

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
SOUTHWEST REGIONAL OFFICE
500 GOLD AVENUE, SW
ALBUQUERQUE, NM 87102

FINDING OF NO SIGNIFICANT IMPACT

APPROVAL OF THE AMENDED LOWER COLORADO RIVER MULTI-SPECIES
CONSERVATION PROGRAM AND ISSUANCE OF MULTIPLE SECTION 10(a)(1)(B)
PERMITS FOR INCIDENTAL TAKE OF THE
NORTHERN MEXICAN GARTERSNAKE (*Thamnophis eques megalops*)
RESULTING FROM COLORADO RIVER ACTIVITIES
WITHIN THE PLAN AREA IN ARIZONA, CALIFORNIA, AND NEVADA

We, the U.S. Fish and Wildlife Service developed an environmental assessment (EA) and the Lower Colorado River Multi-Species Conservation Program (LCR MSCP) prepared an Amended LCR MSCP Habitat Conservation Plan (HCP) to support issuing multiple section 10(a)(1)(B) permits (Permits) for incidental take of the federally listed threatened northern Mexican gartersnake (*Thamnophis eques megalops*).

Preferred Alternative

The proposed alternative is approval of the amendment to the LCR MSCP HCP as written, issuing subsequent multiple permits for incidental take of the northern Mexican gartersnake within the Planning Area during the remaining term, until 2055, of the LCR MSCP, and implementing the LCR MSCP amendment as proposed. Incidental take would continue to be limited to a cumulative total 1,227 acres of habitat loss in the LCR MSCP planning area. Actions covered under the LCR MSCP may result in take of the northern Mexican gartersnake associated with activities including, but not limited to river operations, water and power delivery, and implementing the LCR MSCP HCP.

Background and Public Participation

We published a Notice of Availability of the draft EA and draft amendment to the LCR MSCP HCP in the *Federal Register* on November 28, 2017 (82 FR 56261). The public comment period ended on December 28, 2017.

We received four set of comments during the 30-day public comment period. All comments strongly support the amendment to the HCP.

Finding of No Significant Impact for the Amended Lower Colorado River Multi-Species Conservation Program

Determination

Significance, as used in NEPA, requires considerations of both context and intensity. Context means that we must analyze the action in several contexts, such as society as a whole (human, national), the affected region, the affected interests, and the locality to determine the significance of an action. The Planning Area for the LCR MSCP comprises areas up to and including the full-pool elevation of Lakes Mead, Mohave, and Havasu and the historical floodplain of the Colorado River to the Southerly International Boundary with Mexico

(https://www.lcrmscp.gov/steer_committee/regulatory_compliance.html). However, of the approximately 716,230 acres (1,119 square miles) in the seven reaches of the Planning Area in Arizona, California, and Nevada, the LCR MSCP will establish about 8,132 acres of cottonwood-willow, honey mesquite, marsh, and backwater to achieve long-term species and ecosystem conservation objectives at ecologically appropriate scales. Of that 8,132-acre area, up to 1,227 acres of marsh and associated cottonwood-willow could be lost, but the LCR MSCP will create and manage 1,496 acres for the gartersnake, including 512 acres of marsh and 984 acres of cottonwood-willow located near marsh. The amendment to the LCR MSCP Permit to add the northern Mexican gartersnake as a covered species under the program affects a much smaller area, so the context of the impacts (both negative and beneficial) are considered negligible within the Planning Area and the remainder of the Nation.

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.

The EA has indicated that no adverse long-term impacts to wildlife; listed, proposed, and candidate species; cottonwood-willow, marsh, or backwaters are expected to result from implementing the LCR MSCP. However, long-term beneficial impacts to wildlife; listed, proposed, and candidate species; cottonwood-willow, marsh, or backwaters throughout the Planning Area are anticipated. Based on the size of the Planning Area these impacts are insignificant.

No adverse or beneficial impacts to cultural resources, socioeconomic environment, land use, or water resources are expected to result from the proposed action.

- (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, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

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

Finding of No Significant Impact for the Amended Lower Colorado River Multi-Species Conservation Program

- (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. We received four public comments; none of which indicate that the LCR MSCP is controversial to the public.

- (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 implementing the LCR MSCP are highly uncertain because we know the beneficial effects of the conservation measures on the human environment. None of the effects involve unique or unknown risks. We reach this conclusion because the LCR MSCP has been operating since 2005 and expectations in the EIS/EIR and HCP are as expected.

- (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 amendment to the LCR MSCP 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 amendment to the LCR MSCP is directly related to implementation of the 2005 LCR MSCP, which was fully analyzed before the HCP was approved and the permit issued.

- (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, significant scientific, cultural, or historical resources are expected to result from the proposed action.

Finding of No Significant Impact for the Amended Lower Colorado River Multi-Species Conservation Program

- (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 EA indicates that no adverse long-term impacts to listed, proposed and candidate species are expected to result from the proposed action. However, the proposed project will result in long-term, beneficial impacts to the federally-listed threatened northern Mexican gartersnake. The beneficial effects of the proposed project will supplement the beneficial effects of implementing the LCR MSCP and the other 26 species covered in the existing permit.

- (10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The amendment to the LCR MSCP promotes conservation of northern Mexican gartersnake and the environment upon which it depends for breeding, feeding, and sheltering. Therefore, the amendment serves to protect the environment and does not violate applicable Federal, State, or local law or requirements imposed for the protection of the environment.

We recognize that there will be impacts to the human environment from covered activities permitted under the 2005 LCR MSCP, but we don't expect any additional impacts from including the northern Mexican gartersnake in the program. Based on information contained in the EA, LCR MSCP HCP Amendment, and supporting data in our files, we have determined that this action does not include additional impacts and 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 National Environmental Policy Act of 1969. Accordingly, preparation of an Environmental Impact Statement is not warranted.

It is my decision to approve the amended LCR MSCP HCP and, where applicants meet all requirements in the LCR MSCP, subsequently issue a section 10(a)(1)(B) permit for river operations, water and power delivery, and LCR MSCP implementation in the program's planning area along the Lower Colorado River Basin.



Assistant Regional Director – Ecological Services
Southwest Region

MAR 5 2018

Date

Finding Of No Significant Impact (FONSI)

LC-18-05

for

Final Environmental Assessment for the Final Amendment to add Northern Mexican Gartersnake to the Lower Colorado River Multi-Species Conservation Program as a Covered Species

Boulder City, Nevada

Based on a thorough analysis of the potential environmental impacts presented in the Environmental Assessment, the Bureau of Reclamation (Reclamation) finds that implementation of the Proposed Action will not significantly affect the quality of the human environment within or adjacent to the project area, therefore an Environmental Impact Statement will not be prepared.

Accordingly, this FONSI is submitted to document environmental review and evaluation of the Proposed Action Alternative in compliance with the National Environmental Policy Act (NEPA) of 1969, as amended.

Prepared: Faye Steier Date: March 5, 2018
Natural Resource Specialist

Recommended: [Signature] Date: 5 MAR 18
Manager, Environmental Compliance Group

Approved: [Signature] Date: 3/5/18
Chief, Resource Management Office
[Signature]

Background

The U.S. Fish and Wildlife Service (Service) as the lead Federal agency and Reclamation, Lower Colorado River Multi-Species Conservation Program (LCR MSCP) as a cooperating agency prepared the *Final Environmental Assessment for the Final Amendment to add Northern Mexican Gartersnake to the Lower Colorado River Multi-Species Conservation Program as a Covered Species* (EA) (Attachment A).

The EA was prepared to evaluate the impacts of, and alternatives to, the Service amending the Endangered Species Act (ESA) Section 10(a)(1)(B) permit (Permit No. TE086834-0) (Permit) for LCR MSCP to add the northern Mexican gartersnake (*Thamnophis eques megalops*) to the LCR MSCP Permit as a covered species; and to evaluate the impacts of implementation of the amended LCR MSCP Habitat Conservation Plan (HCP) by Reclamation, the Federal agency responsible for implementing the LCR MSCP on behalf of the Federal participants and non-Federal permittees.

The EA is tiered to the *LCR MSCP Final Programmatic Environmental Impact Statement /Environmental Impact Report* (LCR MSCP FEIS/EIR) and resulting Record of Decision which provided NEPA compliance for the LCR MSCP. Reclamation hereby adopts the EA, which is incorporated by reference into this FONSI. This FONSI has been prepared for Reclamation's action of implementing the amended LCR MSCP. The Service will issue a separate FONSI for their action of amending the LCR MSCP Permit.

Alternatives Considered

A No Action Alternative and a Proposed Action were considered. Under the No Action Alternative, the amendment to the LCR MSCP Permit would not be approved. Implementation of the LCR MSCP HCP would continue without the amendment. The LCR MSCP non-Federal parties would have to seek other methods to comply with the ESA for the northern Mexican gartersnake.

The Proposed Action

Under the Proposed Action, the amendment to the LCR MSCP Permit, and implementation of the amended LCR MSCP HCP would occur. A portion of the habitat already created or planned to be created under the LCR MSCP would be managed for the northern Mexican gartersnake. The LCR MSCP Planning and Off-Site Conservation Areas, covered actions, and the total amount of habitat created under the LCR MSCP, as outlined in the LCR MSCP HCP, would not change under the amendment. Two new conservation measures, NMGS1 and NMGS2, would be implemented for the northern Mexican gartersnake. Existing LCR MSCP HCP avoidance and minimization measures would also apply to the northern Mexican gartersnake. Details of the Proposed Action can be found in Section 2.2 and Section 11 of the EA.

Environmental Impacts and Findings

Section 4 of the EA analyzed the impacts of implementing the LCR MSCP HCP on all of the resource areas evaluated in the FEIS/EIR which are: Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Energy and Depletable Resources, Environmental Justice; Hazards and Hazardous Materials; Hydrology and Water Quality; Indian Trust Assets; Land Use; Noise; Population and Housing; Public Utilities and Services; Recreation; Socioeconomics; Topography, Geology, Soils and Mineral Resources; Transboundary Impacts, and Transportation. Sections 5, 6, and 7 evaluate Cumulative Impacts, Irreversible and Irrecoverable Commitment of Resources, and Short-term use of the Environment versus Long Term Productivity.

The environmental consequences analysis focused on only the potential impacts of implementing the No-Action Alternative and Proposed Action to determine if there would be any impacts that were not adequately described in the LCR MSCP FEIS/EIR. In accordance with 43 CFR 46.140, the conditions and environmental effects described in the LCR MSCP FEIS/EIR were reviewed and determined to still be valid. With the exception of Biological Resources, it was determined that there would be no impacts to any of the resources beyond those that were described and fully analyzed in the LCR MSCP FEIS/EIR.

For Biological Resources, implementation of the covered activities described in the LCR MSCP Biological Assessment and the LCR MSCP HCP could result in the loss of up to 1,227 acres of marsh and associated cottonwood-willow land cover types that may provide habitat for the northern Mexican gartersnake within the LCR MSCP planning boundary over the remaining life of the 50 year program (until 2055). Some additional limited and low value habitat such as dry patches of herbaceous vegetation near marsh edges could be affected by habitat creation and maintenance activities; however, the level of take is assumed to be low because of the limited value of the potentially affected habitat to northern Mexican gartersnake.

This will not be a significant impact because the conservation measures included in the amendment to the LCR MSCP HCP would achieve the LCR MSCP goal to avoid, minimize, and fully mitigate adverse effects of covered activities and LCR MSCP implementation on the northern Mexican gartersnake, and to contribute to its recovery by providing new habitat that will be managed for the northern Mexican gartersnake. No additional impacts to Biological Resources that were not evaluated in the LCR MSCP FEIS/EIR were identified.