

DECISION RECORD
Habitat Protection Zone Environmental Assessment
NM-060-2000-030

DECISION:

I have reviewed the proposed action relating to the management and authorization of land uses within the Habitat Protection Zone (HPZ), including the environmental impacts and biological assessment and have determined that the proposed action is in conformance with the 1997 Roswell Resource Management Plan (RMP). Therefore, no further environmental analysis is required. It is my decision to implement the management actions and adhere to the recommended mitigation measures for resource protection within the Habitat Protection Zone specific to the designated primary and secondary areas and reflected by Alternative A of the Environmental Assessment.

The June 2006 biological assessment (BA) describes the management prescriptions associated with a primary protection area and a secondary protection area (see attached map). The primary area would receive the full groundwater protection design features (such as steel tanks instead of earthen pits) and the casing protocol described in the biological assessment and this environmental assessment.

In the secondary area:

- All unleased federal minerals within the 100-year floodplain of the Pecos River are to remain closed to new oil and gas leasing;
- Surface disturbance will not be allowed within up to 200 meters of the outer edge of 100-year floodplains, to protect the integrity of those floodplains;
- Oil and gas wells outside the 100-year floodplain would include standard stipulations and conditions of approval adequate for the protection of affected resources, which may include full groundwater protection design features (such as steel tanks instead of earthen pits) and the casing protocol if so deemed necessary to ensure protection.

Background:

The Roswell Field Office, Bureau of Land Management (BLM), completed the Habitat Protection Zone Environmental Assessment (EA) and the finding of no significant impact (FONSI) on October 22, 2002. The purpose of this assessment was to identify, analyze and incorporate protective measures to public land use authorizations and Federal undertakings within the area to ensure resource protection, specifically for the habitat of the Pecos gambusia (*Gambusia nobilis*) with special attention to groundwater contamination potential. The Final Decision Record was issued on February 3, 2003, and later appealed to the Interior Board of Land Appeals (IBLA) on March 3, 2003.

The analysis in the HPZ EA implemented the reasonable and prudent alternative (RPA) for the Pecos Gambusia resulting from consultation with the U.S. Fish and Wildlife Service (the Service) based on the Biological Opinion (BO) received for the Roswell RMP. Based on the

opinion provided, the Service recommended that six elements be incorporated into the RMP to avoid jeopardizing the continued existence of the species. BLM incorporated the Pecos gambusia RPA into the 1997 RMP.

On October 20, 1999, the FWS published a final rule in the Federal Register listing the Pecos sunflower (*Helianthus paradoxus*) as a threatened species under the Endangered Species Act of 1973 (ESA), as amended. This plant species is found at several locations in Chaves County, New Mexico, in areas supporting wetland and riparian habitats.

On August 9, 2005, the U.S. Fish and Wildlife Service (FWS) published a final rule in the federal Register listing the Roswell springsnail (*Pyrgulopsis roswellensis*), Koster's springsnail (*Juturnia kosteri*), and Noel's amphipod (*Gammarus desperatus*) as endangered and the Pecos assiminea (*Assiminea pecos*) as endangered with critical habitat under the Endangered Species Act of 1973, as amended. These invertebrates are found at one location in Chaves County, New Mexico, the same location where the previously listed Pecos gambusia is found.

With the listing of these invertebrates BLM requested that IBLA remand the HPZ EA pending initiation of Section 7 consultation under ESA. As part of the consultation process, BLM submitted a biological assessment of its management prescriptions in the HPZ. The management prescriptions of the HPZ are designed to prevent possible contamination of the aquifers supplying the springs occupied by the Pecos gambusia. The aquifers supplying water to habitat occupied by the Pecos gambusia also supply water to the habitats occupied by the four invertebrates. BLM also deemed it prudent to include the Pecos sunflower in the consultation process since the species potentially occurs within the HPZ.

By implementing these prescriptions BLM determined the proposed action may affect, but not likely to adversely affect the four invertebrates, the Pecos gambusia and Pecos sunflower. Nothing in this consultation changes the original finding of no significant impact (FONSI). Therefore, BLM will issue a new decision record for this environmental assessment. This Decision Record supersedes the previous Decision Record dated February 3, 2003.

RATIONALE:

The Roswell Field Office, BLM, identified the area known as the Habitat Protection Zone (HPZ) as an area that required special management prescriptions to ensure resource protection since 1997 during the development of Roswell RMP. As a result of consultation with the Service, BLM adopted the Reasonable and Prudent alternative, which included six elements to ensure protection of the subject species (see EA-NM-060-00-030).

In 1999, the Service contracted the services of Balleau Groundwater, Inc., for the purpose of preparing a report which defined the source areas of groundwater feeding water features such as, springs, sinkholes and surface water on the Middle and Salt Creek units of the Bitter Lake National Wildlife Refuge (BLNWR). Balleau Groundwater, Inc., completed the report entitled "Source-Water Protection Zones for Bitter Lake National Wildlife Refuge" on September, 16, 1999. Source-water protection zones were delineated at the Middle and Salt Creek Wilderness Units of the BLNWR based on investigation of geology, aquifer properties and potentiometric

levels. The approach used to define the source areas of groundwater feeding water features on the BLNWR involved three dimensional reverse particle tracking. The data used in the Balleau Groundwater, Inc., report are sufficient for delineating directions, timing and proportional contribution of groundwater-sources into Middle and Salt Creek Wilderness Units of the BLNWR.

BLM utilized the Balleau Groundwater, Inc., "Source-Water Protection Zones for Bitter Lake National Wildlife Refuge" report to identify the HPZ, which included a primary protection area where the greatest risk for ground water contamination could occur from oil and gas development without applying special stipulations to proposed activities. Any future oil and gas activity in this primary zone would have protective measures that include, but are not limited to, above ground steel tanks, cement casing requirements for bore holes and the implementation of a monitoring program to detect oil and gas surface and subsurface contamination.

A secondary protection area was also established by the HPZ EA. The secondary zone consists of the remaining land between the Salt Creek unit of BLNWR and U.S. Highway 70, as well as land west of and including a portion of the Pecos River. The secondary zone further ensures that the Bureau applies protective stipulations to land use authorizations for other resources (such as cave/karst, wildlife habitat, riparian) and promotes the opportunity to manage this area using a holistic approach.

Public comments received during the original comment period were adequately and thoroughly addressed in the Decision Record dated February 3, 2003

Any party adversely affected by this decision may appeal this Final Decision in writing to the authorized officer. Please be specific in your points of appeal. In an absence of appeal, this decision will become final without further notice. If a petition for stay is not requested and granted, the decision will be put into effect following the 30-day appeal period. Written appeal may be filed to the Final Decision for the purpose of a hearing before an administrative law judge under 43 CFR 4.400. A period of 30 days after receipt of the Final Decision is provided in which to file an appeal in this office.

/s/Eddie Bateson

Eddie Bateson
Field Office Manager

10/17/06

Date