P.O. Box 13231, 1700 N. Congress Ave.
Austin, TX 78711-3231, www.twdb.texas.gov
Phone (512) 463-7847, Fax (512) 475-2053

MEMORANDUM

TO: T. Clay Schultz, Ph.D., Regional Water Project Development

Clay Schultz Digitally signed by Clay Schultz Date: 2026.02.13 11:28:14 -06'00'

THROUGH: Theresa Finch, Regional Water Project Development

Theresa Finch Digitally signed by Theresa Finch Date: 2026.02.13 11:44:43 -06'00'

FROM: S. Christopher Caran, Environmental Protection Specialist

Chris Caran Digitally signed by Chris Caran Date: 2026.02.13 15:12:38 -06'00'

SUBJECT: El Paso County, Texas
TWDB Flood Infrastructure Fund, Flood Mitigation Project No. 40196
El Paso Hills Basin Repair and Stream 4 Basin (SOC1, SOC2)
Total Commitment Amount: $4,650,500
Loan No. L1001526
Grant No. G1001527

As required by the rules of the Texas Water Development Board (TWDB), 31 Texas Administrative Code (TAC) § 363.14 and 363.16, an environmental review has been performed for the El Paso Hills Basin Repair and Stream 4 Basin (SOC1, SOC2) Project proposed by El Paso County (County), Texas. The County is proposing to use $4,650,500 in financing from the Flood Infrastructure Fund (FIF) Program for planning, acquisition, design, and construction of the project. The Environmental Determination (ED) completed for the proposed project is based primarily on the Environmental Data Form (EDF)[1] received by the TWDB.

PURPOSE AND NEED

The purpose of the project is to repair damage sustained by existing flood management infrastructure and reduce future flood risk along an unnamed ephemeral stream designated Stream 4. The City of Socorro, El Paso County, experiences flooding approximately two to three times per year during storm events. Uncontrolled flows originating as runoff from the El Paso Hills in the upper reaches of the Stream 4 watershed had resulted in flood inundation of roads and residences and deposition of sediment. Construction of the El Paso Hills Basin alleviated most flooding and sedimentation issues, but failure of an embankment during a 2004 storm prevented flood control. The embankment has remained unrepaired. In addition, recent flooding indicates an additional detention structure is needed lower in the drainage system.

[1] El Paso County (October, 2025). Environmental Data Form (EDF), El Paso Hills Basin Repair and Stream 4 Basin (SOC1, SOC2), prepared by Poznecki-Camarillo, San Antonio, Texas. Received by TWDB on November 7, 2025.

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PROJECT DESCRIPTION

The project components covered by this environmental assessment include: 1) repairing an existing embankment in the El Paso Hills Basin (SOC1), increasing the basin's water and sediment retention capacity by excavating and removing 33 acre-feet of sediment, and constructing a new emergency spillway; and 2) constructing a second detention basin (SOC2) 0.5 mile downstream to provide additional flood attenuation and sediment capture, which will require installation of a new 30-feet high embankment and spillway and excavation and removal of 41 acre-feet of sediment.

PUBLIC PARTICIPATION

The project is consistent with local, regional, and statewide planning requirements. Coordination with the appropriate governmental agencies has been made and no adverse comments have been received. In its application for project funding, the County provided a completed copy of form TWDB-0173, confirming: the County acted cooperatively with other eligible political subdivisions to address flood control needs in the area; all eligible political subdivisions that would be substantially affected by the proposed flood project participated in the project development process or elected not to participate following adequate notice and ample opportunity; and the County held public meetings to accept comments on the proposed flood project from interested parties.

AGENCY COORDINATION

The County's environmental impact assessment included coordination with state and federal regulatory agencies, local authorities, and other stakeholders and interested parties regarding the project's potential impact. Although the County submitted notifications to and requests for input from all required parties, some entities did not elect to respond. The respondents are listed below, and the results of coordination are summarized in the EDF and reflected in the environmental conditions listed below:

- United States Fish and Wildlife Service (USFWS), Austin Ecological Services Field Office, in accordance with the Endangered Species Act and statutes affecting other federally protected species (USFWS Project Code 2025-0094782 and 2025-0094784, May 9, 2025)
- Texas Historical Commission (THC), in accordance with the Antiquities Code of Texas (Texas Antiquities Permit No. 32377, THC Tracking No. 202600375, October 3, 2025)
- Texas Parks and Wildlife Department (TPWD), Wildlife Habitat Assessment Program, Austin, in accordance with the Endangered Species Act of 1973, as amended; Migratory Bird Treaty Act; Texas Parks and Wildlife Code; and other applicable regulations (TPWD Consultation No. 40196, May 13, 2025)
- TWDB, National Flood Insurance Program State Coordinator, pursuant to the Flood Insurance Reform Act of 2004, federal Executive Orders 11988 and 11990, Texas

Water Code Section 16.315, and local floodplain development ordinances (letter of December 2, 2024)

- El Paso County Floodplain Administrator pursuant to the National Flood Insurance Program (email of June 18, 2025)

The County also coordinated with the following entity and no response was received.

- United States Army Corps of Engineers (USACE), Regulatory Branch, Albuquerque District, Las Cruces Regulatory Office (CESPA-RD-TX).

  In correspondence dated May 13, 2025, the County provided descriptions of the project and project area, with maps, to the USACE with a request for review. The County stated that "The proposed project does not appear to be located within a 'water of the U.S.' within Clean Water Act (CWA) jurisdiction." The staff of the USACE declined to respond, but Stream 4 clearly is an ephemeral drainage and unlikely to be afforded protection under the current USACE interpretation of the applicable CWA provisions.

United States Fish and Wildlife Service

In correspondence dated May 13, 2025, the County provided descriptions of the project and project area, with maps, to the USFWS with a request for review. The County consulted the USFWS Information Planning and Consultation database and determined that although "there are seven species (five birds, one insect, and one flowering plant) that are federally listed as threatened, endangered, or candidate species that have the potential to occur in the project area…the proposed project would not occur within suitable habitat for any listed species. Therefore, the project is anticipated to have no effect on federally listed species and is not anticipated to require permitting/mitigation."

The USFWS, Austin Ecological Services Field Office, replied to the County's request on May 9, 2025 (Project Code Numbers 2025-0094782 and 2025-0094784), stating that in accordance with the Endangered Species Act of 1973, as amended, "there are no critical habitats [for the listed species] within your project area."

The County also addressed potential effects of the project on species protected under the Migratory Bird Treaty Act of 1918 (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) and stated that "vegetation removal and ground disturbing activities would be phased to occur outside of the nesting season (March 15 to September 15) to avoid impacts to spring and fall migrants, to the extent practicable. Construction noise that could harass nesting birds would be phased to occur outside of the nesting season as well. Construction easements and staging areas, to the extent practicable, would be located in previously disturbed areas and undisturbed native vegetation would be avoided to the greatest extent practicable."

In its responses to the County, the USFWS noted that "The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise

lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors."

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat.

The County is not authorized to take exception to these requirements under the assertion that compliance would not be practicable.

Texas Historical Commission

The County reviewed the THC Archeological Sites Atlas, which indicated the proposed site of the SOC2 basin is within a National Register District and there are five recorded sites of previously undetermined significance less than one kilometer (0.62 mile) from one or both basins. As a result, the County initiated coordination with the THC early in its environmental impact assessment. The THC determined a cultural resources survey would be required and a consultant was selected to undertake the survey under Texas Antiquities Permit Number 32377[2]. The survey report was reviewed by the THC staff in accordance with the Antiquities Code of Texas. The THC staff concurred with the results of the survey, concluding that no historic properties, archeological sites, or other cultural resources would be affected by the project, in correspondence dated October 3, 2025 (THC Tracking No. 202600375).

Texas Parks and Wildlife Department

In correspondence dated May 13, 2025, the County provided descriptions of the project and project area, with maps, to the TPWD with a request for review. This request was initiated because the County recognized a potential need for recoordination to address "some adjustments to the basins' footprints" after the County's initial submission of data, to which the TPWD responded on December 12, 2024. In a separate email dated June 27, 2025, the TPWD confirmed its previous comments would apply.

The County consulted the "TPWD Annotated County List of Rare Species for El Paso County [and found] there are six state listed species (two birds, one fish, two reptiles, and one plant) as well as 75 Species of Greatest Conservation Need (SGCN) with the potential

[2] Fitch, Katelyn, Feit, Rachel, and Pontius, Zoe, July, 2025. Archeological Survey of El Paso Hills Basin Repair and Stream Basin 4 (SOC1 and SOC2), El Paso County, Texas, prepared for Poznecki-Camarillo LLC and EL Paso County by Acacia Heritage Consulting under Texas Antiquities Permit No. 32377

to occur in the proposed project area. [The County performed] a desktop review to determine if suitable habitat exists for these species…. Based on this review, the proposed project may impact one state-listed species (Texas horned lizard) and 11 SGCN (Cactus Wren, Loggerhead Shrike, Pyrrhuloxia, Samalayuca dune grasshopper, desert pocket gopher, hoary bat, gray-checkered whiptail, western massasauga, sand prickly-pear, and stalked rhombopod [and Texas horned lizard]). Based on the minimal project area and expansive habitat, the project is likely to not adversely affect any rare, threatened, or endangered species or require permitting."

In its response of December 12, 2024, the TPWD designated the project number 53128 and provided information and a series of general and specific recommendations for avoidance of adverse effects on protected aquatic and terrestrial wildlife, plants, and their habitats. Of special note is the Texas horned lizard, which is likely found within the project area. The recommendations also addressed protection of birds covered by the Migratory Bird Treaty Act and Parks and Wildlife Code Sections 64.002 and 64.003, especially the Western burrowing owl, known to occur near the project area. Under both federal and state regulations, migratory birds are protected from incidental take as well as destruction of active nests, eggs, and unfledged young, and there are no exceptions to these requirements under the assertion that compliance would not be practicable.

In order to mitigate or avoid potential impacts, the applicable TPWD recommendations are summarized as environmental special conditions in this ED.

TWDB, National Flood Insurance Program State Coordinator

In correspondence dated October 21, 2024, the County provided a project description and project-area maps to the State Coordinator of the NFIP for Texas.

On December 2, 2024, the State Coordinator stated "that El Paso County, as a participant in the National Flood Insurance Program (NFIP), has the authority for projects within its jurisdiction. Please ensure all project activities are in accordance with the County's local flood damage prevention court order requirements, including the submittal of any local floodplain development permit applications."

El Paso County Floodplain Administrator

In its environmental assessment document, the County indicated the project area is within the Special Flood Hazard Area (100-year floodplain) of Stream 4 as designated by the Federal Emergency Management Agency (FEMA). The County is a participant in the NFIP. Projects involving construction in the 100-year floodplain, including replacement or borings, require a floodplain development permit from the local floodplain administrator prior to construction in the 100-year floodplain. To ensure compliance with FEMA requirements, the County provided a project description and project-area maps to the local floodplain administrator for El Paso County in a letter dated May 13, 2025.

The floodplain administrator for EL Paso County responded on June 18, 2025, stating the project "will require a floodplain development permit in accordance with the El Paso County Flood Damage Prevention Order of December 11, 2006. After the improvement plans have been reviewed by the El Paso County Floodplain Administrator and found acceptable to be submitted for a Conditional Letter of Map Revision (CLOMR), a CLOMR approval by FEMA will be required in order to issue a floodplain development permit. After construction, a Letter of Map Revision will need to be obtained to close out the floodplain development permit."

This environmental finding is conditioned to require a floodplain development permit prior to clearing or construction activities within any 100-year floodplain or floodway in order to comply with requirements of the Federal Emergency Management Agency regarding implementation of the National Flood Insurance Act, Flood Disaster Protection Act, National Flood Insurance Reform Act, Federal Executive Orders 11988 and 11990, and to comply with related state statutes and local ordinances.

CONDITIONS AND RECOMMENDATIONS

An environmental review of the project has been completed consistent with the requirements of 31 TAC § 363.14 and 363.16. The results of this environmental review are documented in this Memorandum, which includes environmental conditions that will be applied to the project to avoid significant adverse impact on floodplains, cultural or historical resources, threatened or endangered species, and protected migratory bird species.

The TWDB may not fund testing, remediation, removal, disposal, or related works for contaminated or potentially contaminated materials; however, the project proponent should ensure that, if found, such materials are tested, removed, and disposed of in accordance with applicable state and federal laws and local ordinances.

The project must comply with the following special and standard environmental conditions:

<u>Special Environmental Conditions</u>

- Consistent with the Endangered Species Act of 1973 as amended, the Migratory Bird Treaty Act, and Texas Parks and Wildlife Code Chapter 64, if migratory birds are found nesting on or adjacent to the project area, vegetation clearing must be excluded during the general bird nesting season, March 15 through September 15; or if clearing at these times is unavoidable, the area proposed for disturbance should be surveyed, during the nesting period, to identify occupied nests. If occupied nests are found, the area around each nest should remain undisturbed until the eggs have hatched and the young have fledged. State and federal regulations as currently interpreted do not permit incidental take.

- Consistent with the Texas Parks and Wildlife Code Section 68.015, El Paso County (County) must inform construction workers and other field personnel regarding the potential occurrence of state listed species—particularly the Texas horned lizard--in

the project area. Prior to beginning work each day, open trenches and excavation areas must be checked to ensure no wildlife species have been trapped. If state-listed species are encountered, the animals must be allowed to leave the area safely. State-listed species may be handled only by persons with authorization obtained through the Texas Parks and Wildlife Department. Disturbed areas must be reseeded with native grasses by hydromulching, hydroseeding, or seed broadcasting techniques. If erosion control blankets or mats are used, the County must avoid the use of plastic mesh matting or netting.

- Consistent with the Flood Insurance Reform Act of 2004, Flood Disaster Protection Act, Executive Order 11988 as amended by EO 13690, Texas Water Code Section 16.315, and local floodplain development ordinances, the County must obtain a floodplain development permit issued by the local floodplain administrator prior to TWDB approval of plans and specifications for construction in the Special Flood Hazard Area of Stream 4. The County is a participant in the National Flood Insurance Program.

<u>Standard Environmental Conditions</u>

- Consistent with the TWDB Supplemental Construction Contract Conditions (TWDB-0552), the County will abide by the standard emergency condition for the discovery of cultural resources.

- Consistent with the TWDB Supplemental Construction Contract Conditions (TWDB-0552), the County will abide by the standard emergency condition for the discovery of threatened and endangered species.

Therefore, it is recommended that an Environmental Determination be issued.