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18 October 2023

Mr. Robert J. Stokes, Ph.D.
Program Support Bureau Chief
EMNRD-New Mexico State Parks

RE: Fenton Lake Vault Toilet Replacement Project. NMERT Project No. NMERT-2919.

Dear Mr. Stokes,

The New Mexico Department of Game and Fish (Department) has reviewed the above referenced Fenton Lake Vault Toilet Replacement Project (project) submitted by New Mexico State Parks. Aside from the recommendations below on ways to mitigate impacts of the project on wildlife and their habitats, since this project occurs on State Game Commission property, the Department will have to give final approval prior to the project proceeding.

Department staff entered the project into the New Mexico Environmental Review Tool (NMERT), and the auto-generated report is attached for your review. This report contains recommendations, in addition to those outlined below, for avoiding negative impacts to sensitive species and habitats that occur in the project area. Overall, the Department recommends confining all construction activities to be within the currently disturbed areas of the park to minimize impacts to surrounding wildlife and habitats.

As is referenced in the NMERT-generated report and the project Biological Survey Report prepared by SWCA Environmental Consultants and as Department staff confirmed using the U.S. Fish and Wildlife (USFWS) Critical Habitat map layer in the NMERT, the current project area appears to overlap federally-designated critical habitat for three species (i.e., Jemez Mountains salamander [*Plethodon neomexicanus*], Mexican spotted owl [*Strix occidentalis lucida*], and New Mexico meadow jumping mouse [*Zapus hudsonius luteus*]). As a result, the Department highly recommends consultation with relevant species leads at the USFWS's New Mexico Ecological Services Office before project work begins and implementation of any conservation measures that they recommend. The resource layers in the NMERT also show that the current project area is located within a Conservation Opportunity Area, as identified in the State Wildlife Action Plan for New Mexico, and within the highest level of crucial habitat as identified as part of the Crucial Habitat Assessment analysis performed by Department partners. This further underscores the potential for a diversity of Species of Greatest Conservation Need, which include rare, threatened, and endangered species, to be present in the project area.

The pits being dug or replaced for this project could unintentionally entrap and cause the unnecessary mortality of amphibians, reptiles, and small mammals and can cause injury to large mammals. Trapped animals can die from exposure, starvation, drowning, and predation. This unnecessary wildlife mortality can be avoided by implementing conservation measures including:

conducting pit digging activities during the cooler months (October – March); minimizing time that pits are left uncovered and accessible to wildlife; and fencing pits and employing biological monitors to remove trapped animals if pits are left open overnight or longer (see more details below). Periods of highest activity for amphibians and reptiles vulnerable to entrapment include summer months and wet weather, and they can be active both day and night. Small mammals subject to entrapment are active year-round and generally most active at night.

Implementing the modifications to the Department's general trenching conservation measures (see [Trenching Project Guidelines](#)) outlined below will help minimize unnecessary mortality of wildlife. Best management practices should include, at minimum, the following mitigation measures.

- Whenever possible, locate pit digging activities within previously disturbed areas, such as existing road or pipeline right-of-ways. To the extent possible, avoid digging in undisturbed habitat.
- Dig pits during the cooler months (October – March).
- Minimize time that pits are kept uncovered. When digging activities are temporarily halted (e.g., overnight, weekends, holidays, weather shutdowns), protect wildlife from accessing any open pit by using one or more of the methods described below.
- Avoid leaving pits open overnight when possible. Pits that have been left open overnight should be inspected the following day by a qualified biological monitor and trapped animals removed as soon as possible, especially where state- or federally-listed threatened or endangered amphibians, reptiles, or small mammals occur. Untrained personnel should not attempt to remove trapped wildlife because of the potential to injure animals and the possibility of injury from venomous snakes. Required tools for removal will include snake tongs for removing snakes and a dip net for capturing and removing amphibians and small mammals. Many trapped animals will burrow under any loose soil. To the extent possible, the biological monitor should disturb any loose soil in the pit to uncover and remove trapped animals. Animals should be relocated at least 50 meters away from the open pit in undisturbed habitat.
- Most wildlife can be protected by constructing silt fence completely around the open pit. Silt fence should be supported from sagging by t-posts, rebar, or stakes and buried at the base to preclude animals from moving below the fence. If construction of a silt fence is a required best management practice for erosion control, then, to preclude the need for a biological monitor, the guidelines for silt fence installation and maintenance in the [Trenching Project Guidelines](#) should be followed.

Due to the close proximity of the proposed project to Fenton Lake, Rio Cebolla, and wetlands, the Department recommends implementing a stormwater pollution prevention plan to prevent sediment and other pollutants from entering the neighboring surface waters. The Department provides the following additional recommendations to minimize or eliminate erosion and pollution-related impacts to wildlife and wildlife habitat:

- Divert water around the construction site whenever possible.
- Preserve natural areas within the project site. Strive to maintain the natural drainage system of the site, including natural stream channels, wetlands, and floodplains. Design, construct, and maintain the site to protect (or restore) the natural hydrology.
- Following construction, disturbed areas should be re-vegetated using native species that approximate pre-disturbance plant community composition or native plant communities appropriate for the site, including from a region that represents potential future climatic conditions at the site, whichever is more beneficial to wildlife. Short-term erosion control

seed mixes are available for temporary control of surface erosion during project implementation; native mixes should be used for temporary as well as permanent erosion control. Native plants and materials should also be used for landscaping. All seed mixtures should be certified as weed-free. New Mexico grass ecotypes for commercial seeding are available through the Los Lunas Plant Materials Center and New Mexico State University. Seeding guidelines are available from the Natural Resources Conservation Service and the Colorado Natural Areas Program.

- Maintain a vegetated buffer zone along all watercourses, including ephemeral arroyos, sufficient to minimize erosion and sediment delivery.
- Use properly engineered drainage swales and other vegetated channel systems instead of storm sewers, lined channels, curbs, and gutters. Vegetated swales should be gently sloped (4:1) so that small wildlife is able to maneuver them.
- Efforts should be made during construction to minimize impacts on vegetative communities. Existing roads and rights-of-way should be used for all transportation. Off-road driving should be avoided. Staging areas should be located in previously disturbed sites, where possible, and kept as small as possible.

Thank you for the opportunity to review and comment on the proposed project. If you have any questions, please contact Jack Marchetti, Aquatic/Riparian Habitat Specialist, at (505) 479-1269 or jack.marchetti@dof.nm.gov.

Sincerely,

Matt Wunder, Ph.D.
Chief, Ecological and Environmental Planning Division
Cc: USFWS NMES Field Office
Donald Auer, Assistant Chief for the Habitat and Lands Section, NMDGF
Stewart Liley, Chief for Wildlife Management Division, NMDGF