

Appendix C. Comments



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August 18, 2005

Mr. Charles Fisher
Bureau of Reclamation
Albuquerque Area Office
555 Broadway NE, Suite 100
Albuquerque, NM 87102

Via Facsimile (505-462-3780) and Mail

Dear Mr. Fisher:

Thank you for the opportunity to provide comments on the content and scope of the Draft Environmental Assessment (EA) for the Rio Grande Silvery Minnow Sanctuary. These comments are submitted on behalf of Defenders of Wildlife (Defenders). Defenders is a national non-profit, public-interest organization with over 450,000 members and supporters, including over four thousand of whom reside in New Mexico. Defenders works to preserve the integrity and diversity of natural ecosystems, prevent the decline of native species, and restore threatened habitats and wildlife populations. Furthermore, Defenders has a long-standing interest in the survival and recovery of the Rio Grande silvery minnow (silvery minnow) and the restoration of the Rio Grande. Defenders would like to provide a few comments and questions with regard to the preferred alternative for the sanctuary.

The Bureau of Reclamation (Reclamation) proposes to build a sanctuary in the Albuquerque Reach of the Rio Grande. Please define, for ease of reading, the reaches as used in the Biological Opinion RPA elements (Angostura, Cochiti, etc.) and those used in the Draft EA (Albuquerque).

The purpose of and need for the action is, for the most part, satisfaction of some requirements of the 2003 Biological Opinion for Reclamation's Water and River Maintenance Operations. Specifically, the Draft EA cites RPA elements AA – two naturalized refugium breeding and rearing facilities – and element S – 1,600 acres of restored habitat. Draft EA at 2. Please clarify in the Final EA whether this is the first or second refugium required by the Biological Opinion. Defenders is concerned that this is the first refugium, which was to be completed by May 31, 2005, almost three months ago, and that Reclamation has not timely implemented the RPA elements.

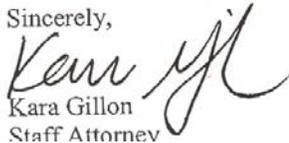
Relatedly, the No Action Alternative (Draft EA at 10) paints an unrealistically grim picture. It is not clear, as stated in the Draft EA, that RPA elements AA and S would not be fulfilled without implementation of the proposed action. There is a great deal of habitat restoration occurring in the Middle Rio Grande, by the Bureau of Reclamation and others. Also, as stated above, it would appear that RPA element AA is already unfulfilled.

Lastly, there is inadequate description of the preferred alternative. CEQ regulations call on Reclamation to “[r]igorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated” and “[d]evote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.” 50 C.F.R. § 1502.14. The Draft EA fails to examine the effects of the environment on the refugium, and hence, whether this alternative is appropriate as compared to others. For example, there is no discussion on whether existing water quality in the Riverside Drain will impact silvery minnows and is suitable for use in the refugium.

The Draft EA also fails to describe adequately the use of the refugium. The Draft EA states that the initial emphasis will be on “growing out and acclimating larvae and juvenile fish.” Draft EA at 10. These activities would include release of fish to the refugium, release from the refugium to the river, and marking and taking data from fish in the refugium. *Id.* What is unknown, and should be clarified in the Final EA, is who will be performing these activities. What kind of Endangered Species Act (other) compliance will be needed for these activities, and by whom?

Thank you again for this opportunity to comment. Please contact me if you have any questions, and please place me on your mailing list for a Final EA and any other information associated with this project.

Sincerely,


Kara Gillon
Staff Attorney

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Ricardo J. Perry - Piper

August 11, 2005
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Dear Charles,

The Fish and Wildlife Coordination Act of 1980 (16 USC 2901 et seq.) encourages federal agencies to conserve and promote conservation of non-game fish and wildlife species and their habitats. Maintenance operations on the river that result in loss of Rio Grande Silvery Minnow habitat do not satisfy the aforementioned.

The essence of the Rio Grande Silvery Minnow Sanctuary is to bypass the Endangered Species Act of 1973; Carson National Forest

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John M. Perry - Riparian

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Plan (USDA-FS-1986, Sustainable Forests Section, Page 2): "maintain genetic and ecological diversity", of which we know the Rio Grande plays a part, as well as a vision statement in same (USDA-FS-1986, Wildlife and Fish Section, Page 1) that emphasizes biological diversity; and the Santa Fe National Forest Plan (USDA-FS-1987, Page 20): "riparian areas will be enhanced through direct improvement projects", of which we know the Rio Grande plays a part.

In providing 10 cfs of water to the Sanctuary, with all the screening and conveyance facilities designed to accommodate 15 cfs, and the source of this water being diversions from the Rio Grande (Jemez River), the Jemez Watershed's perennial upstream riparian wildlife, plant and human populations would be jeopardized. If the Middle Rio Grande Council of Governments refuses to validate Rio Jemez and Rio Puerco subregio

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riparian usage amount as being 25,000 acre feet and if another long-noted discrepancy in the Middle Rio Grande Council of Governments' land use map showing irrigated agriculture in the Rio Jemez and Rio Puerco subregions to be six times less than they actually are remains unrevised then the delicate balance that the Jemez adjudication, United States, et. al, v. Abousleman, et. al, Jemez River Adjudication, United State District Court CIV, No. 83-[04]JC; struck could be compromised by depletions Albuquerque Riverside Drain and the Sanctuary would create in, as John Kelly says, "getting the trunk" to build tributaries to in the next 10 years. I, as a full-time resident of the Rio Jemez Watershed, do not wish for my quality of life to be threatened in order to provide a projected 45,000 acre feet per year, of surface water to

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Refers to Perry Ripin

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the Rio Grande Drain.

This Sanctuary Project, if approved, would create a new population of silvery minnows that would be classified as "nonessential experimental", no longer endangered nor protected. If the U.S. Fish and Wildlife Service decided, or decides, this week to raise the number of endangered minnows that can be found dead this year in the Rio Grande and if the minnow population is not big enough to withstand additional take, another major tool in protecting the model of the Rio Grande Silvery Minnow of New Mexico recovering in its Rio Grande habitat in New Mexico (Censuring New Mexico's Rio Grande is protected, as well as New Mexico's Rio Grande Silvery Minnow) will be removed. Since U.S. District Judge James A. Parker did not allow the Middle Rio Grande Conservancy District relief from

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Endangered Species Act obligations and favored claims by Native Americans and land grant heirs as being valid in the water war that's unfolding, I am disappointed that this Sanctuary continues to have credence.

I feel that, in time, all the Rio Grande Silvery Minnows in this Sanctuary will be bagged and airlifted from what was once their significant historic Middle Rio Grande range to a new home in Big Bend National Park and the Rio Grande Wild and Scenic River in Texas, under a plan proposed by U.S. Fish and Wildlife Service. It no longer shocks me to contemplate this image. After 12 years of living in the Middle Rio Grande Valley (after 15 years, prior, of living in Louisiana) and witnessing the annual precipitation in the Middle Rio Grande Valley, year after year, after reading in the Journal last month about how officials estimate that

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it will cost more than \$110 million to address all the flooding problems in the South Valley of Albuquerque (as well as wondering what special rainy place 500 residents north of Rio Bravo have been living for the past 12 years) and then trying to fathom how the South Valley has had severe flooding problems for decades (which decades?)....

Well, again, the tactic of flying all the Rio Grande Silvery Minnow left in New Mexico to the Texas Big Bend goes along with the entire distasteful effort to privatize every aspect of water use, to disenfranchise everyone who uses water freely in the Middle Rio Grande Valley.

In short, do not build another component of the Rio Grande Drain by purporting it to be the Rio Grande Silvery Minnow Sanctuary. Instead, use that taxpayer money to revitalize New Mexico's Rio Grande and restore its Silvery Minnow.

Robert M. Perry-Piper