United States Department of the Interior
Bureau of Reclamation
Interior Region 8: Lower Colorado Basin
Phoenix Area Office

FINDING OF NO SIGNIFICANT IMPACT
AND
DECISION RECORD

Eagle Creek Conservation Benefit Agreement and Fish Barrier Project
Graham and Greenlee Counties, Arizona

Approved: SEAN HEATH Digitally signed by SEAN HEATH Date: 2025.09.03 10:10:55 -07'00' Date: 9/3/25

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FONSI No.: PXAO 25-01

Introduction

The United States (U.S.) Department of the Interior, Bureau of Reclamation, Interior Region 8: Lower Colorado Basin (Reclamation), as the lead federal agency, and the U.S. Fish and Wildlife Service (USFWS) have issued a final Environmental Assessment (EA) that analyzes the potential environmental impacts of two proposed actions: (1) USFWS proposes to issue an Enhancement of Survival Permit (EOS Permit), contingent on approval of a Conservation Benefit Agreement (CBA), pursuant to section 10(a)(1)(A) of the Endangered Species Act (ESA) of 1973, as amended (16 United States Code (U.S.C.) § 1531 et seq.); and (2) Reclamation proposes to construct a fish barrier in Eagle Creek. The EOS Permit and fish barrier would be located on private land administered by Freeport Minerals Corporation and its affiliates, Freeport-McMoRan Morenci Inc. and the Morenci Water and Electric Company (collectively referenced as Freeport). The final EA considers the impacts of USFWS's proposed approval of the CBA and issuance of the EOS Permit to Freeport and Reclamation's proposed construction of the fish barrier in Eagle Creek, Graham and Greenlee Counties, Arizona.

The purpose of Reclamation's proposed action is to protect the existing upper Eagle Creek populations of federally-listed aquatic species, as well as other native species, against future upstream incursion of nonnative fishes from the Gila River and lower Eagle Creek. The proposed action would protect existing populations of Gila chub (*Gila intermedia*) and narrow-headed gartersnake (*Thamnophis rufipunctatus*) and facilitate replication of spikedace (*Meda fulgida*) and loach minnow (*Tiaroga cobitis*) into historically occupied habitat. Implementation of the proposed action is needed for Reclamation to meet a key conservation measure of its biological opinions issued by USFWS on the impacts of water transfers via the Central Arizona Project (CAP) and its potential to introduce and spread nonnative aquatic species into the Gila River basin.

Additional information is provided in the final EA, which is incorporated by reference. This Finding of No Significant Impact (FONSI) considers Reclamation's proposed action, and a separate FONSI will be issued by USFWS for its proposed action, if appropriate.

Public Involvement

USFWS initially published a Notice of Intent (NOI) to prepare a draft EA for a proposed Safe Harbor Agreement (SHA)[1] and issuance of an EOS permit to Freeport for spikedace, loach minnow, and Gila chub on Eagle Creek and the lower San Francisco River in the *Federal Register* (FR) on April 3, 2018 (USFWS 2018). Two comment letters were received during the comment period.

[1] On April 12, 2024, USFWS issued a final rule simplifying the section 10(a)(1)(A) process by combining SHAs and Candidate Conservation Agreements with Assurances into CBAs. The final rule became effective May 13, 2024 (USFWS 2024), and the term CBA will be used throughout the final EA.

Development of the SHA was delayed due to changes in the proposed SHA Covered Area and Covered Species prior to the public release of the draft EA.

In 2024, the National Environmental Policy Act (42 U.S.C. § 4321 et seq.; NEPA) process for this action was reinitiated and included Reclamation's proposal to construct a fish barrier on Eagle Creek. In accordance with NEPA's purpose and Reclamation and USFWS regulations and policies, Reclamation and USFWS solicited input from the public on the proposed actions to assist in identifying key issues and defining the scope of the draft EA. On April 8, 2024, a public notice soliciting comments was sent to 53 individuals, stakeholders, tribes, agencies, and organizations and published on Reclamation's website. Four comment letters were received during the scoping period and are summarized in Table 1 of the final EA.

On January 3, 2025, Reclamation published the draft EA for a 30-day public review and comment period from January 3 to February 3, 2025. A Notice of Availability (NOA) was sent to 53 individuals, stakeholders, tribes, agencies, and organizations and posted on Reclamation's website. Concurrently, the USFWS published a NOA in the FR on January 3, 2025, requesting public comments on Freeport's permit application, the proposed CBA, and the draft EA (USFWS 2025). Information was also made available on the Reclamation website. In total, ten comment letters were received during the comment period for the draft EA. Substantive comments are summarized in Appendix A of the final EA.

The Proposed Action

Under the proposed action, Reclamation would construct, operate, and maintain one concrete fish barrier in Eagle Creek to prevent upstream incursion of nonnative fish. The barrier would be constructed in Eagle Creek on private lands owned by Freeport between river mile 51 and 52 (see Figure 4 and 5 in the final EA). Following construction, spikedace and loach minnow would be stocked in Eagle Creek upstream of the fish barrier and in coordination with the Arizona Game and Fish Department, USFWS, and Freeport. A 5-year monitoring program would be established after the fish barrier is constructed to monitor barrier effectiveness, to detect incursion of new nonnative fishes, and to monitor responses of native fishes.

Best management practices (BMPs) incorporated as part of the proposed action are listed in Table 2 of the final EA and implementation of BMPs would be required.

Summary of Impacts

Reclamation's analysis in the final EA determined that there would be limited impacts resulting from its proposed action. The following issues were addressed in the final EA and have been taken into consideration in Reclamation's determination of whether a FONSI is appropriate, or an Environmental Impact Statement (EIS) should be prepared.

1) Water Resources – The proposed action would result in minor, localized short- and long-term adverse effects during and after construction of the fish barrier. Sedimentation effects

would be minimized via BMPs and by diverting stream flow around the work area to reduce the potential release of sediment. Natural slope erosion, channel scour, and sediment runoff is anticipated to stabilize one to two years after barrier construction, and adverse long-term effects to water resources would be negligible.

2) Geology and Soils – The proposed action would result in minor, short-term and negligible, long-term adverse effects to geology and soils. Long-term effects would be confined to the fish barrier footprint (approximately 0.10 acres). Short- and long-term effects would be minimized by limiting the amount of exposed soil necessary for construction activities, installing erosion control devices to prevent the downstream transport of sediment, and balancing the construction need for cuts and fills on site.

3) Vegetation – Short-term adverse effects to vegetation would be expected in the contractor use areas (approximately 2.09 acres) and up to 4.4 acres of riparian habitat upstream of the fish barrier footprint could also be impacted due to channel aggradation following construction. Long-term adverse effects would be confined to the fish barrier footprint (approximately 0.10 acres). Effects to vegetation would be minimized by limiting grading activities, conspicuously marking work areas, avoiding mature riparian trees, and stabilizing and seeding disturbed areas with a native plant mixture following construction. Overall, the proposed action would result in minor, localized short-term and negligible, long-term effects to vegetation.

4) Terrestrial Wildlife – The proposed action would result in minor, short-term and negligible, long-term adverse effects on terrestrial wildlife. Potential displacement, injury, or death of slow-moving small mammals and herpetofauna could occur due to construction equipment and noise disturbance within the construction footprint and contractor use areas. However, impacts to wildlife would minimized through implementation of BMPs.

5) Fish and Aquatic Wildlife – The proposed action would have minor, localized short- and long-term adverse effects. Stream diversion activities during construction would temporarily impact 0.31 acres of aquatic habitat. Although typical river flows would likely remain unchanged outside the project area, within the construction footprint aquatic habitat would be temporarily altered or removed until stream flow is restored. Water turbidity would briefly increase during the setup and removal of the stream diversion system. To reduce potential harm to fish and aquatic wildlife, a permitted fish biologist would survey the area immediately prior to stream diversion activities and relocate captured individuals upstream or downstream of the project area. Following construction, the fish barrier itself would block upstream fish passage, including native fishes; however, it is expected to provide long-term beneficial effects to fish and aquatic communities by preventing upstream invasions of nonnative aquatic biota.

6) Migratory Birds and Bald and Golden Eagles – The proposed action would have minor, short-term and negligible, long-term adverse effects on migratory birds, bald eagles (*Haliaeetus leucocephalus*), and golden eagles (*Aquila chrysaetos*). Construction will occur between mid-October and mid-March, which avoids the migratory bird breeding season, and

any temporary impacts on vegetation would be localized and expected to recover naturally before migratory birds return in spring. Although golden eagles may forage in the project area, the proposed action would not result in any injuries or significant disruptions to their behavior. Activities related to native fish repatriation and monitoring may coincide with the migratory bird breeding season, but would involve minimal personnel and cause only short-term, localized disturbances.

7) Threatened and Endangered Species – The proposed action is expected to result in minor, localized short- and long-term adverse effects to narrow-headed gartersnake, Gila chub (and its critical habitat), loach minnow, and spikedace. Adverse and beneficial effects to these species would be similar to those described above for Fish and Aquatic Wildlife. Adverse impacts to yellow-billed cuckoo (*Coccyzus americanus*) are expected to be minor, short-term and negligible, long-term, and would be similar to those described for Migratory Birds and Bald and Golden Eagles.

8) Cultural Resources – There would be no adverse effect to historic properties.

The following resource issues were evaluated and determined to be either not affected or minimally affected with implementation of BMPs and were therefore not analyzed in further detail in the final EA: Air quality, public health and safety, socioeconomics, wild and scenic rivers, prime farmlands, land use, global climate change, Indian trust assets, recreation, visual resources, noise, and traffic and transportation. The resources eliminated and the rationale for elimination are presented in Table 3 of the final EA.

Finding of No Significant Impact and Decision Record

Based upon the analysis presented in the final EA, Reclamation has determined that the proposed action would not have a significant effect on the human environment therefore, an EIS is not warranted. Reclamation certifies that it has considered the requirements of NEPA and 516 Department Manual 1, all relevant information raised in the NEPA process, and that the NEPA process has concluded. Given this information, Reclamation has made the decision to implement its proposed action described in Chapter 2 of the final EA.

Documents Referenced

U.S. Fish and Wildlife Service (USFWS). 2018. Notice of Intent to Prepare a Draft Environmental Assessment for a Proposed Safe Harbor Agreement for Spikedace, Loach Minnow, and Gila Chub; Eagle Creek and Lower San Francisco River in Greenlee and Graham Counties, Arizona. Federal Register 83: 14287-14289.

———. 2024. Endangered and Threatened Wildlife and Plants; Enhancement of Survival and Incidental Take Permits. Federal Register 89: 26070–26102.

———. 2025. Application for an Enhancement of Survival Permit; Eagle Creek Multi-Species Conservation Benefit Agreement; Greenlee and Graham Counties, Arizona. Federal Register 90: 329–331.