



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

NOV 20 2014

The Honorable John McCain
United States Senate
241 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator McCain:

Thank you for your letter of September 22, 2014, to U.S. Department of the Interior (DOI) Secretary Sally Jewell and me, asking that the Federal Government consider easing the salt cedar biological control program moratorium, expand releases of the salt cedar leaf beetle into Arizona, and develop a plan to re-vegetate areas where salt cedar trees are being cleared. I apologize for the delayed response.

I recognize the toll the ongoing drought is taking on Arizona and other Western States, and your concern about salt cedar's impact in light of this serious situation. I am committed to using the U.S. Department of Agriculture's (USDA) resources to mitigate the drought's impacts to the maximum extent possible. USDA's involvement in salt cedar biological control dates back to the 1990s, when our Agricultural Research Service (ARS) conducted research using the salt cedar leaf beetle as a control. ARS, and subsequently other Federal, State, and local entities, wanted to release the salt cedar leaf beetle and had to apply for permits from USDA's Animal and Plant Health Inspection Service (APHIS). Before permitting the beetles' release at 10 sites in 6 States in 1999, APHIS prepared an environmental assessment (EA) in accordance with the National Environmental Policy Act (NEPA), and APHIS and ARS engaged in consultations with DOI's Fish and Wildlife Service (FWS) under Section 7 of the Endangered Species Act (ESA). At the time, FWS concurred that the release of the salt cedar leaf beetle was not likely to adversely affect ESA-listed species.

With respect to the salt cedar biological control program you mention, I believe you are referring to the APHIS-administered program that began in 2005, with release of the salt cedar leaf beetle permitted in 13 States. This too followed an EA and an ESA consultation with FWS. For this program, FWS concurred that the release of the salt cedar leaf beetle was not likely to adversely affect ESA-listed species or their critical habitats if released north of a certain latitude (38 degrees, which is in southern Utah and Nevada).

Regarding the southwestern willow flycatcher (SWWF) in particular, FWS agreed with ARS and APHIS in 1999 and 2005 that impacts were not likely as long as the beetles were released at locations that were sufficiently distant from SWWF-critical habitats, and with geographic

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barriers (e.g., mountain ranges or large expanses of desert) in between. Because Arizona is home to SWWF-critical habitats and nesting locations, the State was precluded from participating in the salt cedar biological control program. Unfortunately, salt cedar leaf beetles were later identified in some areas beyond where USDA had approved their release in 1999 and 2005, including in SWWF-critical habitat near St. George, Utah, where the beetle had defoliated salt cedar and SWWF nesting attempts had failed. The presence of the beetle in these areas—including Arizona—beyond where USDA had approved their release, prompted APHIS to reinstate ESA consultation with FWS before terminating all beetle release permits and terminating the salt cedar biological control program in 2010.

Answers to your questions pertaining to large-scale re-vegetation and current salt cedar eradication projects would fall under FWS' purview. Regarding what would be required to permit releases of the salt cedar leaf beetle into Arizona and other areas of the Lower Colorado River Basin, APHIS would again have to comply with NEPA and initiate ESA consultation with FWS. In addition, APHIS, in all likelihood, would obtain a Biological Opinion from FWS ensuring that such efforts would not be likely to jeopardize the continued existence of the SWWF or any other listed species or result in the destruction or adverse modification of any designated critical habitat, among other requirements of Federal law. USDA has been a defendant in previous litigation involving the biological control of salt cedar, and USDA and FWS are currently defendants in a second lawsuit regarding this issue. Many of the matters raised in your letter are at issue in the second lawsuit.

Thank you again for writing. If you have further questions, please have a member of your staff contact Todd Batta, Assistant Secretary for Congressional Relations, at (202) 720-7095.

Sincerely,



Thomas J. Vilsack
Secretary