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23 January 2024

Ms. Elizabeth Verdecchia
Natural Resources Specialist
International Boundary and Water Commission, U.S. Section (USIBWC)
4191 N Mesa St, El Paso, TX 79902

***RE: Mesilla Valley Bosque State Park Restoration Project – Pre-Final Design; NMDGF
Project No. NMERT-3179.***

Dear Ms. Verdecchia,

The New Mexico Department of Game and Fish (Department) has reviewed the Pre-Final Design Operations and Maintenance Plan (OMP), Basis of Design Report (BODR), Cost Estimate, and plan set for the proposed Mesilla Valley Bosque State Park Restoration Project (Project).

The Department recognizes and appreciates the incorporation of portions of the comments it submitted in response to the previous 90% Design Plan. Incorporated feedback includes addition of “Wildlife Protection” Best Management Practices (BMPs) in the Mechanical Treatment section, clarification of pile burn logistics, avoiding disturbance to vegetation during the breeding bird season, and including reference to the Department’s [guidelines](#) regarding the restoration and management of trees in riparian ecosystems.

Page 7 of the OMP states “USIBWC, New Mexico State Parks, and/or NMDGF shall inspect areas with excess vegetation coverage and remove thick vegetation in the habitat channel.” Page 7 also states “Staff from USIBWC and/or the state agencies or their delegated representatives shall be onsite during the irrigation events.”

Page 13 of the OMP states “The NMDGF and/or USIBWC contractor shall monitor the channels following water shutoff and flood receding to identify any trapped organisms and coordinating with the NMDGF, Fisheries Management Division on any necessary fish salvage.” Also, the Summary of Maintenance Activities on page 14 of the OMP lists the Department as a Proposed Entity responsible for inspection of aquatic features, inspection of vegetation, and post-planting vegetation watering (Table 1).

Due to limited capacity and pre-existing commitments, the Department cannot commit to the abovementioned actions, or to any other monitoring, maintenance, or inspections associated with this Project. The Department requests removal of the above-referenced language in the OMP that explicitly names the Department as a party responsible for Project inspections, monitoring, and watering. The Department further requests that “state agencies” be replaced with “New Mexico State Parks” on page 7 for clarification as the Department is unable to attend irrigation events.

The Department's Fisheries Management Division (FMD) is available for consultation regarding fish salvage and BMPs to mitigate adverse impacts to aquatic fauna. However, the Department suggests that it should be the responsibility of USIBWC, State Parks, or a third party contracted by USIBWC or State Parks to identify trapped organisms and conduct any necessary fish salvage and requests that the language on page 13 be changed accordingly.

Page 3 of the OMP states "It is anticipated that the USIBWC, [Elephant Butte Irrigation District], New Mexico State Parks, and New Mexico Department of Game and Fish (NMDGF) would negotiate a memorandum of understanding, or other instrument (such as easement, special use permit, etc.) as determined appropriate by each entity, to identify maintenance responsibilities for the habitat channel, mitigation bank channel, riparian area, pedestrian trail facilities, and public safety in the floodplain."

The Department is interested in negotiating a Memorandum of Understanding (MOU) that will establish an easement agreement with USIBWC for the use of State Game Commission (SGC) property for the Project. Since the Department cannot commit to maintenance responsibilities for the Project, we request that the language on page 3 of the OMP be changed to focus the Department's participation in any MOU on establishing access to SGC lands.

The proposed Project area occurs within burrowing owl (*Athene cunicularia*) habitat. Burrowing owls are a Species of Greatest Conservation Need (SGCN) in New Mexico and are protected under the Migratory Bird Treaty Act. Before any ground disturbing activities occur, and during regular channel maintenance and assessments, the Department recommends conducting a burrowing owl survey, following our [burrowing owl survey guidelines](#), to locate any potential nesting sites. Should burrowing owls be documented in the Project area, please contact the Department or U.S. Fish and Wildlife Service for further recommendations regarding relocation or impact avoidance.

We appreciate the opportunity to comment on this Project. Should you have any questions regarding our comments, please contact Jack Marchetti, Aquatic and Riparian Habitat Specialist, at (505) 479-1269 or jack.marchetti@dgf.nm.gov.

Sincerely,

Matt Wunder, Ph.D.
Chief, Ecological and Environmental Planning Division