Attachment IV. Section 7 Consultation Responses



In reply refer to:

2023-0007708-S7-001

AESO/SE

United States Department of the Interior Fish and Wildlife Service Arizona Ecological Services Office 9828 North 31st Avenue, Suite C3 Phoenix, Arizona 85051 Telephone: (602) 242-0210 Fax: (602) 242-2513



October 26, 2022

Memorandum

- To: Acting Regional Director, Navajo Regional Office, Bureau of Indian Affairs, Gallup, New Mexico
- From: Field Supervisor, Arizona Ecological Services, Phoenix, Arizona For

Subject: Navajo Nation Integrated Weed Management Plan

Thank you for your August 26, 2022, correspondence, which we received via email the same day. This memorandum documents our review of the Bureau of Indian Affairs (BIA) Navajo Nation Integrated Weed Management Plan (NNIWMP), in compliance with section 7 of the Endangered Species Act of 1973 (Act) as amended (16 U.S.C. 1531 et seq.). The proposed project covers the Navajo Nation, including all Navajo Indian allotments and Indian trust land, in Apache, Navajo and Coconino counties, Arizona; Bernalillo, Cibola, McKinley, Rio Arriba, Sandoval, San Juan, and Socorro counties, New Mexico; and, San Juan County, Utah. It does not include the Ramah Navajo Chapter, which is serviced by BIA's Southwest Region.

Your letter concluded that the proposed project "may affect, but is not likely to adversely affect" the endangered California condor (*Gymnogyps californianus*; condor), Colorado pikeminnow (*Ptychocheilus lucius*; pikeminnow) and critical habitat, Brady pincushion cactus (*Pediocactus bradyi*), Fickeisen plains cactus (*Pediocactus peeblesianus ssp. fickeiseniae*), Mancos milkvetch (*Astragalus humillimus*), razorback sucker (*Xyrauchen texanus*) and critical habitat, Zuni bluehead sucker (*Catostomus discobolus yarrow*), and the threatened humpback chub (*Gila cypha*) and critical habitat, Mesa Verde cactus (*Sclerocactus mesae-verdae*), Mexican spotted owl (*Strix occidentalis lucida*; owl), Navajo sedge (*Carex specuicola*), southwestern willow flycatcher (*Empidonax traillii extimus*; flycatcher), Welsh's milkweed (*Asclepias welshii*), the western distinct population segment of the yellow-billed cuckoo (*Coccyzus americanus*; cuckoo) and Zuni fleabane (*Erigeron rhizomatus*). For part of the action area, the federal status of the condor is a Non-Essential Experimental Population. We concur with your determinations and provide our rationales below.

You also described conservation measures to minimize effects to bald eagles (*Haliaeetus leucocephalus*) and golden eagles (*Aquila chrysaetos*), anticipating our technical assistance with

respect to Bald and Golden Eagle Protection Act compliance. Appendix A includes our documentation of BIA's minimization measures to reduce the likelihood of take.

DESCRIPTION OF THE PROPOSED ACTION

A complete description of the proposed action is included in your August 2022, biological assessment (BA). BIA proposes to authorize weed treatments for 45 noxious weed species on up to 50,000 acres annually on the 16.3 million-acre Navajo Nation. Over the 10-year life of the project, BIA may authorize treatments on up to 500,000 acres, with a five-year review.

Because BIA will implement the NNIWMP across the Navajo Nation, the BIA developed a programmatic approach to provide BIA with a strategy to prioritize projects, species, and treatment methods for project planning and management. BIA will tier individual weed treatment projects off the programmatic Environmental Impact Statement and will require individual environmental assessments with detailed impact analyses and information related to the site and each project's proposed methods.

BIA will coordinate with the Navajo Nation Department of Fish and Wildlife (NNDFW) to determine if potential habitat for federally or Navajo Nation listed, sensitive species or migratory birds occur in any given project area and will implement conservation measures as described in the BA and summarized below. If federally listed species occur or have the potential to occur at a project site, the BIA will copy the U.S. Fish and Wildlife Service (Service) on correspondence to the NNHP. If measures to avoid adverse effects, as contained in the BA, can not be implemented for a given project, then BIA will initiate section 7 consultation with the Service for that project.

The integrated weed treatment methods are:

- Manual (pulling, grubbing, or digging using hand tools).
- Mechanical (grubbing, tillage, mowing, prescribed burning, and heavy machinery).
- Cultural (grazing by livestock, use of weed and weed seed-free hay, crop rotation, mulching native plants, active and passive restoration of native plants).
- Chemical (herbicides application via cut stump, hand spraying, boom sprayer, aerial spraying).
- Biological (use of U.S. Department of Agriculture Animal and Plant Health Inspection Service (APHIS) approved insects and pathogens).

BIA may select a combination of methods for each project depending on site conditions and the species identified for treatment. BIA will apply treatments across the Navajo Nation with priority areas including Navajo Nation, BIA, state, and county roads; riparian areas; Navajo Agricultural Products Industry lands; utility rights-of-way; designated farmlands, designated rangeland, and Navajo Nation Designated Community Development Areas. BIA will implement prevention, education, annual weed mapping, and early detection and rapid response under the plan.

The BIA will coordinate the use of biological control agents with NNDFW and the Service on a project-by-project basis. Under the NNIWMP, only biological control agents approved by APHIS will be used. BIA will not use tamarisk leaf beetle (*Diorhabda* spp.) as a biological control agent.

Conservation Measures

The proposed action includes general conservation measures, and specific conservation measures designed for each of the listed species that occur in the action area. The specific conservation measures are based, in part, on the July 2007 *Recommended Protection Measures for Pesticide Applications in the Southwest Region of the U. S. Fish and Wildlife Service* (RPR) with appropriate adjustments that resulted from discussions among BIA, NNDFW and us. For the herbicide Indaziflam, which is not in the RPR, BIA developed compatible conservation measures based on similar species toxicity ratings as reported in the literature and by U.S. Environmental Protection Agency.

Specific conservation measures also include the Navajo Natural Heritage Program 2020 Avoidance Measures in the Navajo Nation Endangered Species List Species Accounts. BIA requires use of the most conservative measures of the two wildlife agency documents for NNIWMP projects. The general conservation measures and specific conservation measures are part of the proposed action and are incorporated herein by reference.

Specific conservation measures, based on the RPR, consist primarily of buffer zones that will separate areas where BIA will apply herbicides from areas where listed species and/or their habitat occur. Each species addressed by the RPR has one or more buffer zones that BIA will apply according to various herbicide formulations, toxicity levels, application methods, and other factors. The buffer zones will protect listed species or their habitat from the potential toxicity of the herbicides, as well as prevent disturbance when needed (e.g., during the breeding season) based on the type of application. For the purpose of this consultation, these buffer zones may also apply to other analogous treatment methods when appropriate. For example, the manual treatment method (i.e., pulling weeds) would have the same buffer zone as the manual herbicide application method (hand spraying).

General conservation measures include best management practices (BMPs) for resource protection, such as reducing sedimentation and chemical run-off from mechanical and chemical weed treatments, and a process to address the presence of listed species and their habitat on a project-by-project basis.

In planning each project, BIA, in coordination with the NDFW, will determine whether any listed species occurs in the project area and apply conservation measures accordingly. BIA will also determine whether potential habitat for listed species is present and, if so, a qualified biologist will conduct a habitat assessment and may be present on site to monitor during all stages of project implementation as determined by the NNDFW. If habitat is present, BIA will apply conservation measures as appropriate, including buffers from the edge of the species' habitat or a qualified biologist will conduct additional surveys for species' presence to determine the application of appropriate conservation measures.

DETERMINATION OF EFFECTS

We concur with your determination that the proposal "may affect but is not likely to adversely

affect" the condor, pikeminnow and critical habitat, Brady pincushion cactus, Fickeisen plains cactus, Mancos milkvetch, razorback sucker and critical habitat, Zuni bluehead sucker, humpback chub and critical habitat, Mesa Verde cactus, owl, Navajo sedge, flycatcher, Welsh's milkweed, cuckoo and Zuni fleabane for the reasons described below.

California condor

- BIA will establish no-treatment buffers around known or suitable nesting sites or known communal roosting sites, which will minimize the likelihood of direct effects to condors and their habitat; therefore, effects to the condor and its habitat from the proposed action would be discountable.
- The likelihood of indirectly exposing condors to herbicides due to spray drift is extremely low, and the magnitude of any exposure would not be detectable due to dispersal in the air and herbicide degradation. Therefore, any effects to condors would be insignificant and discountable.

Colorado pikeminnow, humpback chub and razorback sucker and critical habitat

- BIA will not treat any aquatic weeds; therefore, there will be no direct effects to these fishes from the proposed action.
- BIA will use BMPs and establish no-treatment buffers to minimize sedimentation and run-off from mechanical and chemical weed treatments and will use of low toxicity herbicide formulations. The likelihood of indirectly exposing these species to herbicides is extremely low, and the magnitude of any exposure would not be detectable due to water dilution and herbicide degradation. The magnitude of exposure to sedimentation would not be detectable due to the ambient turbidity of the aquatic systems. Therefore, any effects to these species would be insignificant and discountable.
- BIAs use of BMPs, application of buffer zones, and use of low toxicity herbicide formulations, will minimize effects to primary constituent elements; therefore, any indirect effects to critical habitat would be insignificant.

Brady pincushion cactus, Fickeisen plains cactus, Mancos milkvetch, Mesa Verde cactus, Navajo sedge, Welsh's milkweed and Zuni fleabane

- BIA will establish no-treatment buffers from the boundary of species occurrences, which would minimize the likelihood of direct affects to these species and their habitats; therefore, effects to these species and their habitats from the proposed action would be discountable.
- The likelihood of indirectly exposing these species to herbicides due to spray drift is extremely low, and the magnitude of any exposure would not be detectable due to dispersal in the air and herbicide degradation. Therefore, any effects to these plant species would be insignificant and discountable.

Zuni bluehead sucker

- BIA will not treat any aquatic weeds; therefore, there will be no direct effects to this species from the proposed action.
- BIA will use BMPs and establish no-treatment buffers to minimize sedimentation and run-off from mechanical and chemical weed treatments and will use of low toxicity herbicide formulations. The likelihood of indirectly exposing this species to herbicides is

extremely low, and the magnitude of any exposure would not be detectable due to water dilution and herbicide degradation. The magnitude of exposure to sedimentation would not be detectable due to the ambient turbidity of the aquatic systems. Therefore, any effects to this species would be insignificant and discountable.

Mexican spotted owl

- BIA will generally establish a no treatment buffer around protected activity centers (PACs) and suitable nesting (recovery nest/roost) habitat during the breeding season. BIA will restrict necessary treatments along any existing right-of-way (ROW) in PACs to foot crews of two and contain spray drift to the ROW. The application of buffer zones, use of low toxicity herbicide formulations, and the timing of treatments will minimize exposure of owls or their prey to herbicides; therefore, effects would be insignificant and discountable.
- The likelihood of indirectly exposing owls to herbicides due to spray drift is extremely low, and the magnitude of any exposure would not be detectable due to dispersal in the air and herbicide degradation. Therefore, any effects to owls would be insignificant and discountable.

Southwestern willow flycatcher

- BIA will establish a no treatment buffer around breeding patches or suitable nesting habitat during the breeding season and will conduct prescribed fires outside of breeding patches outside the migrating and breeding season, which will minimize direct effects to flycatchers and their habitat; therefore, effects to the flycatcher and its habitat from the proposed action would be insignificant and discountable.
- The likelihood of indirectly exposing flycatchers to herbicides due to spray drift is extremely low, and the magnitude of any exposure would not be detectable due to dispersal in the air and herbicide degradation. Therefore, any effects to flycatchers would be insignificant and discountable.

Western yellow-billed cuckoo

- BIA will establish a no treatment buffer around breeding patches or suitable nesting habitat during the breeding season and will conduct prescribed fires outside of breeding patches outside the migrating and breeding season, which will minimize direct effects to flycatchers and their habitat; therefore, effects to the cuckoo and its habitat from the proposed action would be insignificant and discountable.
- The likelihood of indirectly exposing cuckoos to herbicides due to spray drift is extremely low, and the magnitude of any exposure would not be detectable due to dispersal in the air and herbicide degradation. Therefore, any effects to cuckoos would be insignificant and discountable.

Based on tribal sovereignty and our tribal trust responsibility, we consult with tribes when our actions may affect those tribes. Pursuant to Secretarial Order 3317 and consistent with Secretarial Order 3206, both BIA and our office have been coordinating with the Navajo Nation regarding this section 7 consultation. By copy of this concurrence, we are further coordinating with the Nation and are notifying the Hopi Tribe and the San Juan Southern Paiute Tribe of this action.

We appreciate the BIA's efforts to identify and minimize effects to listed species from this action. For further information, please contact John Nystedt (928-556-2160) or Shaula Hedwall (928-556-2118) of our Flagstaff Office. Please refer to the consultation number 2023-0007708-S7-001 in future correspondence concerning this project.

cc: (electronic)

Director, Navajo Nation Department of Fish and Wildlife, Window Rock, AZ

Director, Heritage and Historic Preservation Department, Navajo Nation, Window Rock, AZ

Attorney, Department of Justice - Natural Resources, Navajo Nation, Window Rock, AZ

Director, Natural Resources Department, Hopi Tribe, Kykotsmovi, AZ

Director, Cultural Preservation Office, Hopi Tribe, Kykotsmovi, AZ

General Counsel, Hopi Tribe, Kykotsmovi, AZ

President, San Juan Southern Paiute Tribe, Tuba City, AZ

Tribal Attorney, San Juan Southern Paiute Tribe, Shanker Law Firm, Tempe, AZ

NEPA Coordinator, Branch of Environmental Quality Act Compliance and Review,

Navajo Regional Office, Bureau of Indian Affairs, Gallup, NM

Assistant Field Supervisor, Arizona Ecological Services, Fish and Wildlife Service, Phoenix, AZ

Field Supervisor, New Mexico Ecological Services, Fish and Wildlife Service, Albuquerque, NM

Field Supervisor, Utah Ecological Services, Fish and Wildlife Service, West Valley City, UT

Native American Liaison, Southwest Region, Fish and Wildlife Service, Albuquerque, NM Native American Liaison, Mountain-Prairie Region, Fish and Wildlife Service, Lakewood,

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APPENDIX A – TECHNICAL ASSISTANCE

This appendix contains U. S. Fish and Wildlife Service (FWS) documentation of Bureau of Indian Affairs (BIA) minimization measures to reduce the likelihood of taking bald eagles (*Haliaeetus leucocephalus*) and golden eagles (*Aquila chrysaetos*) when implementing the proposed Navajo Nation Integrated Weed Management Plan.

The Bald and Golden Eagle Protection Act (Eagle Act) protects both eagle species. The Eagle Act prohibits anyone, without a permit issued by the Secretary of Interior, from taking eagles, including their parts, nests, or eggs. The Eagle Act defines "take" as "to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest, or disturb" eagles. "Disturb," based upon the best scientific information available, means to agitate or bother an eagle to a degree that causes, or is likely to cause: 1) injury; 2) a decrease in productivity by substantially interfering with normal breeding, feeding, or sheltering behavior; or 3) nest abandonment by substantially interfering with normal breeding, feeding, or sheltering behavior (USDI 2007).

NNDFW, BIA and FWS jointly developed the following conservation measures to minimize effects to bald and golden eagles in the project area. These measures are consistent with "Navajo Nation Bald and Golden Eagle Nest Protection Regulations" (NNDFW 2008) and "Conservation Assessment and Strategy for the Bald Eagle in Arizona" (Driscoll et al., 2006). We agree that implementing the following measures will reduce the likelihood of take.

BALD AND GOLDEN EAGLES

- "Heavy activities" that exceed at least one of the criteria for Light Activities that involve human activity up to one visit per week (prescribed fire, aerial chemical treatments) will be conducted outside of the breeding season and ³/₄-mi (1-km) from a nesting site.
- "Light activities" that occur for up to one day in the same general area and involve up to five vehicles and up to ten personnel (mechanical treatments and mechanized ground chemical treatments) require a 0.5-mi (800-m) buffer from an active nest.
- "Brief activities" that occur for up to one hour per day and involve only personnel and passenger or maintenance vehicles (one hour of spot spraying, mechanical, or manual treatments) require a 0.4 mi (600 m) buffer from an active nest.

Literature Cited

- Driscoll, J.T., K.V. Jacobsen, G.L. Beatty, J.S. Canaca, and J.G. Koloszar. Conservation assessment and strategy for the bald eagle in Arizona. Nongame and Endangered Wildlife Program Technical Report 173. Arizona Game and Fish Department, Phoenix, Arizona.
- Navajo Nation Department of Fish and Wildlife. 2008. Navajo Nation Bald and Golden Eagle Nest Protection Regulations. Navajo Nation Department of Fish and Wildlife.
- U.S. Department of the Interior (USDI), Fish and Wildlife Service. 2007. Protection of Eagles and Authorizations under the Bald and Golden Eagle Protection Act for Take of Eagles; Final Rule. Federal Register 72(107):31132-31140. June 5, 2007.

BIOLOGICAL RESOURCES COMPLIANCE FORM NAVAJO NATION DEPARTMENT OF FISH AND WILDLIFE P.O. BOX 1480, WINDOW ROCK, ARIZONA 86515-1480

It is the Department's opinion the project described below, with applicable conditions, is in compliance with Tribal and Federal laws protecting biological resources including the Navajo Endangered Species and Environmental Policy Codes, U.S. Endangered Species, Migratory Bird Treaty, Eagle Protection and National Environmental Policy Acts. This form does not preclude or replace consultation with the U.S. Fish and Wildlife Service if a Federally-listed species is affected.

PROJECT NAME & NO.: Programmatic Biological Assessment, Navajo Nation Integrated Weed Management Plan.

DESCRIPTION: The proposed action is the adoption of a Navajo Nation Integrated Weed Management Plan (NNIWMP) pertaining to all invasive plant control treatments occurring across the Navajo Nation, as prepared by the Bureau of Indian Affairs National Regional Office (BIA NRO). This programmatic approach provides the BIA NRO with a strategic approach to prioritize projects, species, and treatment methods for project planning and management. The NNIWMP does not include any specific development projects but instead sets comprehensive guidelines for protecting species on the Navajo Endangered Species List from impacts due to chemical, mechanical, manual, cultural, and biological control of priority weed species. This plan will cover a 10-year period, with a review after five years. After that time, the plan would remain in place until the BIA prepares an updated or replacement plan.

LOCATION: THE NAVAJO NATION, 16.3 MILLION ACRES IN NORTHEASTERN AZ,

SOUTHEASTERN UT, AND NORTHWESTERN NM, INCLUDING ALL NAVAJO INDIAN

ALLOTMENTS AND INDIAN TRUST LAND.

REPRESENTATIVE: Leonard Notah, Environmental Quality Act Compliance Review, Bureau of Indian Affairs

ACTION AGENCY: Bureau of Indian Affairs National Regional Office (BIA NRO)

B.R. REPORT TITLE / DATE / PREPARER: Navajo Nation Integrated Weed Management Plan Biological Assessment/AUGUST 2022/Bureau of Indian Affairs Navajo Region

IS THIS AN ON-GOING ACTION?: YES

 FREQUENCY OF ACTION: NA
 BRCF EXPIRATION DATE: 10 years from the signature date

 SIGNIFICANT BIOLOGICAL RESOURCES FOUND:
 RCP areas 1-5.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: All NESL Species, see Table 2 of the Biological Assessment for a full list (pg. I-2).

FEDERALLY-LISTED SPECIES POTENTIALLY IMPACTED: All Federally-listed species occurring on the Navajo Nation, see Table 1 of the Biological Assessment for a full list (pg. I-1).

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: Multiple, see memo and Biological Assessment Tables 5-13 (pgs. I-11-I-23).

CONDITIONS OF COMPLIANCE*: NNHP will use internally-developed RCP layers and technical expertise to determine if there is potential habitat for NESL species located within and adjacent to weed management project areas proposed under the NNIWMP. All projects proposed under the NNIWMP (including those proposed in Development Areas) will be required to submit a Data Request, map of the project area, and brief report detailing proposed weed control methodologies to NNHP; and will be reviewed on a case-by-case basis. Depending on project size, scope, and location; habitat assessments, presence/absence surveys, and/or species-specific avoidance measures may be required. Where NESL species are found within or adjacent to project areas, species and action-specific conservation measures outlined in Tables 5-13 of the Biological Assessment shall be adhered to. FORM PREPARED BY / DATE: Leanna Begay/31 OCT 2022

COPIES TO: (add categories as necessary)

—

2 NTC § 164 Recommendation: [Approval:

Conditional Approval (with memo):

Programmatic Biological Assessment, Navajo Nation Integrated Weed Management Plan.

Pending (with memo):

Disapproval (with memo):

Categorical Exclusion (with request letter):

None (with memo):

Gloria M. Tom, Director

Navajo Nation Department of Fish and Wildlife

Signature:

Havid Mihnie

Date /////2022

*I understand and accept the conditions of compliance, and acknowledge that lack of signature may be grounds for the Department not recommending the above described project for approval to the Tribal Decision-maker.

Representative's signature

Date

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



31 October, 2022

22bia107

Leonard Notah, NEPA Coordinator Bureau of Indian Affairs Navajo Regional Office Branch of Environmental Quality Act Compliance and Review 301 West Hill Ave Gallup, New Mexico 87301

Dear Leonard,

The Navajo Nation Department of Fish and Wildlife (NNDFW) Natural Heritage Program (NNHP) reviewed the Programmatic Biological Assessment for the Navajo Nation Integrated Weed Management Plan (NNIWMP). The Navajo Nation Integrated Weed Management Plan will serve as a framework to guide all invasive plant control treatments occuring on Navajo Nation lands, and provides a programmatic approach for the Bureau of Indian Affairs Regional Office to prioritize projects, species, and treatment methods for project planning and management. The purpose of this letter is to inform you that we are granting the proposed plan *Conditional Approval*.

As outlined in the Biological Assessment, and modified and expanded on here for clarity; the following protocol shall be adhered to for properly addressing NESL species which may occur within weed control projects proposed under this plan:

- The sponsor will submit a Biological Consultant Data Request Form along with a map and brief
 project description to NNHP to view a list of potential and known NESL species occuring in or
 near the proposed project area.
- To initate the Biological Resource Compliance Form (BRCF) process prior to project implementation, a brief report shall be submitted along with the BRCF request form that includes the following:
 - a. Description and map of the project location and treatment activities proposed.
 - b. Consideration of the intersection of the project site with potential and known habitat of all NESL species listed in the Data Response. If preliminary analysis based on maps, aerial photos, or other knowledge of the project site indicates that potential habitat for any Group 2 or Group 3 listed species is present, a qualified biologist will conduct a habitat assessment and/or species-specific survey and may be required on site during all stages of project implementation as determined by the BRCF process. Species surveys for Group 4 species are preferred but not required. A qualified biologist will conduct Group 4 species surveys consurrently with Group 2 and 3 species surveys.
 - c. Description of survey timing and methodology (including buffers) of species-specific surveys or habitat assessments performed, as applicable, following guidance for speciesspecific surveys outlined below.
 - d. Conservation measures that will be applied for the project, as applicable. If suitable habitat is present, the project may apply the conservation measures outlined in Tables 5-12 and Appendix B of the Biological Assessment, including buffers established for that

species to the habitat boundaries, and/or a qualified biologist will conduct additional surveys for species' presence.

- 3. If the species is present at the site, the species-based protection measures will be employed according to the species and specific weed control method conservation measures outlined in the Biological Assessment. If proper protocol surveys did not detect the presence of NESL species, no conservation buffers will be required.
- Where specified, species breeding season timing restrictions and buffers apply to all treatment methods.
- 5. Where two or more species' habitats overlap, the more restrictive measures will take priority.
- Consult Appendix B for the required protection measures for herbicide application in NESL species habitat.

Species-Specific Surveys:

Survey protocols and habitat descriptions for NESL species can be found in the species accounts available on NNHP's website at https://www.nndfw.org/nnhp/sp_account.htm. Surveys must be conducted during the appropriate time of year (for plants, during the fruiting/flowering season) by an experienced biologist who is permitted by the Navajo Nation.

Post-survey reports for NESL plants and animals shall include the following information:

- a) Shapefiles or KMZ files showing survey tracks taken in the field, and specific locations of NESL and/or Navajo Nation sensitive species, as applicable.
- b) Summary of survey methodology, date of survey, associated species, soil, geology, and a discussion of the potential habitat assessment for specific species where surveys occurred.
- c) Photos of representative habitat.
- d) Proposal of project mitigation measures which will be implemented to avoid or minimize impacts to NESL species located within the project area and buffer following conservation measures outlined in the Biological Assessment, as applicable.

Conservation Measures Specific to Species and Weed Control Method:

NNHP concurs with the assessment of species impacts and proposed conservation measures for NESL and Federally-listed species considered in the Biological Assessment. There are too many species to reiterate specific conservation measures here; however, any invasive species control projects proposed under this plan which interect with known or potential habitat for NESL species must adhere to the applicable conservation measures outlined in the BA in the following tables:

- Table 5: Required species conservation measures for Federally-listed and Group 2 and 3 NESL listed plant species (pg. I-11).
- Table 6: Reccomended species conservation measures for NNHP Group 4 plants (pg. I-13).
- Table 7: Required species conservation methods for Federally listed and NNHP Group 2 and 3 bird species (pg. I-14).
- Table 8: Reccomended species conservation methods for NNHP Group 4 bird species and bird species protected under the Migratory Bird Treaty Act (pg. I-17).
- **Table 9:** Required species conservation measures for Federally-listed and NNHP Group 2 fish species and recommended conservation measures for Group 4 fish species (pg. I-19).

NAVAJO NATION OFFICE OF THE PRESIDENT AND VICE PRESIDENT POST OFFICE BOX 7440 · WINDOW ROCK, AZ 86515 · PHONE: (928) 871-7000 · FAX: (928) 871-4025

- Table 10: Required species conservation measures for Federally-listed endangered and NNHP Group 3 invertebrate species and recommended species conservation measures for NNHP Group 4 invertebrate species (pg. I-20). T
- Table 11: Required species conservation measures for NNHP Group 2 amphibian and reptile species and recommended species conservation measures for NNHP Group 4 amphibian and reptile species (pg. I-21).
- Table 12: Required species conservation measures for NNHP Group 3 mammal species and recommended species conservation measures for NNHP Group 4 mammal species (pg. I-22).

In addition, NNHP concurs with the required protection measures for herbicide application in Navajo Nation listed species habitats that are outlined for each specific herbicide proposed for use on Navajo Nation lands in Appendix B of the Biological Assessment.

Please contact me via email at begay@nndfw.org with any questions that you have concerning the review of this plan.

Sincerely,

Leanna Begay, Wildlife Manager Navajo Natural Heritage Program Department of Fish and Wildlife

CONCURENC

Gloria Tom, Director Department of Fish and Wildlife

11/14/2022

Date

xc: CONS-100-19 BIA

BIA

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THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



MEMORANDUM

TO : David Mikesic, Zoologist Department of Fish and Wildlife DIVISION OF NATURAL RESOURCES

> Gloria M. Tom, Department Manager III Department of Fish and Wildlife **DIVISION OF NATURAL RESOURCES**

DATE : November 09, 2022

SUBJECT : DELEGATION OF AUTHORITY

I will be on travel beginning Monday, November 14, 2022 through Thursday, November 17, 2022. I am hereby delegating you to act in the capacity of the Director, Department of Fish and Wildlife, effective at 8:00 a.m. on Monday, November 14, 2022. This delegation shall end at 5:00 p.m. on Thursday, November 17, 2022.

Your authority will cover the review and signing off of all routine documents pertaining to the Department of Fish and Wildlife, except for issues that you feel should have the attention of the Director.

ACKNOWLEDGEMENT

Milun 11/10/2022

David Mikesic, Zoologist Department of Fish and Wildlife