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8 July 2026

Forrest Luna
U.S. Army Corps of Engineers
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435

Re: Shush'Kin Fen Riparian Restoration Phase 2; NMERT Project No. NMERT-6209

Dear Mr. Luna:

The New Mexico Department of Wildlife (Department) would like to thank the U.S. Army Corps of Engineers for the opportunity to comment on the Letter of Permission (LOP) authorization for Shush'Kin Fen Riparian Restoration Phase 2 (Proposed Action). In addition to the information provided in the attached New Mexico Environmental Review Tool (NMERT)-generated report for this project (NMDOW 2026), the Department has the following comments on the Proposed Action.

Vegetation Considerations

The Department recognizes that natural revegetation is proposed for the project area; however, we recommend more active site restoration, where feasible, to support vegetation recovery. Specifically, for restoration of vegetation in the project area, the Department recommends that only riparian-appropriate, native plant species be used in the restoration seed and plant mix and, unless there is concern regarding potential for pesticide, especially neonicotinoid, presence, that the mix be designed to enhance local pollinator habitat. If pesticides are known to be present or in use, then attracting pollinators to the site is not recommended. For pollinating insects, including a diversity of flowering plants with different colors and shapes and flowering times that span spring through fall (March-October), rarer plants, high-nutrient or value plants (e.g., goldenrods [*Solidago* spp.], gumweed [*Grindelia* spp.], or sunflowers [*Helianthus* spp.]), perennials, native bunch grasses and thistles, some plants with pithy and woody stems, some bare ground, early-flowering native tree and shrub species, and plants that are not pre-treated with systemic pesticides may be beneficial. Ideally, at least three different species should be flowering at all times between March and October. Consult pollinator-

friendly plant species lists provided by the [Xerces Society for Invertebrate Conservation](#) or other appropriate resources. No-till drills may be more effective than broadcast seeding for establishing flowering plants. More-intensive planting in small, 100 to 1,000 square feet areas, surrounded by lower-intensity plantings or broadcast seeding may also be effective, with less than 0.6 miles between more intensively planted patches. Consider connectivity and accessibility of the planted pollinator-friendly habitat patches to other suitable pollinator habitats. The Department also recommends that the seed mix and mulch be certified weed-free and equipment used for restoration is clean and free of mud or any plant material to avoid inadvertently introducing non-native species to the restoration site and that sterile non-native seed sources not be used. If using mulch, a shallow layer of pebbles or compost, leaf litter, plant debris, or wood are preferred over plastic mulch. Any alternative plant species used to substitute for primary plant species that are unavailable at the time of restoration should also be native. When possible, the Department recommends using seeds and plants that are sourced from the same region and habitat type as the restoration site and suggests including seeds and plants from a region that represents potential future climatic conditions at the site. Include as much locally appropriate genetic diversity in seed and plant sources as possible. For trees, use of containerized seedlings or poles is recommended over seeds as is selection of more protected planting sites with higher soil moisture to increase likelihood of revegetation success. Planting trees in separated clumps or patches may better match natural regeneration and support greater wildlife diversity.

For sod harvesting or additional vegetation removal associated with the Proposed Action, for example with staging areas, the Department notes that 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 April 15-September 1. 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, permitted biologists or wildlife rehabilitators. Department biologists are available to consult on nest site mitigation and can facilitate contact with qualified personnel. Removal of active nests of state-protected species may require a scientific collection permit; contact the Department's Wildlife Permits Manager at DPF.Permits@dgf.nm.gov for more information.

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.

Please also consider impacts to pollinating insects from the removal of flowering plants and ground-disturbing activities. If possible, avoid removing any flowering plants when bees and other insect pollinators are most actively foraging (March-October), including early-flowering native tree and shrub species. Also avoid any observed bumble bee (*Bombus* spp.) nest sites using a buffer of at least 30 feet. Implement measures to prevent the spread of noxious weeds and invasive plants, including removing dirt, debris, and plant parts from equipment used for sod harvesting or other ground disturbing activities before bringing it on site.

Additionally, the Department recommends consultation with Erika Rowe (Erika.Rowe@emrd.nm.gov) at the [New Mexico Endangered Plant Program](#) of the Energy, Minerals, and Natural Resources Department, regarding potential presence of, and conservation needs for, state-listed plants. The state endangered plant Goodding's onion (*Allium gooddingii*) may be present near or within the project area footprint and may need to be considered and/or mitigated for while designing and implementing project activities.

Wildlife Considerations

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

The Department also recommends consultation with relevant species leads at the U.S. Fish and Wildlife Service's (USFWS's) New Mexico Ecological Services Office (NMESO) regarding federally listed species identified by NMDOW (2026) as potentially occurring within the Proposed Action area. Species potentially occurring in the project area include Mexican spotted owl (*Strix occidentalis lucida*). The Department also recommends use of the USFWS's [Information for Planning and Consultation \(IPAC\)](#) system to confirm whether the project area overlaps critical habitat designated for species listed under the federal Endangered Species Act.

Lastly, in addition to the burrowing owl and prairie dog surveys recommended in the NMERT-generated report (NMDOW 2026), the Department recommends surveying the project area for other burrowing wildlife species prior to the initiation of any soil-disturbing activities that affect larger areas. If disturbance to occupied burrows or

detected burrowing wildlife cannot be avoided, a qualified, permitted biologist should be retained to safely capture and relocate affected individuals. Capture of individuals may require a scientific collection permit; contact the Department's Wildlife Permits Manager at DGF.Permits@dgf.nm.gov for more information.

Thank you for the opportunity to review and comment on the Proposed Action and for your consideration of these comments. If you have any questions, please contact, please contact Jelsie Kerr, Aquatic Habitat Restoration Biologist, at (505) 637-2811 or jelsie.kerr@dgf.nm.gov.

Sincerely,

Virginia Seamster
Assistant Chief for Technical Guidance
Ecological and Environmental Planning Section
Wildlife Management Division

References

[NMDOW] New Mexico Department of Wildlife. 2026. Shush'Kin Fen Riparian Restoration Phase 2. New Mexico Environmental Review Tool Report. New Mexico Department of Wildlife, Santa Fe, New Mexico, USA.
<https://nmert.org/system/files/project_report_shushkin_fen_riparian_resto_44092_44731.pdf>.