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U.S. Fish and Wildlife Service
500 Gold Avenue SW
Albuquerque, New Mexico 87102

and

U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Boulevard
Los Angeles, California 90017

FINDING OF NO SIGNIFICANT IMPACT

Incidental Take Permit Amendment and Associated Roosevelt Lake Habitat Conservation Plan Addendum and Planned Deviation to the Modified Roosevelt Dam Water Control Manual; Gila and Maricopa Counties, Arizona

The U.S. Fish and Wildlife Service (FWS), as the lead federal agency, and the U.S. Army Corps of Engineers, Los Angeles District (Corps) as a key cooperating agency, have conducted an environmental analysis in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended. The final environmental assessment (EA) dated February 2024, for the Roosevelt Lake Habitat Conservation Plan (RHCP) Addendum (hereafter referred to as amendment) and Planned Deviation to the Modified Roosevelt Dam Water Control Manual addresses the potential effects of authorizing an amendment to the 2003 incidental take permit (ITP) (Permit Number TE-060125-0) in accordance with Section 10(a)(1)(B) of the Endangered Species Act (ESA) held by the Salt River Project Agricultural Improvement and Power District (SRP) for operation of the Modified Roosevelt Dam and Lake (Modified Roosevelt).

The FWS's purpose in considering the Proposed Action is to fulfill its authority under ESA Section 10(a)(1)(B). The purpose of the FWS federal action is to address SRP's application for an amendment to the 2003 ITP that would authorize incidental take of the covered species for the covered activities (described in Chapters 1 and 2 of the RHCP addendum) within the permit area (as expanded by the RHCP amendment).

The purpose of the Corps' federal action is to address SRP's request for a planned deviation to the Modified Roosevelt Water Control Manual (WCM) that would temporarily increase the operational flexibility within the flood control space (FCS). SRP's objective is to increase the ability to beneficially use spill waters controlled by Modified Roosevelt without compromising dam and flood management safety for downstream resources and communities. SRP's RHCP amendment addresses the effects on covered species from any Corps' authorization of a temporary planned deviation.

The final EA, incorporated herein by reference, evaluates two alternatives in detail: The No Action Alternative and the Proposed Action Alternative (i.e., the Preferred Alternative).

Preferred Alternative

SRP is seeking to add the following as covered activities under their RHCP amendment and ITP: 1) normal FCS operations at Modified Roosevelt in accordance with the 1997 WCM for Modified Roosevelt, issued by the Corps in 1997; and 2) FCS operations under a proposed temporary planned deviation to the WCM for Modified Roosevelt. The RHCP amendment analyzes the effects of the covered activities on covered species and their designated critical habitats, quantifies incidental take not previously authorized by the

2003 ITP, and proposes conservation and mitigation measures that SRP would implement to address the impacts of the additional taking.

The ITP amendment would authorize incidental take of the threatened northern Mexican gartersnake (*Thamnophis eques megalops*) in Modified Roosevelt's conservation space (CS) and FCS, and along the lowest 14.1 miles of lower Tonto Creek. Under this alternative, SRP would implement a gartersnake conservation and mitigation program in designated critical habitat, intended to fully offset the impacts of the requested incidental take and reduce primary threats to the snake from threats by nonnative predatory fish (i.e., predation, wounding, and competition) as described in the final EA. SRP's gartersnake conservation program would suppress nonnative predatory fish that move from the lake into lower Tonto Creek and stock native fish. SRP would conduct similar suppression/stocking mitigation actions in a separate section of Tonto Creek farther upstream near the town of Gisela.

SRP's proposed ITP amendment would also expand the area of authorized incidental take for the endangered southwestern willow flycatcher (*Empidonax traillii extimus*; flycatcher) and threatened western yellow-billed cuckoo (*Coccyzus americanus*; cuckoo) to a larger permit area associated with additional covered activities. FWS's current flycatcher and cuckoo incidental take authorization are robust enough to encompass the minor effects from SRP adding flood control actions to their amendment. SRP's proposed ITP amendment will not result in additional adverse effects on the Yuma Ridgway's (clapper) rail (*Rallus obsoletus [longirostris] yumanensis*) and it will not adversely modify designated critical habitat for the flycatcher, cuckoo, gartersnake, or endangered spikedace (*Meda fulgida*).

Additionally, the RHCP amendment clarifies the amount and extent of incidental take of bald eagles (*Haliaeetus leucocephalus*) authorized under SRP's 2002 RHCP and 2003 ITP in the conservation space at Modified Roosevelt and addresses the effects of FCS operations. Since the 2002 RHCP was completed, the FWS delisted the bald eagle, with the Bald and Golden Eagle Protection Act (BGEPA) being the primary federal regulation protecting bald eagles. A valid ITP permit under Section 10 of the ESA serves as a valid permit under the BGEPA. The final EA includes the FWS's analysis under the BGEPA.

Also under this alternative, the Corps—in coordination with the U.S. Bureau of Reclamation (Reclamation) (as owner of Modified Roosevelt Dam)—would decide whether to approve the planned deviation from the WCM for Modified Roosevelt. If approved by the Corps, the planned deviation would allow SRP to extend the duration over which it must evacuate the FCS from 20 days to 120 days for a single flood control event in a year. The planned deviation would be included as a covered activity under the RHCP and ITP amendment. This planned deviation would only apply to the bottom 5 vertical feet of the FCS (referred to as the planned deviation space, which occurs between 2,151 feet and 2,156 feet above mean sea level [amsl]) and only in up to 3 years within a given 5-year period (beginning in the 2023/2024 water year). Flood control operations would return to the WCM's current operating criteria when the lake is above the 2,156-foot amsl elevation contour, when the deviation period has expired, or when SRP has implemented these alternate flood control measures in 3 of the 5 years.

No Action Alternative

Under the No Action Alternative, the FWS would not issue the requested ITP amendment and SRP would not implement the RHCP amendment's gartersnake conservation and mitigation measures. SRP would continue to operate Modified Roosevelt under the 2002 RHCP and 2003 ITP (which expires February 27, 2053) for the four covered species. Also, under the No Action Alternative, the Corps would not take action on a planned deviation to the WCM for flood control operations. Under this alternative, SRP would endeavor to avoid take from inundating gartersnake habitat at Modified Roosevelt, subject to hydrological inputs, physical limitations for releases, and human health and safety considerations. This would be a temporary measure until SRP and the FWS developed and implemented a long-term ESA compliance solution. This alternative does not satisfy FWS's or the Corps' purpose and need for the Proposed Action.

Other Alternatives Considered

SRP considered alternatives related to the planned deviation, which are detailed in Appendix E of the final EA. Alternatives to amending the ITP were limited to the Proposed Action and No Action Alternative, as no other feasible alternatives were available.

Public Participation

The FWS solicited public input on the Proposed Action to assist in identifying key issues and defining the scope of the environmental analysis. The FWS conducted scoping via mail and email (to 585 potentially interested agencies, organizations, Tribes, and neighbors to the Proposed Action), newspaper notice, and Internet publication. Scoping for this EA began on June 1, 2022. Within the 30-day scoping period, the FWS received two written comments: one from an individual and one from Arizona Game and Fish Department (AGFD). FWS also received two telephone calls from individuals residing near Roosevelt Lake and discussed the project with both parties. The FWS addressed scoping comments within the draft EA and SRP responded to the comments in the RHCP amendment. The draft EA was posted for public comment on August 4, 2023, for a 30-day public comment period (88 *Federal Register* 51849). The FWS received nine comment letters from the following entities/organizations: Arizona State Historic Preservation Office (SHPO); AGFD; Reclamation; the City of Peoria, Arizona; the City of Glendale, Arizona; the City of Phoenix, Arizona; the City of Tempe, Arizona; the town of Gilbert, Arizona; and the Zuni Pueblo. A summary of the comments contained in the letters and the FWS' responses to comments can be found in Appendix E of the final EA.

Determination

Significance, as used in NEPA, requires considerations of both context and intensity. Context means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. The RHCP permit area (i.e., area subjected to effects resulting from the Proposed Action) is limited to Roosevelt Lake, its FCS, and a portion of lower Tonto Creek. Neither implementation of the RHCP amendment nor the temporary planned deviation would alter the previously evaluated water supply activities dictated by the Water Control Manual at Roosevelt Lake. Therefore, the context of the impacts (both adverse and beneficial) is not considered significant.

Intensity refers to the severity of the impacts. We have considered the following regulatory factors in evaluating intensity:

1. Impacts that may be both beneficial and adverse. A significant effect may exist even if the federal agency believes that on balance the effect will be beneficial.

Potential effects were evaluated for both alternatives, as appropriate. We summarize our assessment of the potential effects of the Proposed Action in Table 1. The EA indicates that overall, SRP's covered activities under the Proposed Action would have moderate, temporary, localized effects on the gartersnake and its critical habitat that would be both beneficial (e.g., improved riparian habitat conditions following temporary inundation) and adverse (e.g., decreased habitat availability during inundation and from mortality of riparian vegetation). These impacts would be fully offset by the implementation of the conservation and mitigation program. The EA also concludes that there would be non-significant temporary and negligible to minor impacts to the additional resources as listed in Table 1.

Table 1. Summary of Potential Effects of the Proposed Action

	Insignificant Effects	Insignificant Effects as a Result of Mitigation	Resource Unaffected by Action
Aesthetics	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Air quality	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Climate change	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cultural resources and historic properties	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environmental justice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floodplains	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fish and wildlife habitat	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Groundwater	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hazardous, toxic, and radioactive waste	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Hydrology	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Land use	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Noise levels	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Public infrastructure/transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recreation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Soils	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Socioeconomics	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Surface Water	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Threatened/Endangered species/critical habitat	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tribal trust resources	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Vegetation and invasive species	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. The degree to which the Proposed Action affects public health or safety.

No effects to public health or safety are expected to result from the Proposed Action.

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

No adverse long-term impacts to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas are expected to result from the Proposed Action.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

We have no evidence to suggest that the effects on the quality of the human environment are likely to be highly controversial.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

None of the effects of the Proposed Action are highly uncertain because we know the effects of the authorized activities on the human environment. None of the effects of the Proposed Action involve unique or unknown risks. SRP's proposed gartersnake conservation measures in the RHCP amendment minimize impacts to gartersnakes and gartersnake habitat, along with activities to mitigate impacts which they cannot avoid. SRP's gartersnake conservation and mitigation actions use common wildlife management practices.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

Future actions would be reviewed on their own merits. Thus, the Proposed Action would not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

The proposed RHCP amendment is not directly related to any other action.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

The EA has indicated that no adverse impacts to districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places; or, to significant scientific, cultural, or historical resources, are expected to result from the Proposed Action.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

The Proposed Action will adversely affect the gartersnake, flycatcher, and cuckoo, and designated gartersnake, flycatcher, cuckoo, and spikedace critical habitat. The FWS has determined that the ITP amendment has met ESA Section 10(a)(2)(B) issuance criteria, and the covered activities, with implementation of appropriate minimization and mitigation measures, will not jeopardize the continued existence of listed species or destroy or adversely modify critical habitat. Adverse effects to designated critical habitat do not rise to the level of adverse modification due to the existing degraded environmental baseline; limited area affected; periodic and short-term effects; and conservation measures. The FWS has completed a biological opinion under Section 7(a)(2) of the ESA regarding effects on ESA-listed species from the ITP amendment, including the Corps' planned deviation.

10. Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.

The FWS's purpose in considering the Proposed Action is to fulfill its authority under ESA Section 10(a)(1)(B). The purpose of the FWS federal action is to address SRP's application for an amendment to the 2003 ITP that would authorize incidental take of the covered species for the covered activities (described in Chapters 1 and 2 of the RHCP amendment) within the permit area (as expanded by the RHCP amendment). Implementation of the RHCP amendment would not

violate applicable federal, state, or local law or requirements imposed for the protection of the environment.

The purpose of the Corps' federal action is to address SRP's request for a planned deviation to the Modified Roosevelt WCM that would temporarily increase the operational flexibility within the FCS. SRP's objective is to increase the ability to beneficially use spill waters controlled by Modified Roosevelt without compromising dam and flood management safety for downstream resources and communities. The need for the Proposed Action stems from an increase in central Arizona's total surface water use primarily from Colorado River supplies provided by the Central Arizona Project (CAP) and sustained growth in use of renewable surface water supplies, combined with the likelihood of reduced surface water availability due to shortage conditions on the Colorado River. As the effects and impacts of SRP's proposed planned deviation on covered species and critical habitats are included in the RHCP amendment, the FWS and the Corps consolidated their NEPA and ESA compliance obligations for their respective federal actions, pursuant to NEPA and an integrated process described in Sections 3.4.6 and 14.12.7 of the FWS's Habitat Conservation Planning and Incidental Take Permit Processing Handbook.

The FWS completed a biological opinion under Section 7(a)(2) of the ESA that satisfies both the FWS and Corps' ESA responsibilities, dated February 2024. The RHCP amendment and the biological opinion is a combined ESA Section 10(a)(1)(B) and ESA Section 7 approach to ESA compliance for implementation of covered activities for non-federal (Section 10) and federal (Section 7) participants (i.e., Corps). The biological opinion satisfies the Corps' responsibility under ESA Section 7 for its decision whether to authorize the temporary planned deviation, and the temporary deviation's effects are addressed by SRP under the RHCP amendment under ESA Section 10(a)(1)(B). The biological opinion addresses the FWS's action of issuing an ITP for the RHCP amendment under Section 10(a)(1)(B).

Pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended, the FWS and the Corps determined that historic properties would not be adversely affected by the Proposed Action. The Arizona SHPO concurred with this determination on January 26, 2024, conditional on SRP's development and implementation of a voluntary cultural resources monitoring plan, with input from SHPO and Tribes. In response, SRP developed a plan to monitor inundation effects from the planned deviation and analyze and record previously documented cultural sites with the planned deviation space. The monitoring plan is an environmental commitment included in the EA.


The Proposed Action is in compliance with the guidelines in 40 Code of Federal Regulations 230.10(c), promulgated by the EPA under Section 404(b)(1) of the Clean Water Act. The Proposed Action would affect waters of the U.S., including potential wetland areas, through the rising of water levels in the lake and contributing streams upstream of Modified Roosevelt near their discharge points into the lake. However, no Clean Water Act Section 404 permitting would be required as the Proposed Action would not cause a discharge of dredge or fill material within wetlands or other waters of the U.S. No reservoir facilities would be modified under this alternative.

Based upon information contained in the EA and HCP and supporting data in FWS files, we have determined that issuance of this ITP is not a major federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the NEPA. Accordingly, the preparation of an environmental impact statement on the Proposed Action is not warranted. Therefore, the FWS has made a finding of no significant impact as allowed by NEPA regulation and supported by Council on Environmental Quality guidance.

DATE

Jeffery Fleming
Deputy Regional Director
U.S. Fish and Wildlife Service, Southwest Region

All applicable laws, executive orders, regulations, and local government plans were considered in evaluation of alternatives, and coordination with appropriate agencies has been completed. Based on the EA, the reviews by other federal, state, and local agencies, Tribes, input of the public, and the review by our staffs, it is our determination that the Proposed Action would not have a significant effect on the quality of the human environment; therefore, preparation of an environmental impact statement is not required.

A handwritten signature in black ink, appearing to read "A. Baker". The signature is written in a cursive style with a large initial "A" and "B".

DATE

Andrew Baker
Colonel, U.S. Army
Commanding