

Finding of No Significant Impact

Designation of Critical Habitat for the Pecos sunflower

The U.S. Fish and Wildlife Service is designating critical habitat for the Pecos sunflower (*Helianthus paradoxus*) pursuant to section 4 of the Endangered Species Act of 1973, as amended (Act). In total, approximately 1,305 acres (ac) (528 hectares (ha)) in Chaves, Cibola, and Guadalupe counties, New Mexico, and in Pecos County, Texas, fall within the boundaries of the final critical habitat designation. Section 7 of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to destroy or adversely modify designated critical habitat. As required by section 4 of the Act, we considered economic and other relevant impacts prior to making a final decision on what areas to designate as critical habitat.

General Description of Critical Habitat

Below, we present a brief description of the subunits that meet the definition of critical habitat for *Helianthus paradoxus*. Except for Subunit 1c, the Pueblo of Laguna, and Unit 2, the La Joya Wildlife Management Area, all other units are designated as critical habitat.

Unit 1: West-Central New Mexico

Subunit 1a is located at Rancho del Padre Spring Cienega. This subunit is 26 ac (10 ha) in Cibola County, New Mexico. The subunit consists of an area of Rancho del Padre Spring Cienega from the spring on the south side of I-40 then northeast approximately 0.5 mi (0.8 km) to the Rio San Jose.

Subunit 1b is located at Grants Salt Flat Wetland. This subunit is 63 ac (25 ha) of private land in Cibola County, New Mexico. The subunit consists of an area of wet alkaline playa (i.e., a seasonal, shallow desert lake) between railroad tracks and I-40 and west of Hwy 122 (Road from Interstate to downtown Grants). Playas are nearly level areas at the bottom of undrained desert basins that are sometimes covered in water.

Subunit 1c is located at the Pueblo of Laguna. This subunit's acreage is undefined in Valencia County, New Mexico. The subunit consists of an area along the Rio San Jose, South Garcia, New Mexico.

The Pueblo has developed a management plan for *H. paradoxus*. On the basis of this plan and our partnership with the Pueblo of Laguna, we are excluding this area from the final critical habitat designation pursuant to section 4(b)(2) of the Act.

Unit 2: La Joya Wildlife Management Area

Unit 2 is located in the La Joya Wildlife Management Area. This unit is 854 ac (346 ha) in Socorro County, New Mexico. This population is located about 7 mi (11 km) south of Bernardo within Socorro County near the confluence of the Rio Grande and the Rio Puerco. The

La Joya population is bounded to the west by I-25 and to the east by the Unit 7 Drain. The north boundary is adjacent to River Mile 126 of the Rio Grande and the south boundary is adjacent to River Mile 123.

As described below, we are excluding Unit 2, the La Joya Wildlife Management Area, from the critical habitat designation for Helianthus paradoxus.

Unit 3: Santa Rosa

Subunit 3a is located at Blue Hole Cienega/Blue Hole Fish Hatchery Ponds. This subunit is 134 ac (54 ha) in Guadalupe County, New Mexico. The Blue Hole Fish Hatchery Ponds population of Helianthus paradoxus is part of the same population as and nearly contiguous with the Blue Hole Cienega in Santa Rosa, New Mexico. The Blue Hole Fish Hatchery Ponds population is immediately north of Blue Hole Road and the Blue Hole Cienega is immediately south.

Subunit 3b is located at Westside Spring. This subunit is 6 ac (3 ha) of private land in Santa Rosa, Guadalupe County, New Mexico. The subunit consists of an area along an unnamed spring on the west side of the Pecos River, located to the west of River Road and 1 mi (1.6 km) east of Highway 54.

Unit 4: Roswell/Dexter

Subunit 4a includes 576 ac (233 ha) of Bitter Lake National Wildlife Refuge and City of Roswell land located in Chaves County, New Mexico. This subunit is located approximately 5 mi (8 km) northeast of the city of Roswell.

Subunit 4b includes 96 ac (39 ha) of land within the Bitter Lake National Wildlife Refuge Farm (Refuge Farm). This subunit is located in Chaves County, New Mexico, approximately 5 mi (8 km) east of Roswell on the west side of the Pecos River.

Subunit 4c is located at the Oasis Dairy. This subunit is 104 ac (42 ha) of private land in Chaves County, New Mexico. The subunit is located on the east side of Roswell, west side of Pecos River Valley, approximately 4 mi (7 km) southeast of the Hwy 380 bridge, and beside an unnamed spring approximately 0.6 mi (1 km) west of the Pecos River and 6 mi (9 km) south of Highway 380.

Subunit 4d is located at Lea Lake at Bottomless Lakes State Park. This subunit is 20 ac (8 ha) in Chaves County, New Mexico. It includes the wet margins of Lea Lake.

Subunit 4e is located at Dexter Cienega. This subunit is 41 ac (17 ha) of private land in Chaves County, New Mexico. The subunit is located in a small valley west of the Pecos River, east of the Hagerman Irrigation Canal, and 3 mi (5 km) north of Dexter.

Unit 5: West Texas

Unit 5 includes 240 ac (97 ha) of private land located on Diamond Y Spring in Pecos County, Texas. The unit is located approximately 12 mi (20 km) north-northwest of Fort Stockton, Texas.

General Description of Areas Excluded from Designation of Critical Habitat

Discussions of Subunit 1c, the Pueblo of Laguna, and Unit 2, the La Joya Wildlife Management Area, under the provisions in section 4(b)(2) of the Act are provided below.

La Joya Wildlife Management Area

The New Mexico Department of Game and Fish prepared the Pecos sunflower (Helianthus paradoxus) Habitat Management Plan on the La Joya Wildlife Management Area. The purpose of the management plan is to support conservation of the species on the La Joya Wildlife Management Area by: (1) annually controlling invasive species; (2) protecting the natural spring in Unit 5 from motorized vehicles and heavy equipment; (3) monitoring core populations by digitizing these areas annually; (4) conserving H. paradoxus by adjusting invasive species treatment area boundaries; and (5) restoring native habitat through revegetation.

Under section 7 of the Act, Federal agencies are required to ensure that actions they fund, permit, or carry out do not adversely modify the designated critical habitat of threatened or endangered species. In the event a Federal action may adversely modify designated critical habitat, a consultation (section 7 consultation) is required. The results of section 7 consultations typically limit the impacts of Federal actions but generally do not require the Federal agencies to conduct additional proactive activities such as restoring, improving, or rehabilitating already degraded habitat. For example, if a Federal agency wanted to graze livestock in occupied H. paradoxus habitat, the outcome of consultation may be to restrict grazing to the non-flowering season, but would not likely require the action agency to restore portions of the habitat degraded by previous grazing activities. The provisions provided by the La Joya management plan would also limit the impact of actions in the area occupied by H. paradoxus, similar to the limitations under a section 7 consultation. However, by providing for the restoration of native habitat and controlling invasive species, the management plan also provides for some additional proactive conservation beyond what would be included in a section 7 consultation. As a result of the provisions in the current management plan, we find that excluding this area from critical habitat is not expected to result in significant negative impacts to the human environment.

Pueblo of Laguna

The Pueblo of Laguna has lands containing physical and biological features essential to the conservation of Helianthus paradoxus. In making our final decision with regard to Pueblo lands, we considered several factors, including our relationship with the Pueblo and the management plan that was developed for the conservation of H. paradoxus on their lands. The

Management Plan and corresponding Resolution (No. 01-08) was adopted and approved by the Pueblo of Laguna Staff Officers in January 2008 (Laguna 2008). The resolution that was passed for the management plan demonstrates the Pueblo's sovereign status while providing for special management protections and conservation of H. paradoxus. The Pueblo's management plan includes the following tasks and protective measures: (1) surveys and monitoring of H. paradoxus; (2) riparian restoration; (3) controlling competition of non-native species; (4) limiting access into stands of H. paradoxus through a recently adopted trespass ordinance; and (5) appropriate management of livestock.

Under section 7 of the Act, Federal agencies are required to ensure that actions they fund, permit, or carry out do not adversely modify the designated critical habitat of threatened or endangered species. In the event a Federal action may adversely modify designated critical habitat, a consultation (section 7 consultation) is required. The results of section 7 consultations typically limit the impacts of Federal actions but generally do not require the Federal agencies to conduct additional proactive activities such as restoring, improving, or rehabilitating already degraded habitat. For example, if a Federal agency wanted to graze livestock in occupied H. paradoxus habitat, the outcome of consultation may be to restrict grazing to the non-flowering season, but would not likely require the action agency to restore portions of the habitat degraded by previous grazing activities. The provisions provided by the Pueblo's management plan would also limit the impact of actions in the area occupied by H. paradoxus, similar to the limitations under a section 7 consultation. However, by providing for riparian restoration and controlling non-native species, the management plan also provides for some additional proactive conservation beyond what would be included in a section 7 consultation. As a result of the provisions in the current management plan, we find that excluding this area from critical habitat is not expected to result in significant negative impacts to the human environment. Additionally, the exclusion of this area from the designation will allow the Pueblo to manage its natural resources to benefit H. paradoxus, without the perception of Federal Government intrusion. This philosophy is consistent with our published policies on Native American natural resource management.

Background

On March 27, 2007, we published a proposed rule to designate critical habitat for Helianthus paradoxus (72 FR 14328). We solicited data and comments from the public on the proposed rule. The comment period opened on March 27, 2007, and closed on May 29, 2007. On December 11, 2007, we published a notice announcing the availability of the draft economic analysis, draft environmental assessment, and the reopening of the public comment period (72 FR 70269). We also announced a revision to proposed critical habitat Unit 4 and a clarification of Unit 5. Section 4(b)(2) of the Act requires that we consider economic impacts, impacts to national security, and other relevant impacts prior to making a final decision on what areas to designate as critical habitat. We solicited data and comments from the public on these draft documents, as well as on all aspects of our proposal, so that we could consider these in this final determination. This comment period closed on January 10, 2008.

Environmental Assessment

Four alternatives were considered. Alternative I would designate critical habitat at all 12 of the locations that meet occupancy, stability, and species conservation criteria, regardless of existing or proposed management plans. Alternative II would include all of the subunits discussed in Alternative I except areas in subunits 4a and 5b that encompass the Bitter Lake National Wildlife Refuge and Bitter Lake National Wildlife Refuge Farm. Alternative III would include all of the subunits described under Alternative II except for Pueblo of Acoma lands (subunit 1a), Pueblo of Laguna lands (subunit 1c), and the La Joya Waterfowl Area (854.3 acres). The fourth alternative is the No Action Alternative which is required by NEPA for comparison to the other alternative analyzed in the environmental assessment. The configuration of the final critical habitat is a combination of Alternatives I and II. The designation includes all areas described under Alternative I except the Pueblo of Laguna lands and the La Joya Waterfowl Area, the exclusion of which are discussed under Alternative III.

Implementation of our decision, as described in the environmental assessment is expected to result in: (1) section 7 consultations for federally supported projects under the jeopardy and adverse modification standards are not likely to have materially different outcomes; (2) no reduction in the degree of habitat protection on Laguna Pueblo or La Joya Wildlife Management Area for Helianthus paradoxus; (3) no measurable detrimental effects from the designation of critical habitat are anticipated in regards to communities or individuals (e.g., loss of homes, businesses, or jobs; disruption of community services or community cohesion); and (4) no disproportionate adverse effects on low-income or minority populations. Finally, the potential impacts are not likely to result in substantial cumulative effects, when added to the effects of existing section 7 consultations for other species and existing land management plans and policies.

The Service requested information from, and coordinated development of this critical habitat designation with, appropriate State resource agencies in New Mexico and Texas. The impact of the designation on State and local governments and their activities was fully considered in the economic analysis. In the final rule we categorize and respond to all applicable, substantive comments received during the public comment periods. All comments received were analyzed and, where appropriate, changes were incorporated into the final environmental assessment, economic analysis, and/or the final rule.

Section 4(b) of the Act states “The Secretary shall make determinations [of critical habitat] ... solely on the basis of the best scientific data available . . .” We considered the best scientific information available to us at this time, as required by the Act. This designation is based upon our most current understanding of the biology and requirements of Helianthus paradoxus. Based upon newly available information, coordination with land managers and stakeholders, and input received during the public comment period, we have made revisions to the areas designated as critical habitat, which will be reflected in the final rule. We are not aware of any reliable information that is currently available to us that was not considered in this designation process. The final determination constitutes our best assessment of areas needed for

the conservation of the species.

One of the purposes of an environmental assessment is to briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact (40 CFR 1508.9). An EIS is required only in instances where a proposed Federal action is expected to have a significant impact on the human environment. In order to determine whether designation of critical habitat would have such an effect, we prepared an environmental assessment that analyzes the effects of the designation. On December 11, 2007, we published a notice in the Federal Register announcing the availability of the draft economic analysis, draft environmental assessment, and the reopening of the public comment period (72 FR 70269). Section 4(b)(2) of the Act requires that we consider economic impacts, impacts to national security, and other relevant impacts prior to making a final decision on what areas to designate as critical habitat. We solicited data and comments from the public on these draft documents, as well as on all aspects of our proposal, so that we could consider these in this final determination.

Following consideration of public comments, we prepared a final environmental assessment. Based on a review and evaluation of the information contained in the environmental assessment, it is my determination that the designation of critical habitat for Helianthus paradoxus does not constitute a major Federal action having a significant impact on the human environment under the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). Significance is determined by analyzing the context and intensity of a proposed action (40 CFR 1508.27).

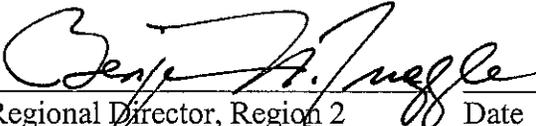
Context refers to the setting of the proposed action and includes consideration of the affected region, affected interests, and locality (40 CFR 1508.27[a]). The context of both short- and long-term effects of proposed designation of critical habitat includes the local areas that encompass critical habitat units. The effects of proposed critical habitat designation, although long-term, would be small.

Intensity refers to the severity of an impact and is evaluated by considering ten factors (40 CFR 1508.27[b]). The intensity of potential impacts that may result from proposed designation of critical habitat for Helianthus paradoxus is low.

- The potential impacts may be both beneficial and adverse, but minor.
- There would be no effects to public health or safety from proposed designation of critical habitat, and the proposed action would not affect unique characteristics of the geographic area.
- Potential impacts from critical habitat designation on the quality of the environment are unlikely to be highly controversial and do not involve any uncertain, unique, or unknown risks.
- Proposed designation of critical habitat for Helianthus paradoxus does not set a precedent for future actions with significant effects and would not result in significant cumulative impacts.

- Significant cultural, historical, or scientific resources are not likely be affected by proposed designation of critical habitat.
- Proposed critical habitat designation would not violate any federal, state, or local laws or requirements imposed for the protection of the environment.

As such, an environmental impact statement is not required.


Regional Director, Region 2 Date 3/14/08
U.S. Fish and Wildlife Service

UNITED STATES FISH AND WILDLIFE SERVICE

ENVIRONMENTAL ACTION STATEMENT

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and determined that the action designating critical habitat for Helianthus paradoxus :

Check One:

_____ is a Categorical Exclusion (CatEx) as provided by 516 DM 2, Appendix 1, and/or 516 DM 6, Appendix 1 (*reference which CatEx was used for this determination*). No further NEPA documentation will therefore be made.

 X is found not to have significant environmental effects as determined by the attached Environmental Assessment and Finding of No Significant Impact.

_____ is found to have significant effects and, therefore, further consideration of this action will require a Notice of Intent to be published in the Federal register announcing the decision to prepare an Environmental Impact Statement (EIS).

_____ is not approved because of unacceptable environmental damage, or violation of Fish and Wildlife Service mandates, policies, regulations, or procedures.

_____ is an emergency action within the context of 40 CFR 1506.11. Only those actions necessary to control the immediate impacts of the emergency will be taken. Other related actions remain subject to NEPA review.

Supporting Documents (list):

- Final Environmental Assessment
- Final Economic Analysis
- Federal Register Notice
- Comments received during public comment period

Signature Approval

Susan Jacobsen
(1) Division Chief

3-14-08
Date

Susan Jacobsen
(2) NEPA Coordinator

3-14-08
Date

Bob Miller
(3) Assistant Regional Director

14 March 2008
Date

Geji A. Pfeiffer
(4) Regional Director

3/14/08
Date