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/

September 12, 2025

02ENNM00-2013-F-0033

Rio Grande Bureau Project Manager
New Mexico Interstate Stream Commission
5550 San Antonio Dr. NE
Albuquerque, NM 87109-4127

Dear Ms. Haggerty:

The U.S. Fish and Wildlife Service New Mexico Ecological Services Field Office (Service) received your memo *Notification of Included Project (LOI) under the Middle Rio Grande Biological and Conference Opinion (02ENNM00-2013-F-0033) for the Middle Rio Grande Angostura/Albuquerque Reach Habitat Restoration Project, New Mexico* from the New Mexico Interstate Stream Commission (NMISC). This letter states that the Priority 1 restoration sites will be included under the *Final Biological and Conference Opinion for Bureau of Reclamation, Bureau of Indian Affairs, and Non-Federal Water Management and Maintenance Activities on the Middle Rio Grande, New Mexico* (2016 BO). Through conversations with Bureau of Reclamation (Reclamation), we understand that they support this. We appreciate your efforts to avoid impacts to the federally listed Rio Grande silvery minnow (*Hybognathus amarus*; minnow), southwestern willow flycatchers (*Empidonax traillii extimus;* flycatcher), yellow-billed cuckoo (*Coccyzus americanus;* cuckoo) and their habitat, while trying to meet the purpose of this project to improve water conveyance and habitat conditions within the river channel. We also appreciate your attention to our letter *Review of the Programmatic Draft Environmental Assessment for the Middle Rio Grande Angostura/Albuquerque Reach Habitat Restoration Project* (dated March 25, 2025) and your efforts to change the determinations of the SWFL and YBCU as well as your review of affects to SWFL and YBCU suitable habitat.

Although impacts to federally listed species will be minimized to the greatest extent possible using the best management practices stated in the LOI from the 2016 BO, take of these species is still expected in terms of habitat disturbance and loss. Best Management Practices from the 2016 BO implemented to minimize take of flycatchers, cuckoos, and minnows include:

- Construction will avoid the cuckoo and flycatcher breeding season April 15 to September 15.
- Areas dominated by mature Rio Grande cottonwood, Goodding's willow trees or healthy and mature seed-bearing trees would be flagged and avoided during vegetation removal activities.
- Project shall minimize native plant disturbance to the extent possible and replace native plants at a 10:1 ratio for healthy plants and a 5:1 ratio for small or unhealthy plants. Invasive species removed shall be replaced with native species.

- A fish exclusion zone will be established along the wetted river channel, adjacent to the active bankline construction zone, to exclude fish from active work areas, avoiding trapping, injuring, or causing mortality to the minnow. Any fish within the exclusion zone will be removed following installation. The exclusion zone will be installed 10 feet into the river.
- Work activities will be conducted outside the spawning spring flows from May through June to minimize impacts to RGSM at restricted life stages (eggs and larvae).
- Impacts to terrestrial and riparian habitats will be minimized by using existing roads whenever possible.

Potential long and short-term indirect effects may result from this project due to disruption, removal, and degradation of suitable SWFL and YBCU habitat. This will disturb and remove potential nesting sites and patches, potentially causing these species with high site fidelity to continue breeding with less success in unsuitable, degraded habitat. Incidental Take for flycatchers and cuckoos is quantified through acres of suitable habitat. Quantifying a numerical measure of Incidental Take on resident flycatchers or cuckoos is difficult because these species may fail to nest, nest sites may be abandoned, individuals may be difficult to detect, and the species are mobile. As stated in your LOI, 160 acres of habitat loss is allowed over 15 years under the Incidental Take statement in the 2016 BO for river maintenance projects for both flycatcher and cuckoos. For flycatchers, 68 acres of Incidental Take have already been used and 92 acres are remaining. For cuckoos, 56 acres of Incidental Take have been used and 104 acres are remaining. In addition, for both species, only 140 acres of Incidental Take are allowed annually for all purposes across the 2016 BO. The Incidental Take from Priority 1 projects will be accounted for by NMISC throughout the year and reported in the Annual Report by Reclamation along with other habitat disturbance across the 2016 BO. Priority 1 of this project is not expected to exceed Incidental Take for either the river management or annual portions of the allowed take in the 2016 BO. However, we look forward to working with you on ESA compliance and a new consultation for remaining portions of this project which we anticipate will have greater impacts to SWFL and YBCU suitable habitat in the near future.

Thank you for your working collaboratively with the Service to determine the best path forward to improve water conveyance and habitat conditions within the river channel.

If you have any questions or concerns, please contact Jennifer Davis of my staff at Jennifer_L_Davis@fws.gov

Sincerely,

SHAWN SARTORIUS

Digitally signed by SHAWN SARTORIUS
Date: 2025.09.12 09:34:37 -06'00'

Shawn Sartorius
Field Supervisor

cc:
Director, New Mexico Department of Game and Fish, Santa Fe, New Mexico
Director, New Mexico Energy, Minerals, and Natural Resources Department, Forestry Division, Santa Fe, New Mexico

Area Manager, Albuquerque Area Office, Bureau of Reclamation, Albuquerque, New Mexico
Chief Engineer, Middle Rio Grande Conservancy District, Albuquerque, New Mexico