

Screening Form
Low-Effect Incidental Take Permit Determination and
National Environmental Policy Act (NEPA)
Environmental Action Statement

I. HCP Information

- A. HCP Name:** Low Effect Habitat Conservation Plan for the Pueblo of Santa Clara Four Corners Water Development Project in Rio Arriba County, New Mexico
- B. Affected Species:** Rio Grande Silvery Minnow (*Hybognathus amarus*; silvery minnow)
- C. HCP Size (in stream miles and/or acres):** The Plan/Permit Area includes a 10.9-acre area encompassing a group of four existing, shallow alluvial wells located adjacent to the Rio Grande on lands owned in federally-restricted fee status by the Pueblo of Santa Clara and the Rio Grande from the well-field area downstream to Elephant Butte Reservoir (approximately 225 river miles).
- D. Brief Project Description (including minimization and mitigation plans):** The Pueblo of Santa Clara has requested a 20-year incidental take permit for incidental take of the silvery minnow associated with the proposed Low-Effect Habitat Conservation Plan for the Pueblo of Santa Clara Four Corners Water Development Project in Rio Arriba County, New Mexico (LEHCP). The Pueblo of Santa Clara proposes to annually withdraw 1,120 acre-feet of groundwater from the Rio Grande to support economic development, which may consist of commercial, residential, and health care facilities. The proposed activity will result in minor impacts to silvery minnow spawning and recruitment. These impacts will be minimized by modifying pumping operations when May-June runoff volume of the Rio Grande at Otowi Bridge Gage is at or below the threshold value of approximately 205,010 acre-feet.

II. Does the HCP fit the following Department of Interior and Fish and Wildlife Service categorical-exclusion criteria?

A. Are the effects of the HCP minor or negligible on federally listed, proposed, or candidate species and their habitats covered under the HCP?

As described in sections 3.2 and 4.1 of the LEHCP, any take of Rio Grande silvery minnow that may occur with the proposed action would, after minimization and mitigation measures are implemented, be so minor as to result in negligible effects to the species.

B. Are the effects of the HCP minor or negligible on all other components of the human environment, including environmental values and environmental resources (e.g. air quality, geology and soils, water quality and quantity, socio-economic, cultural resources, recreation, visual resources, environmental justice, etc.), after implementation of the minimization and mitigation measures?

Full implementation of the LEHCP, including minimization and mitigation measures described in section 4.1, would result in negligible effects on flow volumes, flow rates, water surface elevation, and other environmental features associated with the Rio Grande, as described in section 3.1 and Appendix B (section B.2.2).

C. Would the incremental impacts of this HCP, considered together with the impacts of other past, present, and reasonably foreseeable future actions (regardless of what agency or person undertakes such other actions) not result, over time, in a cumulative effects to the human environment (the natural and physical environment) which would be considered significant?

As described in section 4.1, measures taken to avoid impacts would ensure that the proposed action does not have cumulative effects.

III. Do any of the exceptions to categorical exclusions (extraordinary circumstances) listed in 43 CFR 46.215 apply to this HCP?

Would implementation of the HCP:

A. Have significant impacts on public health or safety?

The proposed action does not involve any ground disturbance and there would be no air quality, hazardous materials, or noise pollution impacts associated with the proposed action that could affect public health or safety. The proposed action addresses additional water withdrawals from existing infrastructure that has already received Nationwide Permit 12 construction clearance pursuant to Section 404 of the Clean Water Act from the Army Corps of Engineers and Section 401 Certification from Santa Clara Pueblo in accordance with the Santa Clara Pueblo Water Quality Code adopted as amended by the Santa Clara Tribal Council by Resolution No. 2003-27 and approved by the Secretary of the Interior effective as of August 5, 2003 (on file at the Pueblo of Santa Clara). Any water withdrawn from the shallow wells and any aquifer storage and recovery projects for emergency supply use during periods of suspended pumping (see section 4.1) will meet applicable water quality standards.

B. Have significant impacts on such natural resources and unique geographic characteristics as: historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990) or floodplains (Executive Order 11988); national monuments; migratory birds, eagles, or other ecologically significant or critical resources?

The proposed action does not involve any ground-disturbing activities, and the existing well and pipeline infrastructure have received cultural resource clearance from the Pueblo of Santa Clara Tribal Historic Preservation Office.

The well-field area is not located in an area designated as a Wilderness, National Wildlife Refuge, Wild and Scenic River, National Natural Landmark or National Monument. The well-field area is not in an area considered or designated as a park or recreation area.

The well-field area is located in the Española Basin Aquifer System Sole-Source Aquifer (U.S. Environmental Protection Agency, 2017 and 2008). The sole-source aquifer designation requires that all federally funded projects that have the potential to contaminate water in the designated area be reviewed by the U.S. Environmental Protection Agency. The proposed action does not have any federal funding and would not involve any discharge of contaminants. All uses and dispositions of water withdrawals associated with the proposed action would be subject to all applicable Clean Water Act or Safe Drinking Water Act standards, depending on use, and would not contaminate the aquifer.

Soils in the well-field area are mapped as Abiquiu-Peralta complex, 0 to 3 percent slopes and Walrees-Abiquiu complex, 0 to 2 percent slopes (Natural Resources Conservation Service, 2017). Neither of these soil map units are classified as prime farmland.

No jurisdictional wetlands will be affected as the proposed action does not involve any ground-disturbing activities (*i.e.* no excavation or placement fill in jurisdictional wetlands would occur with the proposed action). There are no jurisdictional wetlands in the well-field area (U.S. Army Corps of Engineers, 2017).

The well-field area is located in the floodplain of the Rio Grande (Natural Resources Conservation Service, 2017). However, the proposed action does not include any ground-disturbing activities and will not modify the floodplain or alter land use patterns on the floodplain, nor will it alter existing flood risks or hazards or natural and beneficial floodplain values (*cf.* Federal Emergency Management Agency, 2015).

The proposed action will not have any effect on migratory birds, eagles, or other ecologically significant or critical resources. The direct effect of the proposed action consists of minute changes in stream flow. This effect would not translate to any measurable change in habitats along the Rio Grande, as described in section B.2.2 of Appendix B.

C. Have highly controversial environmental effects (defined at 43 CFR 46.30), or involve unresolved conflicts concerning alternative uses of available resources [see NEPA section 102(2)(E)]?

The environmental consequences of the proposed action are straightforward and not the subject of substantial dispute. The effect of the proposed action consists of minute changes in flows in the Rio Grande, as described in section 3.1 and section B.2.2 in Appendix B. The right of the Pueblo of Santa Clara to develop its own currently unadjudicated water resources does not constitute an unresolved conflict as this use is recognized and protected under federal law, including, but not limited to, exercise of its time immemorial water rights.

D. Have highly uncertain and potentially significant environmental effects, or involve unique or unknown environmental risks?

As described in section 3.1 and section B.2.2 in Appendix B, effects of the proposed action are known with a high degree of certainty and are not unique or significant because of their low magnitude and intensity.

E. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?

Issuance of an incidental take permit associated with this LEHCP will not constitute a precedent for future action by the Service. There are no related or connected actions that depend upon issuance of an incidental take permit associated with this LEHCP, other than the “four corners” development which is contingent upon implementation of the proposed action. The Service does not have any control or responsibility over the “four corners” development. Therefore, the proposed action does not constitute a precedent for future actions by the Service.

F. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects?

Potential cumulative effects will be avoided with implementation of the measure described in section 4.1.

G. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places?

The proposed action does not involve any ground-disturbing activities, and the proposed action has received cultural resource clearance from the Pueblo of Santa Clara Tribal Historic Preservation Office (Pueblo of Santa Clara, 2017). In addition, because no ground-disturbing activities would occur with implementation of the proposed action, no properties listed or eligible for listing on the National Register of Historic Places would be affected by the proposed action.

H. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?

As described in Appendix B, only Rio Grande silvery minnow and its critical habitat are likely to be potentially affected by the proposed action. Potential effects on Rio Grande silvery minnow and its critical habitat are minor, as described in sections 3.1 and 3.2.

I. Violate a Federal law, or a State, local, or tribal law, or a requirement imposed for the protection of the environment.

Implementation of the proposed action and this LEHCP will be in compliance with all federal and Tribal laws regarding protection of the environment. State and local laws do not apply because the proposed action is located on land owned in federally-restricted fee status by the Pueblo of Santa Clara.

J. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

The proposed action would facilitate social and economic improvements for the Native American population of the Pueblo of Santa Clara and surrounding minority populations. These beneficial effects would not be realized if the proposed action is not implemented.

K. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

The proposed action would not limit access to or ceremonial use of Indian sacred sites on Federal lands, nor would it adversely affect the physical integrity of any such sites.

L. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

The proposed action does not involve any ground-disturbing activities and therefore would not result in the establishment or spread of any noxious weeds. No non-native species would be introduced to the plan and permit area as a result of the proposed action.