billed cuckoo, southwestern willow flycatcher and the northern Mexican gartersnake, is not likely to result in the destruction or adverse modification of proposed critical habitat for cuckoo or gartersnake, and would have no effect on any other listed species.

Sincerely,

A handwritten signature in blue ink that reads "Sallie Diebolt".

Sallie Diebolt
Chief, Arizona Branch
Regulatory Division

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