

APPENDIX E: Coordination, Public Comments, and USACE Responses

Farmer's Mutual Ditch Rehabilitation Farmington, NM

May 2023



**US Army Corps
of Engineers** ®
Albuquerque District

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Coordination

U.S. Fish and Wildlife Service

From: [Price, Dana M.CIV.USARMY.CESPA.\(USA\)](#)
To: vicky_ryan@fws.gov
Subject: FW: Farmer's Mutual Ditch (acequia) needs consultation
Date: Monday, January 13, 2020 11:32:00 AM
Attachments: [ipac_map.JPG](#)
[FWS NMEFPO Species List.pdf](#)
Importance: High

Hi Vicky,

I think I'm going to need to consult for this one...

The Corps is planning work to rehab the Farmer's Mutual Ditch acequia. The ditch is near Fruitland on the San Juan and is immediately adjacent to proposed cuckoo critical habitat.

Most likely we will be placing the ditch in pipe, as there is literally no room to do anything; the ditch is right against a bluff/cliff. Rockslides have been a persistent problem. Part of the existing ditch runs in a steel flume. I have photos from a site visit (by others) but don't want to give you too much info at this point.

The description of this critical habitat unit says it's the river,

"Proposed critical habitat unit NM-1 is 6,354 ac (2,571 ha) in extent and is a 35- mi (56-km)-long continuous segment of the San Juan River between just downstream of Fruitland to just downstream of Blanco"

But the shapefile and map in iPAC appears to show critical habitat as including part of the ditch (don't know if this was deliberate or a mistake).

The description also says this unit "has been consistently occupied by western yellow-billed cuckoos during the breeding season". Can I get recent data from this area? We have to complete the EA by mid-summer according to my project manager, so there isn't time to complete surveys prior to finalizing the EA. We'll have to assume it's occupied.

I'd like to discuss potential ways to minimize, then mitigate impacts. Aside from the standard best practices (working in the non-irrigation/ non-breeding season, minimizing vegetation removal) what can we do?

A previous project on the same ditch but downstream of the present location planted riparian vegetation at BLM site along the river near the Hogback. I don't know if this was successful but will contact BLM as we could potentially do more work on that site.

I'm not as concerned about the other species with potential to occur in the area. We won't affect Colorado pikeminnow or its critical habitat because we're not touching the river and we're only working when the ditch is dry. I don't think there's enough dense herbaceous riparian vegetation for NM Jumping mouse. The listed plants wouldn't be there because of the disturbance from periodic ditch maintenance.

Let me know when would be a good time to give you a call. Thanks!

Dana

Dana M. Price
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Environmental Resources Section
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Cell: (505) 417-9787

From: Price, Dana M CIV USARMY CESPA (USA) <dana.m.price@usace.army.mil>
Sent: Monday, May 4, 2020 9:05 AM
To: Ryan, Vicky M
Subject: [EXTERNAL] Farmer's acequia/ cuckoo survey

Hi Vicky,

I tried to contact Melissa Mata a couple times by email (in late March and about a week ago) about cuckoo surveys on the San Juan, I'm not getting any response. At this point I really doubt I'm going to be able to get protocol surveys done. I am not going to spend the night up in Farmington (don't see any way around that if I'm going to survey in the morning- I have animals so can't really leave home before daylight). I can go up and look at the vegetation that may be impacted when they let us travel for fieldwork (maybe June?). since the project would take place next fall-winter that may be the best I can do.

Would you like to talk sometime?
Thanks,
Dana

Dana M. Price
Biologist, Environmental Resources Section U.S. Army Corps of Engineers, Albuquerque District
Cell: (505) 417-9787

From: Ryan, Vicky M [mailto:vicky_ryan@fws.gov]
Sent: Monday, May 4, 2020 1:49 PM
To: Price, Dana M CIV USARMY CESPA (USA) <dana.m.price@usace.army.mil>
Subject: [Non-DoD Source] Re: [EXTERNAL] Farmer's acequia/ cuckoo survey

Thanks Dana,

Thanks for the reminder on this. I spoke with Melissa this morning and she was going to call or email you shortly on the contracting piece (if I'm remembering correctly, that was what you wanted to discuss with Melissa right?).

As far as the survey effort goes, and the fact that there's probably not time for transferring funds for an external surveyor to complete surveys, if you could do a site visit during the breeding season for flycatcher/cuckoo (so June 15 to about August 1 is where they overlap) that would be great. That way you could evaluate the habitat in person while foliage and canopy cover is present. You could play the callback tape in areas that look suitable and see if you get a response. Not necessarily a protocol survey, but would give us a better idea of habitat suitability and potential occupancy which might be the best we could do with travel restrictions.

Did I give you contact information for Ecosphere so you could contact them to see if they'll be doing surveys this summer? Those are the folks that typically complete the surveys on the San Juan.

Vicky Ryan
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US Fish & Wildlife Service NMESFO
2105 Osuna Road NE
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Cell: (505) 238-2210

Important Notice:

In an effort to ensure continuity of operations for the New Mexico Ecological Services Field Office in light of the New Mexico Governor's recent stay-at-home instruction for the State of New Mexico, please submit all project review requests in electronic format (email) until further notice. All project requests located within New Mexico should be sent to nmesfo@fws.gov.

From: Price, Dana M CIV USARMY CESPA (USA)
Sent: Monday, May 4, 2020 2:18 PM

To: Ryan, Vicky M <vicky_ryan@fws.gov>
Subject: RE: Farmer's acequia/ cuckoo survey

Hi Vicky, thanks so much for getting back to me.

Melissa called, so we're in touch. She said the only surveys happening on the San Juan are for the power plant, anyway that's good to know.

You did give me info for Ecosphere. I was hoping to piggyback off surveys Melissa might have running so I didn't contact them. I need to talk to Contracting first and see what we might be able to do. Assuming they're a small business it may be relatively simple but usually we can't just sole source, we have to get bids. Everyone in Contracting has been tied up with the alternative health care facilities we've been putting on the ground. So folks may be getting more available now.

I do hope to get out there for a day trip once travel restrictions ease up and will keep you posted on that. Accessing the ditch isn't easy, it's all across private land. I've got a meeting Wed. with the planner on the project and will bring all this up and see what it's going to take to get access.

Thanks!

Dana

From: Price, Dana M CIV USARMY CESPA (USA)
Sent: Thursday, June 11, 2020 5:44 PM
To: Ryan, Vicky M <vicky_ryan@fws.gov>
Cc: Ryan, Stephen Q CIV CESPA CESPD (USA) <Stephen.Q.Ryan@usace.army.mil>
Subject: RE: Farmer's acequia WIFL/cuckoo survey

Hi Vicky,

Here are a few photos from Farmers' Mutual Ditch.

I left ABQ at 6:15 and because I forgot to take the "bypass" route through Navajo ag lands to avoid Bloomfield, I didn't get to my meeting spot with the Ditch board member until 9:30. So we were on site by 10, there were still lots of birds singing but I felt it was too late to survey and mostly looked at the vegetation. So yay, I get to go back and leave even earlier if I can manage.

As far as birds, the usual suspects were there: towhee, chat, grosbeak, black phoebe, Say's phoebe and I think yellow warbler.

I think the line of willows and tamarisk/Russian olive between the ditch and the bluff will mostly die out when the ditch is piped. So there's a question whether we should mitigate for lost habitat- or would it not be considered as contributing to the habitat because it's just a narrow band? There is a sporadically maintained access road along the ditch that grows up with veg and gets cleared when they have rockfall or other maintenance needs.

Most of the large cottonwoods are growing in the floodplain of the San Juan, but two or three are on the ditch bank high enough above the floodplain that they could be at risk- as in the cottonwood photo.

Thanks and talk to you soon,

Dana

From: Price, Dana M CIV USARMY CESP (USA) <dana.m.price@usace.army.mil>
Sent: Tuesday, June 23, 2020 4:59 PM
To: Ryan, Vicky M
Cc: Ryan, Stephen Q CIV CESP (USA)
Subject: [EXTERNAL] RE: Farmer's acequia WIFL/cuckoo survey

Hi Vicky,

Regarding the Farmer's Ditch, I have two questions.

1) I need an answer to this question-- "Is project (or indirect effects of project) within ¼ mile of a historically

occupied flycatcher territory - or - 2 miles of historically occupied cuckoo territory?"
I don't have access to info/data on where historic territories are.

2) Quality of habitat at the site: Stephen questioned whether the habitat along the ditch might be too narrow, especially for cuckoos. So my other question is what habitat do we evaluate as being a patch? Is it just on one side of the river, or both? If patchy (blue line), would you include the entire floodplain even with a gap? So, in the attached google earth map, which line would you consider as the width of the habitat?

Although there are some nice mature cottonwoods along the ditch, you can kind of see in the image that there's a lot of Russian olive, dominating the mid-story and in many patches it's also the canopy. There's not much willow. The saltcedar is sparse and in the process of being defoliated, with much of it yellow/brown.

I surveyed the morning of 6/20 from ~7 to 10:30 (the last hour was getting late but I wanted to finish, and that segment was poor habitat but birds were still singing.)

I'm starting to think that it will be LESS disturbance to habitat and birds with the ditch in pipe, even if some willows along the ditch die off, because current conditions have them doing so much maintenance with all the rockfall off the bluff.

Thanks for any answers you can provide,
Dana

From: Ryan, Vicky M [mailto:vicky_ryan@fws.gov]
Sent: Wednesday, June 24, 2020 11:51 AM
To: Price, Dana M CIV USARMY CESP (USA) <dana.m.price@usace.army.mil>
Cc: Ryan, Stephen Q CIV CESP (USA) <Stephen.Q.Ryan@usace.army.mil>
Subject: [Non-DoD Source] Re: [EXTERNAL] RE: Farmer's acequia WIFL/cuckoo survey

Hi Dana,

I love your map! Unfortunately, as we learn more about flycatchers and cuckoos, there's always an exception to the rule that makes finding a minimum threshold difficult. So with flycatchers, we typically use 10m as a minimum width for a "patch" (so like the little red line in your map). That minimum comes from Appendix D in the recovery plan. That can be things like dense willow, or a taller canopy with an understory (probably not the old growth cottonwood gallery though).

For cuckoos, we look at territories a little differently. There's a nesting grove or "patch" (which would be like the red line in your map) and then there's the overall mosaic of foraging habitat which could include several "patches" of nesting type habitat and then areas with more sparse habitat (so in the map it would be the span of the floodway, or the green line). In the survey protocol document there's a rangewide section on what has been found as far as occupied habitat. At that time, most nesting "patches" were in areas at least about 12 acres or so and I can't remember if there was a minimum width. As more surveys are done, we're finding cuckoos in all kinds of a variety of habitat (which is partly why it took so long to get the revised proposal of critical habitat out). On the MRG, BOR found that nesting "patches" were typically in areas with a nesting "patch" width of at least 30m (which was what was used for their modeling of habitat suitability) and they wouldn't be nesting in the shorter coyote willows, typically not the old growth cottonwoods either, but an in between age/height class with an understory.

As far as if there are flycatchers or cuckoos within 2 miles, there has not been a survey in the area to my knowledge to give us those records so our best data would be the 2 exploratory type visits you had and the pictures provided. I would agree the habitat from the pictures looks kind of marginal and sounds like you didn't observe any flycatchers or cuckoos from those exploratory visits. That and the conclusion you came to on the pipe not having as much impact as originally thought might provide enough of a basis that I'd agree with a NLAA call if that's the direction you're going.

Thanks again for all the info, pix, maps, and site visits!

Vicky Ryan
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Cell: (505) 238-2210

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From: Price, Dana M CIV USARMY CESPA (USA) <dana.m.price@usace.army.mil>
Sent: Thursday, July 9, 2020 11:58 AM
To: Ryan, Vicky M
Cc: Ryan, Stephen Q CIV CESPA CESPD (USA)
Subject: RE: [EXTERNAL] RE: Farmer's acequia WIFL/cuckoo survey

Hi Vicky,

Sorry for being slow to reply- thank you for getting back to me! This is great information.

I was out there again yesterday morning, and this time did the eastern ditch segment first and then the west (reversing the order from my previous survey). Birds were quieter in general, though the common riparian species were still vocalizing; I discussed this with Stephen.

So are you okay with just these 2 negative WIFL surveys, given we're going to be working outside the nesting season? I could do another one on the 17th (would be exactly 10 days).

I think you know I'm planning to drag Stephen out there, because of his greater experience with these birds and their preferred habitats. But we're talking about going in roughly 2 weeks, which is too late for WIFLs- so it would just be for cuckoos.

One more bit of info- on my first visit I saw *Diorhabda* beetles and larvae on some of the tamarisk. This time about 50% of the tamarisks (and the majority of those right along the ditch) were brown. I think the beetles have moved on, but I didn't look very closely at the remaining green tamarisks.

The 1st photo is looking over the riparian area adjacent to and below the ditch; 2nd photo is a segment of ditch that had recent maintenance due to rockfall- the ditch itself is in between the line of resprouting willows and the bluff.

Thanks,
Dana

-----Original Message-----

From: Ryan, Vicky M [mailto:vicky_ryan@fws.gov]

Sent: Thursday, July 9, 2020 1:53 PM

To: Price, Dana M CIV USARMY CESP (USA) <dana.m.price@usace.army.mil>

Cc: Ryan, Stephen Q CIV CESP (USA) <Stephen.Q.Ryan@usace.army.mil>

Subject: [Non-DoD Source] Re: [EXTERNAL] RE: Farmer's acequia WIFL/cuckoo survey

Hi Dana,

I think you have enough to go on to make a NLAA determination and I'd certainly support you on that. Given that the habitat is marginal in quality, there were two (or is it 3 now) exploratory visits with no responses, the assessment that there would not be much (if any) impact to ground water and subsequently the vegetation health due to the proposed action, and the fact that the proposed action will take place outside breeding season.

Thanks so much for your efforts in getting out there, I know it's beyond difficult this summer!!

Vicky Ryan

Fish and Wildlife Biologist

US Fish & Wildlife Service NMESFO

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From: Price, Dana M CIV USARMY CESP (USA) <dana.m.price@usace.army.mil>

Sent: Thursday, July 9, 2020 1:55 PM

To: Ryan, Vicky M

Subject: RE: [EXTERNAL] RE: Farmer's acequia WIFL/cuckoo survey

Hey Vicky, do you have a moment to talk? We're trying to get our NEPA done quickly- I'm the hold-up so I'm getting pressure from my PM to finalize consultation related stuff. I'm forgetting what we do for informal consultation- do I need to send you a formal letter and how long would a concurrence letter from you take? Sorry to keep bothering you on this one.

Dana

-

From: [Ryan, Vicky M](#)
To: [Price, Dana M CIV USARMY CESPA \(USA\)](#)
Subject: [Non-DoD Source] Re: [EXTERNAL] RE: Farmer's acequia WIFL/cuckoo survey
Date: Thursday, July 9, 2020 3:07:18 PM

Yes, you would send a formal letter to the nmesfo@fws.gov email address, please also include the species list (or at least the consultation number that the species list gives you). We technically have 60 days to respond back, but if there's a rush on it we can probably kick it back to you in less time - the fastest turn around I've seen is about 2 weeks.

Here's a link with additional guidance/instructions if you find it helpful:

Blockedhttps://www.fws.gov/southwest/es/NewMexico/documents/Guidance_for_Completing_Project_Reviews.pdf

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U.S. Bureau of Land Management

-----Original Message-----

From: Price, Dana M CIV USARMY CESPA (USA)
Sent: Thursday, May 7, 2020 3:04 PM
To: Kendall John <j01kenda@blm.gov>
Subject: Farmers Mutual ditch flycatcher/cuckoo surveys

Hi John, it was great talking with you. Here's the section of ditch we'll be putting in pipe.

Thanks,
Dana

Dana M. Price
Biologist
Environmental Resources Section
U.S. Army Corps of Engineers, Albuquerque District
4101 Jefferson Plaza NE
Albuquerque, NM 87109
Cell: (505) 417-9787

From: Price, Dana M CTV USARMY CESPA (USA) <dana.m.price@usace.army.mil>
Sent: Thursday, May 7, 2020 4:49 PM
To: Kendall, John B <j01kenda@blm.gov>
Subject: [EXTERNAL] RE: Farmers Mutual ditch flycatcher/cuckoo surveys

John,

I should let you know that the ditch segment I sent goes a little farther west than our project. The decision about how far to go with pipe is still being considered by the engineers. Also, there's a gap in the middle where they don't think any action is needed. If your tech is able to help us I'll send the more detailed version.

And, my Outlook recognized you so we must have been at some interagency meeting together, or anyway we've

been on the same mailing list at some point!
Dana

-----Original Message-----

From: Kendall, John B [<mailto:j01kenda@blm.gov>]
Sent: Monday, May 11, 2020 9:44 AM
To: Price, Dana M CTV USARMY CESPA (USA) <dana.m.price@usace.army.mil>
Subject: [Non-DoD Source] Re: [EXTERNAL] RE: Farmers Mutual ditch flycatcher/cuckoo surveys

Our tech won't be able to help you with these SWWF surveys. She has too much on her plate My supervisor also put the cabash on it as well,

We may be able to give you some support from here, just not a full survey

John Kendall
Wildlife Biologist
Threatened and Endangered Species Program
6251 College Blvd
Farmington, NM
(505) 564-7685 (o)
(505) 330-6200 (c)

-----Original Message-----

From: Price, Dana M CIV USARMY CESP (USA)
Sent: Monday, May 11, 2020 9:51 AM
To: Kendall, John B <j01kenda@blm.gov>
Subject: RE: [EXTERNAL] RE: Farmers Mutual ditch flycatcher/cuckoo surveys

Hi John,
No problem, I appreciate you checking and it was good talking with you.

If you find any veg monitoring info from the Wheeler Tract site where the Corps did mitigation plantings in about 2002 (possibly a year or two later), I would be interested in learning if anything made it, if there is any info.

Have a great day!
Thanks,
Dana

From: Price, Dana M CIV USARMY CESP (USA) <dana.m.price@usace.army.mil>
Sent: Tuesday, July 14, 2020 11:11 AM
To: Kendall, John B <j01kenda@blm.gov>
Subject: [EXTERNAL] RE: Farmers Mutual ditch mitigation site

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi John, hope this finds you well.

I need to ask you about the Wheeler Tract where the Corps did plantings of cottonwoods and willows as mitigation for an earlier phase of Farmers Mutual Ditch in about 2003. At least, we said in our 2002 EA that we were going to do mitigation.

Would you or anyone at your office know if these plantings actually happened and if they were successful? I realize you probably aren't in the office much where you could easily go look at files.

Also, would it be possible to use that site for additional mitigation plantings? If we were able to use the site, what level of NEPA compliance and other requirements would we be looking at?

Thanks!
Dana

Dana M. Price
Biologist (Botanist)
Environmental Resources Section
U.S. Army Corps of Engineers, Albuquerque District
4101 Jefferson Plaza NE
Albuquerque, NM 87109
Cell: (505) 417-9787

-----Original Message-----

From: Kendall, John B [<mailto:j01kenda@blm.gov>]

Sent: Tuesday, July 14, 2020 12:55 PM

To: Price, Dana M CIV USARMY CESPA (USA) <dana.m.price@usace.army.mil>

Subject: [Non-DoD Source] Re: [EXTERNAL] RE: Farmers Mutual ditch mitigation site

Hi Dana,

I am looking at the Wheeler Tract folder and it looks like we did some work on this project in 12/2002 (Exotic Veg removal). In 2003, we had a major (100yr) flood event in Largo Canyon (5000cfs) that went into SJ River.. We took photos of that aftermath in 9/2003 in Wheeler Tract, then in Jan-Mar 2004 we did some plantings of willows and cottonwood pole plantings . In 2006 I have some monitoring photos. That is it. Nothing after 2006. Would you like me to make copies and send you what I have as far as the work that was completed? It's mostly pictures and dates.

I don't see any reason why you couldn't use this site. I believe we would have to do some sort of NEPA compliance check to see if we can still use the old EA.

Do you have any project details? If so, we can get the ball rolling...

John Kendall
Wildlife Biologist

Threatened and Endangered Species Program
6251 College Blvd
Farmington, NM
(505) 564-7685 (o)
(505) 330-6200 (c)

From: Price, Dana M CIV USARMY CESP (USA) <dana.m.price@usace.army.mil>
Sent: Wednesday, July 15, 2020 3:35 PM
To: Kendall, John B <j01kenda@blm.gov>
Subject: RE: [EXTERNAL] RE: Farmers Mutual ditch mitigation site

Hi John,

Thanks for checking on the Wheeler tract. The NEPA will be the critical aspect of this, as our projects are cost shared and the ditch association isn't going to be able to afford another EA. If plantings could be done at the site under an existing EA or categorical exclusion, that would be great. If you could check on this, I think we should determine the NEPA compliance needs before spending a lot of time planning anything.

I think we'd be looking at 2- 2 1/2 acres for coyote willow mitigation plantings, but possibly less. Here's how I get this number: I'm estimating we'll potentially lose about 2400 feet of ditch bank willows, at most 10' wide, so 24,000 sq ft or .55 acre. The usual mitigation ration for willows is 4:1 so we'd be looking at about 2.2 acres for mitigation. I hope to get a better estimate on a future site visit- I didn't measure anything as I was trying to take notes on plants, take photos, play bird calls and pay attention to birds on those visits.

We would plant either cottonwood or Goodding's willow poles among the coyote willows. I think we'll only lose 3 mature cottonwoods and the usual replacement ration for those is 10:1.

It's possible that the agencies won't require mitigation so I don't want to ask for a lot of your time on this yet.

I would enjoy seeing photos, especially monitoring, and estimates of success if you have them and can easily send. It's always good to see how restoration and mitigation plantings turn out.

Largo at 5,000 cfs sounds exciting!

Thanks,
Dana

-----Original Message-----

From: Kendall, John B [<mailto:j01kenda@blm.gov>]

Sent: Wednesday, July 15, 2020 4:07 PM

To: Price, Dana M CIV USARMY CESP (USA) <dana.m.price@usace.army.mil>

Subject: [Non-DoD Source] Re: [EXTERNAL] RE: Farmers Mutual ditch mitigation site

I can check with out NEPA guy on this proposed planting,, But first let me ask.. Does your project have to be at the Wheeler tract? I may have other areas along the SJ River with a more updated EA that we can use. or instance, the Simon Canyon wetland project is only a few years old.. Some of those plantings didn't take.. We also have some Gary Hawthorne clearing projects that could use some willows and cottonwoods.. I believe those were done under a programmatic Veg treatment EA.. I personally would prefer these sites since it was done, in part, to benefit T&E species/habitat.

Mitigation pics are on it's way...

John Kendall
Wildlife Biologist
Threatened and Endangered Species Program
6251 College Blvd
Farmington, NM

(505) 564-7685 (o)

(505) 330-6200 (c)

From: Price, Dana M CIV USARMY CESP (USA) <dana.m.price@usace.army.mil>

Sent: Wednesday, July 15, 2020 4:16 PM

To: Kendall, John B <j01kenda@blm.gov>

Subject: RE: [EXTERNAL] RE: Farmers Mutual ditch mitigation site

Hi John,

Oh it doesn't have to be Wheeler, that was just the site I knew about. These other sites sound good. We can mitigate anywhere in the general area. I would go for whatever is going to be simple, having NEPA done is a big plus.

Thanks!

Dana

From: [Kendall, John B](#)
To: [Price, Dana M CIV USARMY CESPA \(USA\)](#)
Subject: [Non-DoD Source] Re: [EXTERNAL] RE: Farmers Mutual ditch mitigation site
Date: Wednesday, July 15, 2020 4:50:31 PM

Ok great! This should work out well then .. I will try to see if we can go into one of these Gary H areas... between Farmington and Bloomfield... I talked to my supervisor and he agrees that this would be covered under the post-treatment part of the EAs... I will need to find the EAs and reread them to make sure.. As far as NEPA being complete...at worse, we can work within the Simon Canyon wetland project area... At best, we can choose between 2-3 sites between Blanco and Farmington..

As far as you question ..I don't know if anything was done to encourage natural recruitment. I don't even know what that would look like, to be honest..

John Kendall
Wildlife Biologist
Threatened and Endangered Species Program
6251 College Blvd
Farmington, NM
(505) 564-7685 (o)
(505) 330-6200 (c)

NM Department of Game and Fish

From: Price, Dana M CIV USARMY CESPA (USA) <dana.m.price@usace.army.mil>
<<mailto:dana.m.price@usace.army.mil>> >
Sent: Thursday, July 9, 2020 1:49 PM
To: Conway, Meaghan, DGF <Meaghan.Conway@state.nm.us>
<<mailto:Meaghan.Conway@state.nm.us>> >
Subject: [EXT] Acequia project & mitigation for riparian veg loss

Hi Meaghan,

Stephen Ryan gave me your name as a bird expert; I need to consult with NM Game & Fish regarding a minor loss of riparian vegetation.

I'm a biologist working on a project for the Farmers' Mutual Ditch, along the San Juan between Farmington and Fruitland. Due to excessive maintenance issues (frequent rockslides) we're looking at putting the ditch into pipe. This ditch runs along a steep bluff, and is frequently cleared when they have to remove rockslide materials; but where it hasn't been disturbed there's a line of willows mixed with Russian olive, tamarisk and grasses/sedges.

I've done a recon visit to look at vegetation and estimate we'll lose 2-3 mature cottonwoods after the ditch is piped, and a discontinuous strip of willow along the approximately 0.94-mile downstream segment ("phase 2").

The upstream segment has less vegetation- most of the ditch bank has been cleared- and is closer to the floodplain/riparian zone, so I don't think piping the ditch is going to have more than a minimal effect on vegetation on that segment.

I surveyed for WIFL and YBCU on June 20 and July 8 with negative results. The usual riparian avifauna is present, mostly in the adjacent riparian area: chats, towhees, black and blue grosbeaks, Say's and black phoebes, etc.

Interested in your thoughts on this and whether the state is requiring mitigation for minimal riparian vegetation losses like this. Here are .kmz's for the ditch segments we're going to work on.

Thank you,
Dana

Dana M. Price
Biologist
Environmental Resources Section
U.S. Army Corps of Engineers, Albuquerque District
4101 Jefferson Plaza NE
Albuquerque, NM 87109
Cell: (505) 417-9787

-----Original Message-----

From: Conway, Meaghan, DGF [<mailto:Meaghan.Conway@state.nm.us>]

Sent: Wednesday, July 15, 2020 1:17 PM

To: Price, Dana M CIV USARMY CESPA (USA) <dana.m.price@usace.army.mil
<<mailto:dana.m.price@usace.army.mil>> >

Subject: [Non-DoD Source] RE: Acequia project & mitigation for riparian veg loss

Hi Dana,

We do recommend avoiding disturbance to or replacing disturbed riparian vegetation, due to its rarity in the state and value as wildlife habitat. However, I don't think there is any state requirement to do so. We also recommend avoiding the breeding season for any vegetation or ground disturbance activities to avoid impacts to breeding birds, their nest, eggs, or nestlings. The breeding season for some birds can extend to mid-September.

The other two species of concern are burrowing owls, which can sometimes nest in cavities along ditches and canals, and bank swallows, which usually nest colonially in vertical banks and bluffs near water. Since swallows excavate their own burrows, they usually avoid rocky areas. I have attached the survey protocol for burrowing owls.

My last suggestion would be to avoid leaving trenches open to avoid accidentally trapping or injuring wildlife. We have some pretty basic guidelines for trenching projects in our handbook available here: [BlockedBlockedBlockedhttp://www.wildlife.state.nm.us/download/conservation/habitat-handbook/project-guidelines/Trenching-Project-Guidelines.pdf](http://www.wildlife.state.nm.us/download/conservation/habitat-handbook/project-guidelines/Trenching-Project-Guidelines.pdf).

Let me know if you have any questions or would like any additional or more formal recommendations.

Thanks,

Meaghan

Meaghan Conway, Ph.D.

Aquatic and Riparian Habitat Specialist

Ecological and Environmental Planning Division New Mexico Department of Game and Fish One

Wildlife Way Santa Fe, NM 87507 phone 505-476-8160 meaghan.conway@state.nm.us

<<mailto:meaghan.conway@state.nm.us>>

[BlockedBlockedBlockedhttp://www.wildlife.state.nm.us/conservation/](http://www.wildlife.state.nm.us/conservation/)

<[BlockedBlockedBlockedhttp://www.wildlife.state.nm.us/conservation](http://www.wildlife.state.nm.us/conservation/)>

CONSERVING NEW MEXICO'S WILDLIFE FOR FUTURE GENERATIONS

From: Price, Dana M CIV USARMY CESPA (USA) <dana.m.price@usace.army.mil>
Sent: Wednesday, July 15, 2020 4:10 PM
To: Conway, Meaghan, DGF <Meaghan.Conway@state.nm.us>
Subject: [EXT] RE: Acequia project & mitigation for riparian veg loss

Hi Meaghan, thanks for getting back to me.

For this project we are working during the non-irrigation season (outside of nesting season). We always try to minimize vegetation disturbance. I didn't mention that there are significant populations of invasive species on the ditch spoil berm, hopefully we can remove some of those with the project.

RE: the other species of concern, I think it's too rocky and the ditch spoil bank gets disturbed too frequently for burrowing animals but will keep a lookout. There are colonies of cliff swallows along both segments of the ditch.

Avoiding leaving open trenches is also a BMP that we commonly put into specifications. Thanks for the guidelines- I will definitely use that document for this and future projects.

Thanks,
Dana

-----Original Message-----

From: Conway, Meaghan, DGF [<mailto:Meaghan.Conway@state.nm.us>]

Sent: Thursday, July 16, 2020 9:44 AM

To: Price, Dana M CIV USARMY CESA (USA) <dana.m.price@usace.army.mil>

Subject: [Non-DoD Source] RE: Acequia project & mitigation for riparian veg loss

Hi Dana,

Removing invasive vegetation is usually beneficial. I do get concerned if it's a large area, and providing the only shade or vegetated habitat in the vicinity, even if it is lower quality habitat. In this case, with larger patches of vegetation along the riparian corridor, I don't think removal of thin strips of invasive plants along the ditch would have a large negative impact.

I do see there may be critical habitat for yellow-billed cuckoo in the area, so FWS may have some additional conservation actions specific to this species.

Thanks for getting in touch, and have a good weekend.

Meaghan

Meaghan Conway, Ph.D.

Aquatic and Riparian Habitat Specialist

-----Original Message-----

From: Price, Dana M CIV USARMY CESP (USA)

Sent: Thursday, July 16, 2020 10:03 AM

To: Conway, Meaghan, DGF <Meaghan.Conway@state.nm.us>

Subject: RE: Acequia project & mitigation for riparian veg loss

Hi Meghan,

The formerly proposed cuckoo critical habitat along the San Juan was removed from the most recent proposal. I did go out and do a couple exploratory surveys (not full protocol).

Thanks for the feedback regarding invasive species. There are smaller tamarisk and Russian olive along the ditch. The tamarisk was hit by Diorhabda in June, a lot of it is brown now.

The larger issue is a lot of Russian knapweed and hoary cress or whitetop on the spoil bank berm along the ditch. Construction will remove a lot of that, but I expect it'll be back despite our best efforts to reseed with natives, etc.

Dana

From: Price, Dana M CIV USARMY CESP (USA) <dana.m.price@usace.army.mil>

Sent: Monday, July 20, 2020 10:09 AM

To: Conway, Meaghan, DGF <Meaghan.Conway@state.nm.us>

Subject: [EXT] RE: Acequia project / spotted bats

Hello again Meaghan- who should I talk to about bats? Spotted bat is on my BISONM county T&E list and because we have bluffs/cliffs close to water I wonder if these bats could be in the project area.

Thanks,

Dana

From: [Conway, Meaghan, DGE](#)
To: [Price, Dana M CIV USARMY CESPA \(USA\)](#)
Subject: [Non-DoD Source] RE: Acequia project / spotted bats
Date: Wednesday, July 22, 2020 5:22:48 PM

Hi Dana,

I checked with Jim Stuart, he's our non-game mammal biologist. He confirmed that we do have some scattered records from San Juan County, they likely nest in fissured rock in some of the taller cliffs, and forage in the San Juan valley. He doesn't think any work at the base of the bluff would have any effect on the bat.

Let me know if we can provide any additional information.

Meaghan

Meaghan Conway, Ph.D.
Aquatic and Riparian Habitat Specialist
Ecological and Environmental Planning Division
New Mexico Department of Game and Fish
One Wildlife Way
Santa Fe, NM 87507
phone 505-476-8160
meaghan.conway@state.nm.us
[Blockedhttp://www.wildlife.state.nm.us/conservation/](http://www.wildlife.state.nm.us/conservation/)

CONSERVING NEW MEXICO'S WILDLIFE FOR FUTURE GENERATIONS

NM Department of Game and Fish, Project ID: NMERT-748



New Mexico Department of Game and Fish
Project ID: NMERT-748

PROJECT INFORMATION

Project Title: Draft Environmental Assessment of the Farmers Mutual Ditch Rehabilitation Project
Project Type: WATER MANAGEMENT, DIVERSIONS, IRRIGATION
Latitude/Longitude (DMS): 36.733661 / -108.268585
County(s): SAN JUAN
Project Description: Draft Finding of No Significant Impact. Two alternatives were considered, a No Action Alternative and a Buried Pipe Alternative. The recommended action includes rehabilitation of approximately two miles of earthen channel by placing the ditch flows into a 4.5 ft diameter reinforced concrete pipe within the current alignment, as well as the use of an approximately 1.5-acre area located on private land on the north side of the ditch as a staging area. .

REQUESTOR INFORMATION

Project Organization: US ARMY CORP OF ENGINEERS
Contact Name: Dana Price
Email Address: dana.m.price@usace.army.mil
Organization: US Army Corp of Engineers
Address: 4101 JEFFERSON PLAZA NE, Albuquerque NM 87109
Phone: (505) 417-9787

OVERALL STATUS

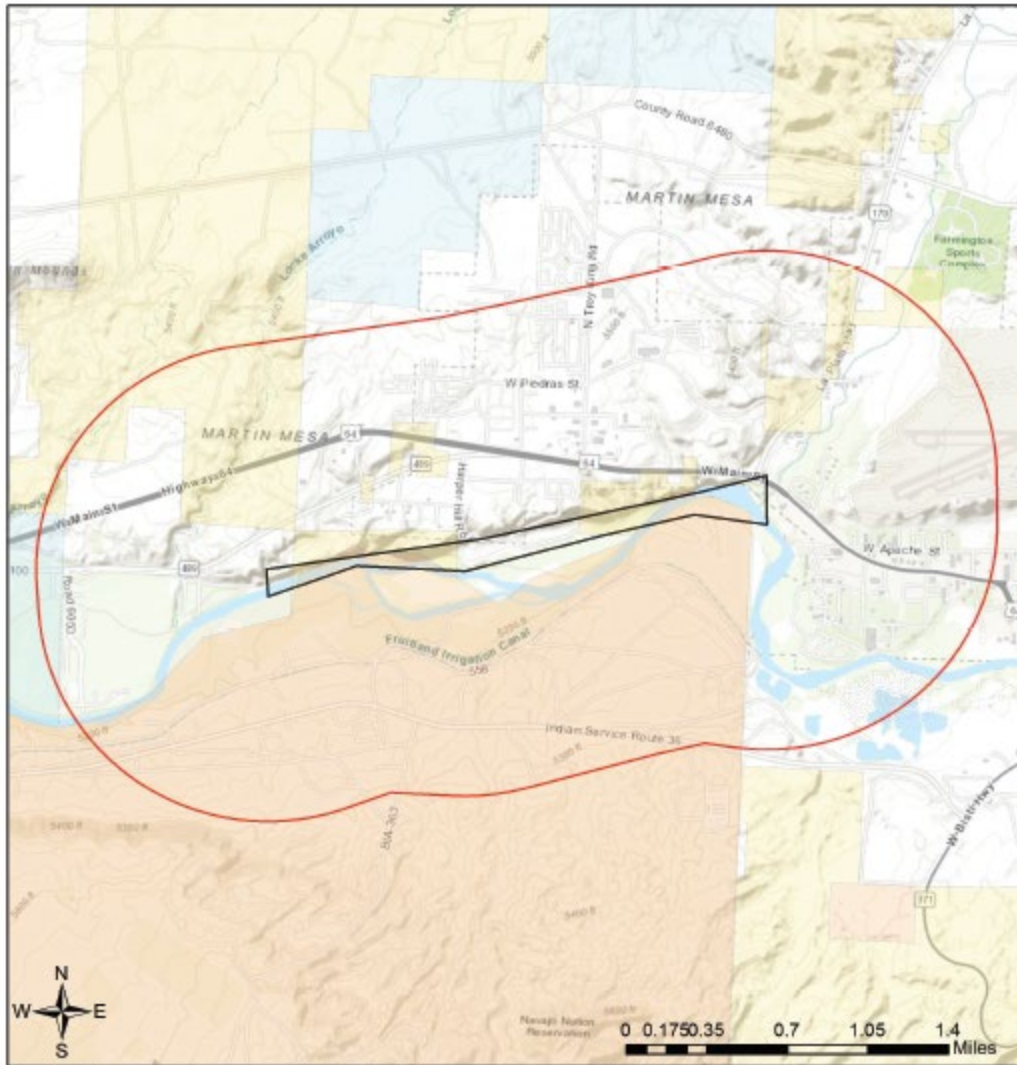
The information contained within this report comprises the recommendations of the New Mexico Department of Game and Fish (Department) for management and mitigation of proposed project impacts to wildlife and habitat resources. No further consultation with the Department is required.

About this report:

- This environmental review is based on the project description and location that was entered. The report must be updated if the project type, area, or operational components are modified.
- This is a preliminary environmental screening assessment and report. It is not a substitute for the potential wildlife knowledge gained by having a biologist conduct a field survey of the project area. Federal status and plant data are provided as a courtesy to users. The review is also not intended to replace consultation required under the federal Endangered Species Act (ESA), including impact analyses for federal resources from the U.S. Fish and Wildlife Service (USFWS) using their [Information for Planning and Consultation tool](#).
- The New Mexico Environmental Review Tool (ERT) utilizes species observation locations and species distribution models, both of which are subject to ongoing change and refinement. Inclusion or omission of a species within a report can not guarantee species presence or absence at a precise point location, as might be indicated through comprehensive biological surveys. Specific questions regarding the potential for adverse impacts to vulnerable wildlife populations or habitats, especially in areas with a limited history of biological surveys, may require further on-site assessments.
- The Department encourages use of the ERT to modify proposed projects for avoidance, minimization, or mitigation of wildlife impacts. However, the ERT is not intended to be used in a repeatedly iterative fashion to adjust project attributes until a previously determined recommendation is generated. The ERT serves to assess impacts once project details are developed. The [New Mexico Crucial Habitat Assessment Tool](#) is the appropriate system for advising early-stage project planning and design to avoid areas of anticipated wildlife concerns and associated regulatory requirements.



Environmental Assessment of the Farmers Mutual Ditch Rehabilitation



- | | | |
|---------------------------------|----------------------|----------------------|
| Project Boundary | Military | Private |
| Buffered Project Boundary | Dept. of Energy | State Land Office |
| NM_SurfaceOwnership_2016 | | |
| Bureau of Land Management | US Forest Service | NM Game & Fish Dept. |
| Bureau of Reclamation | Wildlife Area/Refuge | State Park |
| US Dept. of Agriculture | Tribal | |
| | National Park/Mon. | |

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (Switzerland) OpenStreetMap contributors, and the GIS User Community



Special Status Animal Species within 1 Miles of Project Area

Common Name	Scientific Name	USFWS (ESA)	NMDGF (WCA)	NMDGF SGCN/SERI
Western Toad	Anaxyrus boreas	PS	E	SGCN
Northern Leopard Frog	Lithobates pipiens			SGCN
Hared Grebe	Podiceps nigricollis			SGCN
American Bittern	Botaurus lentiginosus			SGCN
Bald Eagle	Haliaeetus leucocephalus		T	SGCN
Peregrine Falcon	Falco peregrinus		T	SGCN
Yellow-Billed Cuckoo	<i>Coccyzus americanus</i>			SGCN
Yellow-billed Cuckoo Proposed Critical Habitat	PCH for Coccyzus americanus	Threatened		SGCN
Lewis's Woodpecker	Melanerpes lewis			SGCN
Williamson's Sapsucker	Sphyrapicus thyroideus			SGCN
Olive-Sided Flycatcher	Contopus cooperi			SGCN
Bank Swallow	Riparia riparia			SGCN
Pinon Jay	Gymnorhinus cyanocephalus			SGCN
Clark's Nutcracker	Nucifraga columbiana			SGCN
Juniper Titmouse	Baeolophus ridgwayi			SGCN
Pygmy Nuthatch	Sitta pygmaea			SGCN
Western Bluebird	Sialia mexicana			SGCN
Bendire's Thrasher	Toxostoma bendirei			SGCN
Loggerhead Shrike	Lanius ludovicianus			SGCN
Gray Vireo	Vireo vicinior		T	SGCN
Roundtail Chub	<i>Gila robusta</i>		E	SGCN
Colorado Pikeminnow	<i>Ptychocheilus lucius</i>		E	SGCN
Colorado pikeminnow (=squawfish) Designated Critical Habitat	CH for Ptychocheilus lucius	Endangered		SGCN
Speckled Dace	<i>Rhinichthys osculus</i>			SGCN
Bluehead Sucker	<i>Catostomus discobolus discobolus</i>			SGCN
Flannelmouth Sucker	<i>Catostomus latipinnis</i>			SGCN
Razorback Sucker	Xyrauchen texanus	LE		SGCN
Spotted Bat	Euderma maculatum		T	SGCN
Gunnison's Prairie Dog	Cynomys gunnisoni			SGCN
Cougar	Puma concolor			SERI
Elk	Cervus canadensis nelsoni			SERI
Mule Deer	Odocoileus hemionus			SERI

ESA = Endangered Species Act, WCA = Wildlife Conservation Act, SGCN = Species of Greatest Conservation Need, SERI = Species of Economic and Recreational Importance



Project Recommendations

Your proposed project activities may require a custom review for assessment of potential effects to wildlife. If the information provided under the "OVERALL STATUS" section above indicates that your project will be forwarded for review, a Department biologist will confirm whether any additional conservation measures are needed. You should expect to receive any additional project recommendations within 30 days of your project submission. If the "OVERALL STATUS" section indicates that no further consultation with the Department is required, you should not expect to receive additional project feedback from the Department, and you may proceed with project planning as indicated.

Your project occurs within important habitats for wildlife, which could include fawning/calving or wintering areas for species such as deer and elk, or high wildlife movement and activity areas. Management recommendations within these areas may include the following.

- Restrictions on noise-generating activities between Dec. 1 and Apr. 15. These activities would include oil and gas well pad development and operation that exposes wildlife to noises loud noises (at or above 48.6 dB(A) Leq at 400 feet in any direction from the source) from drilling, compressors, and pumping stations.
- Modifying fences along high use areas to make them wildlife friendly and facilitate large animal movement.
- Taking mitigation actions to reduce wildlife-vehicle collisions at high risk locations.

Burrowing owl is known to occur within or near your project area. Before any ground disturbing activities occur, the Department recommends that a preliminary survey be conducted between April and September, 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.

The proposed project occurs within or near a riparian area. Because riparian areas are important wildlife habitats, the project footprint should avoid removing any riparian vegetation or creating ground disturbance either directly within or affecting the riparian area. If your project involves removal of non-native riparian trees or planting of native riparian vegetation, please refer to the Department's habitat handbook guideline for [Restoration and Management of Native and Non-native Trees in Southwestern Riparian Ecosystems](#).

Disclaimers regarding recommendations:

- The Department provides technical guidance to support the persistence of all protected species of native fish and wildlife, including game and nongame wildlife species. Species listed within this report include those that have been documented to occur within the project area, and others that may not have been documented but are projected to occur within the project vicinity.
- Recommendations are provided by the Department under the authority of § 17-1-5.1 New Mexico Statutes Annotated 1978, to provide "communication and consultation with federal and other state agencies, local governments and communities, private organizations and affected interests responsible for habitat, wilderness, recreation, water quality and environmental protection to ensure comprehensive conservation services for hunters, anglers and nonconsumptive wildlife users".
- The Department has no authority for management of plants or Important Plant Areas. The [New Mexico Endangered Plant Program](#), under the Energy, Minerals, and Natural Resources Department's Forestry Division, identifies and develops conservation measures necessary to ensure the survival of plant species within New Mexico. Plant status information is provided within this report as a courtesy to users. Recommendations provided within the ERT may not be sufficient to preclude impacts to rare or sensitive plants, unless conservation measures are identified in coordination with the Endangered Plant Program.
- Additional coordination may also be necessary under the federal ESA or National Environmental Policy Act (NEPA). Further site-specific recommendations may be proposed during ESA and/or NEPA analyses, or through coordination with affected federal agencies.

Notice of Availability

Notice of Availability

The U.S. Army Corps of Engineers (USACE), Albuquerque District, in cooperation with and at the request of the Farmers Mutual Ditch Association, has completed the Draft Environmental Assessment (EA), titled, “**Farmers Mutual Ditch Rehabilitation, Farmington, San Juan County, New Mexico**”. The purpose of this project is to rehabilitate approximately two miles of the Farmers Mutual Ditch and provide the Farmers Mutual Ditch Association with a reliable water distribution system. The project would involve placing 4.5-foot diameter reinforced concrete pipe in the existing channel. All pipe would be placed within the Farmers Mutual Ditch easement. The Farmers Mutual Ditch Association is the local sponsor. The proposed construction period is four months and is expected to start in November of 2020.

The Draft EA is electronically available for viewing and copying at the Albuquerque District website (under “Environmental Assessments/FONSI”) at:

<https://www.spa.usace.army.mil/Missions/Environmental/Environmental-Compliance-Documents/>

or a hard copy will be sent upon written request to the following address:

U.S. Army Corps of Engineers
Albuquerque District
Environmental Resources Section
Attn: CESP-PM-LE (Ms. Dana Price)
Albuquerque, New Mexico 87109-3435

Paper copies of this document are also available for review at:

Bloomfield Public Library
333 South 1st Street
Bloomfield, NM 87413

The public review will extend from **August 14, 2020 to September 14, 2020**. Written comments should be sent to the above address and will be accepted until 4:00 PM, September 14, 2020. Alternatively, comments may be sent electronically to Dana.M.Price@usace.army.mil

Affidavit of Publication

Farmington Daily Times

PRINT OF THE USA TODAY NETWORK

Affidavit of Publication

Ad # 0004329426

This is not an invoice

ENVIRONMENTAL RSC SE CTION US ARMY C
4101 JEFFERSON PLAZA NE


ALBUQUERQUE, NM 87109

I, being duly sworn say: **Farmington Daily Times**, a daily newspaper of general circulation published in English at Farmington, said county and state, and that the hereto attached Legal Notice was published in a regular and entire issue of the said DAILY TIMES, a daily newspaper duly qualified for the purpose within the State of New Mexico for publication and appeared in the internet at The Daily Times web site on the following day(s):

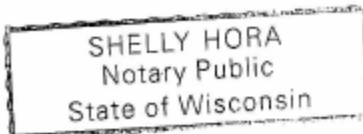
08/20/2020


Legal Clerk

Subscribed and sworn before me this August 20,
2020:


State of WI, County of Brown
NOTARY PUBLIC

8-25-23
My commission expires



Ad # 0004329426

PO #: Farmers NOA AD#4329426

of Affidavits 1

This is not an invoice

Notice of Availability

The U.S. Army Corps of Engineers (USACE), Albuquerque District, in cooperation with and at the request of the Farmers Mutual Ditch Association, has completed the Draft Environmental Assessment (EA), titled, "Farmers Mutual Ditch Rehabilitation, Farmington, San Juan County, New Mexico". The purpose of this project is to rehabilitate approximately two miles of the Farmers Mutual Ditch and provide the Farmers Mutual Ditch Association with a reliable water distribution system. The project would involve placing 4.5-foot diameter reinforced concrete pipe in the existing channel. All pipe would be placed within the Farmers Mutual Ditch easement. The Farmers Mutual Ditch Association is the local sponsor. The proposed construction period is three months and is expected to start in November of 2020.

The Draft EA is electronically available for viewing and copying at the Albuquerque District website (under "Environmental Assessments/FONSI") at:

<https://www.spa.usace.army.mil/Missions/Environmental/Environmental-Compliance-Documents/>

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U.S. Army Corps of Engineers
Albuquerque District
Environmental Resources Section
Attn: CESPA-PM-LE (Ms. Dana Price)
Albuquerque, New Mexico 87109-3435

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Bloomfield, NM 87413

The public review will extend from August 14, 2020 to September 14, 2020. Written comments should be sent to the above address and will be accepted until 4:00 PM, September 14, 2020. Alternatively, comments may be sent electronically to Dana.M.Price@usace.army.mil #4329426, Daily Times, Aug 20, 2020

Example Letter Sent to Agencies



DEPARTMENT OF THE ARMY
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS
4101 JEFFERSON PLAZA NE
ALBUQUERQUE NM 87109-3435

14 August 2020

Planning, Project and Program Management Division
Planning Branch
Environmental Resources Section

Field Supervisor
US Fish and Wildlife Service
New Mexico Ecological Services Field Office
2105 Osuna Road NE
Albuquerque, New Mexico 87113

Dear NMESFO Field Supervisor:

The U.S. Army Corps of Engineers, Albuquerque District, has prepared a Draft Environmental Assessment (DEA) and Draft Finding of No Significant Impact (FONSI) for the Farmers Mutual Ditch Rehabilitation Project, Farmington, San Juan County, New Mexico. The plan provides a reliable, efficient, low-cost, and low-maintenance system for the continued distribution of water for use by the members of the Farmers Mutual Ditch Association in the project area. See the enclosed figure for a map of the project area.

Two alternatives were considered, a No Action Alternative and a Buried Pipe Alternative. The recommended action includes rehabilitation of approximately two miles of earthen channel by placing a 4.5 ft diameter reinforced concrete pipe within the current alignment, as well as the use of an approximately 1.5-acre area located on private land on the north side of the ditch as a staging area.

The Draft "**Environmental Assessment of the Farmers Mutual Ditch Rehabilitation Project**" is available electronically at the Albuquerque District website, <https://www.spa.usace.army.mil/Missions/Environmental/Environmental-Compliance-Documents/Environmental-Assessments-FONSI/>. The Corps is soliciting comments from Federal interests to comply with the National Environmental Policy Act.

The Corps has reviewed information on federally listed species and determined that the preferred alternative;

- **May affect the Southwestern willow flycatcher and the yellow-billed cuckoo** due to minor indirect impacts to riparian vegetation along the ditch **but is not likely to adversely affect the Southwestern willow flycatcher and the yellow-billed cuckoo** due to project timing outside of nesting season. Please refer to the informal consultation materials sent to your office on July 17, 2020.

- The project would have no effect on other Federally listed species with potential to occur in the Project Area or their critical habitats. The project would not affect endangered plants due to absence of suitable habitat (Knolton's cactus, Mesa Verde cactus, Mancos milk-vetch, Zuni fleabane); would not affect endangered fishes or critical habitat due to project and location outside aquatic habitat (Colorado pikeminnow, razorback sucker, Zuni bluehead sucker, roundtail chub); and would not affect endangered mammals due to absence of suitable habitat (Canada lynx, New Mexico meadow jumping mouse).

We would appreciate any additional information on endangered and threatened species or species of concern within Sandoval County and the proposed project area that could be affected by the proposed project. **Please see Section 3.4 for information on Biological Resources, including Wildlife and Special Status Species.**

Please review the DEA and provide any comments via email to Ms. Dana Price, dana.m.price@usace.army.mil. Comments must be received **no later than 14 September 2020**, so that comments can be addressed and revisions made to the DEA in a timely manner. If we do not receive comments by this date, we will assume you have no concerns or have no objections to the project. You may e-mail your correspondence to dana.m.price@usace.army.mil.

If you have any questions or need additional information, please contact Ms. Dana Price, Biologist, at (505) 417-9787 or e-mail at dana.m.price@usace.army.mil. Thank you.

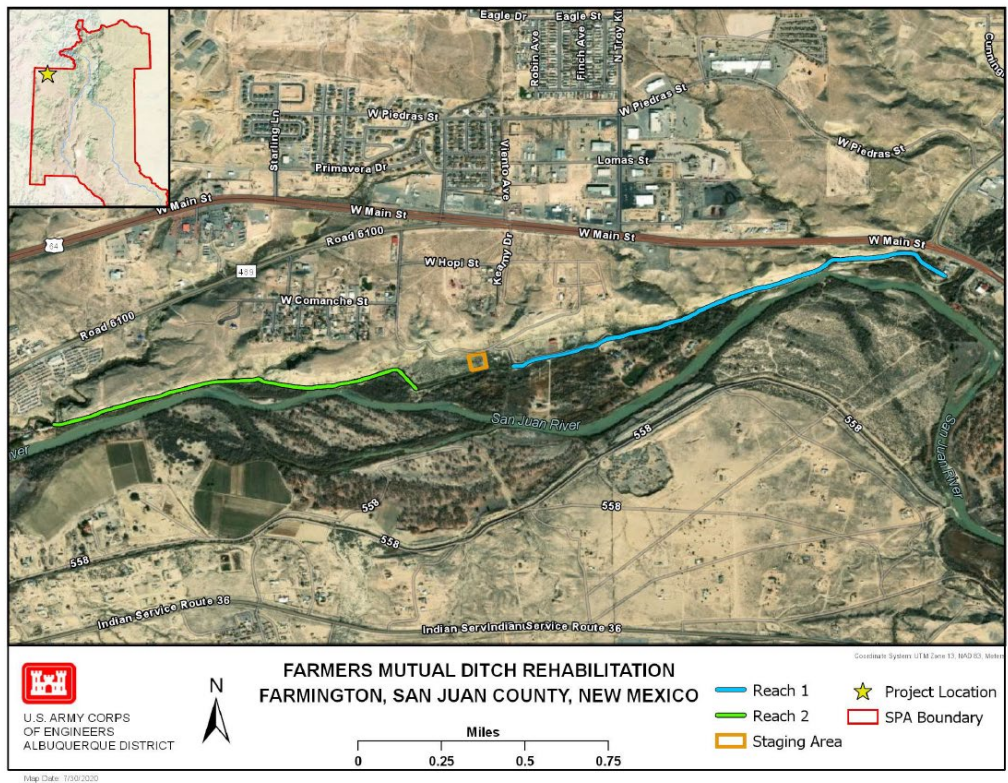
Sincerely,

MACDONELL.GEORGE
.HOWELL.1045319667

Digitally signed by
MACDONELL.GEORGE.HOWELL.
1045319667
Date: 2020.08.12 15:00:04 -06'00'

George Macdonell
Chief, Environmental Resources Section

Enclosure



Mailing List for the Draft Environmental Assessment

Field Supervisor
 USFWS - Ecological Services
 2105 Osuna Road NE
 Albuquerque, NM 87113

Mr. Rolf Schmidt-Peterson, Director
 New Mexico Interstate Stream Commission
 P.O. Box 25102
 Santa Fe, NM 87504

Mr. Robert Houston
 U.S. EPA
 Region 6
 1201 Elm Street, Suite 500
 Dallas, TX 75270

Mr. Matt Wunder
 Conservation Services Division
 NM Department of Game and Fish
 P.O. Box 25112
 Santa Fe, NM 87504

Ms. Kelly Allen
 Regulatory Division
 U.S. Army Corps of Engineers
 Albuquerque District
 4101 Jefferson Plaza NE
 Albuquerque, NM 87109

Ms. Shelly Lemon
 NM Environment Department
 Surface Water Quality Bureau
 P.O. Box 5469
 Santa Fe, NM 87502

Ms. Jennifer Faler
Bureau of Reclamation
555 Broadway Blvd. NE, Suite 100
Albuquerque, New Mexico 87102

Ms. Daniela Roth
State Botanist
Forestry and Resources Conservation
Division: Energy, Minerals, and Natural
Resources Department
P.O. Box 1948
Santa Fe, NM 87504

NM Office of the State Engineer
100 Gossett Drive, Suite A
Aztec, NM 87410

Ms. Danene Sherwood
Farmers Mutual Ditch Association Members

Comments Received

U.S. Fish and Wildlife Service



United States Department of the Interior



FISH AND WILDLIFE SERVICE

New Mexico Ecological Services Field Office
2105 Osuna Road NE
Albuquerque, New Mexico 87113
Telephone 505-346-2525 Fax 505-346-2542
www.fws.gov/southwest/es/newmexico/

August 19, 2020

Cons. # 02ENNM00-2020-I-0342

George Macdonell, Environmental Resources Section Chief
U.S. Army Corps of Engineers
4101 Jefferson Plaza NE
Albuquerque, NM 87111

Dear Mr. Macdonell:

Thank you for your offices' biological assessment, supporting materials, and letter dated July 16, 2020. Your office has requested informal consultation with the U.S. Fish and Wildlife Service (Service) pursuant to section 7 of the Endangered Species Act (ESA) of 1973 (16 U.S.C. § 1531 *et seq.*), as amended, for the Farmers Mutual Ditch Acequia Rehabilitation Project (Project), in San Juan County, New Mexico. The Project will entail converting an open acequia to a piped ditch. The U.S. Army Corps of Engineers has decided to complete this Project because the acequia is frequently subject to rockslides, which fills the acequia with sediment, reduces water supply and subsequently requires frequent maintenance. Construction will take place between October 2020 and March 2021 and access to the Project will occur using existing maintenance roads or ditches.

In the July 2020 letter and associated attachments, you determined the proposed action "may affect, is not likely to adversely affect" the threatened Yellow-billed Cuckoo (*Coccyzus americanus*, cuckoo), and the endangered status Southwestern Willow Flycatcher (*Empidonax traillii extimus*, flycatcher). There is no proposed or designated critical habitat for these species within the action area.

The Service concurs with your determination of "may affect, is not likely to adversely affect" for the cuckoo and flycatcher based on the rationale and the conservation measures provided in your emails and biological effects analysis documents. Those conservation measures are summarized below:

- The cuckoo and flycatcher are not known to occur within the Project area. The absence of the species was confirmed via two exploratory surveys and habitat reconnaissance during the summer of 2020.

- The Project will occur outside of the breeding and nesting season from April 15 to September 1.
- There may be a reduction in the amount of seepage of groundwater as a result of piping the ditch, however, this ditch is alongside the San Juan River which is suspected to be the primary water source supporting desirable riparian vegetation within the floodplain. The amount of water loss and subsequent stress to vegetation is anticipated to be minimal. The amount of impact to potentially migrating individuals that may stop to forage in the vegetation immediately adjacent to the ditch cannot be measured with any amount of certainty, particularly when more desirable habitat is located closer to the river and is not anticipated to be impacted by the Project.

Additionally, there were a number of species considered for impacts for which “no effect” determinations were made. Although the ESA does not require Federal agencies to consult with the Service if the action agency determines their action will have “no effect” on threatened or endangered species or designated critical habitat (50 CFR 402.12), we appreciate notification of your determination.

This concludes informal section 7 consultation on the U.S. Army Corps of Engineers Farmers Mutual Ditch Acequia Rehabilitation Project. Please contact the Service if: 1) future surveys detect listed, proposed, or candidate species in habitats where they have not been previously observed; 2) the project is changed or new information reveals effects of the action to the listed or proposed species or their habitats to an extent not considered in these evaluations; or, 3) a new species is listed that may be affected by this project.

We appreciate your conscientious efforts to comply with Endangered Species Act requirements and your concern for New Mexico’s fish and wildlife resources. In future communications regarding this memorandum or the Project, please contact Vicky Ryan of my staff at (505) 761-4738 or vicky_ryan@fws.gov.

Sincerely,
**SHAWN
SARTORIUS**
Digitally signed by
SHAWN SARTORIUS
Date: 2020.08.19
10:38:12 -06'00'
Shawn Sartorius
Field Supervisor

Electronic Cc:

Director, New Mexico Department of Game and Fish, Santa Fe, New Mexico
(michael.sloane@state.nm.us)

Chief, Ecological and Environmental Planning Division, New Mexico Department of Game and Fish, Santa Fe, New Mexico (matthew.wunder@state.nm.us)

Director, New Mexico Energy, Minerals, and Natural Resources Department, Forestry Division, Santa Fe, NM (laura.mccarthy@state.nm.us)

Biologist, Environmental Resources Section, U.S. Army Corps of Engineers, Albuquerque, New Mexico (dana.m.price@usace.army.mil)

Administrative Record Consultation Number 02ENNM00-2020-0342 (Vicky_ryan@fws.gov)

NM Department of Game and Fish

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
Post Office Box 25112, Santa Fe, NM 87504
Tel: (505) 476-8000 | Fax: (505) 476-8131
For information call: (888) 248-8866

www.wildlife.state.nm.us

STATE GAME COMMISSION

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Cebolla
DAVID SOULES
Las Cruces
JEREMY VESBACH
Placitas

11 September, 2020

Ms. Dana Price
Biologist, Environmental Resource Section
US Army Corp of Engineers
4101 Jefferson Plaza NE
Albuquerque, NM 87109

**RE: Draft Environmental Assessment of the Farmers Mutual Ditch Rehabilitation Project;
NMDGF No. NMERT-748**

Dear Ms. Price:

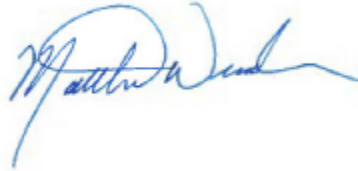
The New Mexico Department of Game and Fish (Department) has reviewed the Environmental Assessment for the above referenced project. The recommended action will replace two miles of earthen channel with a 4.5 ft diameter reinforced concrete irrigation pipe. The purpose of the proposed construction is to prevent rock and debris slides from filling the irrigation canal, and to increase efficiency of water delivery.

The Department believes the timing, reseeding efforts, and best management practices incorporated in the Environmental Assessment will help minimize negative impacts to wildlife. In addition, the Department recommends conducting surveys for active burrows or cavities within the project area prior to initiating ground disturbance to avoid negative impacts to burrowing animals. Burrowing Owl (*Athene cunicularia*) is one species known to occur within San Juan County and could occur within the project area. Burrowing Owls are most likely to occur during the breeding season, from April – September. However, during warmer winters in the northern parts of the state, some owls may remain on territory year-round. For your convenience we have enclosed a copy of our recommended survey protocol for your use. Should burrowing owls be documented within the project area we recommend that you contact the Department or the U.S. Fish and Wildlife Service (USFWS) for further recommendations regarding nest site mitigation measures or owl relocation techniques in order to avoid impacts that could result in take.

Thank you for the opportunity to review and comment on the proposed project. If you have any questions, please contact Meaghan Conway, Aquatic and Riparian Habitat Specialist, at 505-476-8160 or Meaghan.Conway@state.nm.us.

U.S. Army Corp of Engineers
11 September, 2020
Page -2-

Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew Wunder". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

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

cc: USFWS NMES Field Office
Chuck Schultz, NMDGF, Northwest Regional Habitat Biologist

NM Office of the State Engineer

From: [Juett, Miles, OSE](#)
To: [Price, Dana M CIV USARMY CESPA \(USA\)](#); [Yazzie, Letisha, OSE](#)
Cc: [Moore, Sarah A CIV USARMY CESPA \(USA\)](#); [Williams, Shawn, OSE](#)
Subject: [Non-DoD Source] RE: Project Review; Farmers Ditch Draft Environmental Assessment
Date: Wednesday, August 19, 2020 8:53:13 AM
Attachments: [DEA Farmers NMISC Letter.pdf](#)

Thanks Dana,

Looks good to me, no questions or comments come to mind.

Have a great day,

Miles Juett
Assistant Watermaster
NM Office of the State Engineer
100 Gossett Drive, Suite A
Aztec, NM 87410

505-383-4571 Main
505-383-4577 Direct

USACE Regulatory Division

CESPA-RD

22 September 2020

MEMORANDUM FOR Chief, Environmental Resources Section, (CESPA-PM-LE/George Macdonell)

SUBJECT: Draft Environmental Assessment for the Farmers Mutual Ditch Rehabilitation, Farmington, San Juan County, New Mexico.

This letter responds to your request for comments on the Environmental Assessment of the Farmers Mutual Ditch Rehabilitation Project located at approximately latitude 36.731952° North, longitude -108.273468° West, in San Juan County, New Mexico.

Based on the information provided, we have determined that a Department of the Army permit is not required since the activity is exempted from regulation by a specific provision of the Clean Water Act as implemented by the U.S. Army Corps of Engineers regulations at 33 CFR 323.4(a) because the activity consists of construction or maintenance of irrigation ditches in accordance with 33 CFR 323.4(a)(3).

Please note that the Corps did not make a determination of geographic jurisdiction under any of our permitting authorities for this project. This decision does not constitute approval of project design features, nor does it imply that the construction is adequate for its intended purpose. If the plans change, please contact our office for a reevaluation of permit requirements.

Thank you for the opportunity to provide comments. If you have any questions or need additional information, please contact Wyatt Medley by phone (970-471-0213) or by email at wvatt.t.medley@usace.army.mil.

PARRISH.CHRISTOPHER.M.10161187
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PARRISH.CHRISTOPHER.M.10161187
8725
Date: 2020.09.22 09:04:10 -06'00'

Chris Parrish
Chief, New Mexico/Texas Branch
Regulatory Division



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102

April 28, 2023

Ms. Dana Price
U.S. Army Corps of Engineers
Albuquerque District
Environmental Resources Section
CESPA-PM-LE
Albuquerque, New Mexico 87109-3435

Re: EPA Draft Environmental Assessment Comments for the Farmers Mutual Ditch Alignment Project

Dear Ms. Price:

The U.S. Environmental Protection Agency (EPA) has reviewed the United States Army Corps of Engineers (USACE) Albuquerque District Draft Environmental Assessment (EA) for the Farmers Mutual Ditch Rehabilitation Project. The Draft EA evaluates the rehabilitation of approximately two miles of the Farmers Mutual Ditch water distribution system. USACE proposes to convert the open ditch to concrete pipe. The project is located adjacent to the San Juan River, west of Farmington, San Juan County, New Mexico. This modification would provide a more reliable irrigation supply and would reduce maintenance costs associated with frequent rockslides impacting the open ditch. The project would involve placing 4.5-foot diameter reinforced concrete pipe in the existing channel. The review is pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality regulations (40 CFR Parts 1500 – 1508), and our NEPA review authority under Section 309 of the Clean Air Act.

Based upon our review of the environmental analysis provided, EPA has identified some areas for your attention and provides comments for your consideration. We are most interested in the Water Quality (Wetlands) and Federal Insecticide, Fungicide and Rodenticide Act (Pesticides) impacts.

Wetlands

The Draft EA states the pipe would be installed in the existing channel alignment to the greatest extent possible and that all pipe would be placed within the Ditch Association easement. Has a different alignment of the project been considered to be a practicable alternative that could result in less erosion and/or prevent potential compromise of the concrete pipe into the San Juan River?

EPA recommends that USACE consider different alignment of the project and assess it as an alternative.

On page 20 of the Draft EA under section 3.4.1. Vegetation, it states “Implementation of the Buried Pipe alternative would have negative impacts to the existing plants along the ditch bank because seepage from the ditch would be eliminated.”

We ask that USACE discuss the environmental impacts of losing that leakage that feeds the surrounding vegetation (and foraging habitat) and what, if anything, is proposed to mitigate the impacts.

Pesticides


On Page iii of the Draft EA, it states that “All construction equipment would be cleaned before entering and upon leaving the study area to prevent introduction or spread of invasive species. Equipment that was previously used in a waterway or wetland would be disinfected to prevent spread of aquatic disease organisms.”

EPA recommends that any disinfectant or other pesticide product used should be actively registered with EPA and used as directed on the label.

We appreciate the opportunity to review this document. Please send a PDF copy of the EA by email to this office. If you have any questions, please contact Gabe Gruta, the project review lead, at 214-665-2174 or gruta.gabriel@epa.gov.

Sincerely,

Houston,
Robert



Digitally signed by Houston,
Robert
Date: 2023.04.28 16:29:56
-05'00'

Robert Houston
Staff Director
Office of Communities, Tribes and
Environmental Assessment

U.S. Environmental Protection Agency Regulatory

(Neighboring Jurisdictions)

From: [R6 CWA404 Regulatory](#)
To: [Price, Dana M CIV USARMY CESP A \(USA\)](#)
Cc: [Galloway, Danielle A CIV USARMY CESP A \(USA\)](#)
Subject: [Non-DoD Source] RE: Neighboring Jurisdictions Effects Determination: Farmers Mutual Ditch, San Juan County, NM
Date: Thursday, June 1, 2023 8:46:33 AM

Good morning,

Thank you for coordinating the New Mexico Environmental Department's Water Quality Certification (WQC) for the Farmers Mutual Ditch rehabilitation project. Based on: the downstream distance from the nearest neighboring jurisdiction, Navajo Nation; proposed impacts to water quality would be de minimis; the use of the Best Management Practices listed in the Draft Environmental Assessment and Finding of No Significant Impact; adherence to all General, Regional, and Water Quality Conditions applicable to Nationwide Permits within the State of New Mexico and to this project; the conditions provided in the WQC granted by the above certifying authority; and no permanent negative impacts to water quality are expected, the EPA Region 6 has decided to not make a "may affect" determination on the water quality of neighboring jurisdictions. Please proceed with the project.

Thank you, EPA
Region 6

From: Price, Dana M CIV USARMY CESP A (USA) <dana.m.price@usace.army.mil>
Sent: Wednesday, May 31, 2023 5:38 PM
To: R6 CWA404 Regulatory <R6_CWA404_Regulatory@epa.gov>
Cc: Galloway, Danielle A CIV USARMY CESP A (USA) <Danielle.A.Galloway@usace.army.mil> **Subject:** Neighboring Jurisdictions Effects Determination: Farmers Mutual Ditch, San Juan County, NM

Hello,

The US Army Corps of Engineers, Albuquerque District, would like to request a neighboring jurisdictions determination for the Farmers Mutual Ditch rehabilitation project.

The CWA Section 401 Water Quality Certification and the project Environmental Assessment are attached. Please let me know if you need any other information.

Thank you,

Dana Price
Biologist
Environmental Resources Section
U.S. Army Corps of Engineers, Albuquerque District 4101
Jefferson Plaza NE
Albuquerque, NM 87109

New Mexico Department of Energy, Minerals, and Natural Resources

From: [Roth, Daniela, EMNRD](#)
To: [Price, Dana M CIV USARMY CESPA \(USA\)](#)
Subject: [Non-DoD Source] RE: Project Review; comments requested: Farmers Mutual Ditch
Date: Thursday, August 13, 2020 2:51:27 PM

Hi Dana:

Based on the map provided and your professional assessment, I concur with your determination that no state or federally listed plants will be affected by the project as proposed. I will not be needing a hard copy of the letter or the DEA.

Best Wishes,

Daniela

Botany Program Coordinator
EMNRD – Forestry Division
1220 S. Saint Francis Drive
Santa Fe, NM 87505
505-476-3347
[Blockedhttp://www.emnrd.state.nm.us/SFD/](http://www.emnrd.state.nm.us/SFD/)

Comment Response Table

Commenter	Comment	Response
USFWS	The Service concurred with the Corps' determination of "may affect, is not likely to adversely affect" for the cuckoo and flycatcher based on the rationale and the conservation measures provided in emails and biological effects analysis documents.	Noted; thank you. We affirm that as described in the EA and biological analysis, construction will occur outside the breeding season. Details are provided in the consultation documents (Appendix B).
EMNRD - Forestry Division, Botany Program	Concurred with the Corps' determination that no state or federally listed plants will be affected by the project as proposed	Noted; thank you.
NMDGF (letter of 11 September)	The timing, reseeding efforts, and best management practices incorporated in the Environmental Assessment will help minimize negative impacts to wildlife.	Noted; thank you.
NMDGF (letter of 11 September)	The Department recommends conducting surveys for active burrows or cavities within the project area prior to initiating ground disturbance to avoid negative impacts to burrowing animals. Burrowing Owl (<i>Athene cunicularia</i>) is known to occur within San Juan County and could occur within the project area.	Habitat along the ditch does not appear to be well suited to burrowing owls. The construction will occur outside of the burrowing owl nesting season. If an active burrow is found during construction, the Corps will contact NMDGF for further coordination.
NMDGF (Environmental Review tool)	A list of special status species, including NMDGF- and USFWS-listed threatened and endangered species and Species of Greatest Conservation Need, was provided	Based on the species list provided from the ERT, the state-endangered Western Toad (<i>Anaxyrus boreas</i>) was considered for addition to the species list in the EA. The Western toad in NM occurs at higher elevations (BISON-M 2020) and suitable habitat is not present in the Farmers Ditch project area.
NMDGF (Environmental Review tool)	The project occurs within important habitats for wildlife, which could include fawning/calving or wintering areas for species such as deer and elk, or high wildlife movement and activity areas. Management recommendations include restrictions on noise-generating activities and taking actions to reduce wildlife-vehicle collisions.	Impacts to wildlife would be temporary and minor as described in the EA. The project area is close to urban development, highways and other human impacts. Noise from construction would only occur during daylight construction hours. Vehicles involved in construction will travel at low speeds due to the nature of the access roads and work area.

<p>NMDGF (Environmental Review tool)</p>	<p>Because riparian areas are important wildlife habitats, the project footprint should avoid removing any riparian vegetation or creating ground disturbance either directly within or affecting the riparian area.</p>	<p>Disturbance will be limited to the ditch right-of-way which includes a few cottonwoods and willows that are disjunct from the San Juan River riparian corridor. The adjacent riparian corridor would not be disturbed.</p>
<p>USEPA</p>	<p>All Non-Road Engines should be certified as in compliance with EPA Tier 4 regulations found at 40 CFR Parts 89 and 1039, which include new and in-use nonroad compression-ignition engines.</p>	<p>Concur. This requirement will be included in contract specifications.</p>
<p>USEPA</p>	<p>Should any land-clearing activities occur which result in the use of open burning to dispose of woody debris, coordination should be conducted with the New Mexico Environment Department to determine air quality conditions such as atmospheric inversions prior to performing open burning activities, and consider any expected air quality/visibility impacts to Class I Federal Areas identified in 40 CFR Part 81, Subpart D.</p>	<p>Concur. Open burning is not anticipated to occur. Should open burning be used, the project contractor will be required to coordinate with NMED.</p>
<p>USEPA</p>	<p>EPA recommends incorporating a Tribal Consultation Section in the EA with discussion as to how it complied with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (November 6, 2000), since the project has tribal implications. EPA recommends that the discussion includes, but not limited to any direct, indirect or cumulative adverse impacts associated with cost and tribal trust resources. In addition, EPA recommends that the discussion include tribal concerns and the mitigation measures being addressed.</p>	<p>Concur. Section 6 of the EA, Consultation and Coordination, describes Tribal consultation. We have also added a section specifically addressing Tribal consultation. As an agency of the Department of Defense, we follow the DoD's American Indian and Alaska Native Policy, which fulfills the requirements of EO 13175. We also adhere to 36CFR800.2, which describes federal agencies' responsibilities for tribal consultation. Consultation letters were sent to concerned Tribes as described in the DEA. Responses were received from the Navajo Nation and the Southern Ute Tribe, and both responses indicated that there were no cultural resource concerns with the project. There are no known cultural resources or traditional cultural properties concerns in the project APE. Therefore, no mitigation is necessary.</p>

<p>USEPA</p>	<p>Has a different alignment of the project been considered to be a practicable alternative that could result in less erosion and/or prevent potential compromise of the concrete pipe into the San Juan River?... EPA recommends that USACE consider different alignment of the project and assess it as an alternative</p>	<p>USACE considered other alignments but no practicable alternative alignments exists. Work cannot occur outside the ditch right-of-way, and the topography (with much of the ditch being adjacent to steep bluffs and cliffs) constrains the ditch alignment. Due to topography, property ownership constraints, and water right laws, there are no practicable off-site alternatives.</p>
<p>USEPA</p>	<p>Regarding negative impacts to existing plants along the ditch bank when seepage from the ditch is eliminated by the project, USEPA asks that USACE discuss the environmental impacts of losing that leakage that feeds the surrounding vegetation (and foraging habitat) and what, if anything, is proposed to mitigate the impacts.”</p>	<p>USACE revised the discussion in the EA to improve consistency with the 404(b)(1) analysis and the Biological Assessment. Currently, frequent maintenance using machinery is required to clear rock and debris from the ditch. This disturbs vegetation, resulting in large bare stretches along the ditch. Periodic disturbance of vegetation would continue under the no-action alternative and may be more disruptive of the environment than maintaining the new pipe would be. We have determined that mitigation is not required for the minimal loss of vegetation.</p>
<p>USEPA</p>	<p>Regarding disinfection of equipment, EPA recommends that any disinfectant or other pesticide product used should be actively registered with EPA and used as directed on the label.</p>	<p>USACE concurs and will ensure that this requirement is included in the EA and contract specifications.</p>