

**Finding of No Significant Impact for the
Southwestern Willow Flycatcher Conservation Program**

**Environmental Assessment
September 2019**

The U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) prepared an environmental assessment (EA) evaluating the impacts of a conservation program for the endangered southwestern willow flycatcher (SWFL, flycatcher; *Empidonax traillii extimus*), a small, neotropical migrant bird found in Arizona, California, Colorado, Nevada, New Mexico, Texas, and Utah. The EA is incorporated into this Finding of No Significant Impact (FONSI) by reference and is available at the APHIS website at <http://www.aphis.usda.gov/planthealth/ea/> or from-

USDA-APHIS
Plant Protection and Quarantine,
Unit 150, Room 4C-01.55
4700 River Road
Riverdale, MD 20737-1238

APHIS published in the Federal Register a notice of intent to prepare this EA on October 26, 2018 to begin scoping on aspects of a proposed conservation program (Docket No. APHIS-2018-0064). The draft EA was prepared to evaluate the potential impacts to human health and the environment from the proposed conservation program for the flycatcher. APHIS published a notice of the availability of the draft EA in the Federal Register on July 9, 2019 (84 FR 32701), and posted the EA as APHIS-2018-0064-0024 in regulations.gov, beginning a 30-day public comment period.

On September 30, 2013, the Center for Biological Diversity filed a lawsuit against USDA, the Department of the Interior (DOI), and the U.S. Fish and Wildlife Service (USFWS) alleging that the Federal saltcedar biological control program violated the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). On May 3, 2016, the Court granted the plaintiff's second of five claims, finding that APHIS did not comply with ESA section 7(a)(1), which requires Federal agencies utilize their authorities to carry out programs for the conservation of endangered and threatened species. On June 19, 2018, the Court ordered USDA and APHIS to publish proposed conservation program alternatives in compliance with ESA section 7(a)(1) and solicit public comments on the proposed alternatives.

In the EA, APHIS considers ten groups of conservation measures:

1. *Riparian Restoration*. This measure involves contributing resources toward actions within APHIS' authority on projects where cooperators are performing intensive third-party riparian vegetation management efforts or otherwise facilitating the mass planting of native vegetation beneficial to SWFL (e.g., willows) at high-risk and medium-risk sites within the flycatcher's occupied habitat, to ensure that suitable habitat exists to mitigate the potential adverse effects of beetle defoliation of saltcedar.

2. *Tamarisk Leaf Beetle Surveying and Data Collection*. This measure involves compiling and synthesizing the results of survey and data collection efforts leading to a better understanding of the tamarisk leaf beetle's past and projected movements into flycatcher habitat.

3. *Geographic Information System (GIS) Habitat Mapping*. This measure involves funding and assisting other Federal and State agencies with GIS mapping of saltcedar and native riparian cover across the southwestern United States—and specifically throughout the flycatcher's occupied range.

4. *Educational Campaign*. This measure involves continuing current public outreach efforts and collaborating with Federal, State, Tribal, and local authorities to prohibit or strongly discourage any further intrastate movement, distribution, or release of tamarisk leaf beetles as a means of slowing the beetle's spread into additional reaches of flycatcher habitat.

5. *Streamlined Permitting Process*. This measure involves collaborating with USFWS and other relevant agencies to streamline the ESA permitting process for third parties engaged in habitat improvement work to benefit flycatchers.

6. *Watershed Partnership Collaboration*. The court asked APHIS to consider working cooperatively with, and providing habitat improvement funding for, established watershed partnerships that have already developed detailed vegetation management plans.

7. *Streamlined Funding Sources*. This measure involves ensuring that funding streams for conservation projects are in easily accessible structures such as block grants administered by the National Fish and Wildlife Foundation or a similar entity, rather than through cost share programs.

8. *Information Repository*. This measure involves funding and facilitating a long-term centralized and standardized information repository concerning the tamarisk leaf beetle, its spread, vegetative resources in the southwestern United States, and the flycatcher's status.

9. *Invasive Plant Control*. This measure involves reducing the amount of invasive plants and monitoring their return in riparian areas where native vegetation planting is planned or has been conducted.

10. *SWFL Data Collection Surveying*. This measure involves conducting SWFL presence or absence surveys, determining breeding status for each bird, and provide site evaluations and descriptions. In addition, nest searches and nest monitoring could be conducted at breeding sites in order to calculate cowbird parasitism and other predation rates.

After evaluating the ten conservation measures listed above, APHIS identified program elements that APHIS is most likely to implement. APHIS chose these elements based on their conservation benefit to the SWFL and the fact that they are within the reach of APHIS' authorities. APHIS's preferred alternative is to fund surveys for the flycatcher and tamarisk leaf beetles; in FY20, to fund a publicly accessible restoration science information repository and to fund habitat modeling based on current satellite imagery; and then, for future years, to consider projects with the preferred program elements listed in the EA.

The EA evaluates the potential impacts to human health and the environment from the proposed conservation program elements and, as a programmatic EA, explains that APHIS would prepare site-specific environmental analyses as it evaluates projects in accordance with the preferred alternative, as appropriate. The proposed conservation program elements focus on biological or environmental surveys and collaborative partnerships where APHIS would provide funding for invasive plant control to complement habitat improvement activities performed by riparian conservation organizations or governmental land management agencies. As part of an adaptive management strategy, APHIS will also consider any other long-term measures, tools, strategies, and campaigns that would, consistent with section 7(a)(1) of the ESA, benefit the flycatcher's survival and recovery prospects.

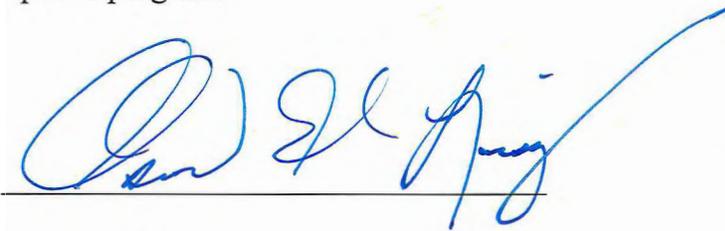
APHIS is currently working with the USFWS to ensure any conservation elements under the preferred alternative will not jeopardize the continued existence of threatened and endangered species or adversely modify designated critical habitat.

APHIS received a letter from the USFWS dated May 29, 2019 that assigned a conservation value to some measures and elements under consideration. The conservation values will become part of the prioritization protocol as APHIS evaluates measures in the future.

There are no highly disproportionate adverse effects to minorities, low-income populations, or children, in accordance with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations," and Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks." Herbicide applications will not occur without landowner consent. Children are not likely to see or hear program activities as they occur. Based on the proposed action's pesticide application methods and storage precautions, it is extremely unlikely that children will be directly exposed to the herbicides. SWFL conservation activities are not currently anticipated on historic properties or sites of tribal importance. Low-income and minority

populations that may be impacted by a potential program will be consulted as part of site-specific environmental documentation processes. Wherever riparian conservation activities are deemed necessary, they will be coordinated with local managers of historic properties to ensure the program will have no impact to historic properties pursuant to Section 106 of the National Historic Preservation Act.

I have determined that there would be no significant impact on the quality of the human environment from the implementation of the preferred alternative. APHIS' finding of no significant impact from the preferred alternative is based on the results of the analysis in the EA. I have not found evidence of significant environmental impact associated with the proposed program.

A handwritten signature in blue ink, appearing to read "Osama El-Lissy", written over a horizontal line.

September 18, 2019

Osama El-Lissy
Deputy Administrator
Plant Protection and Quarantine
Animal and Plant Health Inspection Service

Date