

Separate Memorandum(a) of Understanding and Cooperative Agreements will be developed with additional parties as necessary to ensure implementation of specific conservation measures.

III. AUTHORITY

* The signatory parties hereto enter into this Conservation Agreement and the attached Conservation Strategy under federal and state law, as applicable, including but not limited to Section 2(c)(2) of the Endangered Species Act of 1973, as amended, which states that "the policy of Congress is that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species."

* All parties to this Agreement recognize that they each have specific statutory responsibilities that cannot be delegated, particularly with respect to the management and conservation of wildlife and the management, development and allocation of water resources. Nothing in this Agreement or the Strategy is intended to abrogate any of the parties' respective responsibilities.

* This Agreement is subject to and is intended to be consistent with all applicable Federal and State laws and interstate compacts.

IV. STATUS AND DISTRIBUTION OF THE VIRGIN SPINEDACE

In 1979 and 1989, the Virgin spinedace was identified as threatened by the American Fisheries Society, Endangered Species Committee. Criteria used for determining this status were consistent with the ESA. Their determination was based on review of original data and discussions with pertinent agencies and knowledgeable scientists. On May 18, 1994, the FWS proposed the species for listing as threatened under the ESA (59 FR 25875).

The Virgin spinedace currently occupies approximately 60-63% of historic habitat, nearly all being in Utah. Populations no longer exist in Nevada and few individuals remain in Arizona. The species occupies approximately 117 km (73 mi) of tributary streams and 25 km (16 mi) of the mainstem Virgin River. Occupied streams include three reaches of Beaver Dam Wash, two reaches of the Santa Clara River, isolated reaches in Moody Wash and Magotsu Creek, one reach of Ash Creek, two reaches of La Verkin Creek, two reaches of North Creek, the North and East Forks of the Virgin River, and Shunes Creek. Occupied habitat in the mainstem Virgin River is considered to be limited to the area above Quail Creek Diversion. Occasionally, Virgin spinedace have been collected in the Virgin River between Pah Tempe Springs and