GOVERNOR
Michelle Lujan Grisham

DIRECTOR AND SECRETARY
TO THE COMMISSION
Michael B. Sloane

STATE OF NEW MEXICO
DEPARTMENT OF GAME & FISH

One Wildlife Way, Santa Fe, NM 87507

Tel: (505) 476-8000 | Fax: (505) 476-8180

For information call: (888) 248-6866

https://wildlife.dgf.nm.gov

19 August 2025

Bart Deming
Bureau of Reclamation (BOR)
Western Colorado Area Office
445 West Gunnison Ave, Suite 221
Grand Junction, CO 81501

RE: Reach 24.1 Lybrook Lateral of the Navajo-Gallup Water Supply Project Draft Environmental Assessment; NMERT Project No. NMERT-4919

Dear Mr. Deming,

The New Mexico Department of Game and Fish (Department) has reviewed the draft Environmental Assessment (EA) for the Reach 24.1 Lybrook Lateral of the Navajo-Gallup Water Supply Project (Project). Please consider this letter as the Department's comments regarding the draft EA and the Project.

Table 7 of the draft EA describes "State of New Mexico Special Status Species" that may occur within or near the Project area, most of which were Species of Greatest Conservation Need (SGCN). As of July 2025, the Department has comprehensively reviewed and revised its State Wildlife Action Plan (SWAP; 2025 draft SWAP is currently under review by the U.S. Fish and Wildlife Service), which contains an updated list of SGCN. There are a significant number of species that were added to the list this year that may not have been evaluated by the BOR at the time of writing this draft EA. Therefore, the Department recommends that the BOR revise Section 3.2.3 (Special Status Species) of the draft EA to consider the impacts of the proposed action on the species in the 2025 SGCN list that may occur within or near the Project area.

Open trenches excavated for underground water or oil and gas pipelines, powerlines, or fiber optic communication lines can 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, crushing from pipe-laying, entombment from trenching backfilling, drowning, and predation. This unnecessary wildlife mortality can be avoided by implementing conservation measures including: concurrent trenching, pipe-laying, and backfilling operations to minimize the

amount of trench left open overnight or longer; construction escape ramps; and employing biological monitors to remove trapped animals. 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 general trenching conservation measures outlined in the Department's Trenching Project Guidelines will help minimize unnecessary mortality of wildlife. Best management practices should include, at minimum, the following mitigation measures.

- Whenever possible, locate trenching activities within previously disturbed areas, such as existing road or pipeline right-of-ways. To the extent possible, avoid trenching in undisturbed habitat.
- Trench during the cooler months (October – March).
- Utilize concurrent trenching, pipe- or cable-laying, and backfilling. Keep trenching, pipe- or cable-laying, and backfilling crews as close together as possible to minimize the amount of open trench at any given time. When trenching activities are temporarily halted (e.g., overnight, weekends, holidays, weather shutdowns), protect wildlife from accessing any open trench between digging and backfilling operations by using one or more of the methods described below.
- Avoid leaving trenches open overnight. When trenches cannot be backfilled immediately, escape ramps should be constructed at least every 90 meters and preferably 30 meters. Escape ramps can be constructed parallel or perpendicular to the existing trench. The escape ramp slope should be less than 45 degrees (1:1). If pipe or cable has been installed but backfilling has not occurred, escape ramps may need to be constructed on both sides of the trench, since, unless the pipe is elevated enough to allow animals to move underneath it, the pipe or cable may block access of amphibians, reptiles, and small mammals to the ramps if only constructed on one side.
- Trenches 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 animals trapped in a trench will burrow under loose soil. To the extent possible, the biological monitor should disturb loose soil in the trench to uncover and remove trapped animals. Animals should be relocated at least 50 meters away from the open trench in undisturbed habitat.
- When pipe has been laid in the trench, end caps should be placed on the open end(s) of the pipe to preclude animals from entering. Pipe staged outside the trench should be capped until placed in the trench or checked for wildlife before being placed into the trench.
- Most wildlife can be protected by constructing silt fence completely around the open trench. 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, escape ramps, and concurrent backfilling, the guidelines for silt fence installation and maintenance in the Trenching Project Guidelines should be followed.

The Department recommends that you contact Erika Rowe (Erika.Rowe@emnrd.nm.gov) at the New Mexico Endangered Plant Program of the Energy, Minerals, and Natural Resources Department, regarding potential presence and conservation needs for state-listed plants. The state-endangered plant Clover's cactus (*Sclerocactus cloveriae*) has been documented near, and potentially within, the Project area footprint and may need to be considered and/or mitigated for while designing and implementing Project activities.

All migratory birds are protected against direct take under the federal Migratory Bird Treaty Act (16 U.S.C. Sections 703-712), and hawks, falcons, vultures, owls, songbirds, and other insect-eating birds are protected under New Mexico State Statutes (17-2-13 and 17-2-14 NMSA), unless permitted by the applicable regulatory agency. To minimize the likelihood of adverse impacts to migratory birds, nests, eggs, or nestlings, the Department recommends that ground disturbance and vegetation removal activities be conducted outside of the primary migratory bird breeding season of March 1-September 1 (this includes the primary breeding season for the pinyon jay [*Gymnorhinus cyanocephalus*], which per the draft EA has been documented in the Project area). Breeding season may begin earlier for raptors or when working in low-elevation habitats such as deserts. If ground disturbing and clearing activities must be conducted during the breeding season, the area should be surveyed for active nest sites (with birds or eggs present in the nesting territory) and avoid disturbing active nests until young have fledged. For active nests, establish adequate buffer zones to minimize disturbance to nesting birds. Buffer distances should be at least 100 feet from songbird and raven nests; 0.25 miles from most raptor nests; and 0.5 miles for ferruginous hawk (*Buteo regalis*), golden eagle (*Aquila chrysaetos canadensis*), peregrine falcon (*Falco peregrinus*), and prairie falcon (*Falco mexicanus*) nests. Active nest sites in trees or shrubs that must be removed should be mitigated by qualified biologists or wildlife rehabilitators. Department biologists are available to consult on nest site mitigation and can facilitate contact with qualified personnel.

The list of New Mexico SGCN (see link, page 18, table 5) and the federal list of Birds of Conservation Concern should be reviewed to fully evaluate potential effects to migratory birds from your proposed Project. Federal agencies are also required under Executive Order 13186 to implement standards and practices that lessen the amount of unintentional take attributable to agency actions. These conservation measures are strongly recommended to ensure persistence of migratory bird species whose populations are small and/or declining within New Mexico.

For post-construction reclamation of the Project area, the Department recommends that only native plant species are used in the reclamation seed mix and that the mix is

designed to enhance local pollinator habitat. The Department also recommends that the seed mix and mulch be certified weed-free to avoid inadvertently introducing non-native species to the reclamation site. Any alternate plant species, used to substitute for primary plant species that are unavailable at the time of reclamation, should also be native. When possible, the Department recommends using seeds that are sourced from the same region and habitat type as the reclamation site and suggests including seeds from a region that represents potential future climatic conditions at the site.

The current Project area appears to be within Crucial Habitat as identified in the Crucial Habitat Assessment Tool (CHAT) layers provided in the New Mexico Environmental Review Tool. This indicates that a diversity of species of conservation concern and sensitive or important habitats for wildlife are likely to be found in the Project area. The Department recommends completion of thorough environmental assessment prior to, and exercising care during, implementation of Project activities to avoid adverse impacts to sensitive wildlife and habitats.

It appears that the Project area borders Navajo Nation lands. The Department has no jurisdiction or authority for the wildlife resources on Indian reservations or property. We recommend that you contact the Navajo Nation regarding general wildlife issues they may have and contact USFWS regarding any threatened or endangered species issues.

Thank you for the opportunity to review 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
Ecological and Environmental Planning Section