

**FINDING OF NO SIGNIFICANT IMPACT
FOR THE PARADISE COVE WEST
U.S. CUSTOMS AND BORDER PROTECTION MITIGATION FOR
SOUTHWESTERN WILLOW FLYCATCHER**

PROJECT HISTORY: U.S. Customs and Border Protection (CBP) was issued a right-of-way (ROW) grant (AZA 34173) by the Bureau of Land Management (BLM) Yuma Field Office (YFO) in 2008 to conduct vegetation treatments on up to 580 acres along the Lower Colorado River (LCR) near Yuma, Arizona (BLM 2008a). The grant specifically covers the Limitrophe, a 23-mile reach of the LCR that forms the international boundary with Mexico and where dense vegetation can sometimes interfere with CBP's border security mission. The grant authorized the establishment of an enforcement zone created through vegetation treatments, maintenance, and mitigation for a period of 10 years. The Limitrophe treatment area is shown on Figure 1 of the EA.

As authorized by the ROW grant, a total of 149.08 acres of vegetation was treated within the Limitrophe in 2008, 2012, and 2017 by CBP, triggering the need for mitigation. Mitigation in the form of revegetation is one of the conservation measures identified in the 2008 U.S. Fish and Wildlife Service (USFWS) Biological Opinion (BO) to minimize impacts resulting from the vegetation treatment in the Limitrophe. The criteria included in the BO (USFWS 2008) specifies that treated habitat must be replaced with higher quality habitat outside the treatment area, either within the Limitrophe or as close to the Limitrophe as possible. In response to this, a preferred site, Paradise Cove West (PCW), located approximately 2.5 miles away from the Limitrophe site, is analyzed in the Environmental Assessment (EA) as the Proposed Action area. The Proposed Action at PCW is expected to achieve adequate mitigation credit for vegetation treatments that have occurred at the Limitrophe to date. Based on the mitigation ratios prescribed in the BO, CBP calculated that 42.8 acres of mitigation would be required.

The EA was prepared in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 United States Code [USC] 4321-4347) and the Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 Code of Federal Regulations [CFR] 1500-1508), BLM planning guide (BLM NEPA Handbook H-1790-1), as well as the Department of Homeland Security (DHS) Instruction Manual on Implementation of the National Environmental Policy Act (DHS Instruction 023-01-001-01, Rev. 01).

PURPOSE AND NEED: The primary purpose of the Proposed Action is to restore and maintain a minimum of 42.8 acres of native habitat through manual, mechanical, and chemical applications, to include a mix of cottonwood willow and honey mesquite, with an emphasis on providing habitat to support the southwestern willow flycatcher (*Empidonax traillii extimus*; SWFL). The need for the Proposed Action is to meet the mitigation requirements for impacts resulting from 149.08 acres of vegetation treatment within the Limitrophe, as outlined in the 2008 USFWS BO. The intent is to provide higher quality habitat for wildlife species than the treated vegetation at the mitigation ratios prescribed in the BO. An additional need for the project is to improve public safety within the area by improving access for law enforcement and wildland fire protection.

ALTERNATIVES CONSIDERED:

No Action Alternative: The No Action Alternative is analyzed in the EA for purposes of providing a baseline for potential impacts that may occur under the Proposed Action. Under the No Action Alternative, the BLM would not approve PCW as a mitigation area, no restoration would occur within the proposed PCW project area, and the mitigation requirement to restore 42.8 acres of riparian habitat would not be met at this site. Large, dense stands of invasive species would remain within PCW, no improvements would be made to fire or law enforcement access, and higher quality habitat for wildlife would not be created. The No Action Alternative does not meet the purpose and need for the proposed project.

Proposed Action: Under the Proposed Action Alternative, approximately 49.84 acres of habitat restoration would occur within the proposed 51-acre PCW project area to meet the mitigation requirement of restoring and maintaining a minimum of 42.8 acres of riparian habitat. Under this alternative, approximately 13.9 acres of willow-enhanced wetland would be improved along the channel and its connection to the river, approximately 31.6 acres of cottonwood-willow would be supported on both sides of the willow-enhanced wetland, and approximately 4.34 acres of mesquite woodland would be supported at the southwestern, drier portion of the

project area. The remaining 1.16 acres of the project area is associated with the perimeter roads and not included in the mitigation acreage totals. The existing wetland that bisects the site would be maintained. Land on the north side of the channel would include four to five discrete areas that are divided by walkable field berms that extend perpendicularly from the northern access road (near the Colorado River) to another walkable berm on the north side of the interior channel, near the willow enhanced wetland. The walkable berms would provide limited access for site maintenance, while the drivable access road would provide access for site maintenance, as well as irrigation maintenance, law enforcement (vehicle access through gates), fire prevention, and recreation (foot access only). Existing structures and access roads would be preserved, and site features would be compatible with adjacent restoration activities by the Cocopah Tribe. In addition, a green fuel break would bisect the restoration area connecting the site with direct access to the existing agricultural road. Bank stability along the Colorado River would be maintained by the preservation of the dense growth of common reed, in addition to the creation of a concrete ditch.

Alternatives Considered but Eliminated: The BLM and CBP considered but eliminated the following three alternative sites: Mitty Lake, Confluence, and Paradise Cove East (PCE). Mitty Lake was eliminated due to very saline soil conditions (detailed analysis would be needed to address these concerns) and proximity to dense stands of invasive species that would create a constant need for maintenance. Confluence was eliminated due to recreation access that would make it difficult to protect against recreation impacts and vandalism, and limited access for installation and maintenance activities. PCE was eliminated because it is encumbered by established cottonwood and willow riparian habitat, presence of migratory yellow-billed cuckoo and southwestern willow flycatcher, and designation as a BLM recreation trail with fishing and hiking access. Due to these components, the USFWS does not consider these sites eligible as mitigation sites.

ENVIRONMENTAL CONSEQUENCES: The Proposed Action would potentially result in negligible to minimal short-term adverse impacts to air quality, cultural resources, environmental justice, human health and safety, migratory birds, paleontological resources, recreation, soils, threatened and endangered species, vegetation, visual resources, water quality, weeds/invasive species, wetlands, and wildlife.

Air Quality. The Proposed Action would result in short-term negligible release of pollutant emissions without resulting in an adverse long-term impact on air quality. The transport, operation, and use of trucks and equipment within the project area would result in short-term release of a small amount of regulated air pollutant emissions that are expected to be well below General Conformity Rule *de minimis* levels. All vehicles would be properly muffled and maintained to state emission standards. Short-term particulate emissions in the form of fugitive dust would be emitted from trucks and construction vehicles accessing the project area. Potential impacts to air quality from herbicide use would be negligible and short-term, dissipating almost immediately after initial application. Long-term negligible beneficial air quality impacts from restoration of the project area would result from the increase in native vegetation that would reduce bare ground and invasive species that would reduce rates of wind erosion and dust generation.

Cultural Resources. Cultural resources would not likely be impacted as any cultural resources are likely deeply buried within the project area. It is generally assumed that prehistoric sites are buried beneath the Colorado River floodplain. Given the seasonal flood cycles and the deposition associated with those cycles, it is assumed that any such sites would be deeply buried within the Proposed Action area.

Environmental Justice. Low-income and minority areas within 1 mile of the project area may experience short-term negligible adverse impacts from construction noise and dust emissions. Noise and dust emissions during construction activities would be minimal due to the distance between the project area and residences and would dissipate considerably within this distance. The Proposed Action would not disproportionately affect the minority and low-income populations in the area.

Human Health and Safety. During project implementation and subsequent maintenance, personnel would be exposed to safety risks from the inherent dangers of traversing the site, operating tools and equipment, and herbicide application. The Proposed Action includes measures to minimize potential human health and safety impacts.

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Migratory Birds. Under the Proposed Action, temporary, short-term negligible adverse impacts to migratory birds would occur during implementation of restoration and construction of associated infrastructure. Short-term impacts may include loss of foraging, cover, and nesting habitat during vegetation removal and from disturbance due to noise and human activities during restoration activities. The Proposed Action includes measures to minimize potential short-term impacts to migratory birds during the bird-breeding season.

Paleontology. The sedimentary geologic units in the project area are not likely to contain vertebrate fossils or scientifically significant non-vertebrate fossils. The project area is located within an area with low paleontological sensitivity.

Recreation. Short-term impacts to recreation would result under the Proposed Action. During implementation, wildlife viewing in the project area would be disrupted due to noise associated with site grading and construction activities as well as temporary loss of habitat. Informal public access, including river access, would also be temporarily disrupted.

Soils. The Proposed Action would result in negligible to minor short-term adverse impacts to soils in the project area. Erosion may occur within cleared and grubbed areas prior to seeding and planting of native species and during maintenance operations. Compaction of soils would occur during construction of berms. Once project implementation is complete, restoration of the project area would stabilize soils and improve soil quality. Impacts to soil resources would be expected during flood events, and from animal holes or improper site engineering, manipulation, and design features. Soil salinity would be assessed annually to determine if salinity treatments are needed to ensure native riparian plant community survivorship. No long-term adverse impacts to soil resources would be expected.

Threatened and Endangered Species. Due to the lack of existing suitable vegetation onsite, SWFL, Yuma Ridgway's rail, and yellow-billed cuckoo are unlikely to occur within the project area. However, if these species are detected onsite, temporary, short-term negligible impacts would occur during implementation of restoration and construction of associated infrastructure. Short-term impacts may include loss of foraging, cover, and nesting habitat during vegetation removal and from disturbance due to noise and human activities during restoration activities. Additional short-term impacts would result from mechanical vegetation treatment and re-treatment during long-term maintenance activities.

Vegetation. Under the Proposed Action, short-term negligible to minor impacts would occur to native vegetation during site grading and construction of infrastructure. Existing native species and pockets/stands of intact native wetland vegetation would be avoided to the extent practicable in order to minimize impacts and capitalize on these existing resources for enhanced wildlife benefits. Large, dense stands of invasive species would be removed within PCW during site preparation efforts. Implementation would result in the restoration of approximately 13.9 acres of willow-enhanced wetland, approximately 31.6 acres of cottonwood-willow, and approximately 4.34 acres of mesquite habitats.

Visual Resources. Short-term temporary adverse effects to visual resources would occur during site grading and construction activities. Site grading and construction would include the presence of heavy machinery, construction materials, and 150,000 cubic yards of excavated soil. In the long-term, implementation of the Proposed Action would have a beneficial visual impact. The existing dense stands of non-native species would be removed and the PCW would be restored to native riparian habitat. The Proposed Action includes restoration of native riparian habitat which is consistent with the character of the existing landscape. The Proposed Action design meets the BLM visual resource management objectives for the area and all project components would be consistent with the BLM's VRM system guidelines.

Water Quality. The Proposed Action would include herbicide treatment of invasive plant species. Potential short-term negligible impacts to groundwater quality could result from herbicides leaching through soils into the groundwater basin. Best management practices (BMPs) included as part of the project would limit the potential effects of groundwater resources from herbicide use within the project area. Surface water quality could be indirectly affected by runoff, drift, spills, and leaching of herbicides from the soil. Bare ground areas could increase

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these impacts due to the reduction of a natural buffer and filtration capabilities provided by vegetation. Potential impacts would be minimized and avoided through proper management of herbicides to avoid overspray as well as use of BMPs.

Weeds/Invasive Species. Restoration activities under the Proposed Action would result in surface disturbance that has the potential to create conditions favorable for the establishment and invasion of noxious weeds and invasive non-native species. During site preparation, a majority of the invasive species from within the project area boundaries would be removed; common reed removal/treatment activities would focus only on the interior channel near the outfall. Saltcedar populations throughout the project area would be aggressively treated during site preparation. Construction activities would follow recommended Yuma County guidelines and the BLM BMPs for Riparian Vegetation to minimize the spread of noxious and invasive plant species

Wetlands/Riparian Zones. Short-term negligible impacts to wetlands and riparian zones would occur during construction and implementation. Individuals and pockets/stands of intact native wetland vegetation have been identified throughout the existing willow-enhanced wetland areas onsite. The project is designed to minimize impacts to these areas; however, temporary negligible impacts would result during grading activities. Implementation of the Proposed Action would result in the creation and or enhancement of 45.74 acres of riparian habitat, including 13.4 acres of willow-enhanced wetland, 28.0 acres of cottonwood-willow, and 4.34 acres of mesquite. Therefore, long-term beneficial impacts would result once native wetland and riparian habitats are established and the maintenance and monitoring period is complete.

Wildlife. Short-term impacts to wildlife as a result of the Proposed Action include direct mortality from vehicular traffic and disturbance of foraging, cover, and nesting habitat during vegetation removal and other restoration activities. Wildlife species that occur within PCW are common and considered to be highly mobile. The loss of some individuals and/or their habitat would have a negligible adverse impact on populations throughout the region.

BEST MANAGEMENT PRACTICES: The following BMPs will be implemented to minimize impacts on the human and natural environment:

Air Quality. To control fugitive dust caused by hauling activities and vehicular travel on unpaved road surfaces, a water truck would be used, as necessary, to saturate roads in the project area. All vehicles would be properly muffled and maintained to state emission standards to reduce short-term releases of regulated air pollutant emissions. BLM approved herbicides would be applied directly to plants under non-windy conditions with minimal chance for release into the atmosphere.

Cultural Resources. In the event of an unanticipated discovery of cultural resources, all work will cease in the area of the discovery and the BLM Authorized Officer will be notified immediately. Procedures outlined in the implementing regulations for the National Historic Preservation Act of 1966, as amended (see 36 CFR 800.13, Post Review Discoveries), will be followed. Pursuant to these regulations, all tribes consulted for this project will be notified of an unanticipated discovery within 24 hours of the discovery. Work may not resume until written authorization to proceed is issued by the BLM. In the event that human remains or indications that human remains may be present, such as headstones, are observed or encountered, field staff and/or contractors must immediately cease all project activity in the area and secure the site. No work may proceed without the written authorization of the BLM.

Fuels and Fire Management. Irrigation maintenance and annual hazardous fuels reduction would be required to maintain green fire breaks, administrative access roads, and high humidity site conditions.

Human Health and Safety. Personnel would be required to establish and maintain safety protocol, including appropriate handling of tools and equipment. All crew members would have appropriate personal protective equipment when handling herbicides. Public Safety concerns may result in administrative closure of the project area.

Migratory Birds. To minimize impacts to migratory birds, if construction or clearing activities are scheduled during the nesting season, surveys will be performed by a qualified biologist to identify active nests. In the event that a nest is encountered or identified, field staff and/or contractors must immediately cease all project activity in the area and notify the BLM Authorized Officer and CBP. The BLM Authorized Officer will notify USFWS. No work may proceed without the written authorization of the BLM.

Paleontology. If paleontological resources are encountered, the contractor would stop all ground-disturbing activities in the vicinity of the discovery until officials from the BLM, CBP, and Native American Tribes are notified and the nature and significance of the find can be evaluated. Work may not resume until written authorization to proceed is issued by the BLM.

Recreation. Vehicle gates and signage would be installed prohibiting off-leash dogs in the project area to avoid wildlife conflicts. Deterrents, such as gates and rock boulders, would be used to deter public vehicular traffic.

Soils. To minimize impacts to soils, BLM BMPs for Riparian Revegetation to prevent the spread of invasive species, including washing all vehicles prior to entering the site and utilizing weed and pest-free revegetation materials, would be incorporated into the project. Additionally, soil salinity would be tested annually to determine if salinity treatments are needed to ensure native riparian plant community survivorship.

Threatened and Endangered Species. To minimize impacts to threatened and endangered species, construction activities will be limited to 1 October through 31 March. If construction or clearing activities are scheduled during the nesting season, surveys will be performed by a qualified biologist to identify active nests. In the event that a nest is encountered or identified, field staff and/or contractors must immediately cease all project activity in the area and notify the BLM Authorized Officer and CBP. The BLM Authorized Officer will notify USFWS. No work may proceed without the written authorization of the BLM.

Vegetation. To minimize vegetation impacts, the Proposed Action would follow the BLM BMPs for Riparian Revegetation, including using native, drought-adapted species in the planting and seeding palettes, applying seed and installing plant materials at the appropriate time of year, raking seeds to ensure good seed-to-soil contact, and long-term maintenance and monitoring to ensure successful establishment of targeted native vegetation.

Water Quality. To reduce potential impacts to water quality during project implementation, standard construction procedures would be implemented to minimize the potential for erosion and sedimentation during construction. All equipment maintenance, staging, laydown, and dispensing of fuel, oil, etc. will be designated to upland areas. To reduce potential for leaching from application of herbicides, only BLM herbicides approved for use in/around water would be applied to the project sites. Only herbicides included in list approved for use by BLM (BLM 2007) and in the U.S. EPA's Endangered Species Pesticide Program, as described in BLM (1991) and further limited by the Arizona Record of Decision. All irrigated water that is pumped into the project area would be metered and reported as part of the Colorado River water rights.

Weeds/Invasive Species. The contractor will coordinate with the Yuma County Health Department, which conducts mosquito monitoring and treatment throughout the county. Environmental design and resource protection measures built into the Proposed Action Alternative would reduce the potential for establishment and invasion of noxious weeds and invasive non-native species in the long-term. These measures include seeding and planting with native species and a 10-year maintenance program. In addition, the Proposed Action would follow the BLM BMPs for Riparian Revegetation, including:

- CBP would submit a Pesticide Use Proposal to BLM YFO for approval prior initiating herbicide application activities.
- Use only herbicides included in list approved for use by BLM (BLM 2007 and 2016). Buffer zones are required adjacent to dwellings; domestic water sources; agricultural land; and streams, lakes, and ponds (except if labeled for aquatic use)
 - 100 feet for aerial application
 - 25 feet for vehicle application

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- 10 feet for hand application
- Vehicle-mounted sprayer:
 - Use only when wind is 8 mph or less (5 mph when in riparian areas).
 - Boom sprayers not to be used within 25 feet of water body (unless herbicide is labeled for aquatic use).
- Hand application:
 - Use only when wind is 8 mph or less (5 mph when in riparian areas).
 - Single nozzle application (low pressure, low volume) held 0.5 to 2.5 feet above ground level.
 - Foliar herbicide may be wiped onto plants up to the water line.
 - Granular herbicides may be applied via broadcast spreaders at 3.5 feet about the ground and at least 10 feet from the high water mark of water bodies.
- Minimize potential impacts to non-target plants and animals.
- Mechanical treatment and re-seeding should be timed for maximum effect to target species and minimum impact to non-target species.
- Best treatment method(s) should be chosen by considering: species characteristics, site preparation, topography and terrain, soil characteristics, climate and seasonality, and cost-benefit analysis.
- Only herbicides approved for use in/around water are recommended for use at PCW.
- Follow manufacturer labels.
- Vehicles must be washed prior to entering the site.
- All revegetation materials will be weed- and pest-free.

Wetlands/Riparian Zones. To minimize impacts to wetlands, the project is designed to avoid, to the extent feasible, intact native wetland vegetation throughout the existing willow-enhanced wetland areas. Additionally, the Proposed Action would follow the BLM BMPs for Riparian Revegetation, including using native, drought-adapted species in the planting and seeding palettes, applying seed and installing plant materials at the appropriate time of year, raking seeds to ensure good seed-to-soil contact, and long-term maintenance and monitoring to ensure successful establishment of targeted native vegetation. Design features have been included as part of the Proposed Action to reduce potential sedimentation into the LCR, including installation of erosion control blankets on exposed slopes and filter fencing on downstream locations of the project area boundary. Water control diversions would also be installed upstream to eliminate surges of water following grading. In addition, berms would be installed at the lower edge of the willow and cottonwood habitats to prevent sediment from leaving the project area.

Consistent with the NWP No. 27 general conditions, the following BMPs have been incorporated to minimize potential impacts to wetlands.

- Appropriate erosion control measures (i.e., fiber rolls, silt fencing, gravel bags, etc.) would be installed to prevent sedimentation into the Lower Colorado River. Any illegal dumps discovered during clearing operations would be reported to the BLM to make a determination of whether hazardous materials are present and the appropriate site-specific mitigation needed to alleviate the problem. Non-hazardous dumping removal would be the responsibility of the agency completing site maintenance.
- Refueling of machinery would be completed following accepted guidelines, and all vehicles would have drip pans during storage to contain minor spills and drips.
- Spill Contingency Plan measures are included in Appendix G of the EA.

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- Prior to maintenance activities, all project areas would be demarcated in coordination with the biologist to ensure that adverse effects to biological resources are minimized, and that no work is performed outside of the designated boundaries.

Wildlife. BMPs, including pre-construction surveys for the presence of nesting birds, would reduce potential impacts to wildlife species.

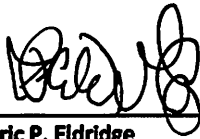
FINDING

Based on the results of the EA and the environmental design measures, BMPs, stipulations, and mitigation measures to be incorporated as part of the Proposed Action, it has been concluded that the Proposed Action will not have a significant adverse effect on the environment. Therefore, no further NEPA analysis (i.e., Environmental Impact Statement) is warranted.



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May 15, 2019
Date



Eric P. Eldridge
Director
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24 May 2019
Date