



United States Department of the Interior

Fish and Wildlife Service
Arizona Ecological Services Office

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In Reply Refer to:

AESO/SE

2022-0048502-NEPA-001

May 31, 2022

Re: Public Scoping Notice—Roosevelt Habitat Conservation Plan Amendment and Planned Deviation from Modified Theodore Roosevelt Dam’s Water Control Manual

Dear Interested Parties:

The Salt River Project Agricultural Improvement and Power District (SRP) notified the U.S. Fish and Wildlife Service (FWS) that they will request an amendment for their existing 2002 Roosevelt Habitat Conservation Plan (RHCP), as well as an application for an amended Incidental Take Permit (ITP). SRP is developing the RHCP addendum with the FWS. A Habitat Conservation Plan (HCP) is a required part of an ITP application under Section 10(a)(1)(B) of the Endangered Species Act (ESA) for non-federal entities undertaking activities that adversely affect threatened or endangered species. FWS is the lead federal agency for National Environmental Policy Act (NEPA) compliance for the RHCP addendum and is seeking public input through this scoping notice.

The 2002 RHCP and ITP addressed the incidental take of four birds (three federally listed and one candidate) associated with SRP’s operation of the conservation space (CS) within Modified Theodore Roosevelt Dam (Modified Roosevelt Dam). As outlined in the Proposed Action Section below, the RHCP amendment would authorize incidental take of newly listed species, add SRP’s operation of Modified Roosevelt Dam in the flood control space (FCS) under the U.S. Army Corps of Engineers (the Corps) 1997 Water Control Manual (WCM) as a “covered activity,” and enlarge the permit area to include the FCS and a 15-mile segment of Tonto Creek upstream of the CS.

Additionally, SRP has requested a planned deviation from the normal operating criteria identified in the Corps’ WCM¹ for Modified Roosevelt Dam, in coordination with the Bureau of Reclamation (Reclamation), as the owner of Modified Roosevelt Dam. The RHCP addendum will address impacts to covered species from the planned deviation within the FCS. The proposed amended ITP, associated RHCP addendum, and the planned deviation are subject to federal approvals and, therefore, require NEPA compliance.

¹ The WCM provides an operational plan to regulate Modified Roosevelt Dam for flood control purposes pursuant to the Flood Control Act of 1944 (Section 4.5.8, 58 Stat. 887).

FWS, as the lead agency, in coordination with its cooperators, the Corps, Reclamation, and Tonto National Forest, determined that an Environmental Assessment (EA) is the appropriate level of review under NEPA.

Agency decisions by FWS and the Corps that will stem from the analysis of the planned deviation in the EA are related. FWS and the Corps will work to ensure the two agencies' requirements are addressed through all aspects of the NEPA process and development of the EA. For these reasons, the agencies are analyzing these related actions within one EA. The EA will evaluate (1) FWS's proposed review of an ITP amendment for covered activities under the RHCP, and (2) the Corps' proposed review of the planned deviation, including the impacts of the proposed actions on the quality of the human environment and reasonable alternatives.

FWS is requesting public input to help identify issues and concerns associated with the proposed RHCP addendum and amended ITP, and the planned deviation. As part of NEPA process, resources evaluated in the EA will include, but are not limited to, biology, water, recreation, transportation, utilities, cultural, Indian Trust Assets, socioeconomic, air quality, aesthetic/visual, and environmental justice.

Background

Modified Roosevelt Dam

The United States government owns Modified Roosevelt Dam and impounds water in Roosevelt Lake as part of the Salt River Project. Through a September 6, 1917 contract between the Secretary of the Interior and SRP, Reclamation has delegated to SRP the responsibility for the care, operation, and maintenance of Modified Roosevelt Dam and other facilities of the Salt River Project.

In coordination with SRP, Reclamation structurally modified Theodore Roosevelt Dam in 1996, as authorized under Public Laws 95-578 and 90-537, to include (1) FCS to help manage flood releases to reduce downstream flood damage; (2) flood surcharge space to protect the dam from overtopping (Safety of Dams); (3) additional water conservation space (New Conservation Space); and (4) new outlet works and spillway configuration (Figure 1).

In the same year that Roosevelt Dam modifications were complete, the Corps, in coordination with Reclamation, completed an EA and Finding of No Significant Impact (FONSI), describing the environmental impacts anticipated to result from WCM implementation. The WCM EA was tiered from Reclamation's 1983 Final Environmental Impact Statement (FEIS) and 1984 Record of Decision for the Central Arizona Water Control Study, and Reclamation's 1990 Final EA and FONSI for Theodore Roosevelt Dam Modifications. Reclamation's 1983 FEIS included conceptual plans and estimated impacts on recreation sites at the Modified Roosevelt Dam. Reclamation's 1990 EA also considered impacts to recreation up to the reservoir's water surface (RWS) elevation of 2,174.87 above mean sea level (amsl) and included a Recreation Enhancement Plan for facilities on Tonto National Forest Lands at Roosevelt Lake.

In September 1997, the Corps issued the WCM for Modified Roosevelt Dam. The Corps, Reclamation, and SRP entered into a Water Control Agreement, dated November 5, 1996, under which the parties agreed that SRP, as the entity responsible for the care, operation and

maintenance of Modified Roosevelt Dam, would comply with the WCM's flood control operating criteria.

Modified Roosevelt Dam's WCM operational objective is to minimize downstream flood damage along the Salt and Gila Rivers. Modified Roosevelt Dam minimizes, through controlled releases, peak discharges at the Salt-Verde River confluence during large flood events. The WCM identifies operational releases within the FCS to drawdown Roosevelt Reservoir within 20 days of initial inundation while working to maintain combined flows at the Salt and Verde River confluence below 180,000 cubic feet per second.

Modified Roosevelt Dam's WCM identifies in Section 7-14(c) when it may be necessary to temporarily deviate from the established flood control plan. Planned deviations are one of three categories of deviations identified in the WCM. Section 7 of the 1944 Flood Control Act, the Corps' Engineer Regulation 1110-2-240, and the South Pacific Division's Regulation 10-1-04, as well as the existing Modified Roosevelt Dam WCM and Water Control Agreement, establish the process and requirements for approval of a planned WCM deviation.

2002 Roosevelt Habitat Conservation Plan

SRP's 2002 RHCP addresses the impacts to and take of four bird species (yellow-billed cuckoo [*Coccyzus americanus*; hereafter cuckoo], southwestern willow flycatcher [*Empidonax traillii extimus*; hereafter flycatcher], Yuma Ridgway's rail [*Rallus obsoletus yumanensis*; hereafter rail], and bald eagle [*Haliaeetus leucocephalus*]) resulting from SRP's conservation storage operations within Modified Roosevelt Dam. The 2002 RHCP and 2003 ITP permit area covers Roosevelt Lake's CS which extends to the reservoir's water surface (RWS) elevation of 2,150.78 feet amsl. In February 2003, FWS signed its RHCP Record of Decision on the Environmental Impact Statement under NEPA, completed a Section 7 ESA Biological Opinion on the issuance of the ITP, and issued a Section 10(a)(1)(B) ITP to SRP.

FWS will consider SRP's proposed amendment to the RHCP and ITP under the following requirements identified in Section 10(a)(2)(A) of the ESA; implementing regulations at 50 Code of Federal Regulations (CFR) 17.22(b) (endangered species) and 17.32(b) (threatened species); the issuance criteria for HCPs at 50 CFR 17.22(b)(2) and 50 CFR 17.32(b)(2); and, 50 CFR 222.25, 222.27, and 222.31. SRP does not expect the proposed amendment to change the ITP related to federally listed birds (cuckoo, flycatcher and rail) within the Roosevelt Lake CS and anticipates re-evaluating the bald eagle's status and incidental take under the Bald and Golden Eagle Protection Act (Eagle Act).

Since 2003, FWS listed as threatened two species that occupy portions of the CS and FCS: the cuckoo (previously a candidate species) and northern Mexican gartersnake (*Thamnophis eques megalops*; hereafter gartersnake). Additionally, FWS designated critical habitat in portions of the FCS for the flycatcher, cuckoo, gartersnake, and the endangered spikedace (*Meda fulgida*). Reclamation's 1995 Biological Assessment (and FWS's subsequent 1996 Biological Opinion) did not address effects of FCS operations on these species and designated critical habitat. FWS also defined the word "disturb" under the Eagle Act (71 Federal Register [FR] 8265), delisted the bald eagle (72 FR 37345, 73 FR 23966, 77 FR 25792), and established regulations to permit take under the Eagle Act where the take is associated with otherwise lawful activities (73 FR 29075).

Authorities

FWS is the federal agency delegated the authority by the Secretary of the Interior to approve Section 10 permits (including amendments) in accordance with the ESA. FWS must determine whether the RHCP addendum meets the issuance criteria specified in the ESA, Section 10. FWS will issue the amended ITP if they determine the proposed RHCP addendum meets issuance criteria and the covered activities, including implementation of appropriate minimization and mitigation measures, will not jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. Among other requirements, SRP's RHCP addendum must specify the impacts that are likely to result from the taking, the measures they will undertake to minimize and mitigate such impacts, and the funding that will be available to implement such measures. Section 10(a)(2)(B) of the ESA sets forth the statutory criteria that must be satisfied before the RHCP addendum can be approved and an amended ITP can be issued.

The Corps is responsible for providing flood control operating criteria for use of capacity allocated for flood control at all reservoirs constructed wholly or in part with federal funds. The Corps has final approval authority over issuance of WCM deviations, in accordance with Section 7 of the Flood Control Act of 1944. The WCM and Water Control Agreement provide that the Corps must determine whether to approve proposed non-emergency deviations from the Water Control Plan and instruct that SRP shall make any requests for deviation to the Corps, after consultation with Reclamation.

Proposed Action

FWS's proposed action is the approval of SRP's application to amend the ITP, as outlined below. SRP is not proposing any changes to Modified Roosevelt CS operations but developed the amended RHCP to address CS operation impacts to gartersnakes. SRP anticipates gartersnake impacts to occur within the Tonto Creek arm CS of Roosevelt Lake and along lower Tonto Creek. Therefore, SRP is expanding its permit area to address effects on gartersnakes from CS activities that contribute to the movement of predatory nonnative fish into lower Tonto Creek. The RHCP addendum permit area includes 1) the Roosevelt Lake CS, 2) the Roosevelt Lake FCS, and 3) lower Tonto Creek from the top of the FCS upstream to the crossing of East del Chi Drive (Figure 2). The proposed ITP amendment and RHCP addendum would authorize:

- 1) Incidental take of the gartersnake associated with SRP's operations in Roosevelt Lake's CS below RWS elevation 2,150.78 feet amsl.
- 2) Incidental take of the gartersnake associated with SRP's normal operations in the FCS (RWS elevation 2,150.78 to 2,174.87 feet amsl) under the current WCM.
- 3) Incidental take of the gartersnake, flycatcher, and cuckoo associated with SRP's operations in the FCS under the proposed planned deviation from the existing WCM, conditioned on Corps approval. SRP anticipates no incidental take of the rail.
- 4) Incidental take of the gartersnake within a 14.1-mile segment of Tonto Creek upstream of Roosevelt Lake (see Figure 2), associated with SRP's Modified Roosevelt Dam operations in the CS below RWS elevation 2,150.78 feet amsl.

In addition, the proposed RHCP addendum evaluates the effects of SRP's operation of the FCS under the 1997 WCM and the planned deviation on designated critical habitat for gartersnake,

flycatcher, cuckoo, and spikédace. SRP's proposed RHCP addendum also evaluates the impacts of ongoing CS and FCS operations under the Eagle Act.

The Corps' proposed action is the approval of a planned deviation from the WCM, as requested by SRP. SRP's proposed WCM deviation request would extend the maximum acceptable release period for water held within the first 5 feet of the FCS (RWS elevations 2,150.78 to 2,155.78 feet amsl) from 20 days to 120 days, with authority to exercise in up to 3 years in a 5-year period immediately following approval of the deviation. Since the Corps finalized Modified Roosevelt Dam's WCM in 1997, central Arizona's surface water use has extended outside of SRP's water service area, primarily from Colorado River water provided by the Central Arizona Project canal. Growth in central Arizona water use, combined with likelihood of reductions in Colorado River water availability, requires careful management of water supplies, including Salt River spill waters created by flood events. Spill conditions at Modified Roosevelt Dam occur when 1) the SRP CS is full, and 2) water levels in the CS are rising as inflows into Modified Roosevelt Dam exceed SRP deliveries out of Stewart Mountain Dam, or 3) when water enters the FCS. Spill water from the Salt River is water that, prior to the modifications to Modified Roosevelt Dam, SRP would have either delivered as spill water to existing agreement holders or would have physically spilled over Granite Reef Dam. SRP's planned deviation could improve water supply flexibility within the FCS by allowing for increased use of spill water. When available, spill water users can benefit through direct use or through underground recharge of the spill water for recovery during times of drought or water shortage.

As part of the proposed action, SRP would implement a gartersnake conservation program for impacts associated with CS and normal FCS activities and the planned deviation to achieve a level of conservation benefit that fully offsets the impacts of the anticipated incidental take. SRP would implement the following measures to address impacts to gartersnake associated with CS and normal FCS activities: 1) suppression of nonnative predatory fish by electrofishing in two separate lower Tonto Creek reaches; 2) stocking of native fishes in two separate lower Tonto Creek reaches and the FCS; 3) stocking of lowland leopard frog (*Rana yavapaiensis*) in the Gisela reach of lower Tonto Creek and possibly the FCS; and 4) potential funding of a lowland leopard frog breeding facility. To offset impacts of gartersnake take associated with the planned deviation, SRP would conduct native fish stocking in the FCS. SRP would monitor and adaptively manage implementation of gartersnake conservation measures to achieve effective and efficient conservation.

The proposed action described above, as well as reasonable alternatives, may be further developed during the NEPA process.

How to Comment

As part of this EA development process, FWS is seeking your participation to identify potential issues or concerns with the proposed agency actions and resources these actions may affect. You should submit comments to SRP RHCP Amendment Project, Attn: SWCA Environmental Consultants, 20 East Thomas Road, Suite 1700, Phoenix, AZ 85012 or via email to RHCPcomments@swca.com, no later than 30 days from the date of this notice.

Please be aware that by law, your name, address, and other personal identifying information may be made publicly available at any time. Individuals may request that their personal identifying information be withheld from public review by stating so prominently at the beginning of your comment. We cannot guarantee that we will be able to do so; however, we will honor your

request to the extent allowable by law. All comments from organizations or businesses will be available for public inspection in their entirety.

For additional information regarding this notice, please contact Mr. Greg Beatty, Arizona Ecological Services Office via email greg_beatty@fws.gov.

Sincerely,

Heather Whitlaw
Field Supervisor

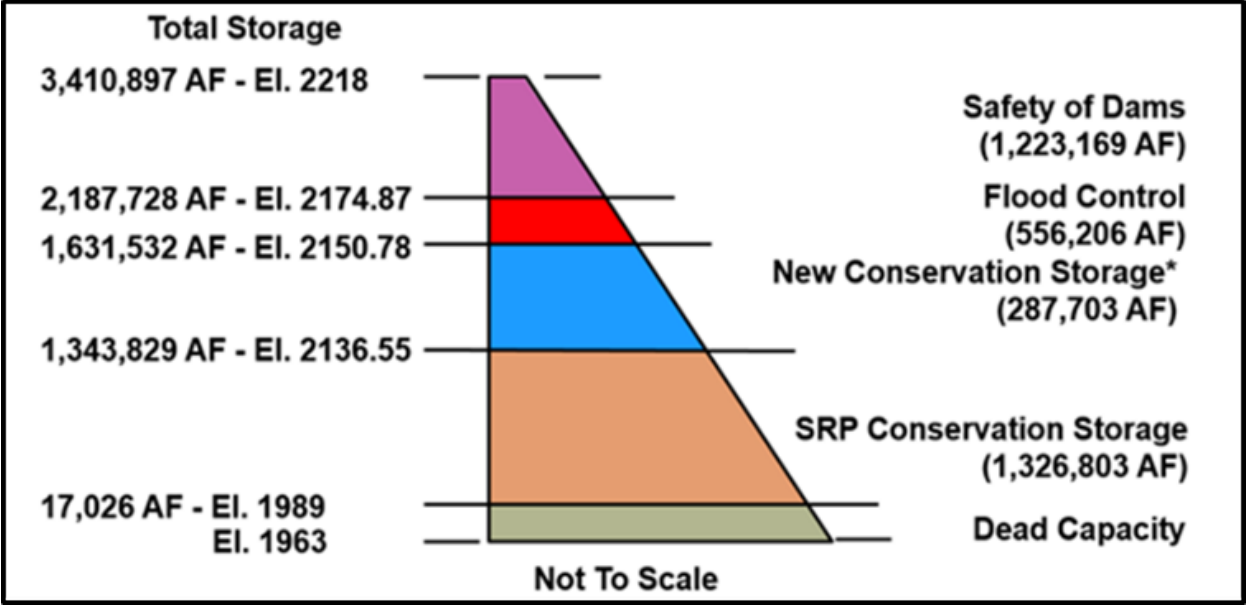


Figure 1. Delineated Storage Space within Modified Theodore Roosevelt Dam by Elevation

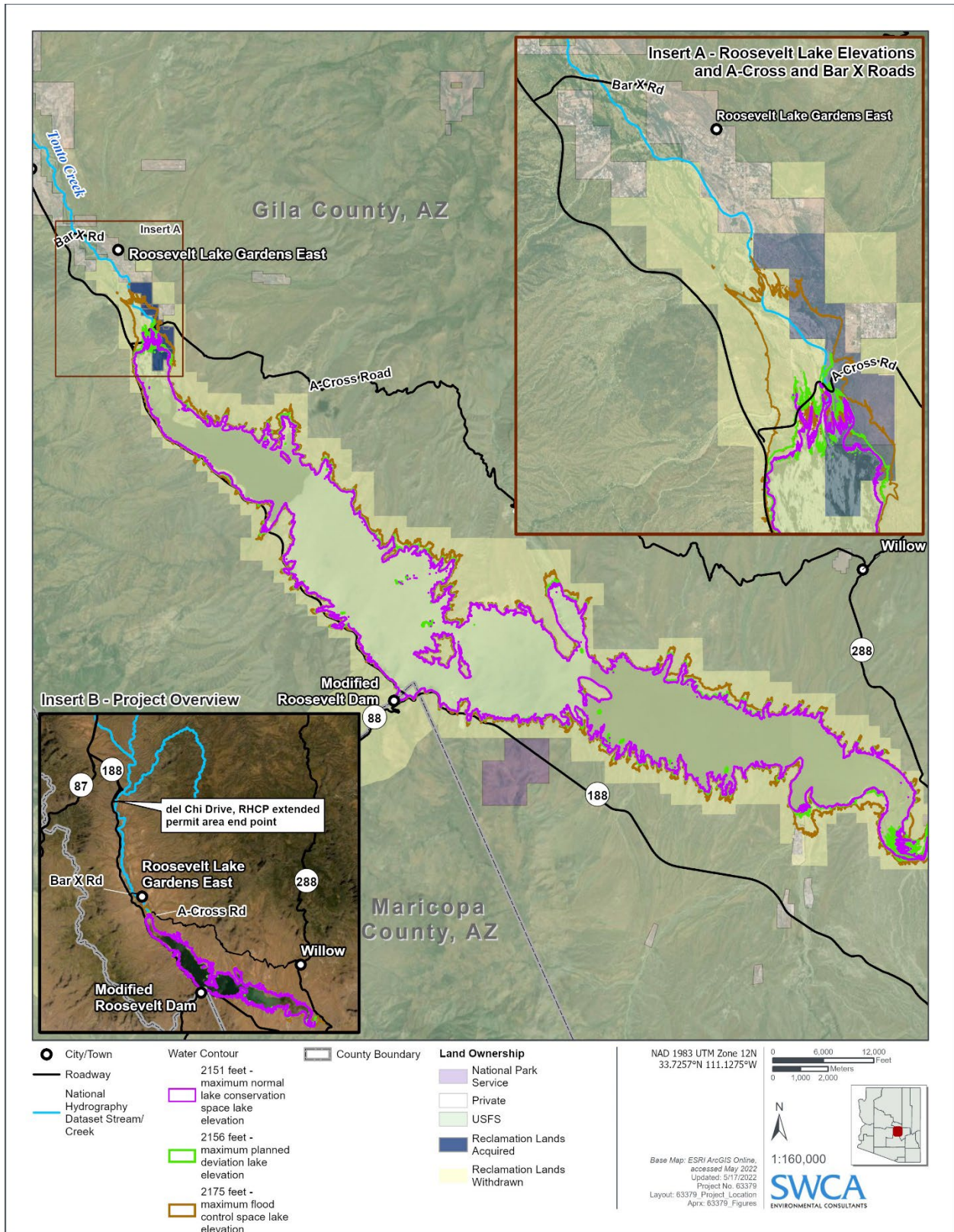


Figure 2. Project Area for the Expanded Permit Area and the Planned Deviation