

**FINAL Environmental Assessment:
Allowing Avian Hunting in Designated Areas along the Rio
Grande Canalization Project,
Sierra and Doña Ana Counties, New Mexico**



Prepared By:

U.S. Section, International Boundary and Water Commission

July 2014

**U.S. INTERNATIONAL BOUNDARY AND WATER COMMISSION
EL PASO, TEXAS**

FINDING OF NO SIGNIFICANT IMPACT and FINAL ENVIRONMENTAL ASSESSMENT

**ALLOWING AVIAN HUNTING IN DESIGNATED AREAS ALONG THE RIO GRANDE CANALIZATION
PROJECT, SIERRA AND DOÑA ANA COUNTIES, NEW MEXICO**

Lead Agency

United States Section, International Boundary and Water Commission, United States and Mexico
(USIBWC)

OVERVIEW

The USIBWC prepared a Draft Environmental Assessment (EA) to analyze the potential impacts of allowing certain types of bird hunting within designated areas on USIBWC property in Sierra and Doña Ana Counties, New Mexico, along the Rio Grande Canalization Project from Percha Dam near Arrey, New Mexico downstream to American Dam in El Paso, Texas. Based on a review of the facts and analyses contained in the Final Environmental Assessment for the Modified Allowed Hunting Alternative, Finding of No Significant Impact is issued.

PUBLIC INVOLVEMENT

Pursuant to National Environmental Policy Act (NEPA) guidance (40 Code of Federal Regulations (CFR) 1506.6), the USIBWC released for public review the Draft EA on July 25, 2013. Notice of this document was published in the Federal Register and made available on the USIBWC website: http://www.ibwc.gov/EMD/EIS_EA_Public_Comment.html. Notice of Availability was sent to a distribution list which included local newspapers and media. In addition, the USIBWC held a public meeting prior to the beginning of the comment period and issued two Press Releases to local media. Public review of the draft EA was completed on August 23, 2013 following a 30-day review period.

ALTERNATIVE ACTIONS EVALUATED

The No Action Alternative and the Allowed Hunting Alternative were evaluated in the Draft EA. Under the No Action Alternative, no hunting would be authorized and existing signs and policies prohibiting hunting on USIBWC lands would remain. Under the Allowed Hunting Alternative, hunting would be authorized at 3 designated hunting areas for a total of 55 miles of river corridor. USIBWC would develop an enforcement agreement with law enforcement entities, install trash receptacles, and change the no hunting signs in those areas. For the Final EA, the Allowed Hunting Alternative was modified to incorporate changes due to public concerns. The Modified Allowed Hunting Alternative would authorize hunting in 3 designated areas for a total of 30 miles. The modified designated areas removed one of the previous hunting areas and split another designated area into two. USIBWC would not install trash receptacles but would still develop enforcement agreements and change the hunting signs in the

designated hunting areas. Current access to the floodplain (including open levee roads or gated levee roads) will remain the same.

SELECTED ALTERNATIVE: MODIFIED ALLOWED HUNTING ALTERNATIVE

Following the public comment period on the Draft EA, the USIBWC modified the Allowed Hunting Alternative and chose the Modified Allowed Hunting Alternative, designating 3 hunting areas for a total of 30 miles of river corridor. One of the draft EA designated hunting areas was removed (Shalem Colony Trail Bridge to NM185 Bridge) due to safety concerns expressed by local residents. The other two draft EA designated hunting areas were shortened to avoid populated areas. The final 3 designated hunting areas are as follows: 1) From Highway 187 Bridge near Derry to Highway 187 Bridge north of Hatch, 2) Highway 154 south of Hatch to the end of levees north of Seldon Canyon (State Road 393 on east bank), and 3) Highway 28 south of Mesilla to Highway 189 in Vado.

SUMMARY OF FINDINGS

The USIBWC prepared the draft EA pursuant to NEPA guidance (40 CFR 1500-1508) and the President's Council on Environmental Quality regulations for NEPA implementation, which include provisions for both the content and procedural aspects of the required Environmental Assessment.

NO ACTION ALTERNATIVE

The No Action Alternative would retain the current prohibitions on weapons and hunting within the Rio Grande Canalization Project. There are no anticipated impacts as nothing would be changed. However, illegal hunting and associated issues addressed by the public will likely continue.

MODIFIED ALLOWED HUNTING ALTERNATIVE

Biological Resources

Allowing hunting will not impact endangered species that are known to occur or likely to occur in the RGCP, as these breed outside of the hunting season. Hunting will not impact nesting of migratory birds protected under the Migratory Bird Treaty Act, as hunting season is only authorized in the winter months after nesting season is over. Hunted species are regulated by the U.S. Fish and Wildlife Service (USFWS) and the New Mexico Department of Game and Fish (NMDGF), and hunters must abide by the regulations for season dates, weapon types and limitations, and bag limits; therefore a properly managed hunting program will not adversely affect wildlife populations. There may be some disruptions to non-targeted species in the form of noise from shotguns. Because USIBWC is not changing existing access by vehicles into the floodplain, there are no anticipated impacts to vegetation.

Cultural Resources

Per Section 106 of the National Historic Preservation Act, the USIBWC consulted with local tribes, the State Historic Preservation Office (SHPO), and the National Advisory Council on Historic Preservation regarding the proposed action. Because USIBWC is not authorizing any changes to access, USIBWC does not anticipate impacts to cultural resources documented within the RGCP. SHPO was concerned about possible vandalism of prehistoric archaeological sites, and USIBWC will

notify SHPO if the agency learns that increased traffic resulting from hunting is impacting historic properties.

Water Resources

Allowing hunting will not change management practices regarding flood control and water deliveries, therefore there will be no impact. There may be a positive impact on water quality by the possible reduction of bacteria from avian sources in the river. No other impacts to water quality are anticipated.

Land Use

USIBWC is not authorizing any hunting on designated recreation areas, state parks, city parks, or within city limits. Non-hunting recreational use, such as hiking and biking, may decrease along parts of the river corridor which are not designated as official recreation areas; however, USIBWC has plans to enhance four official recreation areas for habitat restoration under a separate project. Allowing hunting may increase the trash and spent shells left on USIBWC lands. The signs that indicate hunting is allowed will also remind hunters to remove their trash. USIBWC is not authorizing any new access to USIBWC property within the river corridor.

Community Resources

In terms of socioeconomic resources, the influx of funds into Doña Ana County and the State of New Mexico from the sales of hunting permits, sporting goods, and tourism spending (hotels and restaurants) would have a positive but minor local economic impact. No adverse impacts to disproportionately high minority and low income populations were identified from allowing hunting. Allowing hunting will require the USIBWC to rely on external law enforcement to a greater extent to enforce hunting and trespassing regulations on USIBWC property; USIBWC will work with the sheriff and state regulatory agencies to ensure enforcement.

Environmental Health Issues

Allowing hunting is not expected to adversely impact air quality because lead shot is prohibited for waterfowl in New Mexico. Regarding noise pollution, allowing hunting may cause adverse impacts in isolated areas due to noise from shotguns; however, hunting hours are regulated by state and federal agencies.

Cumulative Impacts and Unavoidable Impacts

USIBWC does not anticipate any cumulative impacts resulting from the proposed action. Allowing hunting may cause minimal noise pollution in isolated areas that would be nuisance to rural homes or non-target wildlife present in the river corridor during the winter. Additionally, the public who previously used the proposed designated hunting areas for non-hunting recreation activities may now feel unsafe or uncomfortable with the new policy and may no longer use those areas for recreation. However, there are many official designated recreation areas for non-hunting along the river corridor.

Mitigation

The proposed action would not cause significant, adverse, environmental impacts. However, to minimize other minor impacts, the USIBWC would ensure that clear and legible signs are posted as appropriate indicating the extent of designated hunting areas. In addition, the USIBWC will ensure proper enforcement by establishing a strong collaborative partnership with local law enforcement entities. USIBWC also plans on implementing four habitat restoration sites on official recreation areas listed in 3.4.2, so these recreation areas will be enhanced for non-hunting recreational opportunities.

DECISION

Based on my review of the facts and analyses contained in the Final Environmental Assessment, I conclude that implementation of the Modified Allowed Hunting Alternative to allow hunting in 3 designated areas totaling 30 miles of river corridor does not constitute a major action significantly affecting the quality of the human environment under the meaning of Section 102 (2) of the National Environmental Policy Act of 1969, as amended. Accordingly, requirements of the National Environmental Policy Act and regulations promulgated by the Council on Environmental Quality are fulfilled and an environmental impact statement is not required.



Edward Drusina, P.E.

Commissioner

International Boundary and Water
Commission, United States Section

July 25, 2014

Date

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Acronyms and Abbreviations

AQCR	Air Quality Control Region
EA	environmental assessment
EIS	environmental impact statement
ESA	Endangered Species Act
Flycatcher	Southwestern Willow Flycatcher
IBWC	International Boundary and Water Commission, United States and Mexico
MBTA	Migratory Bird Treaty Act
NAAQS	National Ambient Air Quality Standards
NEPA	National Environmental Policy Act
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMDGF	New Mexico Department of Game and Fish
NMHPD	New Mexico Historic Preservation Division
NMSP	New Mexico State Parks
OSHA	Occupational Safety and Health Administration
RGCP	Rio Grande Canalization Project
ROD	Record of Decision
ROW	right-of-way
T&E	threatened and endangered
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
USIBWC	United States Section, International Boundary and Water Commission
USBP	United States Border Patrol

1. Purpose and Need for the Proposed Action

1.1 Introduction

The Rio Grande Canalization Project (RGCP) (Figure 1), located in Doña Ana and Sierra Counties in New Mexico and El Paso County, Texas, extends for 105.6 miles (169.9 kilometers) along the Rio Grande from Percha Diversion Dam in New Mexico, to the American Diversion Dam where the Rio Grande begins to form the international boundary at El Paso, Texas and Ciudad Juarez, Chihuahua. The RGCP provides flood protection against a 100-year flood and assures releases of waters to Mexico and U.S. users from the upstream reservoirs in accordance with the 1906 Convention between the United States and Mexico. The U.S. Section of the International Boundary and Water Commission (USIBWC) was granted authority to construct, operate, and maintain the project through the Act of June 4, 1936, 49 Stat. 1463, Public Law No.648.

In August 2010, the USIBWC allowed dove hunting on designated USIBWC land along the international stretch of the Rio Grande along the USIBWC Rio Grande Rectification Project in El Paso and Hudspeth Counties, Texas. USIBWC consulted with Texas Parks and Wildlife and the U.S. Department of Homeland Security, U.S. Border Patrol (USBP) to establish the designated hunting areas. Areas within the city limits of El Paso, Texas were not allowed, and border fence markers were used to delineate allowed and restricted areas. The USIBWC made this information available to the public via a press release on August 31, 2010. Hunting is currently prohibited along the RGCP.

1.2 Purpose and Need

In 2012, local hunting groups approached the New Mexico Department of Game and Fish (NMDGF) to request permission to hunt migratory and game birds along the Rio Grande corridor upstream of the USIBWC Rio Grande Rectification Project. In the fall of 2012, NMDGF approached the USIBWC with the request to open up USIBWC lands for hunting. USIBWC coordinated with representatives from NMDGF, USBP, U.S. Fish and Wildlife Service (USFWS), and New Mexico State Parks (NMSP) in order to discuss the action. Shells on the ground and bullet holes on federal signs indicate that people are already using USIBWC lands to hunt or shoot firearms, regardless of current prohibitions, and stakeholders felt it would be better to formalize the areas where hunting could be allowed and where hunting should not be allowed. Representatives, through collaborative meetings, collectively identified the potential areas where hunting could be allowed and omitted areas which were not advisable. The consensus areas were shown in Figure 2. of the Draft EA and formed the basis for the Allowed Hunting Alternative. The revised Figure 2 in this Final EA reflects the Modified Allowed Hunting Alternative with changes made due to public comments. Because USIBWC allows hunting on other portions of the Rio Grande in the region, and because USIBWC has received the request to allow hunting in the RGCP, the USIBWC

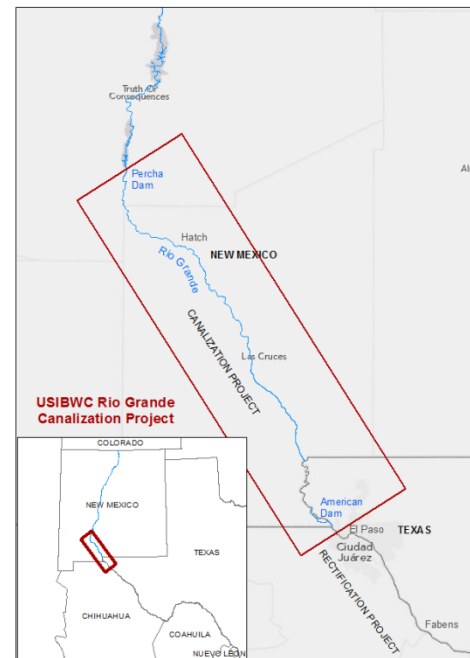


Figure 1 Rio Grande Canalization Overview

pursued this environmental assessment to evaluate impacts of allowing hunting in the designated areas outlined in Figure 2.

1.3 Scope of the Environmental Review

Federal agencies are required to take into consideration the environmental consequences of proposed and alternative actions in the decision-making process under the National Environmental Policy Act (NEPA) of 1969, as amended. The USIBWC regulations for implementing NEPA are specified in *Operational Procedures for Implementing Section 102 of the National Environmental Policy Act of 1969, Other Laws Pertaining to Specifics Aspects of the Environment and Applicable Executive Orders* (46 FR 44083, September 2, 1981). These federal regulations establish both the administrative process and substantive scope of the environmental impact evaluation designed to ensure that deciding authorities have a proper understanding of the potential environmental consequences of a contemplated course of action (USIBWC 2007).

This EA identifies and evaluates the potential environmental consequences that may result from implementation of either the Proposed Action or the No Action alternatives. The following resource areas are analyzed for potential environmental consequences:

- biological resources;
- cultural resources;
- water resources;
- land use;
- community resources (socioeconomics, environmental justice); and
- environmental health issues (air quality, noise).

During the coordination meetings, law enforcement, security, and natural resource stakeholders expressed the need to specifically address the following issues:

- recreational areas (river trails);
- populated areas (cities of Las Cruces, NM and El Paso, TX);
- local and state regulations for hunting;
- environmental regulations (Migratory Bird Treaty Act (MBTA), Endangered Species Act (ESA)), which will be evaluated in biological resources;
- impacts to the floodplain, which is evaluated in land use;
- enforcement for the proposed action, which is evaluated in community resources; and
- providing signs and trash receptacles at targeted locations to reduce debris left by hunters, which is evaluated in land use.

Analyses of environmental resources for the affected environment and environmental consequences are based on a potential impact corridor between the river channel and the existing levee system, on USIBWC lands. Analyses of environmental consequences also include potential indirect impacts to the riparian corridor and the region, depending on the resource and its relationship to the proposed action and alternatives.

2. Alternatives

The USIBWC has identified two alternatives for analysis in this document. The first is the No Action Alternative, where USIBWC would not open up hunting areas in Canalization. The second is the Modified Allowed Hunting Alternative, which would allow the USIBWC to permit migratory and game bird hunting in specific designated areas during certain times of the year.

2.1 No Action Alternative

The No Action Alternative would leave current practices as they are, meaning the agency would continue to prohibit hunting on any USIBWC land along the RGCP. The signs indicating "No Hunting!" will remain posted.

Because USIBWC does not have the authority or staff to conduct law enforcement on USIBWC lands, the agency currently has granted jurisdiction of enforcement to the El Paso and Doña Ana County Sheriff. USIBWC currently has no enforcement agreements with the Sierra County Sheriff.

2.2 Modified Allowed Hunting Alternative (Proposed Action)

The Modified Allowed Hunting Alternative would allow hunting on approximately 30 linear miles of river corridor of USIBWC land in 3 designated hunting areas from below Percha Dam to Anthony, New Mexico. The 3 modified designated areas are 1) From Highway 187 Bridge near Derry to Highway 187 Bridge north of Hatch, 2) Highway 154 south of Hatch to the end of levees north of Seldon Canyon (State Road 393 on east bank), and 3) Highway 28 south of Mesilla to Highway 189 in Vado. They are listed in Table 1 and shown in Figure 2. The designated areas are shown in greater detail in Appendix A: Maps of Proposed Designated Hunting Areas for the Modified Allowed Hunting Alternative.

Hunting Area #	Start Landmark	Start Landmark Location Description	End Landmark	End Landmark Location Description	Miles
1.	Highway 187 Bridge, Derry	about 2 miles downstream of Percha Dam State Park	Highway 187 Bridge north of Hatch	About 1 mile north of Hatch	About 13.7 miles
2.	Highway 154 south of Hatch	About 1 mile downstream of Hatch	End of Levees north of Seldon Canyon (State Road 393 on East Levee)	Off of Kit Carson Road near the start of Seldon Canyon, about 4 miles downstream of Rincon Bridge. Near Rincon Drain.	About 7.6 miles
3.	Highway 28 south of Mesilla	About 1 mile below Mesilla Dam	Highway 189 at Vado	At Vado, NM	About 8.7 miles

This EA does not analyze allowing hunting on lands which USIBWC does not own. This includes state park property (Percha Dam, Leasburg Dam, Broad Canyon, or Mesilla Valley Bosque State Parks). USIBWC does not own, or have Right of Way (ROW) on lands upstream of Percha Dam State Park;

therefore, the hunting zones evaluated in this EA start from the southern tip of Percha Dam State Park and continue downstream. USIBWC does not own, or have ROW, on lands in Leasburg Dam State Park or within Broad Canyon State Park, and these areas are not considered in this EA. USIBWC does have minimal ROW in Mesilla Valley Bosque State Park, but this area is also not considered in this EA. Lastly, USIBWC does not own, or have ROW, on contiguous land within Seldon Canyon; therefore, hunting within Seldon Canyon is not considered for analysis as part of this EA because USIBWC does not have authority to allow or prohibit hunting within this stretch of river, as most of this land is private or is owned by other federal agencies.

The proposed allowed hunting would be for migratory and game birds only. The State of New Mexico defines migratory game birds to include: band-tailed pigeon, Eurasian collared dove, mourning dove, white-winged dove, sandhill crane, American coot, common moorhen, common snipe, ducks, geese, sora, and Virginia rail, and the State of New Mexico regulations are covered under NMAC 19.31.6. The only game birds authorized for hunting on USIBWC are pheasants and quail, which the State of New Mexico defines as upland game and are covered under NMAC 19.31.5. (NMAC 19.31.5 also covers ground squirrels and grouse; however, only quail and pheasants are authorized for USIBWC lands, because grouse is not generally present.) Hunting seasons are published by the USFWS in the Federal Register every August, and the final 2013-2014 Migratory Game Bird Hunting Regulations were published in the Federal Register on August 23, 2013 for the early seasons and on September 20, 2013 for the late seasons. Hunting seasons are also published in NMAC 19.31.5 and 19.31.6. Determination of seasons, regulations, and species to hunt will conform entirely to state and federal wildlife management agencies, specifically NMDGF and USFWS. Table 2 lists species allowed by the State of New Mexico. Hunters should visit NMAC 19.31.5, 19.31.6 and USFWS migratory bird regulations for official dates for reach species. All USFWS and NMDGF hunting regulations are applicable on USIBWC lands, including bag limits and season dates. The proposed allowed hunting would authorize shotguns only, not rifles, consistent with NMDGF rules for avian hunting. Hunting is not authorized outside of the open season, as specified by USFWS and NMDGF.

Avian Type	Hunting Season
<ul style="list-style-type: none"> • band-tailed pigeon • Eurasian collared dove* • mourning dove • white-winged dove • sandhill crane • American coot • common moorhen • common snipe • ducks and geese • sora and Virginia rail 	See NMAC 19.31.6 for official dates for each species
<ul style="list-style-type: none"> • quail • pheasants 	See NMAC 19.31.5 for official dates for each species
Date range for migratory and game bird hunting on USIBWC lands: September 1 to February 15	

*NMDGF is proposing to remove Eurasian collared-dove from the migratory bird rule and add it to the upland game rule. A decision on this proposal is expected in August 2014.

Big game (such as antelope and deer) hunting as well as turkey hunting will not be authorized. Big game and turkey are not expected to be present in large quantities in the river corridor under existing habitat conditions and limited range.

Hunters must follow all appropriate state, local and federal laws. For example, municipal code says that firearms cannot be discharged within city limits. There can also be no hunting within 150 yards from a dwelling or building (NMSA 30-7-4). The pertinent regulations are listed in Appendix B.

USIBWC will post new signs to clearly mark the start and end of each hunting area. Areas with no hunting allowed will retain the currently posted signs prohibiting firearms and hunting on the premise. Hunting signs should include the following text:

- "Federal, state, and local laws must be followed. State hunting regulations apply. Violators will be prosecuted."
- "Please hunt ethically and responsibly"
- "Keep a safe shooting distance from other people, domestic animals, and government personnel"
- "No shooting within 150 yards of buildings"
- "Pick up spent shells and trash"
- "Do not block access on levee roads or floodways"
- "Hunt at your own risk"
- "Caution: Hunting allowed in this area."
- "For more information contact IBWC at (915) 832-4764"

The Draft EA stated that USIBWC would install trash receptacles at accessible locations, such as at bridges and that USIBWC field staff would periodically empty the trash and dispose of it at the local landfill. However, this part of the proposed action to install trash receptacles is removed from the Modified Allowed Hunting Alternative due to issues expressed by public comment, as well as a potential lack of resources. Even without installation of trash receptacles, hunters are responsible for ensuring they do not leave trash, carcasses or spent shells on USIBWC property.

The Modified Allowed Hunting Alternative will not change any other existing USIBWC regulation. For example, vehicular access to the floodplain and gated levee roads will remain restricted, and vehicles are not allowed to drive up and down the levee slopes. The Modified Allowed Hunting Alternative will not authorize any new access to USIBWC property within the RGCP.

Hunters will hunt at their own risk. Hunters should stay a safe distance away from Government personnel and equipment. Hunters should not block access to levee roads, ramps or the floodway. Hunters should stay a safe distance away from other people and animals on the floodplain, such as pedestrians and people engaging in recreation. Hunters should hunt ethically and responsibly and

should not shoot firearms in the direction of bridges, vehicles, dwellings, buildings, people, animals, trees, or signs.

In order to enforce the new hunting designated areas and hunting regulations, USIBWC will develop strong enforcement partnerships with local sheriff and NMDGF. The USIBWC enforcement plan will consist of the following actions:

- USIBWC will send an annual letter to Doña Ana and Sierra County Sheriff Departments, or the appropriate enforcement entity, authorizing that department to enforce trespassing/no hunting areas under the Modified Allowed Hunting Alternative, as well as to enforce hunting regulations on USIBWC property;
- Annual meetings with Sheriff, NMDGF, USFWS, NMSP, and others as necessary to review issues which may have arisen the previous year, how to best address the issues, and review areas in which to allow hunting;
- Approved hunting areas will be posted on the USIBWC website to inform the public;
- USIBWC will periodically address the hunting at USIBWC public meetings via the Rio Grande Citizens Forum.

With the Modified Allowed Hunting Alternative, USIBWC proposes to begin the allowed hunting for early seasons in 2014, after the publication of this Final EA for 30 days in the Federal Register. The target date for the action to be implemented is September 1, 2014. USIBWC will evaluate the policy as needed and can add to or discontinue the designated hunting areas if necessary.

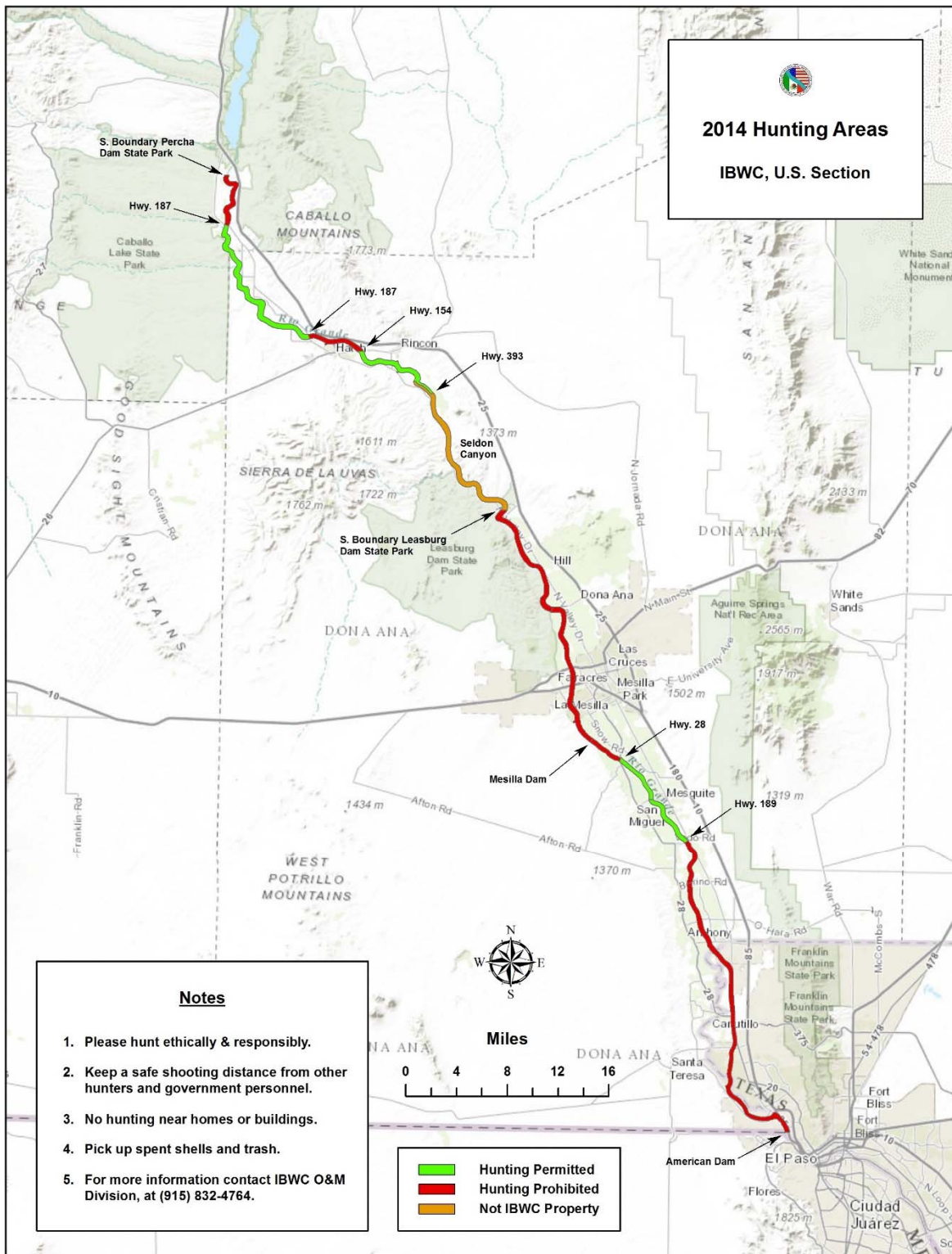


Figure 2 Proposed Designated Hunting Areas for the Modified Allowed Hunting Alternative

2.3 Summary of Environmental Consequences of the Alternatives

Environmental impacts are discussed in detail in Section 3. Table 3 summarizes potential environmental consequences of the No Action Alternative and the Modified Allowed Hunting Alternative.

Table 3. Summary of Environmental Resources Affected by Alternatives		
Environmental Resource	Effects of No Action Alternative	Effects of Modified Allowed Hunting Alternative
Biological Resources A. Wildlife	Not Affected	Hunted Species: Potentially Adversely Affected Non-Hunted Species: Potentially Adversely Affected
B. Threatened & Endangered Species	Not Affected	Not Affected
C. Vegetation	Not Affected	Not Significantly Affected
Cultural Resources	Not Affected	Not Affected
Water Resources A. Flood Control & Water Deliveries	Not Affected	Not Affected
B. Water Quality	Not Affected	Not Significantly Affected
Land Use A. USIBWC Land Use and Surrounding Lands	Not Affected	Potentially Adversely Affected
B. Recreation Areas	Not Affected	Official Areas - Not Affected Unofficial Areas - Adversely Affected
Community Resources A. Environmental Justice	Not Affected	Not Affected
B. Law Enforcement	Not Affected	Not Significantly Affected
C. Social and Economic	Not Affected	Positively Affected
Environmental Health Issues		
A. Air Quality	Not Affected	Not Significantly Affected
B. Noise Pollution	Not Affected	Adversely Affected

2.4 Environmentally Preferable Alternative

The USIBWC recognizes that the alternative with the least potential for environmental impacts is the No Action Alternative.

2.5 Preferred Alternative

At the time of the writing of the draft Environmental Assessment, USIBWC had not selected a preferred alternative. USIBWC decision was based after public comments were received.

2.6 Alternatives Considered but Not Evaluated

USIBWC considered evaluating a third alternative to add the river channel in Seldon Canyon as a fourth designated hunting area. USIBWC understands that lands within Seldon Canyon are prime hunting areas for water fowl in the winter. However, USIBWC does not own or have right of way through Seldon

Canyon. This option was not evaluated because of the following reasons: 1) USIBWC does not own or have Right of Way on the floodplain through Seldon Canyon; 2) If Seldon Canyon were included, it would have to be as a third Alternative because it will likely have impacts to aquatic life since this area provides one of the few winter wet areas during drought; 3) USIBWC would need to work with local landowners on this alternative, because USIBWC would need to ensure that local landowners are in agreement with allowing access through their private property; 4) Enforcement would be extremely difficult in this stretch.

2.7 Environmental Impact Statement

An Environmental Impact Statement (EIS) will not be prepared. USIBWC received 4 requests from public commenters to conduct an EIS to more thoroughly analyze environmental and social impacts caused by the proposed action, specifically to address impacts to populated areas. In lieu of an EIS, USIBWC modified the proposed action to remove populated areas of concern to many commenters.

3. Current Conditions and Environmental Consequences

This chapter describes the existing environment and the environmental consequences for both alternatives if they were implemented. This chapter is organized by resource, as listed in Section 1.

3.1 Biological Resources

The proposed action must comply with environmental regulations, specifically the Migratory Bird Treaty Act (MBTA) and the Endangered Species Act of 1973, as amended (ESA).

3.1.1 Wildlife

Typical wildlife that could inhabit the project area include black-tailed jackrabbit, desert cottontail, cotton rat, ground squirrels, mourning dove, meadowlark, kestrel, red-tail hawk, mule deer, skunks, burrowing owls, several species of waterfowl, and other non-game animals (USIBWC 2007).

The MBTA protects migratory birds, their parts, nests, and eggs thereof during their nesting season. USFWS has determined that the nesting season for the region including the RGCP area is March 1 through August 15, and may be extended to September 1 if birds are still nesting.

In drought years, such as 2011-2013, the Rio Grande has run mostly dry in winter months when irrigation flows are retained in reservoirs in New Mexico. The dry conditions may limit the wildlife that frequent the river corridor.

No Action Alternative

With the No Action Alternative, management practices will not change, and no impacts to wildlife are anticipated with the No Action Alternative.

Modified Allowed Hunting Alternative

Because the hunting season is during the winter, no impacts are expected for nesting migratory birds protected by the MBTA with the Modified Allowed Hunting Alternative.

Impacts to wildlife from the Modified Allowed Hunting Alternative are anticipated. Hunted species (migratory and game birds) will be affected during hunting season. However, the regulations published by USFWS for migratory bird hunting are intended to not adversely affect the species populations. Hunters must abide by the regulations for season dates and bag limits. A properly managed hunting program will not adversely affect wildlife populations. There is the potential for adverse impacts if hunters do not abide by the USFWS regulations.

During dry years, the target species for hunting may not be available in large quantities. Therefore, hunting activities will likely be reduced during drought. During drought years, water fowl may be limited to short reaches of the river where water remains in the non-irrigation season. Waterfowl may continue to use additional sections of the channel or bank for food and cover.

There may be adverse impacts to non-hunted species in the form of noise from fired weapons, which may disrupt other wildlife, such as mammals, that use the river corridor for habitat or foraging.

Non-hunted species should not be adversely impacted with respect to killings because they are not targeted, unless they are killed by accident, by stray shot, or by improper conduct. However, non-hunted species may be adversely impacted with respect to contamination, since lead is commonly used in ammunition for hunting game birds (Lahner and Franson 2009; Minnesota DNR 2008). Wildlife may be negatively impacted by lead in shots. "Wild birds, such as mourning doves, bald eagles, California condors, and loons, can die from the ingestion of one lead shot, bullet fragment, or sinker" (Lahner and Franson 2009). However, USFWS and NMDGF regulations allow for only shotguns to be used for avian hunting, and require non-toxic shot to be used for waterfowl and sandhill cranes. Therefore, if hunters are following regulations, there should be no impact to wildlife caused by lead.

3.1.2 Threatened and Endangered Species

The ESA protects federally listed species and their habitats. The southwestern willow flycatcher (flycatcher), the least tern, and the yellow-billed cuckoo are breeding residents in the RGCP area during the summer months. The flycatcher nests in the RGCP area from May 15 through approximately mid-August. By the end of August, all of the breeding residents are expected to have migrated south. The Sprague's pipit may live in the RGCP area during the winter months and breeds in the northern U.S. The aplomado falcon may live in the RGCP area all year round. The RGCP "does not support any of the preferred habitat of the aplomado falcon" (SWCA 2011), although the presence of an aplomado falcon was documented in Mesilla Valley Bosque State Park in 2010.

Table 3 lists the federally listed species which are classified as "known to occur" or "may occur" (SWCA 2011). Species classified as "unlikely to occur" were not included in this EA. Additional information about these species can be found in the "Final Biological Assessment: Integrated Land Management for Long-Term River Management of the Rio Grande Canalization Project" (SWCA 2011).

Table 3. Federally listed species in the RGCP (USFWS 2013; SWCA 2011; NatureServe 2013)

Common Name (Species Name)	Status	County where listing Applies	Range or Habitat Requirements	Potential for Occurrence in RGCP	Potential timeframe for Occurrence
Southwestern Willow Flycatcher	E	Sierra and Doña Ana Counties, El Paso County	Associated with moist riparian areas throughout the year. Documented on some RGCP restoration sites.	Known to occur	Breeding resident May 15 to August 15; migrates to tropics
Apomado falcon (<i>Falco femoralis septentrionalis</i>)	E	Sierra and Doña Ana Counties, El Paso County	Documented at Mesilla Valley Bosque State Park in 2010. Associated with open grassland or savannah with scattered trees or shrubs. Experimental population in NM.	Known to occur	Nests March to June. Non-migratory
Least tern (<i>Sterna antillarum</i>)	E	Sierra and Doña Ana Counties	Migratory species occurring in North America during the breeding season, when it is associated with water (e.g. lakes, reservoirs, rivers) Documented in the RGCP including at Mesilla	Known to occur	Possible breeding resident May to mid-August
Yellow-billed Cuckoo (<i>Coccyzus americanus</i>)	C	Sierra and Doña Ana Counties, El Paso County	Western subspecies nests preferentially in large patches of moist cottonwood-willow woodland, where it prefers high canopy closure for nesting. Documented on some proposed RGCP restoration sites	Known to occur	Breeding resident June to September
Sprague's pipit (<i>Anthus spragueii</i>)	C	Sierra County	Within NM migrates in the northeast and winters in the southwest and occasionally in the southwest. Uses grasslands of intermediate height and sparse to intermediate vegetation density; prefers native prairies. Can use pastures and weedy fields or grassy agricultural fields. May have been documented along the RGCP including Mesilla Valley Bosque State Park.	May occur/ Known to occur	Non-breeding resident in RGCP area September to April

C - candidate species; E - listed endangered; T - listed threatened

The flycatcher is documented throughout the RGCP, including in the Sunland Park area, but most birds are concentrated between Leasburg Dam upstream to Percha Dam. In August 2012, USFWS issued the USIBWC a Biological and Conference Opinion (USFWS 2012) on potential impacts to the flycatcher by the USIBWC restoration projects and the implementation of the 2009 *Record of Decision (ROD) for River Management Alternatives for the RGCP* (USIBWC 2009). USIBWC is committed to protecting the flycatcher and may consider revising hunting areas and timeframes to protect the flycatcher.

USFWS Ecological Services Division in Albuquerque has determined that areas within the vicinity (1/4 mile) of a nesting territory of the flycatcher should be avoided until after nesting birds and fledglings have dispersed from the area, which depends on the local region, but could be as late as September 15.

Nest data from the Middle Rio Grande indicate that only 5% of nests monitored are still in use during the first weeks in August, and only 0.6% are in use by August 17 (USBR 2009). Because flycatchers appear to be dispersed from the area by the end of August, USFWS has adjusted the September 15 date to September 1. Nesting data from the 2013 flycatcher season shows that the flycatcher has dispersed the area prior to September 1.

No Action Alternative

With the No Action Alternative, management practices will not change, and no impacts to threatened and endangered species are anticipated with the No Action Alternative.

Modified Allowed Hunting Alternative

The Modified Allowed Hunting Alternative will have no effect on the least tern or the yellow-billed Cuckoo, because these species are only present during the non-hunting season. The flycatcher will also not be affected; 2013 nesting season data show that the flycatcher has dispersed the region by the end of August; therefore, no impacts are anticipated on the flycatcher due to hunting beginning September.

The Modified Allowed Hunting Alternative may affect, but not likely to adversely affect, the aplomado falcon, because habitat may not be present sufficiently for substantial populations, and because this is not the targeted species for allowed hunting. The Modified Allowed Hunting Alternative also may affect, but not likely to adversely affect, the Sprague's pipit, despite being a winter resident, since this is also not a targeted species for allowed hunting, and because it is a small bird that is not a desirable target for bird hunters.

3.1.3 Vegetation

The RGCP is located in the northern Trans-Pecos region of the Chihuahuan Desert. Climatic conditions throughout the study area are classified as semi-arid continental, characterized by fairly hot summers, mild winters, and short temperate spring and fall seasons (USIBWC 2007). The Trans-Pecos region of the Chihuahuan Desert is historically a mosaic of grasslands and desert shrublands (McMahan, Frye, and Brown 1984). Most of the project area, adjacent to the levees, consists of mixed grass-forblands.

Existing vegetation along the river corridor depends on management practices in that area:

- Mowed areas: Much of the levee system floodplain is mowed regularly to ensure design flood capacity. These areas have little vegetation, and what does grow is of poor quality for habitat purposes, limited to non-native plants that grow quickly in disturbed areas.
- Restoration sites: In 2010, USIBWC began to set aside areas designated for habitat restoration which would not be mowed, in accordance with the USIBWC's 2009 *Record of Decision (ROD) for River Management Alternatives for the RGCP* (USIBWC 2009). Vegetation in the un-mowed restoration sites is a mix of exotic plants such as saltcedar, Russian thistle, kochia, and Bermuda grass, as well as native plants to include native grasses (such as alkali sacaton, saltgrass, and chusa grass), mesquite (honey mesquite and screwbean mesquite), and herbaceous shrubs (such as baccharus, wolfberry, arrowweed, fourwinged saltbush, three-leaf sumac and false indigo). Some areas have yerba mansa, New Mexico Olive, and bulrush. USIBWC has 9 active restoration sites (Trujillo near the Trujillo lateral, Crow Canyon A and Crow Canyon B upstream

of Hatch, Broad Canyon Arroyo and Seldon Point Bar in Seldon Canyon, Leasburg Extension Lateral Wasteway #8 in Las Cruces, and Mesilla East and Mesilla Valley Bosque State Park). Vegetation in the active restoration sites includes tree plantings of coyote willows, Goodding's willows, and cottonwoods.

- No-Mow Areas: In 2012, the USIBWC stopped mowing on almost 1,500 additional acres of floodplain targeted for managed grasslands, in accordance with the ROD. Vegetation on these un-mowed areas is much of the same as the un-mowed restoration sites.
- Areas outside of Levees: USIBWC owns or has right-of-way on the land adjacent to the river corridor from Percha Dam downstream to the Doña Ana County/Sierra County boundary line, where no levee exists on the east bank. In addition, no levee exists on the west bank from Percha Dam downstream to the Hatch Siphon. USIBWC does not mow these areas which do not have levees, and they have not been mowed in decades. These areas have larger trees, mixed native (cottonwoods, velvet ash trees, and willows) and non-native (Siberian elm, saltcedar, and Russian olive). In addition, these areas have mixed native and non-native vegetation similar to the un-mowed restoration sites and No-Mow Areas.

No Action Alternative

With the No Action Alternative, management practices will not change, and no impacts related to the action are anticipated. Current impacts to vegetation are from existing pedestrian and vehicular traffic in the floodplain, which will not change with the No Action Alternative.

Modified Allowed Hunting Alternative

The Modified Allowed Hunting Alternative may result in increased foot traffic and increased vehicular traffic. However, there will be limited ground disturbance other than minimal pedestrian traffic. Vehicular traffic will likely be limited to bridges and other easy access points where the ground is already highly disturbed.

Some people may disregard signs for no vehicles and take their vehicles throughout the floodplain. This is particularly damaging to USIBWC restoration sites, where vehicle traffic may disrupt native plant succession and compact the soil. USIBWC restoration sites are marked with signs with the USIBWC logo that read "Environmental Stewardship Program: Habitat Restoration Area Under Construction" or smaller orange markers that read "Habitat Restoration Area Under Construction." Under this alternative, there will be minimal impacts to USIBWC restoration areas only if hunters respect the designated USIBWC restoration areas and not drive vehicles through these areas. Public access to the habitat restoration sites is prohibited, per 18. U.S.C 41.

3.2 Cultural Resources

The USIBWC has conducted extensive evaluations of cultural resources in the RGCP, including evaluations for levee construction work and for habitat restoration work. An extensive archaeological investigation of the RGCP was completed in June 2009, and an architectural report was completed in July 2009, in advance of major improvements to the RGCP flood control features, including proposed new floodwalls and levee construction. Additional cultural resource investigations were conducted for

specific construction areas. In addition, in October 2011, TRC completed cultural resource investigations for lands designated as potential habitat restoration sites.

No Action Alternative

There will be no change to current management practices, therefore the No Action Alternative will not impact cultural resources.

Modified Allowed Hunting Alternative

USIBWC anticipates that there will be little impact on archaeological, architectural or other cultural resources from the Modified Allowed Hunting Alternative. There will be no ground disturbance other than minimal pedestrian traffic. Pedestrian traffic will likely be limited to bridges and other easy access points where the ground is already highly disturbed. Many of the cultural resources include historical drains, which will not be disturbed with this action.

Although there is no change in the current pedestrian access to the floodplain, allowing hunting may bring in increased pedestrian traffic to more secluded areas of the floodplain as hunters walk to find good hunting spots. This increased traffic may impact prehistoric archaeological sites by inadvertent trampling, or in unfortunate circumstances, looting or vandalism. USIBWC will work with law enforcement entities to include cultural resources enforcement on USIBWC lands. USIBWC will coordinate with the State Historic Preservation Office if USIBWC is aware of adverse impacts to cultural resources.

3.3 Water resources

3.3.1 Flood Control and Water Deliveries

The RGCP was constructed to facilitate compliance with the 1906 Convention between the U.S. and Mexico on the equitable distribution of waters of the Rio Grande, as well as to maintain flood control for Rincon and Mesilla Valleys of New Mexico and the El Paso Valley in Texas.

Project water is stored primarily in Elephant Butte Reservoir. Caballo Reservoir, immediately downstream, is used for flood control and seasonal water storage (SWCA 2011). The normal annual release from the reservoirs, including Mexico's 60,000 acre-foot allotment, totals 790,000 acre-feet. The regulated flows in the Rio Grande downstream of Elephant Butte Reservoir modify the historical natural hydrograph following a pattern of sustained moderately high irrigation flows during late spring and summer and low flows during fall and winter months, with additional high flows from summer thunderstorms. An average annual hydrograph (U.S. Geological Survey [USGS] Gage at Station 08362500) for the river below Caballo Dam shows that the seasonal peak releases usually occur in June and July. Average monthly discharges range from approximately 48 to 1,895 cubic feet per second (cfs). The average winter base flow of approximately 107 cfs usually persists from November through February, and average flows during the irrigation season (March–October) are typically 1,318 cfs (SWCA 2011). In a drought year, in the winter months the river may dry out completely except for pools, and during the summer, irrigators receive reductions in their allotments.

The RGCP flood control system was designed to provide protection from a storm of large magnitude with a very low probability of occurrence, the 100-year storm. The flood control levees extend for 57 miles along the west side of the RGCP and 74 miles on the east side, for a combined total of 131 miles. Naturally elevated bluffs and canyon walls contain flood flows along portions of the RGCP that do not have levees. The levees are positioned on average about 750 to 800 feet apart north of Mesilla Dam and 600 feet apart south of Mesilla Dam. The floodway between the levees is generally level or uniformly sloped toward the channel (USIBWC 2007). The levees are in the process of being rehabilitated to meet federal requirements to meet design flood capacity with 3 feet of freeboard.

No Action Alternative

There will be no change to current management practices, therefore the No Action Alternative will not impact flood control or water deliveries in the RGCP.

Modified Allowed Hunting Alternative

The Modified Allowed Hunting Alternative does not change management practices regarding flood control and water deliveries, therefore there will be no impact.

3.3.2 Water Quality

Water quality along the RGCP is defined by New Mexico on the basis of individual reaches for which designated uses have been defined. As required by the Clean Water Act Section 303b, states regularly submit to the USEPA an integrated surface water quality report, which provides a summary for each reach, use attainment, and identifies any potential concerns in terms of water quality (USIBWC 2007).

The RGCP segment in New Mexico is contained entirely within Water Quality Standard Assessment Unit NM-2101 (20.6.4.101), that covers the 107-mile main stem reach of the Rio Grande, from one mile below Percha Dam to the international boundary with Mexico. In June 2007, USEPA approved a TMDL for Bacteria within the main stem of the Rio Grande from the international boundary with Mexico upstream to Elephant Butte Dam (USIBWC 2007; NMED 2013). State designated uses for the RGCP reach include: Irrigation, Marginal Warmwater Aquatic Life, Livestock Watering, Wildlife Habitat, Primary Contact and Secondary Contact (NMED 2013; NMAC 2000). In the 2012-2014 surface water quality assessment, the Rio Grande Assessment Unit NM-2101 from one mile below Percha Dam to the International boundary is "Not Supporting" the designated use for primary contact (NMED 2013).

No Action Alternative

There will be no change to current management practices, therefore the No Action Alternative will not affect water quality.

Modified Allowed Hunting Alternative

The Modified Allowed Hunting Alternative does not change management practices regarding water use or water resources, therefore no impact to water quality is anticipated. It is unknown if spent shell casings could cause water contamination as they may contain residual lead particles, and the shot and lead fragments may disperse up to two feet (Minnesota DNR 2008); however, minimal pollutants could be introduced from shell casings or stray shots, but the quantity would likely not be substantial enough

to impact water quality in the Rio Grande, nor reduce the river's ability to meet the designated uses. In addition, lead shot is prohibited in the State of New Mexico.

The Paso del Norte Watershed Council conducted a study of the bacterial sources in the river, and their report documented that overall, 32% of the bacterial load in the river is attributed to avian sources (PdNWC 2014). It is possible that a managed avian hunting program could decrease bacterial loading in the river from avian sources.

3.4 Land use

3.4.1 USIBWC Land Use and Surrounding Lands

Current land use adjacent to the RGCP levee system corridor consists primarily of agriculture (farmlands, orchards, and livestock). Some urban centers of commerce and residential areas are predominant in the El Paso and Las Cruces regions (USIBWC 2007). Smaller urban centers in New Mexico include Salem, Hatch, Rincon, Radium Springs, Doña Ana, Vado, Berino, Anthony, Sunland Park and Santa Teresa. Smaller urban centers in Texas include Canutillo, Vinton, and Anthony.

The majority of the USIBWC levee system corridor is currently off limits for public use, with the exception of hike and bike trails, state parks, and other uses from local traffic for accessing farms and residential facilities at specific locations.

No Action Alternative

There will be no change to current management practices, therefore the No Action Alternative will not impact land use of the floodway or adjacent lands.

Modified Allowed Hunting Alternative

The Modified Allowed Hunting Alternative does not allow hunting near major municipal areas such as Hatch, El Paso and Las Cruces. The designated areas are more rural and should not impact smaller urban centers throughout the RGCP. In addition, hunters are required to follow state and municipal hunting regulations, which prohibit firing a weapon within 150 yards of a building or dwelling.

Allowing hunting will increase the trash left behind, principally shell casings. Shell casings are usually harmless and can be made of brass alloys, plastic, or heavy cardboard. It is unknown if the shell casings remaining on the ground for extended periods of time will leave behind contamination. Shells from lead shot may contain residual lead particles (Lahner and Franson 2009; Minnesota DNR 2008); however, toxic shot is not allowed in New Mexico for waterfowl. This prohibition also applies to dove and small game on state wildlife management areas.

Allowing hunting may also increase the foot traffic and vehicular traffic in the designated hunting areas. Hunters are likely to park vehicles in accessible areas and walk to their hunting area so as not to scare the birds away.

Allowing hunting may also increase the opportunity for other types of hunters to use the floodplain for unauthorized purposes, such as sport shooting. Anyone firing weapons other than shotguns would be subject to appropriate action by enforcement entities. Sport shooters may come to the designated

hunting areas as a possible consequence of allowing hunting in these areas. Sport shooters will likely leave more shells than hunters. Sport shooters will not be concerned about scaring the wildlife and may drive throughout the floodplain. However, sport shooters appear to currently use the floodplain, as is evident with shell casings in certain areas of the project, and it is not expected that the Modified Allowed Hunting Alternative will increase the presence of sport shooters significantly more than those who are currently illegally using USIBWC lands. The increased cooperation with law enforcement should alleviate some issues caused by sport shooters.

The Modified Allowed Hunting Alternative includes signage to remind hunters to remove all trash and debris they bring into the area. Hunters should also remove and properly dispose of all parts of hunted species, including feathers and entrails.

3.4.2 Recreational Areas

The USIBWC currently leases about 358 acres of floodway to municipalities, counties, or state government for official recreational areas.

As discussed in Section 2.2, state parks (Leasburg Dam, Percha Dam, Broad Canyon, and Mesilla Valley Bosque State Parks) have been removed from consideration for permissible hunting locations. In addition, all areas with hike and bike trails have also been removed from consideration for permissible hunting locations. These include leases to the City of Las Cruces for La Llorona Park, Anthony Country Club recreational area, El Paso City and County's hike and bike trails, and the City of Sunland Park recreational area.

Other areas throughout the RGCP which are not officially designated as recreational areas still have recreational users such as walkers/joggers, horseback riders, and bikers. Currently, camping and all-terrain vehicle use are prohibited throughout the RGCP.

No Action Alternative

There will be no change to current management practices, therefore the No Action Alternative will not impact land use of recreational areas.

Modified Allowed Hunting Alternative

All official recreation areas with leases through the USIBWC have been removed from consideration for permissible hunting locations, therefore there is no impact to these recreational areas from the Modified Allowed Hunting Alternative.

However, areas not officially designated as recreational areas may be adversely impacted. Visitors with concerns about firearms will have to heed the signs indicating which areas are designated hunting areas. The hunting designation may limit recreational users frequenting these areas, particularly during the winter hunting season.

USIBWC, through the ROD, is working on establishing restoration sites, and four of the conceptual sites fall under official recreation areas (Mesilla Valley Bosque State Park, Valley Creek Park, Sunland Park and Anapra restoration sites). USIBWC will work with leasing entities to enhance recreation areas with

additional tree plantings and trails. The effects on recreational users on unofficial recreation areas may be mitigated through increased efforts at official recreation areas.

The Modified Allowed Hunting Alternative would allow for another kind of recreation for hunting. Bird hunting is very popular in the area and would generate different opportunities for recreation along the river.

3.5 Community resources

3.5.1 Environmental Justice

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, was issued by President Clinton on February 11, 1994 (USIBWC 2007). The Executive Order requires a federal agency to make "...achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." As such, a proposed action must be evaluated in terms of an adverse effect that:

- Is predominantly borne by a minority population and/or low-income population; or
- Would be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low income population.

No Action Alternative

There will be no change to current management practices, therefore the No Action Alternative does not affect environmental justice.

Modified Allowed Hunting Alternative

Certain populated areas, including the cities of Hatch and Las Cruces, NM and El Paso, TX, have been excluded from consideration for permissible hunting locations. Areas designated as hunting areas in the Modified Allowed Hunting Alternative were chosen because they were away from official recreation areas and away from urban areas. Allowed hunting areas are rural in nature. No decision was made based on race or income. Additionally, USIBWC evaluated 2000 and 2010 household income, race, and ethnicity data by Census Tracts from the U.S. Census Bureau, and there do not appear to be significant trends specific to the modified designated hunting areas to signify impacts to minority or low-income communities as a result of the hunting.

3.5.2 Law Enforcement

USIBWC has created an enforcement plan for the proposed action, as detailed in Section 2.2. All local and state regulations for hunting should be followed.

No Action Alternative

As discussed in Section 1, USIBWC currently has granted enforcement jurisdiction along USIBWC land within Doña Ana County to the Sheriff's Department. There will be no change to current management practices, therefore the No Action Alternative will not impact law enforcement resources.

Modified Allowed Hunting Alternative

The Modified Allowed Hunting Alternative will rely on external law enforcement to a greater extent. These resources are already spread thin within county and municipal areas. The action may have indirect impacts to the availability of law enforcement officers in other needed areas of law enforcement.

3.5.3 Social and Economic Issues

Social and economic issues include: expressions of cultural heritage, social impacts and economic impacts.

No Action Alternative

There will be no change to current management practices, therefore the No Action Alternative does not affect current economics. Many public comments remarked that continuing to prohibit hunting will deny a cultural heritage for avian hunting along the river corridor that extends back generations.

Modified Allowed Hunting Alternative

The Modified Allowed Hunting Alternative will have a positive impact on the local economy due to increased local tourism and sales of ammunition, fuel, and expenditures at restaurants, hotels, sporting goods stores. There is also financial benefit to the State from the purchase of licenses, habitat improvement stamps, and federal duck stamps.

The Modified Allowed Hunting Alternative will also allow families to continue a cultural heritage and tradition of hunting along this historic hunting area.

Alternatively, the river corridor is also used by people engaging in other forms of recreation, such as bird watching, jogging, and walking, which are not conducive to hunting; many public commenters remarked that the Allowed Hunting Alternative would instill fear in those users as well as nearby residents and business owners who own property and work or play in their property. This may be mitigated by USIBWC's restoration efforts at recreational areas.

3.6 Environmental Health Issues

3.6.1 Air Quality

The Clean Air Act, Title 42, Section 7407 of the U.S. Code, states that Air Quality Control Regions (AQCR) shall be designated in interstate and major intrastate areas as deemed necessary or appropriate by a federal administrator for attainment and maintenance of concentration-based standards called National Ambient Air Quality Standards (NAAQS). The RGCP levee transgresses through AQCR 153. This AQCR includes Doña Ana, Lincoln, Sierra, and Otero Counties in New Mexico, and Brewster, Culbertson, El Paso, Hudspeth, Jeff Davis, and Presidio Counties in Texas (USIBWC 2007). NAAQS standards exist for six criteria pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particle pollution, and sulfur dioxide.

No Action Alternative

There will be no change to current management practices, therefore the No Action Alternative will not impact air quality.

Modified Allowed Hunting Alternative

Shooting a firearm using ammunition with lead-containing primers orunjacketed lead shot generates lead dust and fumes. Shooters and anyone else nearby are exposed to these dusts and fumes (DLI 2000). There is limited data available on the measurable quantity of lead dust generated by a shot. There is some literature that indicates that shooting instructors, with high exposure to fired weapons, at outdoor shooting ranges have shown lead exposure via elevated blood lead levels, and that areas with significant firing may have increased air lead levels (Goldberg et al. 1991). However, shooting of firearms at the rate and frequency for significant exposure, such as at firing ranges, is not expected with bird hunting or even sport shooting along the RGCP. The shooter is the most at risk for inhaling the airborne particles. The lead will likely disperse into the atmosphere prior to adversely impacting air quality. Additionally, lead shot is prohibited in New Mexico. Therefore, no significant adverse impacts of air quality are anticipated with the Modified Allowed Hunting Alternative.

3.6.2 Noise Pollution

Noise pollution is defined as unwanted or disturbing sound that either interferes with normal activities such as sleeping, conversation, or disrupts or diminishes one's quality of life (USEPA 2013). Typical outdoor noise sources near the RGCP river corridor include highways, local streets, agriculture equipment, residential and commercial areas (USIBWC 2007).

In 1981, the Occupational Safety and Health Administration (OSHA) implemented rules to require workers to wear hearing protection where workers are exposed to a time weighted average noise level of 85 decibels (dB) or higher over an 8 hour work shift (OSHA 2013). The threshold of pain is considered to be over 140 dB (OSHA 2013).

No Action Alternative

There will be no change to current management practices, therefore the No Action Alternative will not create noise pollution.

Modified Allowed Hunting Alternative

The Modified Allowed Hunting Alternative is expected to generate some noise pollution from the firing of weapons. When fired, firearms, including shotguns, rifles, and pistols, produce noise that range from 150 to 170 dB (FreeHearingTest 2013), which is higher than the threshold of pain. This noise pollution may be adverse for nearby residents and livestock. However, because the designated hunting areas are in remote rural areas away from major urban areas and from recreational areas, the overall expected noise pollution will be minimal, with the exception of scattered rural homes and businesses.

According to NMAC 19.31.6.9, migratory and game birds may be hunted or taken only during the period from one-half hour before sunrise to sunset. This restriction should limit noise during the night.

3.7 Unavoidable Adverse Impacts, and Irreversible and Irretrievable Commitments of Resources

A commitment of resources is irreversible when its direct or indirect impacts limit the future availability of a resource. An irretrievable commitment refers to the use or consumption of resources that is neither

renewable nor recoverable for later use by future generations. The commitment of resources refers primarily to the use of nonrenewable resources such as fossil fuels, water, labor, and electricity.

There are no anticipated irreversible and irretrievable commitments of resources in the Modified Allowed Hunting Alternative.

Unavoidable adverse impacts include the minimal noise pollution that would be generated by the Modified Allowed Hunting Alternative. In addition, the public who previously used the proposed designated hunting areas for recreation may now feel unsafe or uncomfortable with the new policy and will no longer recreate in this area. This may be an unavoidable adverse impact.

3.8. Cumulative Impacts

USIBWC has several other projects in the RGCP. The first is the habitat restoration work under the 2009 ROD (USIBWC 2009). Restoration work will include a variety of approaches to land management, including cessation of mowing in designated areas, elimination of grazing leases throughout the project, and habitat restoration activities such as salt cedar extraction, chemical treatment of salt cedar, construction of groundwater monitoring wells, possible construction of irrigation infrastructure, and planting of native trees.

The 2009 ROD also required the USIBWC to prepare an updated River Management Plan for the RGCP. This document is under way and will establish the procedures and management protocols for operating and maintaining the river channel and river floodplain.

Additionally, the USIBWC is completing construction of levee rehabilitation throughout the RGCP (USIBWC 2007). Several projects for levee floodwalls and levees are still in the design phase and construction may not begin until fiscal year 2014; these remaining areas are in Canutillo, Texas, Sunland Park, New Mexico and El Paso, Texas above American Dam. All these areas are south of the proposed hunting areas.

USIBWC does not anticipate any cumulative impacts related to these projects in conjunction with the Modified Allowed Hunting Alternative.

5. Mitigation Measures

The proposed action would not cause significant, adverse, environmental impacts. However, to minimize other minor impacts, the USIBWC would ensure that clear and legible signs are posted as appropriate indicating the extent of designated hunting areas, as discussed in Section 2.2. In addition, the USIBWC will establish a strong collaborative partnership with local law enforcement entities to enforce relevant laws. USIBWC also plans on implementing four habitat restoration sites on official recreation areas listed in 3.4.2, so these recreation areas will be enhanced for non-hunting recreational opportunities.

6. List of Preparers and Reviewers

6.1 List of Preparers and Reviewers at USIBWC

Name	Title/Division	Degree	Years Experience	Contributions
Elizabeth Verdecchia	Natural Resources Specialist, Environmental Management Division	M.A.G Applied Geography; B.A. Environmental Science & Engineering	13	Principal author
Sheryl Franklin	Division Chief, Operations and Management Division	M.S. Civil Engineering; B.S. Civil Engineering	20+	Agency coordination, reviews
Erin Baker	Civil Engineer, Operations and Management Division	M.S, Civil Engineering; B.S. Civil Engineering	2	Agency coordination, reviews
Larry Krieger	GIS Specialist, Planning Division	M.S. in GIS	10	Maps
Gilbert Anaya	Division Chief, Environmental Management Division	M.S. Environmental Science	20+	Reviews

6.2 List of Collaborating Entity Reviewers:

- Ray Aaltonen, Captain SW Area Operations, NMDGF, Las Cruces, NM
- Delivan Roper, Special Agent, Office of Law Enforcement, USFWS, Las Cruces, NM
- Cal Baca, Chief, and Kristin Madden, Bird Program Manager, Wildlife Management Division, NMDGF, Santa Fe, NM
- Jan Kirwan, Superintendent, Mesilla Valley Bosque State Park, Mesilla, NM

7. List of Agencies, Organizations, and Persons on Distribution List

Federal Government

Natural Resource Conservation Service
U.S. Army Corps of Engineers - Las Cruces Office
U.S. Bureau of Land Management
U.S. Bureau of Reclamation - El Paso Field Office
U.S. Bureau of Reclamation - Elephant Butte Dam
U.S. Customs and Border Protection - U.S. Border Patrol Santa Teresa Sector
U.S. Environmental Protection Agency - El Paso office
U.S. Fish & Wildlife Service - San Andres National Wildlife Refuge
U.S. Fish & Wildlife Service - New Mexico Ecological Services Division

State Government

New Mexico Department of Cultural Affairs - Historic Preservation Division
New Mexico Department of Game and Fish
New Mexico Department of Transportation
New Mexico Energy, Minerals and Natural Resources Division
New Mexico Environment Department
New Mexico Farm and Livestock Bureau
New Mexico State Parks Division
Interstate Stream Commission
Mesilla Valley Bosque State Park

Local Government

City of Las Cruces
Doña Ana County
Doña Ana County Sheriff
Sierra County
Sierra County Sheriff
Town of Mesilla
Village of Hatch New Mexico

Organizations

Audubon New Mexico
Borderlands Bird Dog Club
Chihuahuan Desert Wildlife Rescue
Citizens Task Force for Open Space
Dona Ana Co. Farm Bureau
Elephant Butte Irrigation District
El Paso County Water Improvement District No. 1
Mesilla Valley Audubon
Native Plant Society of New Mexico
New Mexico Wilderness Alliance
Paso del Norte Watershed Council

Rio Grande Citizens Forum Board
Sierra Club
Southwest Environmental Center
World Wildlife Fund

Private or Business

Archer Farms
Fletcher Farms, Inc.
Harvey Farms
Kit Carson Farms
Lack Farms Inc.

USIBWC Rio Grande Citizens Forum Board members

Private citizens who have contacted USIBWC on this issue (names protected)

Elected Officials

Office of Senator Tom Udall
Office of Senator Martin Heinrich
Office of Senator Jose Rodriguez
Office of Congressman Steve Pearce

Media

El Paso Times
The Citizen Newspaper of Hatch
Las Cruces Bulletin
Las Cruces Sun News
Sierra County Sentinel

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9. Appendices

Appendix A: Maps of Proposed Designated Hunting Areas for the Modified Allowed Hunting Alternative

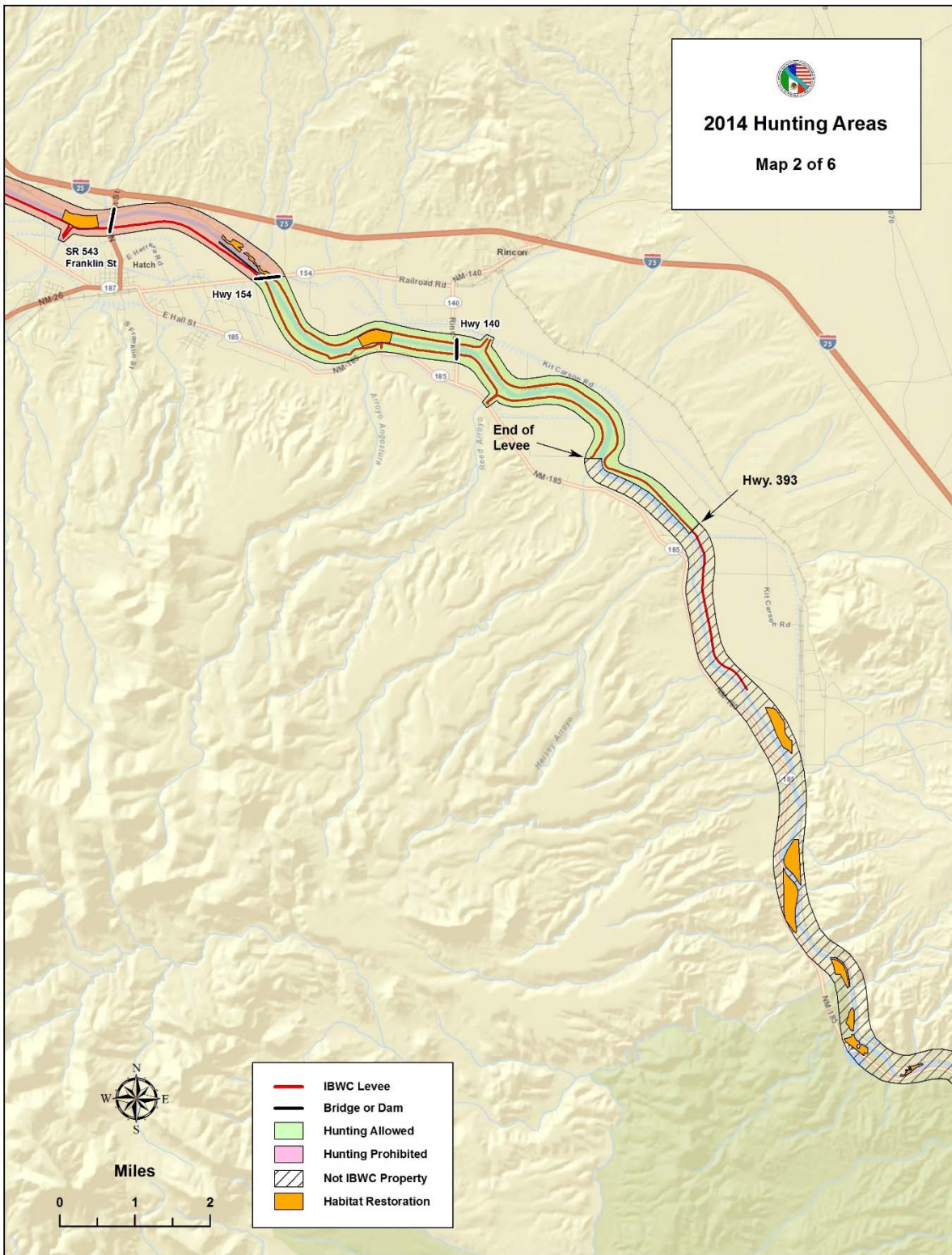
Appendix B: Applicable Local, State, and Federal Hunting Regulations

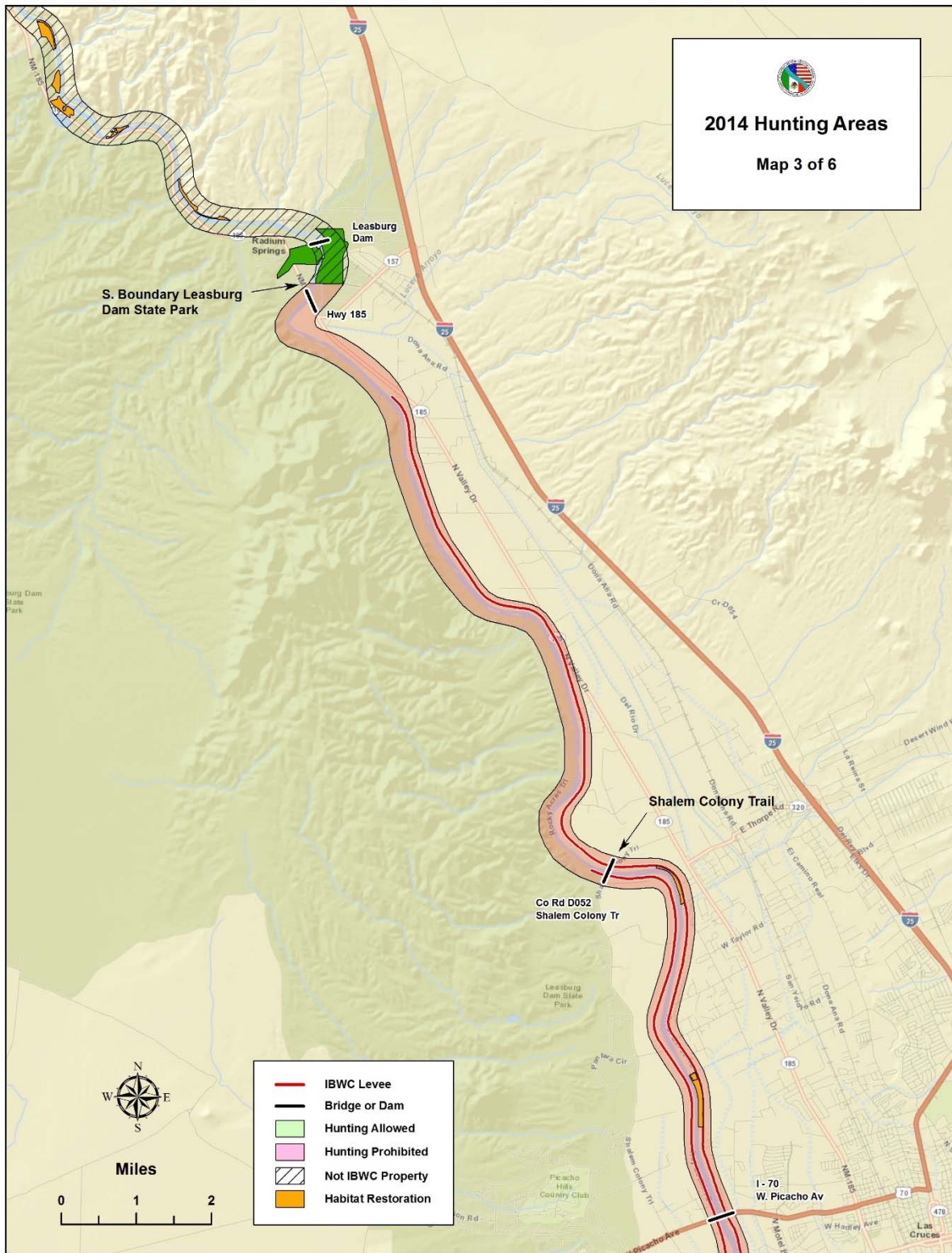
Appendix C: Summary of Modifications in Draft EA to Final EA

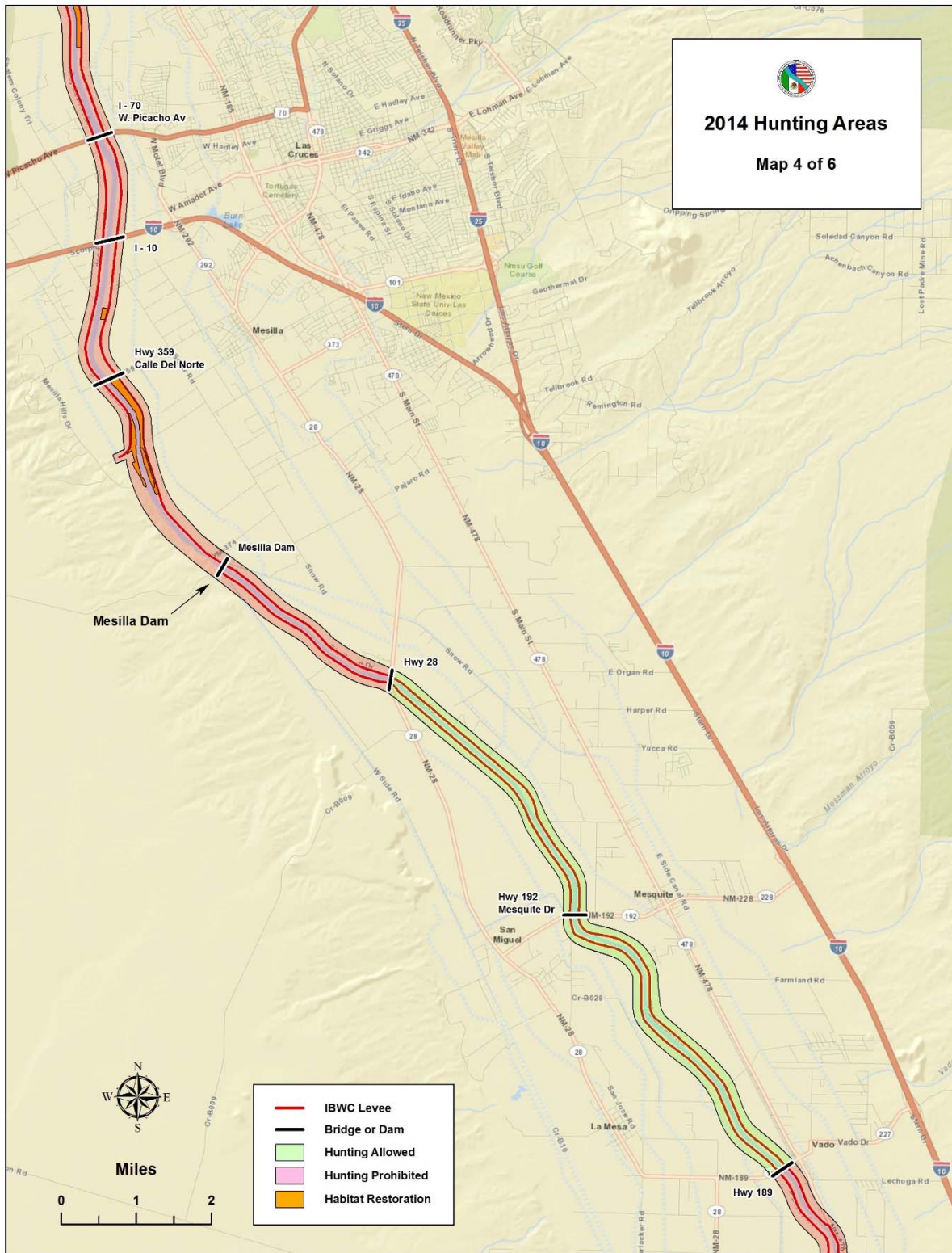
Appendix D: Summary of Public Comments and USIBWC Response

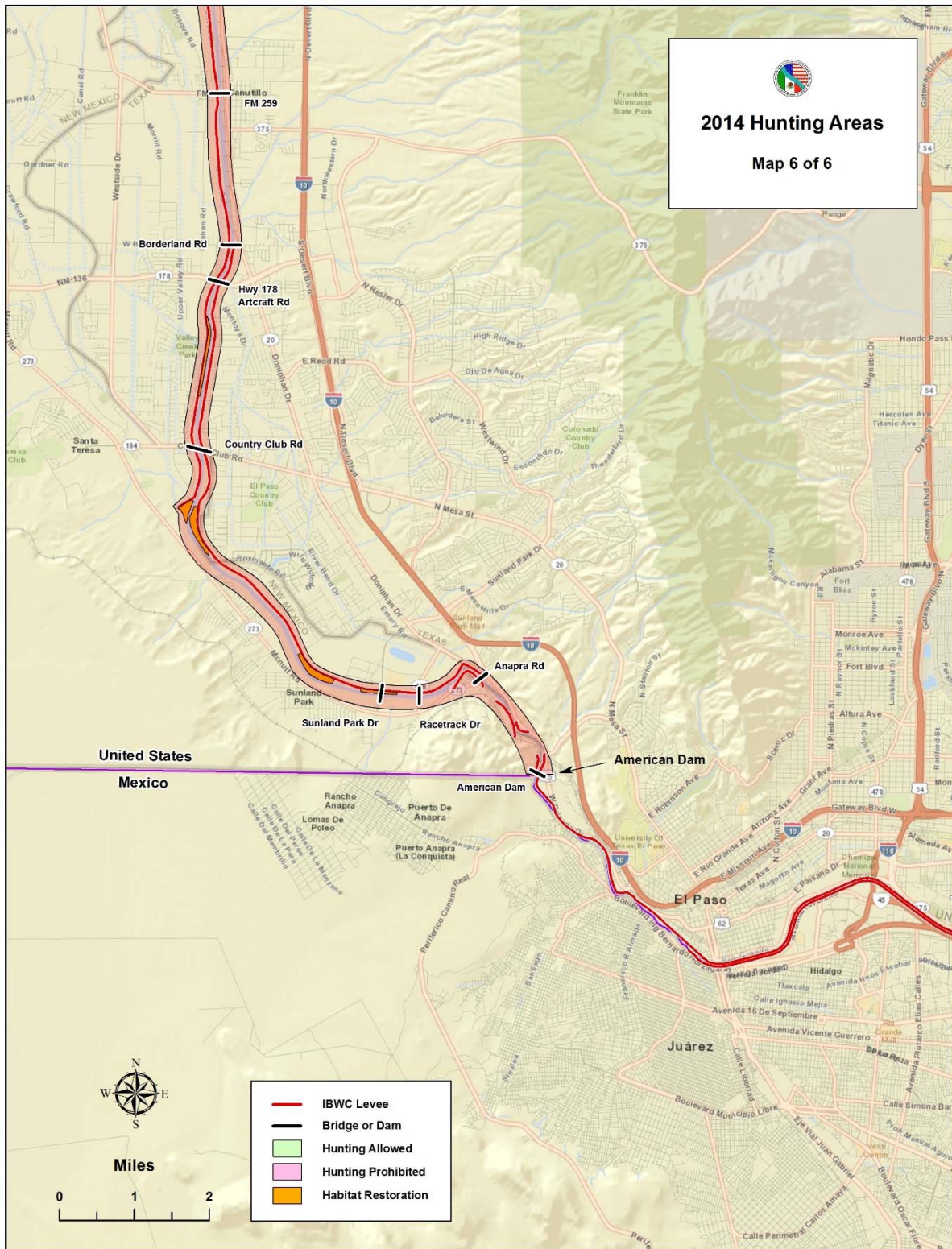
Appendix E: Public Comments Received during 30-day public comment period

Appendix F: Comments from collaborating entities on the preliminary draft prior to July 23, 2013, addressed in the Draft EA









Appendix B: Applicable Local, State, and Federal Hunting Regulations

2012 -2013 Migratory Game Bird Regulations

<http://www.nmcpr.state.nm.us/nmac/parts/title19/19.031.0006.htm>

Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations
(Federal Register August 23, 2013)

<https://www.federalregister.gov/articles/2013/08/23/2013-20607/migratory-bird-hunting-final-frameworks-for-early-season-migratory-bird-hunting-regulations>

Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting Regulations
(Federal Register September 20, 2013)

<https://www.federalregister.gov/articles/2013/09/20/2013-22870/migratory-bird-hunting-final-frameworks-for-late-season-migratory-bird-hunting-regulations>

Manner and Method of Taking

<http://www.nmcpr.state.nm.us/nmac/parts/title19/19.031.0010.htm>

2012 Small Game Rules and Information Booklet

http://issuu.com/nmdgf/docs/2012-13_small_game_rib

http://www.wildlife.state.nm.us/publications/documents/rib/2012/2012-13_SMALL_GAME_RIB.pdf

New Mexico Statute 30-7-4. Negligent use of a deadly weapon. (1993)

A. Negligent use of a deadly weapon consists of:

(1) discharging a firearm into any building or vehicle or so as to knowingly endanger a person or his property;

(2) carrying a firearm while under the influence of an intoxicant or narcotic;

(3) endangering the safety of another by handling or using a firearm or other deadly weapon in a negligent manner; or

(4) discharging a firearm within one hundred fifty yards of a dwelling or building, not including abandoned or vacated buildings on public lands during hunting seasons, without the permission of the owner or lessees thereof.

B. The provisions of Paragraphs (1), (3) and (4) of Subsection A of this section shall not apply to a peace officer or other public employee who is required or authorized by law to carry or use a firearm in

the course of his employment and who carries, handles, uses or discharges a firearm while lawfully engaged in carrying out the duties of his office or employment.

C. The exceptions from criminal liability provided for in Subsection B of this section shall not preclude or affect civil liability for the same conduct.

Whoever commits negligent use of a deadly weapon is guilty of a petty misdemeanor.

History: 1953 Comp., § 40A-7-3, enacted by Laws 1963, ch. 303, § 7-3; 1977, ch. 266, § 1; 1979, ch. 79, § 1; 1993, ch. 139, § 1.

Appendix C: Summary of Modifications in Draft EA to Final EA

Section	Change
Title page	Removed summary text and contact information and added to cover sheet
Cover Sheet	Added Cover Sheet with abstract, summary information and contact
Section 1.2	Clarified that Figure 2 is revised
Section 2.2	Entire section changed. Major revisions include: <ul style="list-style-type: none"> • Modified designated areas and Table 1 • Clarified what is being authorized for hunting • Contact for USIBWC O&M changed • Updated USFWS Regulations and Federal Register publication dates and edited Table 2 • Added that big game and turkey are not present “in large quantities” • Removed the installation of trash receptacles as part of the proposed action • Clarified that hunters should stay a safe distance from “people” (formerly government personnel only) • Added that hunters should hunt ethically and responsibly • Added that hunting will be addressed periodically at public meetings via the Rio Grande Citizen’s Forum • Target implementation date changed • Modified Figure 2 and moved to this section
Table 1	Changed to reflect modified designated areas
Table 2	Removed dates and generalized with reference to regulations for specifics; listed species under the regulations
Figure 2	Revised with new hunting designated areas; moved to Section 2.2
Table 3	Added Social and Economic under Community Resources
Section 2.6	Edited second paragraph to reflect current timeframe; removed reference to Statutory Right of Way
Section 2.7	Edited with information about requests for an EIS and provided justification
Section 3.1.1	Changed “bullet” to “shot”; added that NM prohibits lead shot
Section 3.1.2	Changed flycatcher nesting dates to end at the end of August
Section 3.1.3	Vegetation section incorrectly referred to as 3.1.2 and changed to 3.1.3; Updated restoration site information
Section 3.2	Added information about possible impacts to cultural resources (archaeological sites) due to increased pedestrian traffic; added information from 106 consultation
Section 3.3.1	Updated drought conditions for winter
Section 3.3.2	Added that NM prohibits lead shot; Added Paso del Norte Watershed Council report
Section 3.4.1	Clarified that sport shooting is not authorized
Section 3.4.2	Sport shooting removed; Added 4 restoration sites in recreation areas
Section 3.5.1	Added that USIBWC evaluated Census Bureau data on demographics
Section 3.6.1	Added that NM prohibits lead shot
Section 3.6.2	Added hours for hunting
Section 3.5.3	Added section
Section 5	Removed trash receptacles as a mitigation measure; Added restoration sites at recreation areas.

Section 9	Added new appendices to list
References	Added Paso del Norte Watershed Council Watershed Based Plan and NMAC regulations
Appendix A	Updated maps with revised hunting areas
Appendix B	Updated regulations links
Appendix C	Added Appendix C: Summary of Modifications in Draft EA to Final EA
Appendix D	Added Appendix D: Summary of Public Comments and USIBWC Response
Appendix E	Added Appendix E: Public Comments
Appendix F	Added Appendix F: Comments from collaborating entities on the preliminary draft prior to July 23, 2013, addressed in the Draft EA

Appendix D: Summary of Public Comments on the Draft EA and USIBWC Responses

D.1 Introduction

USIBWC received a total of 163 public comments during the 30-day Draft EA public comment period. Comments without a verifiable email or mailing address were discarded. Duplicate comments were also discarded. Comments submitted by the same person in more than one email or letter were combined into one comment.

USIBWC staff divided these into following categories:

- Support of the Allowed Hunting Alternative
- Support of the No Action Alternative (No Hunting)
- Oppose a particular designated hunting area (not necessarily hunting in general)
- Other comments (Agency Correspondence, neutral organizations)

The following is a summary of the public comments in each category. The full letters and emails received are in Appendix E and are listed in no particular order.

In addition, D.6-D.8 outline the following:

- Clarifications from incorrect statements in public comments
- Additional Issues Brought Up and USIBWC response
- Specific Comments to the draft EA text and USIBWC response

D.2 Comments in Support of Allowed Hunting Alternative

USIBWC received 117 comments supporting the Allowed Hunting Alternative. Responses came from individual citizens as well as people representing organizations, such as North American Versatile Hunting Dog Association, Southwest Consolidated Sportsmen, Ducks Unlimited, New Mexico Quail, and Doña Ana County Associated Sportsmen. The New Mexico Wildlife Federation and Duck Hunting Chat distributed online requests for comments and website comment forms.

Common statements submitted by supporters of the Allowed Hunting Alternative include:

- Hunting is a tradition:
 - Waterfowl hunting is a tradition in the area for generations. Dove hunting is part of our heritage.
 - Many remarked that they had hunted here as children decades ago or during their time studying at NMSU
 - Prohibiting dove hunting along the Rio Grande would have a negative cultural impact
- Hunting is a family-bonding and friend-bonding activity
- Hunting is an educational tool for youth and children to:
 - Hunt responsibly

- Appreciate nature
- The Rio Grande is a main avian hunting area:
 - This is a historic hunting area
 - Rio Grande has extremely productive dove hunting and is among the best in the country
 - The Rio Grande is a main flyway and this is where the birds are, especially in drought times. This is the only viable flyway for duck and geese hunting.
- There are limited other areas to hunt:
 - There are limited areas in New Mexico to hunt. Many former hunting areas are being lost due to development. The privileges for hunting are decreasing and the existing areas should be protected.
 - There are few affordable alternatives and there are economic reasons not to travel elsewhere; public lands are within the economic reach of New Mexico families
 - There is overcrowding of some existing hunting areas due to increasing restrictions.
- Most hunters are respectful and ethical. Hunters noted they have:
 - Assisted stuck cars
 - Reported illegal dumping
 - Picked up trash
 - Assisted with automobile accidents and medical emergencies in remote areas
- Most hunters are respectful and ethical, and these hunters:
 - Respect private property and farmers
 - Respect wildlife, land and water
 - Recognize the safety concerns that private residences have
 - Leave the area cleaner than they found it
 - Are aware of the laws and regulations governing hunting and follow these rules
- Unethical hunters are a minority; ethical and responsible hunters should not be penalized for "a few bad apples"
- The designated hunting zones are not in areas where public would be affected; they are rural in nature and there are not enough homes in the areas to cause concern
- Hunting provides financial benefits, including through:
 - The purchase of hunting licenses and permits
 - The purchase of habitat improvement stamps and federal duck stamps
 - The purchase of hunting and sporting gear, including ammunition, which impacts local businesses
 - Bringing money into the area for local businesses, including hotels/motels, gas stations, restaurants, and other travel venues for hunters from out of town
 - There are over 300,000 hunters and fishermen in NM, and they contribute \$579 million annually to the New Mexico economy (more than agriculture income of \$539 million annually)
- Hunting is controlled under existing regulations from the NMDGF. These existing regulations are sufficient. For example, the regulations prohibit hunting within 150 yards of homes; regulations also stipulate bag limits. Many opposed restrictions other than the standard hunting regulations

- This is public land, and as taxpayers they should have the right to use it
- The hunting areas are reasonable and generous and many thanked the IBWC for considering this option
- Some expressed surprise that hunting was not allowed; others admitted to hunting in the area despite it being prohibited. "Although it has not be 'officially' authorized in the past, we are all well aware that hunting has been an acceptable practice along the river system for decades without causing significant problems"
- There is no reason to limit hunting
- Hunting is a type of recreation and the lands should be opened up to various types of recreational users
- Environmental benefits to hunting include:
 - Manage bird populations
 - Eliminate potential diseases from over population of species
 - The purchase of environmental and conservation stamps for hunting licenses generate funds for conservation
 - Ethical hunters clean up trash in the area
 - Hunters help protect sensitive resources by organizing stewardship programs through organizations like Ducks Unlimited and private initiatives. "Without the incentive of hunting opportunities, these individuals will have few reasons to invest the time or money in stewardship and conservation."
- Illegal activities will continue if closed:
 - Illegal hunting will continue, so it is better to open it up for legal hunting
 - Keeping the area closed will not keep out the type of folks who damage and contaminate property
 - Land management decisions must rely on the premise that individuals will act responsibly; None of the alternatives addressed in the EA will change irresponsible behavior or illegal use of fire arms by irresponsible individuals
- Homeowners should have known that people hunt in these areas before purchasing or building their home there
- Hunting brings no environmental impact
- Some hunters live near the river and have not experienced any damage from hunters
- Many support providing trash receptacles and encourage participants to collect their spent shells
- One commenter opposed the requirement to pick up carcasses, as this provides food for other animals
- "Regulating hunting near towns is not the purview of the federal government"
- There are big game and turkey present and many would like this to be kept an option for future years
- In response to media attention from residents voicing safety concerns, some advocate for the IBWC to consider closing specific isolated areas rather than not allowing hunting at all. Suggest additional signage, and local sportmen's groups in Las Cruces would be willing to assist with this

- Many hunters supported hunting specifically in the Shalem Colony Road to Leasburg Park stretch; Some hunters supported specifically in the stretch from Berino to Mesilla Dam
- Types of guns:
 - Bird hunting is done with shotguns which generally have a range of less than 100 yards (some said 40 or 60 yards). Shotgun shots don't travel far and energy dissipates rapidly after fired. NMDGF prohibits bullets.
 - Many hunters support the prohibition of rifles or pistols on IBWC property
- The lower Rio Grande wasn't legally recognized by the state as an area off-limits to hunting. NMDGF regulations list areas where hunting was not allowed, including areas closed by federal agencies. IBWC has never contacted NMDGF to include the southern portion of the Rio Grande as off-limits to small game hunting.
- It is unlikely that hunters will be using ATVs, dirt bikes, or other motorized vehicles because they will disrupt the birds they are hunting, and the hunter will not be successful.
- The number of hunters generally drops after "opening weekend".
- Hunting is limited to early morning and evening.

D. 3 Comments in Support of No Action Alternative (No Hunting)

USIBWC received 60 comments supporting the No Action Alternative. The arguments submitted for supporting the agency to not open up areas to hunting include:

- Safety concerns for nearby residents:
 - The river corridor between levees is very narrow
 - There are too many houses in the area
 - There are businesses in the area
 - There are commercial orchards by the river
 - Because many homes are hidden by vegetation, there is confusion as to where a hunter can safely shoot a game bird
 - Livestock are raised in the area
 - There are horses and dogs/domestic animals
 - There are many roads in the vicinity
 - More people live in the areas than described in the EA
 - People have been peppered by shotgun BBs
 - Many feel there is a danger of being hit by stray bullets/shot
 - Many will not feel safe and feel threatened; too dangerous
 - Giving authorized use of this area will only increase the danger to the residences
- Safety concerns for recreational users:
 - Children like to raft and swim in the river
 - Joggers, hikers, and horseback riders
 - Birdwatchers, people walking their dogs, taking walks

- The action will negatively impact quality of life as the residents and recreational users will feel threatened and will not feel safe;
 - "Recreational use and legalized hunting could not happen together"
- Many homes and buildings are within the 150 yards stipulated by NM statute for no hunting. Many commenters provided maps of houses and buildings within the 150 yards.
- There are other areas for hunting nearby and surrounding areas
- Hunters are irresponsible and unethical. Hunters:
 - Don't have respect for bag limits
 - Leave spent shells
 - Leave trash and beer cans
 - Shoot signs, including federal and private signs
 - Destroy the levee slopes and river banks by driving all over, including the river bed
 - Don't respect daytime hours
 - Leave carcasses and field dressing remains
 - Shoot for sport and not food
 - Many times have alcohol
 - Shoot houses and private property; many bullet/shot holes on houses and property
 - Park on private roads and block private access
 - Are confrontational and aggressive with landowners, some having been held at gunpoint or threatened
 - Trespass onto private property
 - Cut locks, wreck gates and destroy, damage or steal private property
 - Are not licensed
- Many have had their houses and personal property shot at, and in some cases, people claim they have been shot at, with "bullets whizzing by" their heads.
- There are abundant wildlife impacts:
 - There is a shortage of birds
 - Wild animals would be greatly disturbed and spooked
 - Birds and other wildlife are being stressed by the drought, and the river is their only source of water. Birds are residing in refuges and there is limited habitat for birds. They are being reduced in numbers
 - This is a contradiction to restoration efforts
 - Will domestic animals be impacted by ingesting lead shot?
 - Some resident birds nest in the fall during hunting season
- Hunting is poor in the area
- Law enforcement
 - There is a lack of law enforcement. Many have called local law enforcement many times to no avail. Current law enforcement is inadequate
 - Will require additional patrolling for already over-worked and under-funded law enforcement agencies

- Some oppose that the reason to change the policy is because people are breaking it anyway; the USIBWC should not change the policy just because people are not following the policy
- People already hunt illegally, and making it allowable will make it worse
- Noise pollution -
 - Noise will increase and include sounds from high powered rifles, gunshots, and vehicles and ATVs on the levee and roads.
 - One person noted that hunting season sounded like he was back in Vietnam.
 - Noise pollution is not minimal to the residents near the river
 - There is pain, suffering and hearing loss due to noise pollution above the threshold of pain
- Sport shooting will increase:
 - The EA indicates that the Allowed Hunting Alternative will "allow" sport shooting, and many questioned this
 - Opening up the levees to legal hunting will bring in more non-hunters with guns
 - The hunting alternative does not limit people from target practice
- It is illegal to hunt across roads
- Placing trash cans is not an adequate mitigation and will cause additional issues such as illegal dumping and using government resources. Where will the trash cans be and how often will they be emptied?
- Rural areas still have people, and why should people who live in less densely populated areas be subjected to stray shots, trash, noise, etc. because they chose to live in a rural setting?
- This proposal is a threat to the health, safety and welfare of the residents along the Rio Grande
- This proposal may impair the ability of USIBWC to carry out its mission of flood control and water deliveries within the Rio Grande from the degradation of the levee by continuous use of the levee roads by increased hunter traffic
- This proposal violates the Environmental Justice of the minority and low income residents of Doña Ana County.

D.4 Comments received opposing a particular designated hunting area

Out of the 60 commenters who opposed the hunting, 26 of those were providing comments against hunting in a particular designated area. These people seem to not necessarily be opposed to opening up the river corridor to hunting in general, but opposed a particular area. 3 comments were opposed to hunting in the stretch from Anthony to Mesilla, including the towns of La Mesa and Vado, and 23 comments opposed hunting from Shalem Colony to Leasburg Dam State Park, particularly in the populated residences north of Las Cruces, such as North Valley, Trails End, and Rocky Acres Trail.

Many of the arguments are the same as those who supported the No Action Alternative, but add:

- Hunting is reasonable along non-populated areas
- Some of the hunting areas have too many houses
- By opening up the hunting areas, USIBWC is "encouraging people to shoot at homes"

- Noise pollution is increased by sounds echoing off of the cliffs of the Robledo Mountains
- In the designated area from Shalem to Leasburg
 - There are at least 72 buildings within 150 yards of the levee, and hundreds of residents
 - There are no distinct boundaries between IBWC land and private property and private property, making access to the hunting areas through private property
 - Brush obscures the properties and roads, making for a dangerous or confusing shooting environment
 - NMDGF will not enforce violations of trespassing if a property is not posted.

D.5 Other Comments: Agency Correspondence and Neutral Comments, and USIBWC Response

From	Comment	USIBWC Response
New Mexico State Historic Preservation Office (NMSHPO)	The EA does not meet standards for developing environmental documents to comply with Section 106 of National Historic Preservation Act per 36 CFR 800.8.c.1 The EA needs to address prehistoric cultural sites and consult with tribes to meet requirements of Section 106 of the National Historic Preservation Act.	USIBWC complied with Section 106 of the National Historic Preservation Act by corresponding with NMSHPO and the Advisory Council on Historic Preservation, as well as consulting with tribes in Doña Ana and Sierra Counties. USIBWC received concurrence from NMSHPO in May 2014.
Paso del Norte Watershed Council	Add information about the Watershed Based Plan and bacteria impacts in the water quality section	Added
Las Cruces Sun	Section 3.4.1 states that allowing hunting will also allow sport shooters. Is sport shooting allowed?	Sport shooting is not authorized. Statement is revised to say “allowing hunting may also increase the opportunity for other types of hunters to use the floodplain for unauthorized purposes, such as sport shooting.” Anyone firing high caliber rifles, for example, would be subject to appropriate action by the law enforcement entities. USIBWC plans to reduce these types of occurrences by signage and close coordination with the appropriate law enforcement officials.

D.6 Additional Issues Brought Up by the Public and USIBWC Response

Issue Topic	Public Comment	USIBWC Response
Enforcement	Funds are being cut from law enforcement and state agencies, and they will not be able to patrol as needed Will law enforcement hire new personnel to patrol all of the areas, including non-hunting areas? Will law enforcement patrol during the hunting off-season? (year round enforcement)	USIBWC is in continual communication and collaboration with law enforcement entities to ensure state laws and regulations are enforced on USIBWC land. State and local law enforcement entities can enforce state laws on federal land. Where the Federal Government owns the land in a propriety capacity, state laws apply and state authorities have civil and criminal enforcement authority on the

	<p>Will IBWC prosecute the wrongdoers caught by local law enforcement? How can the public be ensured that NMDGF will be able to enforce the regulations? Current enforcement is already inadequate One hunter expressed the desire to have NMGFD have a bigger presence in enforcement in the area None of the alternatives addressed on the EA will change irresponsible behavior or illegal use of fire arms by irresponsible individuals Can local and state law enforcement entities enforce laws on federal property? Why would USIBWC assume that by allowing hunting, the sport shooters would follow regulations?</p>	<p>land. State and local authorities retain jurisdiction on the relevant USIBWC lands, and can enforce state laws, such as hunting regulations and trespass laws. USIBWC will cooperate and coordinate with state and local law enforcement to prosecute wrongdoers caught by law enforcement personnel. It is up to the law enforcement entities to enforce hunting and trespassing regulations.</p>
<p>Liability</p>	<p>Who is liable for loss of life or damage to property? Will USIBWC have increased legal liability?</p>	<p>USIBWC has discretion whether to allow or disallow hunting on its property. As a sovereign, it is protected from private lawsuits for damages or property or personal injury by the discretionary function exception of the Federal Tort Claims Act (FTCA). The FTCA applies even if New Mexico also has a Recreational Use Statute that shields land owners who open their lands for hunting from liability for any injuries or property damages that may be caused by such hunting N.M. STAT. ANN. § 17-4-7 (A)(3). A New Mexico land-owner is shielded by the NM Recreational Use Statue so long as he does not charge money or take other consideration for the recreational use of his land.</p>
<p>Official off-limits designation</p>	<p>IBWC did not notify NMDGF that this area was off limits to hunting to be included in the published regulations</p>	<p>Through this process, NMDGF now has this information. USIBWC will continue to coordinate with NMDGF to make sure the correct information is published for areas that are off-limits to hunting.</p>
<p>Original closure of USIBWC lands to hunting</p>	<p>What is the legal authority that USIBWC has to restrict uses of public lands? USIBWC only recently decided that hunting was not an appropriate activity and this was done without any public involvement What NEPA was done (and when) on the original closure of the area to hunting? Many were unaware of the prohibitions until new, more visible</p>	<p>The Federal Government has the authority to regulate and control the occupancy and use of its own public lands. The Property Clause of the Constitution, Art. IV, § 3, cl. 2, is the source of the Federal Government’s authority to make needful rules and respecting federal public lands. The Property Clause gives the Federal Government “power over its own property analogous to the police power of the several States,” including the power “to control their occupancy and use, to protect them from trespass and injury and to prescribe the conditions upon which others may obtain rights in them.”</p>

	signs were posted after levee construction in the last few years.	The original closing occurred prior to the passing of the National Environmental Policy Act. The USIBWC has never allowed hunting on USIBWC lands. New, more visible signs were posted during the levee construction to address the issue that hunting was occurring illegally.
Unknown Effects	EA states that effects are not known or lack of adverse results are assumed; IBWC frequently makes the statement that "environmental impact is not known", for various activities. 4 people requested an Environmental Impact Statement	USIBWC followed the requirements under 40 CFR 1502.22 for unknown or incomplete information. See Section 2.7
Schedule and Participation	Why is IBWC rushing to complete the EA by November without talking to the landowners? Why were not ALL landowners adjacent to the levee not informed? Why were landowners not allowed to participate in the coordination process?	USIBWC delayed the decision and issuance of the Final EA due to the volume of public comments. USIBWC met with landowners on several occasions. Nearby landowners were able to participate via the public comment period as well as USIBWC public meetings via the Rio Grande Citizens' Forum. The draft EA was made available on the USIBWC website and USIBWC published press releases and held a public meeting with the hunting on the agenda.
Hunting permits	The EA and Hunting Alternative do not require hunters to "sign-in" or require permits to be hunting on USIBWC lands	USIBWC does not have the resources to manage a hunting permit program. Hunters are required to have appropriate New Mexico licenses for hunting on USIBWC in New Mexico.
Noise Pollution	Hunting will increase noise pollution, for which there is no mitigation or solution	USIBWC recognizes that noise pollution may be an unavoidable consequence of allowing hunting. Hunters are required to hunt only during authorized hours for hunting by the state and federal regulations.
Seldon Canyon	Will Seldon Canyon be open to hunting next year or in the future?	USIBWC does not own or have right of way through most lands within Seldon Canyon
Trash Receptacles	The trash cans might help mitigate the garbage left in the immediate vicinity but will not adequately accommodate the areas in the between Where will they be placed? What type? Will they be resistant to animal tampering? How often will they be emptied? How will USIBWC stop illegal dumping? Why are taxpayers paying for this? Why can't sportsmen groups be responsible for trash receptacles? trash cans will create new issues such as dumping an using government resources	USIBWC has removed the trash receptacles from the proposed action.

<p>Favoritism</p>	<p>USIBWC is favoring sportsmen groups; many noted that IBWC had a strong bias towards hunting groups</p>	<p>USIBWC recognizes that there are many types of recreation along the river. USIBWC removed all designated official recreation areas off-limits to hunting. USIBWC has modified the designated hunting areas in response to public comments and concerned residents.</p>
<p>Populated Areas</p>	<p>Can USIBWC conduct a survey of all homes and buildings within 150 yards in all hunting areas? Can you hunt within 1 mile of NM State Park property?</p>	<p>USIBWC has removed the more densely populated areas and areas near state parks from hunting designations.</p>
<p>Drought instances</p>	<p>If hunting is authorized, there should be situations where the hunting should be curtailed or closed (for example, due to drought when the river is reduced to isolated pools and is the only water source for wildlife long distances)</p>	<p>USFWS and NMDGF set the regulations for avian hunting. The USFWS publishes draft regulations in the Federal Register and accepts public comments.</p>
<p>Environmental Justice (Section 3.5.1)</p>	<p>The proposed action will have Environmental Justice impairments because a) Dona Ana County has a 70.6% minority population and the unincorporated minority populations are larger in the hunting zones than in the no-hunting zones; b) Dona Ana County as a whole has a 25.6% population below the national poverty level and high levels of low income residents have not been accommodated. c) Low income residents, with less disposable income, disproportionately seek out recreation areas that are free, or low cost. d) Recreational activities on the river are enjoyed disproportionately by Hispanic and low income residents of the region. E) It will be the low income and Hispanic population that are disproportionately affected when hunters begin shooting, thereby chasing them away for fear of getting accidentally shot. This action definitely has EJ consequences which should be further investigated and included in the final EA. It is simply not sufficient to state "No decision was made based on race or income." That does not matter. What matters is who suffers the consequences from the decision and in this case it is low income and minority populations that will suffer. (paraphrased)</p>	<p>USIBWC complied with the Executive Order 12898 and environmental justice requirements by evaluating U.S. Census Bureau data for the revised hunting areas. Such data does not indicate that low income or minority populations would be disproportionately impacted by this action. In addition, hunting is not allowed in established or recognized recreation areas.</p> <p>USIBWC conducted a broad outreach and notification effort by notifying the community at large via press releases, website notifications, and public meetings. USIBWC also communicated with residents who had expressed interest in the action, including large farms and private residents. Finally, USIBWC met with residents on several occasions.</p> <p>In addition, recreation areas along the river are open to all, and recreation areas were not considered for hunting designation.</p>

	Why were low income residents not notified but large farms were?	
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D.7 Clarifications on the Draft EA from incorrect statements in public comments

- Many hunters expressed support for game hunting. The Allowed Hunting Alternative will not allow big game hunting on USIBWC lands, only avian hunting. NMDGF refers to avian hunting as "small game" (as opposed to just game hunting or big-game hunting)
- Many referred to the Allowed Hunting Alternative as the "preferred" alternative. However, Section 2.5 of the Draft EA stated that the USIBWC did not have a preferred alternative and that the final decision would be based on public comments.
- A few people made reference to the fact that they were commenting on a draft Environmental Impact Statement (EIS); however, it was an Environmental Assessment and Section 2.7 indicated an EIS had not been prepared.
- One hunter indicated he was glad that he would not have to purchase a license; however, hunting on USIBWC lands would still require that all federal, state, and local laws be adhered to, including having a hunting license from the State of New Mexico .
- One hunter indicated that one reason to open up lands in New Mexico for hunting was that lands in El Paso were not open for hunting; however, USIBWC has allowed some dove hunting along the Rio Grande in El Paso and Hudspeth Counties since 2010.
- Some commenters stated that the USIBWC prohibited hunting several years ago and placed new no-hunting signs. Hunting on USIBWC property has never been an authorized use of USIBWC land; after levee construction projects, the USIBWC posted more prominent signs indicating hunting was not allowed.

D.8 Specific Comments to the draft EA text and USIBWC Response

Section #	Comment	USIBWC Response
1.2	The document states that “Shells on the ground and bullet holes on federal signs indicate that people are already using IBWC lands to hunt or shoot firearms, regardless of current prohibitions...” This is evidence that hunters along the Rio Grande are there illegally and therefore by definition are law breakers. Granting law breakers enhanced status over the objections of law abiding citizens is simply unfair and inappropriate.	By allowing hunting, USIBWC is not condoning the illegal hunting that was occurring in the past; USIBWC is now establishing where it is and is not allowed.
2.2, Table 2	Request sandhill crane and quail be added.	Added what NMAC 19.31.6 defines as migratory game birds.
2.2, Table 2	Rather than specifying birds, recommend adding a statement such as "hunting for avian species as allowed under NMDGF and USFWS regulations is authorized," or "determination of seasons, regulations, and species to hunt will conform entirely to state and federal wildlife management agencies" because the regs change.	Changed as suggested. Table 2 generalized
2.2, Table 2	Delete table with species and season, and leave these up to NMDGF regs to avoid confusion.	Table 2 was generalized and reference NMAC 19.31.6.
2.2	Modify the alternative to disallow rifles and to only allow shotguns, and that should be added to the signs	Clarified that shotgun only is authorized, as suggested.
2.2	conflict of big game in Section 2 and Section 3	Added “large quantities” to big game in Section 2.
2.2	Recommend Berino line be changed to Anthony Washington St Bridge to cover all of NM	USIBWC has issued a recreation lease in this area.
2.2	Recommend that the 150 yard rule should be extended so that bird hunters should maintain a minimum distance of 150 yards from vehicles and other hunters, in addition to buildings	Added that hunters should not shoot at or near people or vehicles.
2.2	Recommend adding quail	Added what NMAC 19.31.6 defines as game birds.
2.2	DACAS recommends that wild turkeys not be explicitly precluded in the final EA.	Added what NMAC 19.31.6 defines as game birds.
2.2	Recommend USIBWC consider game.	USIBWC does not feel that this is warranted at this time.
2.2	Clarify that hunting will be outlawed outside of the hunting season. Wants clarification of timing and location of law enforcement patrols	Clarified
2.2	Regarding the regulation for no hunting within 150 yards, numerous residents live within this distance. Install signs where homes are within the 150 yard limit	Removed more populated areas from hunting areas; clarified that all state and federal hunting regulations must be followed
2.2	EA states to keep a safe distance from other hunters and government personnel but doesn’t mention other people	Added “other people and animals”
2.2	Under the second bullet of the USIBWC Enforcement Action Plan; It is recommended that those annual meetings be opened to public comment.	USIBWC holds public meetings via the Rio Grande Citizens Forums

2.5	The sub-title under Land Use; A. USIBWC Floodplain is not consistent with the title listed under Section 3.4.1.	Text in Table 3 changed
3.3.1	Increased use of levee roads will degrade the levee and compromise the levee with lack of maintenance, and levee roads are not designed or constructed as a road. Levee roads do not allow for two-way traffic. I have pulled out drivers who have slid off levee slopes. Vehicles that damage the levee, or potentially block the flow of water, impair the ability of IBWC to carry out its mission of flood control and water delivery (paraphrased)	Access to levees with gates will remain closed and will not result in increased use. Levees are not public roads. USIBWC regularly inspects levees, especially in areas without gates that are used by the public; USIBWC conducts levee maintenance as needed.
3.3.2	The DRAFT NMDA /PdNWC report to the NMED about their recommended Watershed Base Plan for the reduction of E.Coli in the same reach should be mentioned. It could be possible that the E.Coli measurements at the Rio Grande Bridge near Anthony might be reduced over time due to the allowed Hunting Alternative.	Added
3.4.1	Sport shooting will be increased; "please define 'sport shooters' and clarify why allowing hunting will also allow sport shooters."	Sport shooting is not authorized; law enforcement entities should be notified. "Allow" was changed to indicate sport shooting could be an effect of the action.
3.4.2	ATVs are restricted but this is violated every day in the river. Also vehicular access is restricted but vehicles go up the levee and on the floodplain every day.	This is part of the enforcement agreements with law enforcement entities
Section 3.6.2	Regarding noise pollution, the EA should note that legal hunting hours are regulated by NMDGF	Added hunting hours from NMAC 19.31.6.9
3.6.2	Under "Allowed Hunting Alternative," in the first sentence, the word general should be replaced with generate.	Changed
3.6.2	Under "Allowed Hunting Alternative," the noise level is not "minimal" if it happens in your back yard.	Noted and added language accordingly
5	An additional mitigation measure should include additional "No Hunting" signage within the approved hunting areas where homes completely occupy the river floodplain (up to the edge of the primary channel flow). This will also allow law enforcement the ability to quickly identify those zones without having to guess.	The authorized hunting is only on USIBWC land between the levees.
Section 7	Was the EA distributed to the total Paso del Norte Watershed Council membership?	Sent and distributed on 7/31/13
General comment	only one reference to "nearby residents"	Removed more populated areas from hunting areas; added Section 3.5.3.
General comment	USIBWC should install additional gates along the levee (particularly at Shalem Bridge and at Lujan-Hill Road). Gates could be locked in the hunting season.	Removed the Shalem designated hunting area
throughout	NMDGF regulates "bullets" and only allows birds to be hunted with shotguns shooting shot. Ballistic differences between bullets and shot are significant; shotguns dangerous for less than 100 yds, but bullets travel farther and are dangerous.	All instances of "bullets" changed to "shot", unless referred to specifically as bullets by public comment.

Appendix E: Public Comments

Appendix F: Comments from collaborating entities on the preliminary draft prior to July 23, 2013, addressed in the Draft EA, and on the preliminary Final EA version.