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24 March 2025

Scott Hebner
United States Bureau of Reclamation (BOR)
Albuquerque Area Office
555 Broadway Blvd. Northeast, Suite 100
Albuquerque, New Mexico 87102

RE: Programmatic Draft Environmental Assessment for the Middle Rio Grande Angostura/Albuquerque Reach Habitat Restoration Project; NMERT Project No. NMERT-4248.

Dear Mr. Hebner,

The New Mexico Department of Game and Fish (Department) has reviewed the Programmatic Draft Environmental Assessment (draft EA) for the Middle Rio Grande Angostura/Albuquerque Reach Habitat Restoration Project (Project) proposed by the New Mexico Interstate Stream Commission (NMISC) in collaboration with the BOR. This letter constitutes the Department's official comments regarding the draft EA. Overall, the Department supports riparian and floodplain restoration projects, such as those proposed in the draft EA, that will benefit the recovery of state- and federally listed fish and wildlife species.

Section 1.2 on page 2 of the draft EA states "The Proposed Action would also partially address impacts of increasingly hotter and drier climatic conditions by creating floodplain habitats at lower spring runoff flows for aquatic species." The Department understands the need to create floodplain habitats that become inundated by lower spring runoffs and supports this action. However, re-grading the banks and islands that are within or immediately adjacent to the Rio Grande in conjunction with reduced spring runoff flow volumes will lead to a decline in the total acreage that can be inundated during spring runoff, triggering overall decreasing riparian habitat area with time. Riparian habitats and gallery forests (e.g., cottonwood [*Populus* spp.] bosques) that are not re-graded may become disconnected from the water table and ultimately transition to drier upland areas that are more suitable for drought-tolerant, non-native plants (e.g., Russian olive [*Elaeagnus angustifolia*] and salt cedar [*Tamarix* spp.]). The Department encourages the NMISC and the BOR to consider releasing spring runoff flows from Cochiti Reservoir at higher volumes to induce overbanking that inundates the broader

Rio Grande riparian corridor, which would help to maintain riparian ecosystem function and integrity.

Row 4 (Potential Impacts to Wildlife) of Table 1.3 on page 6 of the draft EA states "Human activity and noise from construction equipment would likely result in the temporary displacement of general wildlife such as amphibians, reptiles, and small mammals inhabiting the bosque and vegetated islands. There is potential for direct mortality from heavy equipment use." While some small lizard species (e.g., *Sceloporus* spp., *Cnemidophorus* spp.) move quickly and can potentially avoid heavy equipment, slower moving reptiles and amphibians (e.g., turtles) may not be able to escape heavy equipment. The Department recommends that a biologist survey the Project area for slow-moving species and safely relocate them to avoid unnecessary mortality.

Section 2.2.1.7 on page 17 of the draft EA states "The placement of LWD [large woody debris] is a technique that involves setting root wads, trees, and large branches in the main channel or near the bank to create aquatic habitats. LWD would be placed on or near the riverbank or on islands and bars where it would likely be transported as flows increase." The Department supports the addition of LWD to the river channel to increase aquatic habitat heterogeneity. In addition to placing LWD on riverbanks, the Department recommends anchoring some LWD in place by burying or building anchor structures. In doing so, anchored LWD would facilitate lateral overbank flows, the rewetting of the floodplains, and the creation of instream pools behind the LWD, which would benefit fish and other aquatic species.

Section 2.2.2 on pages 19-20 of the draft EA describes plans to remove approximately 36 acres of vegetation for construction of new, and modification of existing, roads and trails. The Department recommends minimizing this disturbance to the greatest extent possible by using existing roads and trails wherever feasible and minimizing trail and road widths as much as possible. Restricting disturbance to areas that have been previously disturbed within the Project area will help to reduce habitat loss and negative impacts to wildlife.

Section 3.5.1.2 on page 50 of the draft EA states "Data shared by the USFWS on August 19, 2024, indicates southwestern willow flycatcher [*Empidonax ttraillii*, SWFL] occurrences in all subreaches of the analysis area as recently as 2023." Although designated critical habitat for SWFL does not occur within the analysis area, this statement indicates SWFL occupancy during the breeding season. Therefore, other than performing Project work described in the draft EA outside the breeding season, the Department requests that the NMISC and BOR consider developing answers to the following questions and incorporating those answers to the EA, as appropriate, prior to Project implementation: What measures are being taken to avoid impacts to the SWFL? Are there additional measures that can be taken to protect/avoid disturbance within known SWFL territories? Have formal surveys been conducted throughout the entire project areas in recent years?

Table 3.10 on page 55 of the draft EA lists the “Effect Determination” for the SWFL and the yellow-billed cuckoo (*Coccyzus americanus*, YBCU) as “May affect but is not likely to adversely affect.” The Department disagrees with this determination because the draft EA outlines short-term adverse effects to both bird species. Even if the eventual project outcome is an improvement or net gain of breeding habitat for both the SWFL and YBCU, disturbance will occur within occupied habitat, creating "a temporary degradation and reduction” of approximately 155.8 and 97.8 acres of suitable habitat for the SWFL (page 60 of the draft EA) and YBCU (page 62 of the draft EA), respectively. Furthermore, the draft EA does not adequately discuss the planned 117 acres of island destabilization and whether surveys have been completed to determine whether suitable habitat for the SWFL and YBCU occurs on these islands.

Section 3.5.3.2 on page 61 and Section 3.5.3.3 on page 64 state “Adverse impacts to [SWFL and YBCU] would be insignificant, and no take is anticipated to occur.” However, the characterization of impacts as "insignificant" seems to be related to the eventual net gain of suitable habitat; this net gain does not negate short-term negative impacts to these species. SWFL and YBCU have high site fidelity, meaning there could be impacts to breeding success if and when individuals of either species return to breeding territories in areas where "temporary degradation and reduction" of habitat occurs during the Project. For these reasons, the Department feels that a determination of "Likely to adversely affect" seems more appropriate for both SWFL and YBCU, especially considering that the effects analysis seems to be based more on habitat suitability than formal surveys and active avoidance of occupied areas.

Bald eagles (*Haliaeetus leucocephalus*) and other raptors (e.g., Common black hawk [*Buteogallus anthracinus*]) have been observed in or near the proposed Project area. To avoid disturbing and harassing eagles and other raptors, the Department supports the implementation of design features Bird-1, Bird-2, and Bird-3 outlined in Appendix C and recommends amending Bird-3 to say “All project activities would occur at least 0.25 miles away from any known bald eagle or other raptor nest and 1 mile from any golden eagle (*Aquila chrysaetos canadensis*) nest within the project footprint.”

The New Mexico meadow jumping mouse (*Zapus hudsonius luteus*) has been documented in or near the Project area. The Department therefore recommends consultation with relevant species leads at the United States Fish and Wildlife Service’s (USFWS’s) New Mexico Ecological Services Office (NMESO) before work begins for this Project. The Department also recommends the use of the USFWS’s Information for Planning and Consultation (IPAC) system (https://ipac.ecosphere.fws.gov/) to confirm whether the project area overlaps critical habitat designated for species listed under the federal Endangered Species Act.

Riparian areas in the middle Rio Grande are important wildlife habitats. Therefore, the Department recommends minimizing the Project footprint as much as possible and avoiding removing any riparian vegetation or any ground disturbance that is not directly related to the Project’s intended purpose of restoring riparian habitat through non-native plant removal and native species replanting. Because the Project involves removal of

non-native riparian trees or planting of native riparian vegetation, please refer to the Department's project guideline for the Restoration and Management of Native and Non-native Trees in Southwestern Riparian Ecosystems. The Department also encourages the NMISC and the BOR to continue to use the New Mexico Riparian Habitat Map (NMRipMap) as the Project develops; the NMRipMap can provide useful information on local riparian habitat composition and structure.

Because the Project may involve the use of herbicide application to remove non-native vegetation, the Department has the following recommendations to mitigate impacts to wildlife:

- To mitigate the potential for herbicide drift into sensitive aquatic and native riparian habitats, the Department recommends applying a minimum buffer of 20 ft (for spot applications), 100ft (if using ground application), 350 ft (if using low-altitude aerial spraying), or 1,320 ft (if using high-altitude aerial spraying; USFWS 2007) around all aquatic habitats and native riparian vegetation in the proposed treatment area.
- To mitigate the potential for herbicide drift into sensitive habitats for federally or state-listed species, the Department recommends applying a minimum buffer of 10 ft (for spot applications), 90 ft (if using ground application), 300 ft (if using low-altitude aerial spraying), or 1,320 ft (if using high-altitude aerial spraying) around all known terrestrial habitats for federally or state-listed species. Buffer distances are larger for insect pollinators of federally or state-listed plants (2,640 ft for small pollinators, 10,560 ft for large pollinators such as bumble bees) (USFWS 2007).
- Use mechanical weed removal techniques or individual plant treatments when buffers cannot be implemented and federally or state-listed species habitats are present.
- Apply herbicides directly to target plants, rather than broadly to large areas, whenever possible to avoid harming nearby non-target or native vegetation.
- Avoid herbicide spraying on days when wind speeds are high (> 10 mph) and on days when rain is expected within 48 hours.
- Apply herbicides no later than two months before normal spring runoff and high-water tables are anticipated in the Project area, and wait until streamflow is back below normal bank full stage to consider applying herbicides in the late summer or fall.
- Use the lowest concentration possible that will still allow for achievement of the desired result.
- Avoid applying herbicides to and removing vegetation that is being used by birds for nesting. When nesting birds may be present in target vegetation in the Project area, herbicides should be applied outside of the breeding bird season (April – September).
- In areas dominated by undesired or non-native plants, habitat loss may occur if herbicide is applied to the entire area, resulting in a total loss of vegetation. To avoid this, apply herbicides in a mosaic pattern, alternating treated and non-treated sites between years.

- The Department recommends not using herbicides that contain the following chemicals that have been found to be slightly to highly toxic to wildlife including birds, fish, and pollinators: 2,4-D, dichlobenil, dichlorprop, fluazifop, glyphosate, oxyfluorfen, propyzamide, quizalofop, sulfometuron, and triclopyr (Michael 2002).

Construction areas, staging areas, and other impervious surfaces can have significant impacts on surface waters by increasing the amount of sediment and other pollutants that are washed into surface waters, increasing the velocity and volume of water, and reducing infiltration. Reducing the amount of compacted and impervious surfaces and phasing construction will reduce these impacts. The Department thus recommends creating a Storm Water Pollution Prevention Plan (SWPPP) and provides the following additional recommendations to minimize or eliminate impacts to wildlife and wildlife habitat:

- Divert water around construction site(s) 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 the 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.
- If erosion control blankets are used post-construction, burying the blanket edges, and using blankets without fused mesh corners (e.g., use woven mesh) can reduce the chances of unintentional wildlife entanglement. Regularly check the erosion control blankets after applying them to identify and release any wildlife that does become entangled.
- 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.

Burrowing owls (*Athene cunicularia*) may occur within your Project area. Burrowing owls are protected from take by the Migratory Bird Treaty Act and under New Mexico state statute. Before any ground disturbing activities occur, the Department recommends that a preliminary burrowing owl survey be conducted by a qualified biologist using the Department's Burrowing Owl Survey Protocol. Should burrowing owls be documented in the Project area, please contact the Department or USFWS for further recommendations regarding relocation or avoidance of impacts.

Due to the large amounts of soil proposed for removal, in addition to the burrowing owl surveys recommended above, the Department recommends surveying each site for any burrowing wildlife species prior to the initiation of any soil moving activities. If disturbance of any detected burrowing wildlife cannot be avoided, then a qualified biologist should be engaged to capture and move any such wildlife.

The proposed Project occurs near an important bat area. This area may contain important bat roosting resources, such as caves or mines, that potentially could be affected by certain Project activities. Follow the guidelines below to minimize disturbance to roosting bats.

- Avoid use of pesticides, firearms, open-flame torches, or heavy smoke-producing equipment, especially from April through September.
- If artificial lighting is needed, use only light sources powered by batteries, or cyalume glow/light sticks. Keep the site clean by picking up refuse or materials from Project lighting or operations whenever they are shut down.
- If the use of permanent outdoor lights cannot be avoided, design all outdoor lighting in accordance with the New Mexico Night Sky Protection Act, which requires that outdoor lighting be fitted with shielding that directs light downward, rather than upward or laterally, to prevent sky glow and associated impacts to bats.
- For any surface-disturbing activities, the Project footprint (including a 350-foot buffer) should avoid potential roost sites such as caves or mines, especially from April through July. Tree clearing activities and prescribed burns should include a minimum 0.5 miles buffer from any such features.
- If caves, mines, bridges, or other man-made structure suitable as potential bat roosts are encountered within the Project area, they should not be entered during any time of year, and no roosting or hibernating bats should be contacted or disturbed. Report any dead or injured bats to the Department, which can facilitate contacts with other appropriate personnel.

Thank you for the opportunity to provide comments on the draft EA. Please contact Jack Marchetti, Aquatic/Riparian Habitat Specialist, at jack.marchetti@dgf.nm.gov or (505) 479-1269 if you have any questions.

Sincerely,

Virginia Seamster

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Virginia Seamster, Ph.D.
Assistant Chief for Technical Guidance
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cc: USFWS NMES Field Office
Erin Duvuvuei, Nongame Avian Biologist, NMDGF