

RECLAMATION

Managing Water in the West

2011-2016 Supplement to the Rio Grande Supplemental Water Programmatic Final Environmental Assessment and Finding of No Significant Impact



U.S. Department of the Interior
Bureau of Reclamation
Albuquerque Area Office

March 1, 2011

Mission Statements

The mission of the Department of the Interior is to protect and provide access to our Nation's natural and cultural heritage and honor our trust responsibilities to Indian Tribes and our commitments to island communities.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

U.S. Department of the Interior

BUREAU OF RECLAMATION

Albuquerque Area Office

Albuquerque, New Mexico

Finding of No Significant Impact

**2011-2016 Supplement to the Rio Grande Supplemental
Water Programmatic Environmental Assessment**



Manager, Environment Division



Date

Approved by:



Area Manager, Albuquerque, New Mexico



Date

AAO-11-002
FONSI Number

BACKGROUND

The Rio Grande Silvery Minnow (RGSM; *Hybognathus amarus*) was formerly one of the most widespread and abundant cyprinid species in the Rio Grande basin in New Mexico, Texas, and Mexico. Due to population declines caused by the dewatering of segments of the Middle Rio Grande (MRG) through water-regulation activities as well as habitat degradation, the RGSM is currently listed as endangered both federally and by the State of New Mexico. In addition, the Southwestern Willow Flycatcher (SWWF) has been a federally-listed endangered subspecies since 1995 and is also classified by the State of New Mexico as endangered. Its decline has been largely attributed to the hydrological and ecological changes which have affected the composition and extent of floodplain riparian vegetation along the MRG.

Reclamation has discretion to conduct various activities within its authority to benefit threatened and endangered species under section 7(a)(1) of the Endangered Species Act (ESA). Reclamation has conducted prior discretionary acts since 1996 to protect the RGSM and SWWF as outlined in the 2001 Rio Grande Supplemental Water Programmatic Environmental Assessment. The Supplemental Water Program (Program) has been utilized to comply with elements of the Reasonable and Prudent Alternative of the 2003 Biological and Conference Opinions (BiOp) on the Effects of Actions Associated with the Programmatic Biological Assessment (BA) of the Bureau of Reclamation's Water and River Maintenance Operations, Army Corps of Engineers' Flood Control Operation and Non-Federal Actions on the MRG, New Mexico, March 1, 2003 – February 28, 2013.

The Program is funded by Reclamation. This supplement (2011-2016) serves as an update to the May 31, 2006 (2006-2011) supplement which was a 5-year document. These environmental assessments (EAs) are tiered off the 2001 Programmatic Environmental Assessment and evaluates only the impacts of the Program associated with the updated elements in compliance with the NEPA (NEPA) (42 U.S.C. 43314335).

SUMMARY OF THE PROPOSED ACTION

The current Program consists of four (4) components: water acquisition and storage, concurrence with waiver requests, the pumping and conveyance of water from the Low Flow Conveyance Channel (LFCC) to the Rio Grande including the operation of an outfall near Escondida, and the implementation of water conservation practices by water contractors and municipal and industrial users.

ENVIRONMENTAL IMPACTS RELATED TO THE RESOURCES OF CONCERN

Resources of primary concern associated with project actions for this supplemental document include hydrology and hydraulics, water resources and net depletions, fisheries, the federally threatened or endangered species (and their habitat) that occur within the project area, and impacts concerning environmental justice and Indian Trust Assets.

No significant adverse impacts to environmental resources and the human environment are anticipated as a result of the proposed action including no adverse impacts to Indian Trust Assets as a result of the Program.

ENVIRONMENTAL COMMITMENTS

All applicable permits have been obtained prior to implementation of the project, including but not limited to:

- Clean Water Act (CWA), Section 404 as administered by the USACE
- State Water Quality Certification under CWA, Section 401
- Storm Water Pollution Prevention Plans
- Section 7 of the ESA as administered by the USFWS
- Section 106 of the National Historic Preservation Act (NHPA) as administered by the New Mexico State Historic Preservation Officer (SHPO)
- Office of the State Engineer (OSE) permits, as required
- Implementation of BMPs for LFCC Pumping Operations and Maintenance Activities

COORDINATION

Agencies and other entities contacted formally or informally to coordinate efforts in preparation of this EA include:

- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- Bureau of Indian Affairs
- New Mexico Interstate Stream Commission
- Middle Rio Grande Conservancy District
- Sandia Pueblo

CONCLUSION

The Program to be continued by Reclamation for another five year period consists of water acquisition and storage, concurrence with waiver requests, the continued conveyance of water from the LFCC to the Rio Grande, and the implementation of water conservation practices by water contractors. The need for the Program is to support Endangered Species Act coverage under Section 7(a)(2) and to contribute to the recovery of the RGSM and SWWF which is documented in the 2003 BiOp. No adverse impacts have been determined for the resources of concern identified in this supplemental document.

Based on the analysis performed in the environmental assessment, no significant adverse impacts to the natural or human environment will result from implementation of the project. This Finding of No Significant Impact (FONSI) has been determined pursuant to the NEPA (42 U.S.C. 4321et seq.). It has been determined that the proposed action does not constitute a major federal action that would significantly affect the human environment. Therefore, an environmental impact statement will not be prepared for this project.

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ACRONYMS AND ABBREVIATIONS

| | |
|---------|---|
| AAO | Albuquerque Area Office |
| ABCWUA | Albuquerque Bernalillo County Water Utility Authority |
| BA | Biological Assessment |
| BMPs | Best Management Practices |
| BiOp | Biological Opinion |
| CWA | Clean Water Act |
| EA | Environmental Assessment |
| EDWA | Emergency Drought Water Agreement |
| EIS | Environmental Impact Statement |
| ESA | Endangered Species Act |
| FONSI | Finding of No Significant Impact |
| ITA | Indian Trust Assets |
| LFCC | Low Flow Conveyance Channel |
| MBTA | Migratory Bird Treaty Act |
| MOA | Memorandum of Agreement |
| MRG | Middle Rio Grande |
| MRGCD | Middle Rio Grande Conservancy District |
| M&I | Municipal and Industrial |
| NEPA | National Environmental Policy Act |
| NHPA | National Historic Preservation Act |
| NMDGF | New Mexico Department of Game & Fish |
| NMISC | New Mexico Interstate Stream Commission |
| O & M | Operations and Maintenance |
| OSE | Office of the State Engineer |
| PEA | Programmatic Environmental Assessment |
| RMP | Resource Management Plan |
| RGSM | Rio Grande Silvery Minnow |
| RPA | Reasonable and Prudent Alternative |
| SJ-C | San Juan-Chama |
| SHPO | State Historic Preservation Officer |
| SWWF | Southwestern Willow Flycatcher |
| URGWOM | Upper Rio Grande Water Operations Model |
| URGWOPS | Upper Rio Grande Water Operations |
| USACE | U.S. Army Corps of Engineers |
| USFWS | U.S. Fish and Wildlife Service |

Chapter 1 Purpose and Need for Action

1.1 Introduction

The Bureau of Reclamation (Reclamation) is preparing an Environmental Assessment (EA) for the continuation of the Supplemental Water Program (Program) for the years 2011 through 2016. The current Program consists of four components: water acquisition and storage, concurrence with waiver requests, the pumping and conveyance of water from the LFCC to the Rio Grande including the operation of an outfall near Escondida, and the implementation of water conservation practices by water contractors and municipal and industrial (M &I) users. The extension of the Program for an additional five-year period through March 2016 is the federal action which requires this new review under the NEPA.

This supplement (2011-2016) serves as an update to the May 31, 2006 (2006-2011) supplement which was a 5-year document. These EAs are tiered off the 2001 Programmatic Environmental Assessment (PEA) and evaluates only the impacts of the Program associated with the updated elements in compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4331-4335).

This supplement to the PEA, completed in 2001 by Reclamation, is intended to serve three purposes. This document will continue to update the elements of the Program, the existing environmental conditions as well as the environmental consequences of the Program for the identified resources. As a result, the other contents of the PEA are incorporated by reference into this EA. The second purpose of this document is to continue to disclose information and impacts associated with the ongoing LFCC Pumping Project. Last, the EA discloses additional specific information on the water acquisition program. This EA shall serve as the appropriate documentation for future acquisition activities 2011 thru 2016 by Reclamation for the benefit of the Rio Grande Silvery Minnow (RGSM) and the Southwestern Willow Flycatcher (SWWF).

In order to improve the status and contribute to the recovery of the RGSM and the SWWF, two federally endangered species, the Bureau of Reclamation has engaged in the Program during the past decade. In February 2003, Reclamation and the U.S. Army Corps of Engineers (USACE) issued a Programmatic Biological Assessment (BA) of the Bureau of Reclamation's Water and River Maintenance Operations, Army Corps of Engineers' Flood Control Operation and Non-Federal Actions on the Middle Rio Grande, New Mexico, March 1, 2003 – February 28, 2013. In March 2003, the U.S. Fish and Wildlife Service (USFWS) issued Biological and Conference Opinions (BiOp) on the Effects of Actions Associated with the Programmatic BA. The Reasonable and Prudent Alternative includes components of the Program which USFWS has deemed necessary to avoid the likelihood of jeopardizing the continued existence of the RGSM and the SWWF.

The EA is prepared pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended; the Council on Environmental Quality's (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500-1508); the Department of the Interior's NEPA Implementing Procedures (516 DM 1-15); and Reclamation's NEPA Handbook. In accordance with CEQ regulations (parts 40 CFR 1500.4(i), 1502.20, 1502.21, and 1508.28), Reclamation

guidance, and the Paperwork Reduction Act of 1995, this EA is tiered to the Final Rio Grande Supplemental Water Programmatic Environmental Assessment and incorporates relevant data and findings of the EA by reference. Tiering is defined by CEQ as a procedure which allows agency to avoid duplication of paperwork through the incorporation by reference of the general discussions and relevant specific discussions from an EA of broader scope into a document of lesser scope without duplication of the analysis prepared for the EA (CEQ NEPA's 40 Most Asked Questions). The EA is available upon request for review and may be viewed on-line at: <http://www.usbr.gov/uc/albuq/envdocs/index.html>

1.2 Proposed Action

The current Program consists of four components: water acquisition and storage, concurrence with waiver requests, the pumping and conveyance of water from the LFCC to the Rio Grande including the operation of an outfall near Escondida, and the implementation of water conservation practices by water contractors and municipal and industrial (M & I) users. The extension of the Program for an additional five-year period through March 2016 is the federal action which requires this new review under the NEPA.

1.3 Purpose and Need

The need for Reclamation's action is to fulfill elements of the RPA for the 2003 BiOp issued by the USFWS on the Effects of Actions Associated with the Programmatic Biological Assessment of Bureau of Reclamation's Water and River Maintenance Operations, Army Corps of Engineers' Flood Control Operation and Non-Federal Actions on the MRG, New Mexico. The purpose of the federal action is to provide supplementary water over an additional five-year period (2011 – 2016) to the Rio Grande between Cochiti Dam and Elephant Butte Reservoir, with emphasis on the reaches below Isleta Dam which historically are prone to drying during the summer months. A goal of the Program is to provide continuous flows in the MRG from Cochiti Dam downstream to Elephant Butte Reservoir. However, due to environmental conditions and the availability of water, the attainment of this goal has been extremely difficult in the past and there have been periods of river drying in parts of each year since 1996, despite the implementation of the Program.

1.4 Relevant Statutes, Regulations and Other Plans

Upper Rio Grande Basin Water Operations Review and EIS

Two actions impacting the long-term operation of the Rio Grande system were reviewed and analyzed in an EIS prepared by Reclamation, the Corps, and the NMISC. The focus of this analysis was 1) consideration of waiver requests at Heron Reservoir with the potential to extend SJ-C project water storage through September 30 in accordance with Reclamation policy, and 2) evaluation of a range of alternatives for operating the LFCC. The environmental impacts concerning possible changes in water operations were assessed and analyzed. The Final EIS was completed July 2007 and the Record of Decision signed August 8, 2007.

Silvery Minnow Habitat Designation

In February 2003, the USFWS designated 157 river miles as critical habitat for the endangered RGSM along the last remaining inhabited portion of its range in New Mexico. The MRG from Cochiti Dam to the utility line in Socorro County, marked on the USGS Paraje Well 7.5 minute quadrangle (1980), east of the Bosque Well is considered crucial habitat to the survival of the RGSM. The 300-foot riparian zone on both sides of the river is included except when the river is bounded by levees; then the designation also includes the levee. A portion of the tributary Jemez River that runs from Jemez Canyon Reservoir to its confluence with the Rio Grande was also designated.

During the past several years, river flows have been maintained by Reclamation's voluntary supplemental water program. The designation of RGSM critical habitat was not affected by the amount of supplemental instream flow.

Southwestern Willow Flycatcher Designation

Critical habitat for the flycatcher was designated in October 2005 (Fish and Wildlife Service 2005) and includes the following river reaches in the MRG: from Taos Junction Bridge (State Road 520) in Taos County, downstream for 45.9 km (28.5 mi.) to the upstream boundary of the San Juan Pueblo in Rio Arriba County; from the southern boundary of the Pueblo of Isleta in Valencia County, downstream to the overhead powerline crossing of the Rio Grande near Milligan Gulch, immediately north of the pool of Elephant Butte Reservoir in Socorro County, excluding lands within the Sevilleta and Bosque del Apache National Wildlife Refuges.

Programmatic Biological Assessment (BA) of the Bureau of Reclamation's Water and River Maintenance Operations, Army Corps of Engineers' Flood Control Operation and Non-Federal Actions on the MRG, New Mexico, March 1, 2003- February 28, 2013 and the USFWS issued Biological and Conference Opinions (BiOp) on the Effects of Actions Associated with the Programmatic BA

The BA analyzes the effects of the above proposed actions on federally protected species occurring in or near the Rio Chama watershed and the Rio Grande, including all tributaries, from the Colorado/New Mexico state line downstream to the headwaters of Elephant Butte Reservoir. This BA, written in February 2003, focuses on the Rio Grande silvery minnow (*Hybognathus amarus*), the southwestern willow flycatcher (*Empidonax traillii extimus*), and the bald eagle (*Haliaeetus leucocephalus*). Reclamation and the Corps submitted the BA to the USFWS pursuant to Section 7(a)(2) of the Endangered Species Act (ESA). This BA incorporated by reference and summarized applicable and relevant portions of the BA submitted on June 6, 2001, which was completed shortly after the PEA for the Program. Reclamation and the USACE made a determination of "may affect, likely to adversely affect" for the silvery minnow and willow flycatcher and "may adversely modify proposed critical habitat" for the silvery minnow and "may affect, not likely to adversely affect" for the bald eagle.

After reviewing the current status of the RGSM and the SWWF, the environmental baseline for the action area, including current and expected drought conditions, the effects of the proposed

water operations and river maintenance activities, and the cumulative effects, the USFWS concluded that water operations and river maintenance of the MRG, as proposed in the February 2003 BA, are likely to jeopardize the continued existence of the RGSM and the SWWF and adversely modify critical habitat of the RGSM.

The USFWS developed the Reasonable and Prudent Alternative (RPA) to the March 1, 2003, through February 28, 2013, water operations and river maintenance proposed action that they believed would avoid jeopardy to the RGSM and the SWWF and also avoid adverse modification to RGSM critical habitat. Several elements of the RPA, i.e. the use of the LFCC and the provision of river flows under different water years, are closely associated with the release of supplemental water from the Program (Element B). The USFWS concurred with Reclamation's determination of "may affect, is not likely to adversely affect" the bald eagle.

The 2003 BiOp, issued by the USFWS serves as the ESA consultation vehicle for the Program extension until 2013 (Parody, personal communication), and we expect to have a new BA/BO to cover through 2016.

Middle Rio Grande Bosque Biological Management Plan

The Plan was released in 1993 and numerous projects have been implemented through the present. In June 2005, a review and update document was published in cooperation with the Middle Rio Grande Bosque Initiative and the Bosque Improvement Group.

Middle Rio Grande Endangered Species Act Collaborative Program

The Collaborative Program has been in existence since 2000, and was authorized through the 2009 Omnibus Appropriations Act (P.L. 111-8) to comply with the 2003 BiOp and future BiOps. Projects have been funded since 2001 through the present to benefit endangered species in the MRG, including habitat restoration, science research, and water management activities, some of which are related to the Program. Plans and/or issue papers for each of the major categories of activities which have been completed are available to the general public at www.middleriogrande.com.

Chapter 2 Alternatives

2.1 Introduction

This chapter describes the two alternatives analyzed in the PEA, the No Action alternative and the Proposed Action alternative. An analysis of alternatives considered but eliminated from further study is presented in this chapter.

2.2 Description of the Alternatives

2.2.1 Alternative A: No Action

The no action alternative for this Supplement is defined as discontinuing the Program, elements of which have been implemented since 1996. Basically, the water acquisition program with willing lessors would be discontinued, no concurrence with waiver requests for the benefit of the RGSM would occur, pumping to transport water from the LFCC to the Rio Grande would cease, and water conservation opportunities would not be pursued by the farming community and the general public. It is extremely likely, absent extraordinary water runoff conditions and unusual monsoonal storm patterns, that drying of portions the MRG would result. The no action alternative would clearly not meet the stated purpose and need and would most likely result in non-compliance with the 2003 BiOp.

2.2.2 Alternative B: Proposed Action

The extension of the Program for an additional five-year period through March 2016 is the federal action which requires this new review under the NEPA. The current Program consists of four components: water acquisition and storage, concurrence with waiver requests, the pumping and conveyance of water from the LFCC to the Rio Grande including the operation of an outfall near Escondida, and the implementation of water conservation practices by water contractors and municipal and industrial (M &I) users.

Supplemental Water Program

Water Acquisition

Reclamation would acquire water to provide supplemental flows to the Rio Grande for approximately five years, from 2011-2016. Reclamation will seek to purchase or lease water, water rights or the right to store water from willing parties for use in the Rio Grande. In addition to the specific water acquisition agreements described below, Reclamation will seek to enter into water acquisition and water management agreements with other interested parties, such as the NMISC under the Strategic Water Reserve and agreements for management of irrigation water with the MRGCD.

San Juan-Chama Leases

Fifteen entities have repayment or water service contracts with Reclamation for the use of San Juan-Chama (SJ-C) project water. Some of these entities may be willing to temporarily lease back to Reclamation some of this contracted water for use in the Program. Reclamation would enter into lease-back agreements with such willing SJ-C project contractors. Primary purposes of the SJ-C project are to furnish a water supply via trans-basin diversions to the MRG valley for M&I as well as irrigation uses. Incidental benefits include recreation and fish and wildlife. Reclamation is not proposing to take any actions that would involve reallocating contracted water or exceeding the firm yield of the SJ-C project. Reclamation will obtain all permits required for implementation and will conduct required consultation with appropriate parties.

Reclamation would expect to lease 10,000 to 15,000 acre-feet per year of SJ-C contracted water from 2011 to 2016. However, depending on environmental conditions, water availability, funding, and the willingness of SJ-C water contractors to enter into leasing agreements with Reclamation, the quantity of SJ-C water to be leased could be as low as 5,000 acre-feet per year or as great as 70,000 acre-feet per year. The M&I contractors from whom Reclamation could lease SJ-C water include the following: ABCWUA, City of Santa Fe, Santa Fe County, Jicarilla Apache Nation, Ohkay Owingeh Pueblo, City of Espanola, County of Los Alamos, City of Belen, Town of Bernalillo, Town of Taos, Village of Los Lunas, Town of Red River, and the Village of Taos Ski Valley.

Reclamation would exchange the leased SJ-C water with the MRGCD for native Rio Grande flows. The SJ-C water leased each year by Reclamation would be used beneficially in New Mexico for irrigation, while native waters would augment stream flow and would benefit the silvery minnow.

Table 2-1 Leased Supplemental San Juan-Chama Project Water (1997-2010)

| CONTRACTOR | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | Total |
|----------------------------------|--------|--------|--------|--------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|---------|
| City of Albuquerque (now ABCWUA) | 10,000 | 10,000 | 10,000 | 64,500 | | 40,000 | | | | 48,200 | | | | 10,000 | 192,700 |
| City of Belen | | | 800 | 700 | 400 | 470 | 504 | 354 | 242 | 450 | 470 | 470 | 400 | 450 | 5,710 |
| City of Bernalillo | | | | | | 300 | | | | 400 | 320 | 400 | 400 | 400 | 2,220 |
| City of Espanola | | 2,000 | 2,000 | 5,000 | | 1,687 | | 1,650 | 1,000 | 800 | 856 | 850 | 850 | 850 | 17,543 |
| Jicarilla Apache Nation | | | 6,500 | 6,500 | 6,500 | 6,500 | 6,500 | 6,500 | 6,500 | 6,000 | 2,948 | 3,000 | 3,000 | 3,500 | 63,948 |
| County of Los Alamos | | 3,650 | 3,600 | 5,000 | 1,200 | 1,529 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 24,579 |
| Village of Los Lunas | | 500 | 500 | 300 | 200 | 500 | 100 | | | 256 | 293 | 331 | 200 | 200 | 3,380 |
| MRGCD | | | | | | | 3,132 | | | | | | | | 3,132 |
| San Juan Pueblo | | | | | | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 18,000 |
| City of Santa Fe | | 10,000 | 10,000 | 10,000 | | | 2,500 | | | 5,500 | | 2,500 | 2,500 | | 43,000 |
| County of Santa Fe | | | | | | | | | | 375 | 375 | 375 | 375 | 175 | 1,675 |
| Town of Red River | | | 60 | 60 | 60 | 60 | 60 | 60 | 60 | 60 | 60 | 60 | 60 | 60 | 720 |
| Town of Taos | | | 400 | 400 | | 937 | 419 | 400 | 400 | 400 | 400 | 400 | 200 | 245 | 4,601 |
| Taos Ski Valley | | | 50 | 50 | | 53 | | | | | 15 | 15 | 15 | 8 | 206 |
| Uncontracted | | 4,990 | 4,990 | 4,990 | 4,990 | 2,990 | 2,990 | 2,990 | 2,990 | 2,990 | 2,990 | 2,990 | 2,990 | 2,990 | 46,870 |

Additionally, 2,990 acre-feet a year of SJ-C water are not under contract, but have been reserved for Indian water rights settlements. Reclamation has released that portion of SJ-C water from storage and has exchanged it with MRGCD, as described above, to serve the purposes of the Program. However, Congress in 2010 passed the Taos Pueblo Indian Water Rights Settlement Act and the Aamodt Settlement Litigation Act, which allocate the uncontracted SJ-C water to those settlements. Once the settlements are implemented, the uncontracted SJ-C water will no longer be available for release from storage by Reclamation.

Emergency Drought Water

Reclamation may also release water captured, stored, and made available under the Emergency Drought Water Agreement (EDWA) as amended to meet the needs of the MRG Project and to benefit the listed federally endangered species. EDWA water is stored and made available by the State of New Mexico, consistent with the relevant interstate compacts and with state and Federal law as a conservation pool upstream of Elephant Butte Reservoir. Water that is native to the Rio Grande basin may be stored in reservoirs upstream of Elephant Butte following relinquishment of New Mexico's Rio Grande Compact credits, and upon acceptance of the relinquishment by the State of Texas under Article VII of the Rio Grande Compact. Pursuant to the amended agreement (2003-2013), New Mexico made 82,000 acre-feet of relinquished water available to the United States. Reclamation may release up to 20,000 acre-feet of water in any one calendar year. To date, Reclamation has stored and released 51,549 acre-feet of relinquished water.

Storage Agreements

Reclamation has entered into agreements with the MRGCD and the ABCWUA to store the leased SJ-C water that Reclamation acquires for the Program. Under the MRGCD storage agreement, which expired at the end of 2009, Reclamation stored up to 30,000 acre-feet of SJ-C water in El Vado Reservoir. The ABCWUA storage agreement authorizes Reclamation to store 10,000 acre-feet per year of SJ-C water in Abiquiu Reservoir through 2012, with options to extend.

Concurrence with Waiver Requests

Reclamation would concur with temporary waiver requests from SJ-C water contractors to modify the date of their water delivery into the following calendar year, if such waivers would benefit the United States. In the past, temporary waivers have been used for activities such as enhancing winter flows and fisheries management on the Rio Chama and taking advantage of opportunities for supplemental water storage and management. Waivers generally would allow SJ-C water to remain in Heron Reservoir through April 30 of a particular year. This date has been extended in the past, but only under extreme circumstances. Reclamation concurs with waivers for reasons other than benefits to the RGSM, but those actions are not considered within this NEPA process. This part of the proposed Program addresses Reclamation policy on SJ-C contractors requesting temporary waivers of the contract requirement to take delivery of the annual allocation of project water prior to December 31 of each year, allowing flexible management of water releases to benefit the RGSM. Reclamation would concur with waiver requests that would assist it in its program for conservation of the RGSM, in compliance with the

ESA. These requests could be initiated by the SJ-C contractors and would be honored at the discretion of Reclamation if conditions were appropriate.

Waivers for delivery of San Juan-Chama project allocations for a given year allow for delivery of such water in the following year. Changes in timing of these deliveries occur when concurred to by Reclamation and the appropriate contractor. Reclamation agrees to waivers at times when maintaining water in Heron will allow for use of such water as part of the Program at a later date or when changing of timing of deliveries helps maintain fishery flows on the Rio Chama. The Rio Chama Instream Flow Assessment published by the Bureau of Land Management in 1992 is utilized as a guide for fishery flows on the Rio Chama.

LFCC Water Management Options and Temporary Pumping Operations and Maintenance

Reclamation proposes each year, as required, to reinstall pumps at four locations along the LFCC adjacent to the Rio Grande, which shall be used to convey supplemental water from the LFCC to the Rio Grande for the benefit of the RGSM and the SWWF. These sites are located at the northern boundary and southern boundary of Bosque del Apache Wildlife Refuge, Neil Cupp and at Fort Craig. Each location may require different actions before pumping may begin or to maintain the facility integrity and operations.

- The following operations and maintenance activities may be performed utilizing various types of heavy equipment at one or more of the pump sites:
- Pumping sites may require clearing of vegetation on both sides of the LFCC up to the Rio Grande within existing rights-of-way. Vegetation (weeds) may also be cleared or mowed on the eastern access road of the LFCC. In addition, vegetation (weeds) will be cleared at or near the pumps and the levee access road for safe access and as a precaution to prevent fires.
- The removal of sediment from conveyance channels west of the weirs and LFCC sumps and placement (spreading) the material in an area adjacent to channels and LFCC may be required.
- Pumping sites may require excavation of the adjacent Rio Grande levee (west levee) for removal or replacement of corrugated metal pipe (CMP) and polyvinyl chloride (PVC) pipe if they fail or if they are damaged. Excavation of levee material would be accomplished and spoil material would be placed on or adjacent to the Rio Grande west levee. The existing CMP or PVC pipe may need to be removed and replaced with new pipe as required.
- The trimming of vegetation within existing cleared areas of outfall channels and pipelines to improve access may be performed in the vicinity of the pump sites. Trimming of vegetation may be accomplished using chainsaws, other hand tools, and/or equipment.

- Pumping sites may require maintenance, resetting, and calibration of sheet pile weirs in existing conveyance channels. Maintenance may include excavation or re-grading of conveyance channels adjacent to weirs using excavating equipment.
- Breached or inundated conveyance channels east of the Rio Grande levee to the Rio Grande may require re-excavation. Excavation of deposited sediment will be accomplished using excavation equipment and the material will be placed adjacent to the conveyance channels within the existing rights-of-way. Also, dewatering of breached or inundated conveyance channels east of the Rio Grande levee to the Rio Grande channel may be necessary. The dewatering process will include first seining the channel for stranded RGSM and then pumping water from the channel while screening the pump to prevent RGSM from entering the pump intake.
- Pumping sites may require removal or demolition of existing facilities (fences, pipelines, earth channels) or structures (sheet pile weirs) associated with, or adjacent to, the existing pumping stations. Also, personnel may need to enter the Rio Grande channel on foot to remove material or debris that has become dislodged or otherwise been freed from existing pumping facilities.
- Placement of riprap, gravel material, earth fill, or synthetic erosion protection at required locations adjacent to the pumping stations may be performed in the floodplain or in the Rio Grande channel in order to maintain the integrity of the pumping facilities. Material placed may be used for bedding, bank stabilization, or area restoration. In addition, pumping sites may require placement of concrete at existing pumping facilities to seal breaches or protect the pumping facilities.
- Pumping sites may require construction, removal, or reconstruction of riprap check dams in the LFCC to provide a checked water surface for the pumps. This work will require use of heavy equipment to lift or relocate large rocks and large quantities of gravel material (used to seal voids in rock dams).

Water Conservation Measures

There are numerous water conservation and efficiency efforts taking place within the MRG Project system, which include cooperative efforts by Reclamation and the MRGCD under Reclamation's Water 2025 program.

With the challenges of meeting water demands on the Rio Grande in New Mexico, there is a need to provide for improvement on irrigation facilities to increase water management efficiencies. These improvements include gate canal and diversion dam gate automation and control with telemetry and water measurement to better track and control water deliveries, canal lining and studies for other system improvements. These measures will improve and modernize irrigation surface water conveyance facilities to increase water conveyance efficiency, reduce system losses due to seepage and evaporation, and improve water management in the MRG Valley. System improvements include but are not limited to: replacement of turnouts and old gates, concrete lining of canals, telemetry and measurement devices, automation, and a computer

system able to manage hundreds of gates whose information can be placed on the internet for access by other water agencies for managing flows of the Rio Grande. In addition, the potential for water conservation savings exists for individual on-farm improvements.

In addition, there are opportunities in the M&I sector for further water conservation savings in the MRG area. Examples include but are not limited to more stringent usage of water for landscaping, retrofitting of shower heads and low flow toilets, the use of more efficient appliances such as clothes washers and dishwashers, and recycling of water in industrial processes, all of which would allow for more water to remain in the river.

2.3 Alternatives Considered but Eliminated from Further Study

In addition to alternatives considered and eliminated in the 2001 PEA, the following alternatives have been eliminated from further analysis in this document. Reasons that further analysis was not pursued include the unavailability of funds, long-term nature of the alternatives and jurisdiction.

Off-channel Interim Storage of Water at Refuges

In the 2001 PEA, it was proposed to utilize potential capacity in existing ponds in Federal and state refuges along the Rio Grande, which included the the Sevilleta National Wildlife Refuge, La Joya State Game Refuge, and the Bosque del Apache National Wildlife Refuge. Reclamation has explored opportunities at these refuges and with the state of New Mexico to store water, which might be available as a result of Reclamation's water leases or intervening high flow events. With this option, Reclamation would collaborate with the refuges to manage the release of this water to maintain native flows for silvery minnow benefits, and to ensure compatibility with refuge programs and operations.

After further study, it was concluded that there are constraints due to the logistics of the delivery system, i.e. inlet and outlet operations which would result in an extremely limited amount of wet water that would be made available to the river, and the threat of reduced water quality due to evaporation. There were concerns about growth of invasive species and the potential for growth of algae and bacteria associated with the ponded water.

Use of groundwater wells

This alternative which was part of the proposed action of the 2001 PEA, would entail the drilling of new wells by Reclamation. In addition, Reclamation could obtain the right to pump existing supplemental wells from willing lessors to augment Rio Grande flows during emergencies. Another component of this alternative includes the leasing by Reclamation of water from wells developed by other entities. The wells could be used to provide water in exchange for maintaining native flows.

It was determined that this option, which would result in a very limited amount of wet water available to the river, was constrained by water availability as the surface and groundwater supplies are hydraulically connected in the fully appropriated MRG.

Forbearance

This alternative involves the voluntary reduction of use of irrigation water so that water can be provided in the upstream reservoirs for storage. With the storage of water, instream flow could be maintained to benefit endangered species in the MRG. However, there are constraints on the storage of water, i.e. lack of storage facilities below El Vado for Rio Chama flows as well as timing of irrigation. Although forbearance may be a promising alternative, it is beyond the scope of this document.

Water Banking & Supplemental Water

Water banking is a fairly generic term applied to the temporary transfer of water between willing sellers/lessors and end users to stretch water supplies in times of shortage. In some cases, these can be simple paper transactions that allow a change in the place of use over a single irrigation season. In other situations, water banking involves a complex transfer of water not just in place, but also in time. Transfers in time require a storage component for physical wet water. Surface water storage is typically accomplished by reservoir storage. However, groundwater storage may also be used thereby offering opportunities for conjunctive management of both surface and groundwater resources. Water banking may be pursued in the future, but is beyond the scope of this supplement and would require future environmental analysis.

Operation of Existing Reservoirs & Construction of New Reservoirs

In the MRG, the greatest opportunities for improved water management lie in enhancing the ability to manage and store water along the mainstem of the Rio Grande. With the exception of a single flood control facility, Cochiti Lake, all other storage reservoirs are located on tributaries, most notably along the Rio Chama. The Rio Chama contributes about one third of flows into the MRG. With the exception of flood control, the remaining two thirds of flows along the MRG are largely unregulated. Cochiti Lake is operated by the USACE and is authorized for the purposes of flood control and sediment control, recreation, and fish and wildlife resources.

The addition of new storage capacity in the Rio Grande system is a long-term endeavor requiring activities such as Congressional authorization, siting and feasibility studies, NEPA compliance, stakeholder and landowner concurrence, as well as time and funding for the actual construction of a facility. The examination of re-regulation opportunities in Abiquiu or Cochiti reservoirs for the benefits of creating new storage opportunities for mainstem flows is beyond the scope of this document and this alternative may be studied at a future date.

Chapter 3 Affected Environment and Environmental Consequences

3.1 Introduction

This section serves as an update of selected resources in the Program area and the associated environmental consequences resulting from the Proposed Action. Resources and related topics included in this chapter include hydrology and hydraulics, water resources and net depletions, fish and wildlife and threatened, endangered and special status species, environmental justice and

Indian Trust Assets. Information contained in the 2001 PEA is incorporated by reference and will not be described in this document if the status of the resources has not changed over time. Also, included is a table of environmental consequences of the no action alternative and the various components of the proposed action alternative.

3.2 Description of Relevant Affected Resources and the Associated Environmental Consequences

3.2.1 Hydrology and Hydraulics

The Upper Rio Grande Water Operations Model (URGWOM) was originally used to evaluate the impacts on reservoir drawdown and river discharge for SJ-C contractor leases of 5,000 acre-feet, 25,000 acre-feet, and 70,000 acre-feet during dry, average, and wet probability inflows. The modeling methodology and results are described in detail in the 2001 PEA.

In general, the model runs predicted that the addition of supplemental water to the river system reduces the probability that intermittency and drying will occur below San Acacia, and the probability of drying is lowest when the greatest volume (70,000 acre-feet) of supplemental water is added to the system. The model runs showed that there is still some chance that the river could go dry below San Acacia even in wet years with as much as 70,000 acre-feet of leased water available for release. Conversely, the modeling indicated that the river could also maintain continuous flow during a dry runoff year depending on summer monsoonal activity and other hydrologic factors. Overall, the modeling results predict that the Program can reduce the likelihood of the river going dry in several different types of runoff years.

Historic operations since 2001 have confirmed the river discharge predictions obtained through the initial modeling. River drying is most likely to occur during dry runoff years with poor monsoon seasons, and is least likely to occur during relatively wet runoff years with average to above average summer monsoons. As predicted by the model, the Program has decreased the occurrence of river intermittency, and decreased the duration of river drying when intermittency has occurred.

The SJ-C Leasing Program likely results in slightly lower storage levels in Heron Reservoir, although there are no impacts on Heron Reservoir that are outside of the operational parameters envisioned during the authorization of the SJ-C Project. All water is leased from the existing annual allocations of SJ-C contractors that make up the 96,200 acre-feet annual firm yield of the SJ-C Project. Since full utilization of Heron's firm yield would result in annual delivery of the full 96,200 acre-feet allocation, reservoir drawdown is no greater than will be experienced once all contractors are taking delivery of their annual allocations. The potential impact would be the result of a contractor's annual allocation not reverting back to the firm yield pool in Heron if the contractor were not able to obtain storage space in a downstream pool or find another party to lease and utilize their annual allocation.

With the ABCWUA's and City of Santa Fe's diversion projects being completed, and the City of Española moving toward direct diversion of their SJ-C allocation, it is likely that the SJ-C Project will experience full annual delivery of the 96,200 acre-feet firm yield with or without

Reclamation's Program. Some SJ-C contractors that have historically leased some or all of their annual allocations to Reclamation are being approached by other parties interested in negotiating leases for their annual allocations. The Program is not anticipated to have any significant impacts to reservoir levels at El Vado, Abiquiu, or Cochiti reservoirs.

The Program will help water managers compensate for the complexity and variability of the Rio Grande, allowing them to reduce the likelihood that the river will go dry. Changes in channel morphology and habitat are minimal from additional flow releases. The river transitions back and forth between single thread, homogenous cross sections (lower habitat value) and braided, highly variable cross sections (higher habitat value) downstream from Cochiti Lake. Supplemental water deliveries could potentially decrease the habitat value in the lower quality habitat reaches made up of single thread, homogenous cross sections by increasing flow depths and velocities. However, habitat values will increase in the high habitat reaches characterized by cross sections with braided, more variable flow depths and velocities. The increases in flows primarily act to keep the channel wet but can also wet side channels, backwater, sand bar, and embayment areas considered good silvery minnow habitat. Another concern regarding low flow augmentation is that riparian vegetation will become established on bar and depositional features, thereby narrowing the channel. Wetted areas maintained by the Program primarily are those that are frequently inundated. Therefore, any vegetation establishing itself in these frequently inundated areas are exposed to sediment scouring and deposition, and it is unlikely that they will become established.

Another potential consequence of water leasing and delivery waivers is the effect on irrigation operations from the change in timing water deliveries. Reclamation will coordinate with the MRGCD and local irrigators to ensure that changes in delivery operations will account for irrigation deliveries. Program deliveries will assist in providing more flow at Isleta and San Acacia Diversion Dams, which will ultimately allow for both diversion and passing water at the dams.

Without the implementation of water conservation measures, there may be more groundwater seepage, which would result in less conveyance of water through the various reaches of the Rio Grande system. However, there would be no reservoir drawdown from delivering water that was previously stored upstream. Also, without pumping from the LFCC, there is a much greater risk of river drying in the San Acacia reach of the river.

3.2.2 Water Resources and Net Water Depletions

The Rio Grande Compact, in effect, limits the amount of native surface water that can be depleted in the MRG based upon the natural flow of the river measured at the Otowi gage (Rio Grande Compact 1939). In addition, the New Mexico State Engineer has determined the MRG is presently fully appropriated. Therefore, any increase in water use in one sector of use must be offset by a reduction in use in another sector such that senior water rights or the ability of the state of New Mexico to meet its downstream delivery obligations are not impaired. The New Mexico State Water Plan (Office of the State Engineer/Interstate Stream Commission 2003) requires that new projects will not result in increases in net water depletions or that any increases

in net water depletions are offset by purchased or leased water rights and it is only a planning and policy document that has no force of law.

The No Action Alternative would result in no change in water resources or net water depletions as the Program would not be continued. The Proposed Action is not expected to have any impact on net water depletions to native Rio Grande waters. Any impact on native Rio Grande water depletions as a result of the pumping and conveyance of water from the LFCC to the Rio Grande is addressed through Reclamation's permanent pumping permit issued by the New Mexico Office of the State Engineer.

3.2.3 Biological Resources

Fisheries

The MRG is a low gradient, warm water river. The river is characterized by warm summer water temperature, low velocity, high turbidity, shallow water with large exposed area, and small particle substrate. Eleven of the original 24 native fish species in the MRG have become completely extinct in the river; two are presumed extinct, and one, the RGSM, is a federal and state listed endangered species. Seventeen nonnative fish species are found in the river and include robust populations of common carp, mosquitofish, and channel catfish. A combination of factors is responsible for the loss of half the native fish community in the MRG, including modification of river discharge patterns, channel dewatering resulting from irrigation, channel incision leading to habitat degradation, the presence of instream barriers to migratory fish movement, entrainment of fish into less suitable habitat in irrigation canals and the LFCC at diversion dams, changes in water quality, and possible competition and predation by nonnative species. Aquatic habitats in reaches of the Rio Grande below San Acacia Diversion Dam are thought to be more representative of native conditions than habitats elsewhere in the MRG, though substantial habitat degradation has occurred. High spring runoff and summer thunderstorms cause large variability in discharge. Part of the river can dry during the summer and the habitat can become fragmented and intermittent. The most severe impact to riverine fish habitat from San Acacia Diversion Dam to the headwaters of Elephant Butte Reservoir is channel dewatering.

The LFCC contains a diverse assemblage of fish species. Recent surveys (2001-2004) of the LFCC have collected seventeen species. A single RGSM was observed in 2001 in the Tiffany reach of the LFCC, and may have moved upstream from the confluence with the Rio Grande. The LFCC is not believed to provide suitable habitat for long-term survival and recruitment of this species. Sampling following the LFCC experimental diversion operations in 2003 and 2004 did not observe any silvery minnows in the upper nine miles of the LFCC. Changes in scheduling experimental operations to avoid the prime spawning appear to have excluded RGSM from entrainment.

The No Action alternative is likely to result in increased river drying and adverse effects to long reaches of the MRG as documented in the 2003 BA and BiOp, which would negatively impact fisheries. By contrast the Proposed Action will result in less drying of river reaches especially south of the San Acacia Dam, which would positively impact the fisheries resource.

3.2.4 Threatened, Endangered and Special Status Species

The RGSM and the SWWF are discussed in this subsection and information concerning these species described in the 2003 BA and the associated 2003 BiOp are incorporated by reference. Updated information from the 2001 PEA concerning these two species is summarized in this subsection as well as the other listed species.

Rio Grande Silvery Minnow (*Hybognathus amarus*)

The RGSM, *Hybognathus amarus*, was listed as an endangered species in 1994 (Fish and Wildlife Service 1994). The RGSM was formerly one of the most widespread and abundant species in the Rio Grande basin in New Mexico, Texas, and Mexico. Currently, the RGSM occupies a 280 km (174 mi) reach of the Rio Grande in New Mexico, from Cochiti Dam to the headwaters of Elephant Butte Reservoir (Bestgen and Platania 1991, Dudley et al. 2005a,b). Critical habitat for this species was designated on February 19, 2003 (Fish and Wildlife Service 2003) for the Rio Grande immediately downstream of Cochiti Dam, to the Power Lines Crossing at the top of the Elephant Butte pool.

The decline of the RGSM has been attributed to dewatering of portions of the MRG below Cochiti Dam through water-regulation activities, the construction of main stem dams, channelization of the river, the introduction of non-native competitor/predator species, and degradation of water quality (Fish and Wildlife Service 1999, 2006, 2010). Recent studies (Porter and Massong 2004, 2005) have linked successful spawning and recruitment with channel morphology and spring hydrograph. Habitat degradation following the closure of Cochiti Dam and intermittency in populated reaches are major factors in the decline of the RGSM (Platania and Altenbach 1998; Porter and Massong 2004; Dudley et al. 2005a).

The RGSM has been collected in shallow water (<20 cm) characterized by low velocities (<10 cm/sec) over a silt or sandy substrate. These conditions are typical of pools, backwaters, and secondary channels (Dudley and Platania 1997). Spawning occurs in May-June coinciding with spring runoff with individual females producing up to 3,000 semi-buoyant, non-adhesive eggs (Platania, 1995; Platania and Altenbach, 1996). Egg hatching time is temperature dependent but rapid, and generally occurs in 24-48 hours (Platania 2000). Successful hatching and recruitment are correlated with the availability of inundated floodplain habitat. Lower spring flows result in higher numbers of drifting eggs and reduced recruitment. Suitable spawning conditions with high larval and juvenile survival are key to species survival. Survival of young fish depends on the availability of shallow, low velocity nursery habitats.

Population monitoring from 1999 through 2005 showed declining abundance of silvery minnows associated with years of poor spring runoff and floodplain connectivity. Spike flow releases in 2002 and 2003 resulted in high numbers of drifting eggs and declining populations. Increased spring runoff in 2004 and 2005 inundated floodplain habitat resulting in fewer eggs in the drift, significantly increased recruitment and fall silvery minnow populations (~40-50x from the previous year) based on October fish community surveys (Dudley et al. 2005a, b; Platania and Dudley 2003, 2004, 2005)."). The silvery minnow population has fluctuated since 2003, with increases observed in three of six years in the Angostura and Isleta Reaches, and four of six years

in the San Acacia Reach (Bureau of Reclamation 2010). October 2010 sampling effort for silvery minnow indicated that silvery minnow numbers declined from 2009 October sampling. Low flows from July to October may have been factors in apparent reduced recruitment success of silvery minnow, and factors that may have contributed to lowered numbers of silvery minnow in 2010 include habitat loss and crowding within existing habitats (Dudley and Platania 2010).

Southwestern Willow Flycatcher (*Empidonax traillii extimus*)

The SWWF has been a federally-listed endangered subspecies since 1995 and is also classified by the State of New Mexico as endangered. The SWWF is an obligate riparian species occurring in habitats adjacent to rivers, streams, or other wetlands, characterized by dense growths of willows, seepwillow, arrowweed, saltcedar, or other similar species. This habitat is often associated with a scattered overstory of cottonwood.

In New Mexico, the species has occurred in the Rio Grande, Rio Chama, Zuni, San Francisco, Pecos, and Gila River drainages. Available habitat and overall numbers of Willow Flycatchers have declined statewide. Its decline has been largely attributed to the hydrological and ecological changes which have affected the composition and extent of floodplain riparian vegetation along the MRG; introduction of exotic species, such as saltcedar, which have decreased the availability of dense willow stands and associated habitat; fragmentation of forested breeding habitat; and rapid deforestation in tropical areas. In addition, brood parasitism by Brown-headed Cowbirds has been implicated in their decline.

Surveys and nest monitoring have been conducted since 1994 within the Rio Grande Basin during the May to August breeding season. In recent years, breeding pairs have been found within the MRG above Elephant Butte Reservoir, in the San Marcial and Tiffany areas, and between Española and Velarde, New Mexico. Most breeding territories have been found in young and mid-aged riparian vegetation dominated by dense growths of willow at least 10 feet high. Within these willow patches, nests occasionally have been found on saltcedar plants, especially in older, taller willow patches where an understory of saltcedar provides suitable nesting substrate (Moore and Ahlers 2010, Moore 2005).

Bald Eagle (*Haliaeetus leucocephalus*)

The Bald Eagle is state-listed as threatened and was historically listed as a federally threatened species until the delisting in 2007 (USFWS 2007) and is currently considered a Species of Conservation Concern by the USFWS (USFWS 2008). This species prey mostly on fish and waterfowl and are therefore attracted to waterbodies where there are concentrations of fish and wintering waterfowl. Eagles arrive about mid-November and depart around mid-March. In the MRG, most Bald Eagles use ponds at Bosque del Apache National Wildlife Refuge and the shoreline of Elephant Butte and Caballo reservoirs (R. Doster, pers. comm.). Bald Eagles occasionally use cottonwood trees in the riparian zone for perches and night roosts. The closest known breeding territory to the project area is west of Caballo Reservoir.

Western Yellow-billed Cuckoo (*Coccyzus americanus occidentalis*)

This Distinct Population Segment (DPS) is under consideration for listing under the ESA because of serious declines throughout the west. The magnitude of threats to the Western Yellow-billed Cuckoo has been determined to be high and the threats are ongoing and considered imminent (USFWS 2005). Despite the magnitude of threats facing this DPS, the Service maintains that listing is precluded by other, higher-priority species. Suitable breeding habitat exists within the project area and based on recent presence/absence survey results, the area within the 'San Marcial Reach' (from the RR trestle to the current reservoir) currently supports one of the largest remaining populations in the southwest (Ahlers et al 2010).

Loggerhead Shrike (*Lanius ludovicianus*)

This species is a former federal candidate species and is currently considered a Species of Conservation Concern by the USFWS (USFWS 2008). Its habitat is comprised by desert, grasslands, agricultural fields, and/or open woodlands.

Neotropic Cormorant (*Phalacrocorax brasilianus*)

The State of New Mexico list the Neotropic Cormorant as threatened. The species is found at Bosque del Apache National Wildlife Refuge and other wetlands within the project area, such as the delta of Elephant Butte Reservoir. The species appears to be in decline as nesting colonies have not been observed in recent years (S. Williams, pers. comm.)

Bell's Vireo (*Vireo bellii*)

This species is listed by the State of New Mexico as threatened and is considered a Species of Conservation Concern by the USFWS (USFWS 2008). Its habitat requirements overlap, to some extent, those of the SWWF, nesting in dense, periodically flooded stands of willows and other riparian shrubs. However, unlike the Willow Flycatcher, its territories include adjacent open stands of upland desert shrub, mesquite, and dry saltcedar. Bell's Vireos are mainly found in the San Marcial area of the MRG Project area (R. Doster, pers. comm.).

As noted in the environmental consequences discussion for Fisheries, the No Action alternative is likely to result in increased river drying and adverse effects to long reaches of the MRG as documented in the 2003 BA and BiOp which would negatively impact the RGSM, SWWF, western Yellow-billed Cuckoo as well as the other special status species and their associated habitat. Conversely, with the availability of increased flows of water and the flexibility of releases of this water from water leasing, waiver requests, water agreements, and LFCC pumping, the habitat available to the above species should be enhanced as well as the survivorship of these species in the MRG.

3.2.5 Environmental Justice

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (1994)*, directs federal agencies (as well as State agencies receiving federal funds) to assess the effects of their actions on minority and/or low-income populations within their region of influence. The order requires agencies to develop strategies to identify and address any disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority and/or low-income populations.

The U.S. Environmental Protection Agency (EPA) published the *Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses (1998)*, which indicates that a minority population exists when either:

- The minority population of the affected area is greater than fifty percent of the affected area's general population, or
- The minority population percentage of the affected area is meaningfully greater than the population percentage in the general population or other appropriate unit of geographic analysis.

An environmental justice screening analysis must determine whether any significant impacts of the Proposed Action (if any) would disproportionately adversely affect local low-income and/or minority populations. If a disproportionate impact is determined, mitigation measures must be implemented to reduce the adversity of the impact to a less-than-significant level. According to the federal guidelines, the environmental justice screening analysis assesses whether "the potentially affected community includes minority and/or low income populations." The guidelines indicate that a minority population exists when the minority population is 50 percent or more of the affected area's total population. The 50 percent threshold is also used to determine the presence of low-income populations in the study area.

For the purposes of this analysis, the area affected is defined as the MRG basin in the state of New Mexico. As reported in the 2004 U.S. Census, none of the jurisdictions in the affected area have low-income populations of greater than 50 per cent; however some of the counties in the project area have Hispanic/Latino populations that are over 50 per cent of their population. As was determined in the 2001 PEA, no disproportionate adverse effects on minority or low-income populations would result from the Proposed Action since only willing lessors would enter into water leases and no economic losses to farmers or an impairment of the amount of irrigation water is expected from the Proposed Action. No adverse effects on minority or low-income populations are anticipated as a result of the No Action alternative.

3.2.6 Indian Trust Assets

Indian Trust Assets (ITAs) are legal interests in assets held in trust by the United States Government for Indian tribes or for Indian individuals. Some examples of ITAs are lands, minerals, water rights, hunting and fishing rights, titles, and money. ITAs cannot be sold, leased, or alienated without the express approval of the United States government. The United States has a trust responsibility to protect and maintain rights reserved by or granted to Indian

tribes or individuals by treaties, statues, Executive Orders, and rights further interpreted by the courts. This trust responsibility requires that all Federal agencies take all actions reasonably necessary to protect such trust assets.

As noted in the 2001 PEA, the Program could potentially affect ITAs, which include allocated and contracted SJ-C water (all water/water rights leased from the Pueblos is on a voluntary basis), and impairment of the Rio Grande and general environmental quality. However, as previously described, the effects of the Proposed Action are beneficial to the environment, which results primarily from increased streamflow. Potentially, the release and management of leased water for RGSM could increase river flows through Pueblo lands. Therefore, the Program is not expected to impair the use, access or the value of any ITAs.

With the No Action alternative, no impacts to ITAs would occur.

3.2.7 Irretrievable Commitment of Resources

The implementation of the pumping portion of the Program will result in the commitment of resources such as fossil fuels, construction materials, and labor. In addition, Federal funds will be expended for the water acquisition program, operations associated with the O& M activities for the LFCC pumping operations, and the implementation of water conservation measures.

3.2.8 Cumulative Impacts

NEPA defines cumulative effects as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions" (42 U.S.C. 4331-4335). Cumulative environmental impacts associated with the following projects have been evaluated for the following projects relative to the Proposed Action.

Middle Rio Grande Endangered Species Act Collaborative Program

The Middle Rio Grande Endangered Species Act Collaborative Program has solicited and funded multiple habitat restoration projects, RGSM augmentation projects, water acquisition planning, and various science research projects. RGSM augmentation funded by the Collaborative Program should provide positive interactions with the various elements of the Program, and the various habitat restoration projects should also experience some positive cumulative impacts to the RGSM and SWWF as well as their associated habitats as a result of the Proposed Action.

3.2.9 Summary of Effects to Each Resource

As documented in the table below, positive impacts or no impacts would result from the proposed action; the no action alternative will have adverse impacts on some resources due to river drying and no impact on the other resources analyzed. The overall effects of the continuation of the Program (Proposed Action) and the discontinuation of the Program (No Action) are summarized in Table 3-1.

Table 3.1 Environmental Consequences of Proposed Action and No Action Alternatives

| Environmental Resources | Proposed Action | No Action |
|--|--|--|
| Hydrology and Hydraulics | No impacts to reservoir levels on the MRG with the exception of Heron Reservoir; adaptive management may result in less river drying | More drying of river is anticipated; no impacts to any MRG reservoirs |
| Water Resources and Net Depletions | No change in water resources and net depletions | No change in water resources and net depletions |
| Biological Resources | Positive impact on fisheries due to lower likelihood of river drying | Adverse impact to fisheries and wildlife due to increased river drying |
| Threatened, Endangered, and Special Status Species | Positive impacts to the RGSM, SWWF and Western Yellow-billed Cuckoo are anticipated. LFCC operations will not impact the bald eagle | Adverse impacts to the RGSM, SWWF and Western Yellow-billed Cuckoo are anticipated due to increased river drying; no impacts to the bald eagle are anticipated |
| Environmental Justice | No adverse effects are anticipated | No change in existing conditions |
| Indian Trust Assets | No impairment of ITAs are anticipated | No change to any existing ITAs |

Chapter 4 Environmental Commitments

Appropriate ESA, CWA and any other compliance and permits have been obtained for these proposed actions.

Standard Best Management Practices (BMPs) (for pumping) shall be employed as appropriate to include the following elements.

The Government or Contractor shall:

- 1) Grade the applicable worksites so that the land surface conforms to the surrounding natural or pre-existing topography,
- 2) Construct drainage channels or berms to control runoff
- 3) Clean all equipment outside the floodplain and work in a manner to minimize the spread of noxious weeds
- 4) Clean all equipment outside the floodplain prior to entering the Rio Grande or its tributaries and prior to cleaning, identify areas for cleaning equipment
- 5) Maintain hazardous spill prevention kits at all pumping sites and clean-up any spills or leaks immediately, including spills on earthen surfaces

Chapter 5 Consultation and Coordination

In preparation of this EA, formal or informal coordination was conducted with the following entities: (See Appendix A correspondence)

- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- New Mexico Interstate Stream Commission
- MRG Conservancy District
- New Mexico State Historic Preservation Office

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Appendix A
Correspondence

DEC 14 2010

ALB-186
ENV-1.10

Interested Parties (See Enclosed List)

Subject: Scoping Notice Regarding the 2011-2016 Supplement to the Rio Grande Supplemental Water Programmatic Environmental Assessment (EA)

Dear Ladies and Gentleman:

The Bureau of Reclamation is preparing an EA for the continuation of the Supplemental Water Program (Program) for the years 2011 through 2016. This action consists of a water acquisition and storage program, concurrence with San Juan-Chama storage waiver requests, the continued conveyance of water from Low Flow Conveyance Channel to the Rio Grande, and the implementation of water conservation practices by water contractors.

This EA serves as an update to the May 31, 2006 EA, which was also a 5-year document. These EA's are tiered off the March 2001 EA and evaluates only the impacts of the Program associated with the updated elements in compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 43314335).

This EA shall serve as the appropriate documentation for future acquisition activities 2011 thru 2016 by Reclamation for the benefit of the endangered Rio Grande Silvery Minnow and Southwestern Willow Flycatcher.

Scoping, as defined in the Council on Environmental Quality regulations, is "an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action." This scoping period is meant to provide interested members of the public, Native American tribes, local governments, and non-government organizations an opportunity to comment on the proposed projects and to obtain information that will focus the EA on important issues.

The scoping process helps us to identify the following:

- The important issues, resource concerns, and possible impacts to be addressed in the EA;
- Those issues that are not important, or that have been addressed by prior environmental review, and eliminated from further study;
- Existing information sources;
- Other environmental review, permits, and consultation requirements; and
- Alternatives to be evaluated in the EA.

A

Reclamation will gladly provide any additional information needed by you or your staff. To discuss the EA or arrange a meeting, please contact Ms. Marsha Carra, Environmental Protection Specialist, at 505-462-3602.

Sincerely,

MIKE A. HAMMAN

Mike A. Hamman
Area Manager

Identical Letters sent to:

Ms. Julie Alcon
Supervisory Ecologist
U.S. Army Corps of Engineers
Albuquerque District Office
4101 Jefferson Plaza NE, Room 313
Albuquerque, NM 87109-3435

Ms. Jan V. Biella
New Mexico State Historic Preservation
Officer
Department of Cultural Affairs
Historic Preservation Division
Bataan Memorial Building
407 Galisteo Street, Suite 236
Santa Fe, NM 87501

Mr. Tom Melanson
Manager
Bosque del Apache National Wildlife Refuge
P.O. Box 1246
Socorro, NM 87801

Mr. Wally Murphy
Field Office Supervisor
U.S. Fish and Wildlife Service
2105 Osuna Rd. NE
Albuquerque, NM 87113

Ms. Linda Rundell
State Director
Bureau of Land Management
P.O. Box 27115
Santa Fe, NM 87502-0115

Mr. Rolf Schmidt-Petersen
Rio Grande Basin Bureau Chief
New Mexico Interstate Stream Commission
5550 San Antonio Dr. NE
Albuquerque, NM 87109

Mr. Tod Stevenson
Director
New Mexico Department of Game and Fish
P.O. Box 25112
Santa Fe, NM 87504

Mr. John Stomp
General Manager
Albuquerque Bernalillo County
Water Utility Authority
P.O. Box 1293
Albuquerque, NM 87103-1293

Mr. Subhas Shah
Chief Engineer
Middle Rio Grande Conservancy District
P.O. Box 581
Albuquerque, NM 87103

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DEC 16 2010

ALB-186
ENV-1.10

Honorable Chandler Sanchez
Governor, Pueblo of Acoma
33 A Pinsbaari Drive
Acoma, NM 87034

Subject: Consultation Invitation Regarding the Bureau of Reclamation's 2011-2016
Supplement to the Rio Grande Supplemental Water Programmatic
Environmental Assessment (EA)

Dear Governor Sanchez:

The Bureau of Reclamation is preparing an EA for the continuation of the Supplemental Water Program (Program) for the years 2011 through 2016. This action consists of a water acquisition and storage, concurrence with San Juan-Chama storage waiver requests, the continued conveyance of water from Low Flow Conveyance Channel to the Rio Grande, and the implementation of water conservation practices by water contractors.

This EA serves as an update to the May 31, 2006 EA which was a 5-year document. These EA's are tiered off the March 2001 Programmatic EA and evaluates only the impacts of the Program associated with the updated elements in compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 43314335).

This EA shall serve as the appropriate documentation for future acquisition activities 2011 thru 2016 by Reclamation for the benefit of the endangered Rio Grande Silvery Minnow and the endangered Southwestern Willow Flycatcher.

Scoping, as defined in the Council on Environmental Quality regulations, is "an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action." This scoping period is meant to provide interested members of the public, Native American tribes, local governments, and non-government organizations an opportunity to comment on the proposed projects and to obtain information that will focus the EA on important issues.

The purpose of this letter is to invite your tribe's involvement on a government-to-government basis to identify any concerns your tribe may have regarding the potential effects of our future activities on trust assets, cultural and biological resources, or tribal health and safety.

A

Reclamation wants to ensure that you have an opportunity to help us identify and address any issues important to your tribe.

Reclamation will gladly provide any additional information needed by you or your staff. To discuss the EA or arrange a meeting, please contact Ms. Marsha Carra, Environmental Protection Specialist, at 505-462-3602.

Sincerely,

MIKE A. HAMMAN

Mike Hamman
Area Manager

Identical Letters sent to:

Honorable Joe Garcia
Chairman, All Indian Pueblo Council
2401 12th Street, NM
Albuquerque, NM 87103

Honorable Michael Miller
Director, Eight Northern Indian Pueblos Council
P.O. Box 969
San Juan Pueblo, NM 87566

Honorable J. Robert Benavides
Governor, Pueblo of Isleta
Tribal Road 40, Building 117A
Isleta Pueblo, NM 87022

Honorable Levi Pesata
President, Jicarilla Apache Tribal Council
P.O. Box 507
Dulce, NM 87528

Honorable Mark Chino
President, Mescalero Apache Tribe
P.O. Box 227
Mescalero, NM 88340

Honorable Marcelino Aquino
Governor, Ohkay Owingeh
220 Po' Pay Avenue
San Juan Pueblo, NM 87566

Honorable George Rivera
Governor, Pueblo of Pojoaque

Honorable Vernon M. Garcia
Governor, Pueblo of Cochiti
255 Cochiti Street
Cochiti Pueblo, NM 87072

Honorable James Roger Madalena
Director, Five Sandoval Indian Pueblos
1043 Highway 313
Bernalillo, NM 87004

Honorable Joshua Madalena
Governor, Pueblo of Jemez
4471 Highway 4
Jemez Pueblo, NM 87024

Honorable John Antonio, Sr.
Governor, Pueblo of Laguna
101 Capital Road
Laguna Pueblo, NM 87026

Honorable Ernest Mirabal
Governor, Pueblo of Nambe
Route 1, Box 117-BB
Santa Fe, NM 87506

Honorable Manual Archuleta
Governor, Pueblo of Picuris
P.O. Box 127
Penasco, NM 87553

Honorable Feliciano Candelaria
Governor, Pueblo of San Felipe

78 Cities of Gold Road
Santa Fe, NM 87506

Honorable Perry Martinez
Governor, Pueblo of San Ildefonso
02 Tunwopo
Santa Fe, NM 87506

Honorable Bruce Sanchez
Governor, Pueblo of Santa Ana
2 Dove Road
Santa Ana Pueblo, NM 87004

Honorable Tony Tortalita
Governor, Pueblo of Santo Domingo
Tesuque Street
Santo Domingo Pueblo, NM 87052

Mr. David G. Gomez
Taos War Chief
Office of Natural Resource Protection
120B Veteran Highway
Taos, NM 87571

Honorable Marcellus Medina
Governor, Pueblo of Zia
135 Capitol Square Dr.
Zia Pueblo, NM 87053-6013

127 Hagen Road
San Felipe Pueblo, NM 87001

Honorable Joe M. Lujan
Governor, Pueblo of Sandia
481 Sandia Loop
Bernalillo, NM 87004

Honorable Walter Dasheno
Governor, Pueblo of Santa Clara
1 Kee Street, Santa Clara
Española, NM 87532

Honorable James Lujan, Sr.
Governor, Pueblo of Taos
120B Veteran Highway
Taos, NM 87571

Honorable Frederick Vigil
Governor, Pueblo of Tesuque
Route 42, Box 360-T
Santa Fe, NM 87506

Honorable Norman Coeeyate
Governor, Pueblo of Zuni
P.O. Box 339
Zuni, NM 87327

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Appendix B
Comments Received/ Responses



United States Department of the Interior

FISH AND WILDLIFE SERVICE
New Mexico Ecological Services Field Office
2105 Osuna NE
Albuquerque, New Mexico 87113
Phone: (505) 346-2525 Fax: (505) 346-2542

January 18, 2011

Memorandum

To: Marsha Carra, Environmental Protection Specialist, Albuquerque Area Office,
Bureau of Reclamation, Albuquerque, New Mexico

From: *Andrew S. Smith*
Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services
Field Office, Albuquerque, New Mexico

Subject: U.S. Fish and Wildlife Service's Comments on Bureau of Reclamation's Rio
Grande Supplemental Water Programmatic Environmental Assessment

This document transmits the U.S. Fish and Wildlife Service's (Service) comments on Bureau of Reclamation's (Reclamation's) Rio Grande Supplemental Water Programmatic Environmental Assessment.

The Service commends Reclamation for implementing a supplemental water program and strongly supports continuation of Reclamation's supplemental water program. Without provision of these supplemental flows, drying of the Rio Grande would be exacerbated and additional impacts to Rio Grande silvery minnow (silvery minnow), the southwestern willow flycatcher (flycatcher) and their designated critical habitats would occur.

The Service also appreciates that Reclamation works closely with the Bosque del Apache National Wildlife Refuge to assure that water delivery to the refuge is minimally impacted by pumping from the Low Flow Conveyance Channel.

Water available to Reclamation for use in its supplemental water program has dwindled over the years since it has historically relied on San Juan-Chama water which is now being more readily put to use by contractors as originally intended. In addition, Indian water rights settlements could involve use of water previously used by Reclamation in its supplemental water program. Reclamation has indicated that future supplemental water supplies based on SJ-C water would be limited to 8,000 to 10,000 acre-feet or less per year. Under current water management practices, demands for supplemental water to meet biological opinion requirements generally fall in the range of 30,000 to 60,000 acre-feet. If Reclamation moves forward with no new additional sources of water for its supplemental water program, then there will be a shortfall of roughly 20,000 to 50,000 acre-feet/year. Though the demand for supplemental water varies widely depending on hydrologic conditions, there would be future years with vastly more river drying

than currently experienced. In anticipation of this shortfall, the Service recommends that Reclamation expand its supplemental water program and implement new strategies to assist it in minimizing new impacts to silvery minnow and flycatcher.

The Service recommends that Reclamation look beyond SJ-C water to acquire new sources of water for its supplemental water program. On the Pecos River, Reclamation has developed effective arrangements with irrigation districts, the New Mexico Interstate Stream Commission (ISC), and also directly with ranchers and farmers to sustain flows for the threatened Pecos bluntnose shiner. The partnership with the ISC using the New Mexico Strategic Reserve has been a fruitful mechanism for providing environmental flows.

The Service suggests that a partnership with the ISC and the New Mexico Strategic Reserve, irrigation districts and/or farmers and ranchers in the Middle Rio Grande basin may serve an equally important role in the conservation of Rio Grande silvery minnow. A supplemental water program that includes forbearance options and/or annual leases may hold promise.

Given the dire status of current supplemental water supplies, there are probably many other additional and creative arrangements that Reclamation is considering. The Service encourages and supports Reclamation in turning to native water sources and finding other new solutions to minimize effects of its water management activities. The Service is supportive of any studies that may be needed by Reclamation to assess supplemental water strategies under changing future conditions, including a future when water availability may be even less than enjoyed today.

The Service also recommends that Reclamation utilize maximum flexibility in storing and releasing water for the benefit of endangered species. Reclamation should work hand-in-hand with the Corps to utilize existing authorities and obtain additional authority if needed to overcome any constraints that limit agency discretion. A broad approach that considers all storage and release scenarios associated with Heron, El Vado, Abiquiu, Cochiti and Elephant Butte reservoirs that Reclamation and the Corps could jointly implement may yield unforeseen possibilities.

If waivers are granted to SJ-C contractors to extend storage in Heron Reservoir, the Service recommends that conditions of the waiver include some tangible benefit to endangered species. For example, the water or a portion of the water could be released to provide habitat for silvery minnow and/or to alleviate the lowest of low flows. Water savings realized by water conservation practices sanctioned by Reclamation should also be managed to provide benefits to endangered species.

Lastly, we understand that it is Reclamation's intent for the Low Flow Conveyance Channel (LFCC) pumping program to benefit endangered species and not inadvertently impact the downstream flycatcher population that depends on water discharging from the current LFCC outfall. We appreciate the regular staff gage and groundwater well monitoring efforts conducted by Reclamation.

Thank you for the opportunity to comment on Reclamation's supplemental water program. If any further clarification is needed, please contact Ms. Lori Robertson of my staff at (505) 761-4710.

cc:

U.S. Fish and Wildlife Service, Bosque del Apache National Wildlife Refuge, San Antonio, NM
Attn: Gina DelloRusso

U.S. Fish and Wildlife Service, Albuquerque, NM, Attn: Paul Tashjian



**LAW & RESOURCE
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A Professional Corporation

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January 25, 2011

Ms. Marsha Carra
AAO Reclamation
Environmental Protection Specialist
Bureau of Reclamation
email: mcarra@usbr.gov

**RE: 2011-2016 Supplement to the Rio Grande Supplemental
Programmatic Draft Environmental Assessment and Finding of No
Significant Impact.**

VIA ELECTRONIC MAIL

Dear Ms. Carra,

In response to your email dated December 23, 2010, on behalf of the Middle Rio Grande Conservancy District, we are submitting Comments on the Bureau of Reclamation's 2011-2016 Supplement to the Rio Grande Supplemental Programmatic Draft Environmental Assessment and Finding of No Significant Impact.

Primarily, our Comments relate to factual statements that are not supported by current research performed in connection with the PVA group operating under the auspices of the Rio Grande Silvery Minnow Collaborative Program. Our Comments on these factual assertions are as follows:

1. **Background, pg. 2**

Statement: “Due to population declines caused by the dewatering of segments of the Middle Rio Grande (MRG) through water regulation activities as well as habitat degradation, the RGSM is currently listed as endangered both federally and by the State of New Mexico.”

Comment: Statistical analysis of the Population Monitoring data does not show that dewatering within the range of flows that have been experienced since 1993 is causing increased mortality or decreased population size.

2. **Section 3.2.4 Threatened, Endangered and Special Status Species, pg. 10**

Statement: “The decline of the RGSM has been attributed to dewatering of portions of the Middle Rio Grande below Cochiti Dam through water-regulation activities, the construction of main stem dams, channelization of the river, introduction of non-native competitor/predator species, and degradation of water quality (Fish and Wildlife Service 1999, 2006, 2010). Recent studies (Porter and Massong 2004, 2005) have linked successful spawning and recruitment with channel morphology and spring hydrograph. Habitat degradation following the closure of Cochiti Dam and intermittency in populated reaches are major factors in the decline of the RGSM (Platania and Altenbach 1998; Porter and Massong 2004; Dudley *et al.* 2005a).”

Comment: Statistical analysis of the Population Monitoring data does not show that dewatering or intermittency within the range of flows that has been experienced since 1993 is causing increased mortality or decreased population size.

Statement: “Population monitoring from 1999 through 2005 showed declining abundance of silvery minnows associated with years of poor spring runoff and floodplain connectivity. Spike flow releases in 2002 and 2003 resulted in high numbers of drifting eggs and declining populations. Increased spring runoff in 2004 and 2005 inundated floodplain habitat resulting in fewer eggs in the drift, significantly increased recruitment and fall silvery minnow populations... (Dudley *et al.* 2005a, b; Platania and Dudley 2003, 2004, 2005).”

Comment: The Population Monitoring data did not show a trend of “declining abundance” 1999-2005. It did show higher reproduction during years of higher spring flow.

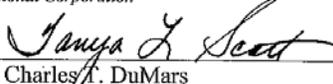
Our Comments reflect the current status of the scientific analysis undertaken by the PVA group, which should be incorporated into the BOR’s report.

January 25, 2011
Page 3 of 3

Thank you for the opportunity to comment.

Very truly yours,

LAW & RESOURCE PLANNING ASSOCIATES,
A Professional Corporation

By: 

Charles A. DuMars
Tanya L. Scott
Attorneys at Law

TLS:dml

cc: Mr. Subhas Shah
Ms. Janet Jarratt
Mr. David Gensler
Dr. Dan Goodman

NEW MEXICO INTERSTATE STREAM COMMISSION

COMMISSION MEMBERS

JIM DUNLAP, Chairman, Farmington
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VIA E-MAIL AND US POSTAL SERVICE

January 28, 2011

Ms. Marsha Carra
Environmental Protection Specialist
US Bureau of Reclamation
555 Broadway NE, Suite 100
Albuquerque, New Mexico 87102
MCarra@usbr.gov

Re: Comments on 2011-2016 Supplement to the Rio Grande Supplemental Water Programmatic Draft Environmental Assessment and Finding Of No Significant Impact

Dear Ms Carra:

The following are the New Mexico Interstate Stream Commission's (ISC) comments on 2011-2016 Supplement to the Rio Grande Supplemental Water Programmatic Draft Environmental Assessment and Finding of No Significant Impact (Draft EA). In general, we believe the Draft EA adequately describes and evaluates the types of activities conducted to date by Reclamation and anticipated to be conducted in the next five years as part of Reclamation's Supplemental Water Program. Our specific comments, referenced to the specific page or section of the Draft EA, are as follows:

1. **Municipal & Industrial Water Conservation, Section 1.2:**

It is not clear, from the section, how the on-going implementation of the water conservation practices by water contractors and municipal and industrial users component of the Program helps to fulfill the need for Reclamation's action.

2. **Middle Rio Grande Collaborative Program.**

We note that the Collaborative Program is described in the Draft EA as an "interim" program in operation since 2000 (Section 1.4) and is treated as a cumulative effect for

purposes of this analysis (Section 3.2.8). We recommend that Reclamation revise the appropriate sections to reflect that the Program has been authorized by Congress and, as a result, is federally authorized. We also recommend that the Draft EA summarize Reclamation's water related responsibilities under the Program Authorization. Additionally, in the 2006 EA Supplement, it states that a Programmatic EIS was being prepared on the Collaborative Program and that a draft EIS was to be issued in late 2006 or 2007 (2006 EA, p. 6). As you are aware, the Programmatic EIS was not completed. Our understanding is that, in the alternative, NEPA analyses are being conducted on individual Program projects, as needed.

3. **Supplemental Water Program / Water Acquisition**

The second and third sentences of the Paragraph entitled "Water Acquisition" in Section 2.2.2 contain grammatical errors. We recommend replacing those sentences with the following:

"Reclamation will seek to purchase or lease water, water rights or the right to store water from willing parties for use in the Rio Grande. In addition to the specific water acquisition agreements described below, Reclamation will seek to enter into water acquisition and water management agreements with other interested parties such as the NMISC under the Strategic Water Reserve and agreements for management of irrigation water with the MRGCD."

4. **Upper Rio Grande Water Operations Model (URGWOM).**

We note that the Draft EA section on Hydrology and Hydraulics (section 3.2.1) should be updated. As written it indicates that the analysis of environmental consequences of the water acquisition portion of the Supplemental Water Program used River Ware modeling that was conducted in approximately 2000 (p.3-25, 2001 PEA). Since that time, the RiverWare model known as URGWOM (Upper Rio Grande Water Operations Model) has evolved and been improved significantly. Each updated version of URGWOM has been used, in part, to assess consequences of Reclamations water acquisition actions. Additionally, Reclamation now has ten years of experience on the consequences of the Supplemental Water Program, the vast majority of which have been positive. While the results may not change significantly, it would benefit the current draft to update the analysis to reflect the best available modeling. We also recommend describing the environmental benefits of the Supplemental Water Program over the past ten years.

5. **Water Resources and Net Water Depletions.**

The first paragraph of section 3.2.2, Water Resources and Net Water Depletions, does not clearly describe the water rights requirements of the Office of the State Engineer (OSE), including depletion offsets. Furthermore, the reference to the State Water Plan in the same section is legally incorrect. The New Mexico State Water Plan is a planning and policy document that has no force of law. The New Mexico Office of the State Engineer (OSE) considers the Rio Grande basin to have been fully appropriated as of the signing of the Rio Grande Compact. Consequently, any new use of water within the basin requires a permit from the OSE with offset of all stream depletion impacts on the Rio Grande by return flow or by transfer of valid, existing pre-1907 surface water rights. In addition to the OSE permitting requirements described above, the State Engineer requires that additional depletions resulting from habitat restoration projects in the Middle Rio Grande must be offset.

6. **Factual Problem.**

The Draft EA indicates that the Middle Rio Grande is a high gradient, warm water river (Section 3.2.3). The sentence is factually incorrect. The Middle Rio Grande is a "low" gradient, warm water river.

7. **Biology Update.**

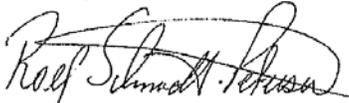
Much of Section 3.2.4, Threatened and Endangered Species Environmental Consequences discussion related to the Rio Grande Silvery Minnow (RGSM) is outdated and does not reflect the significant scientific work that has been conducted over the past 5-7 years. We also understand it may not be necessary to fully update this section because Reclamation and the Corps are working to update the Threatened and Endangered Species science as part of development of the new Middle Rio Grande Water Operations Biological Opinion. However, the attached document titled "June 25, 2010 Five-Year Status Review of the Rio Grande Silvery Minnow (*Hybognathus amarus*)" provides a relatively recent update on the Rio Grande silvery minnow. We recommend its review for inclusion of new information in Section 3.2.4 refinements.

Finally, these comments include and update all previous comments submitted by ISC on the May 31, 2001 Supplement to Rio Grande Supplemental Water Programmatic Environmental Assessment and Finding of No Significant Impact and 2006 Supplement to the Rio Grande Supplemental Water Programmatic Environmental Assessment.

Ms. Marsha Carra
Page 4 of 4
January 25, 2011

If you have any questions, please do not hesitate to call Chris Shaw at 505-383-4054.

Sincerely,



Rolf Schmidt-Petersen
Rio Grande Basin Bureau Chief

Attachment: June 28th 2010 Five-year Status Review of the Rio Grande Silvery Minnow
(Hybognathus amarus)

cc: Estevan R. Lopez, PE, Director, NMISC
Stephen R. Farris, NMAGO
Grace Haggerty, NMISC
Chris Shaw, NMISC
Santa Fe RGB File
RGB Files

Responses to Comments on Bureau of Reclamation's Rio Grande Supplemental Water Programmatic Environmental Assessment from US Fish and Wildlife Service, Letter Dated January 18, 2011

Comment

Water available to Reclamation for use in its supplemental water program has dwindled over the years since it has historically relied on San Juan-Chama water which is now being more readily put to use by contractors as originally intended. In addition, Indian water rights settlements could involve use of water previously used by Reclamation in its supplemental water program. Reclamation has indicated that future supplemental water supplies based on SJ-C water would be limited to 8,000 to 10,000 acre-feet or less per year. Under current water management practices, demands for supplemental water to meet biological opinion requirements generally fall in the range of 30,000 to 60,000 acre-feet. If Reclamation moves forward with no new additional sources of water for its supplemental water program, then there will be a shortfall of roughly 20,000 to 50,000 acre-feet/year. Though the demand for supplemental water varies widely depending on hydrologic conditions, there would be future years with vastly more river drying than currently experienced. In anticipation of this shortfall, the Service recommends that Reclamation expand its supplemental water program and implement new strategies to assist it in minimizing new impacts to silvery minnow and flycatcher.

The Service recommends that Reclamation look beyond SJ-C water to acquire new sources of water for its supplemental water program. On the Pecos River, Reclamation has developed effective arrangements with irrigation districts, the New Mexico Interstate Stream Commission (ISC), and also directly with ranchers and farmers to sustain flows for the threatened Pecos bluntnose shiner. The partnership with the ISC using the New Mexico Strategic Reserve has been a fruitful mechanism for providing environmental flows.

The Service suggests that a partnership with the ISC and the New Mexico Strategic Reserve, irrigation districts and/or farmers and ranchers in the Middle Rio Grande basin may serve an equally important role in the conservation of Rio Grande silvery minnow. A supplemental water program that includes forbearance options and/or annual leases may hold promise.

The Service also recommends that Reclamation utilize maximum flexibility in storing and releasing water for the benefit of endangered species. Reclamation should work hand-in-hand with the Corps to utilize existing authorities and obtain additional authority if needed to overcome any constraints that limit agency discretion. A broad approach that considers all storage and release scenarios associated with Heron, El Vado, Abiquiu, Cochiti and Elephant Butte reservoirs that Reclamation and the Corps could jointly implement may yield unforeseen possibilities.

If waivers are granted to SJ-C contractors to extend storage in Heron Reservoir, the Service recommends that conditions of the waiver include some tangible benefit to endangered species. For example, the water or a portion of the water could be released to provide habitat for silvery minnow and/or to alleviate the lowest of low flows. Water savings realized by water conservation practices sanctioned by Reclamation should also be managed to provide benefits to endangered species.

Response

Comment noted, the above mentioned will be considered by Reclamation as it coordinates with stakeholders to develop activities to be incorporated in the water management section of the Middle Rio Grande Endangered Species Collaborative Program Long Term Plan and analyzed as part of the new Programmatic Middle Rio Grande ESA, Section 7, consultation.

Comment

Lastly, we understand that it is Reclamation's intent for the Low Flow Conveyance Channel (LFCC) pumping program to benefit endangered species and not inadvertently impact the downstream flycatcher population that depends on water discharging from the current LFCC outfall.

Response

Comment noted, Reclamation will continue to monitor all flows to the western area of Elephant Butte Reservoir. Coordination with the Service will occur immediately after flows from the LFCC are not sufficient to maintain the wetted area on the west side of the reservoir.

Responses to Comments on 2011-2016 Supplement to the Rio Grande Supplemental Water Programmatic Environmental Assessment from Law and Resource Planning Associates, Letter Dated January 25, 2011

| Comment |
|--|
| <p>1. Background, pg. 2 Statement: “Due to population declines caused by the dewatering of segments of the Middle Rio Grande (MRG) through water regulation activities as well as habitat degradation, the RGSM is currently listed as endangered both federally and by the State of New Mexico.” Comment: Statistical analysis of the Population Monitoring data does not show that dewatering within the range of flows that have been experienced since 1993 is causing increased mortality or decreased population size.</p> |
| Response |
| <p><i>The Supplemental Water Program is only one of the methods used to help the minnow population. The 2011 Programmatic Biological Assessment will include the best, currently available, scientific and commercial data and information in our Species Status and Life History and Environmental Baseline sections. While the PVA models will not be utilized until they are developed and functional, data and analyses that are available as a result of that effort will be considered in the 2011 Programmatic Biological Assessment.</i></p> |
| Comment |
| <p>2. Section 3.2.4 Threatened, Endangered and Special Status Species, pg. 10 Statement: “The decline of the RGSM has been attributed to dewatering of portions of the Middle Rio Grande below Cochiti Dam through water-regulation activities, the construction of main stem dams, channelization of the river, introduction of non-native competitor/predator species, and degradation of water quality (Fish and Wildlife Service 1999, 2006, 2010). Recent studies (Porter and Massong 2004, 2005) have linked successful spawning and recruitment with channel morphology and spring hydrograph. Habitat degradation following the closure of Cochiti Dam and intermittency in populated reaches are major factors in the decline of the RGSM (Platania and Altenbach 1998; Porter and Massong 2004; Dudley <i>et al.</i> 2005a).” Comment: Statistical analysis of the Population Monitoring data does not show that dewatering or intermittency within the range of flows that has been experienced since 1993 is causing increased mortality or decreased population size.</p> |
| Response |
| <p><i>The Supplemental Water Program is only one of the methods used to help the minnow population. The 2011 Programmatic Biological Assessment will include the best, currently available, scientific and commercial data and information in our Species Status and Life History and Environmental Baseline sections. While the PVA models will not be utilized until they are developed and functional, data and analyses that are available as a result of that effort will be considered in the 2011 Programmatic Biological Assessment.</i></p> |

Responses to Comments on 2011-2016 Supplement to the Rio Grande Supplemental Water Programmatic Environmental Assessment from Law and Resource Planning Associates, Letter Dated January 25, 2011

| Comment |
|---|
| <p>Statement: “Population monitoring from 1999 through 2005 showed declining abundance of silvery minnows associated with years of poor spring runoff and floodplain connectivity. Spike flow releases in 2002 and 2003 resulted in high numbers of drifting eggs and declining populations. Increased spring runoff in 2004 and 2005 inundated floodplain habitat resulting in fewer eggs in the drift, significantly increased recruitment and fall silvery minnow populations... (Dudley et al. 2005a, b; Platania and Dudley 2003, 2004, 2005).”</p> <p>Comment: The Population Monitoring data did not show a trend of “declining abundance” 1999-2005. It did show higher reproduction during years of higher spring flow.</p> <p>Our Comments reflect the current status of the scientific analysis undertaken by the PVA group, which should be incorporated into the BOR’s report.</p> |
| Response |
| <p><i>The Supplemental Water Program is only one of the methods used to help the minnow population. The 2011 Programmatic Biological Assessment will include the best, currently available, scientific and commercial data and information in our Species Status and Life History and Environmental Baseline sections. While the PVA models will not be utilized until they are developed and functional, data and analyses that are available as a result of that effort will be considered in the 2011 Programmatic Biological Assessment.</i></p> |

Reponses to Comments on 2011-2016 Supplement to the Rio Grande Supplemental Water Programmatic Environmental Assessment from New Mexico Interstate Stream Commission, Letter Dated January 28, 2011

| Comment |
|---|
| <p>1. <u>Municipal & Industrial Water Conservation, Section 1.2:</u></p> <p>It is not clear, from the section, how the on-going implementation of the water conservation practices by water contractors and municipal and industrial users component of the Program helps to fulfill the need for Reclamation's action.</p> |
| Response |
| <p><i>Opportunities in the M&I sector for further water conservation savings in the MRG area. Examples include but are not limited to more stringent usage of water for landscaping, retrofitting of shower heads and low flow toilets, the use of more efficient appliances such as clothes washers and dishwashers, and recycling of water in industrial processes (Section 2.2 in DEA), all of which would allow for more water to remain in the river.</i></p> |
| Comment |
| <p>2. <u>Middle Rio Grande Collaborative Program.</u></p> <p>We note that the Collaborative Program is described in the Draft EA as an "interim" program in operation since 2000 (Section 1.4) and is treated as a cumulative effect for purposes of this analysis (Section 3.2.8). We recommend that Reclamation revise the appropriate sections to reflect that the Program has been authorized by Congress and, as a result, is federally authorized. We also recommend that the Draft EA summarize Reclamation's water related responsibilities under the Program Authorization. Additionally, in the 2006 EA Supplement, it states that a Programmatic EIS was being prepared on the Collaborative Program and that a draft EIS was to be issued in late 2006 or 2007 (2006 EA, p. 6). As you are aware, the Programmatic EIS was not completed. Our understanding is that, in the alternative, NEPA analyses are being conducted on individual Program projects, as needed.</p> |
| Response |
| <p><i>Noted, the change has been made to the text as appropriate to incorporate your changes in Section 3.2.8</i></p> |

Comment

3. Supplemental Water Program / Water Acquisition

The second and third sentences of the Paragraph entitled "Water Acquisition" in Section 2.2.2 contain grammatical errors. We recommend replacing those sentences with the following:

"Reclamation will seek to purchase or lease water, water rights or the right to store water from willing parties for use in the Rio Grande. In addition to the specific water acquisition agreements described below, Reclamation will seek to enter into water acquisition and water management agreements with other interested parties such as the NMISC under the Strategic Water Reserve and agreements for management of irrigation water with the MRGCD.

Response

Noted, the text has been changed to reflect your suggested wording in Section 2.2.2.

Comment

4. Upper Rio Grande Water Operations Model (URGWOM).

We note that the Draft EA section on Hydrology and Hydraulics (section 3.2.1) should be updated. As written it indicates that the analysis of environmental consequences of the water acquisition portion of the Supplemental Water Program used River Ware modeling that was conducted in approximately 2000 (p.3-25, 2001 PEA). Since that time, the RiverWare model known as URGWOM (Upper Rio Grande Water Operations Model) has evolved and been improved significantly. Each updated version of URGWOM has been used, in part, to assess consequences of Reclamations water acquisition actions. Additionally, Reclamation now has ten years of experience on the consequences of the Supplemental Water Program, the vast majority of which have been positive. While the results may not change significantly, it would benefit the current draft to update the analysis to reflect the best available modeling. We also recommend describing the environmental benefits of the Supplemental Water Program over the past ten years.

Response

Due to time constraints, the modeling included in the 2001 EA is still valuable to the general discussion on overall water operations. For the 2011 programmatic Biological Assessment, updated modeling and data will be used. The Supplemental Water Program has allowed for maintaining compliance with the 2001 and the 2003 Biological Opinions.

| Comment |
|---|
| <p>5. <u>Water Resources and Net Water Depletions.</u></p> <p>The first paragraph of section 3.2.2, Water Resources and Net Water Depletions, does not clearly describe the water rights requirements of the Office of the State Engineer (OSE), including depletion offsets. Furthermore, the reference to the State Water Plan in the same section is legally incorrect. The New Mexico State Water Plan is a planning and policy document that has no force of law. The New Mexico Office of the State Engineer (OSE) considers the Rio Grande basin to have been fully appropriated as of the signing of the Rio Grande Compact. Consequently, any new use of water within the basin requires a permit from the OSE with offset of all stream depletion impacts on the Rio Grande by return flow or by transfer of valid, existing pre-1907 surface water rights. In addition to the OSE permitting requirements described above, the State Engineer requires that additional depletions resulting from habitat restoration projects in the Middle Rio Grande must be offset.</p> |
| Response |
| <p><i>Comment noted and changes done. This EA does not have a habitat restoration component so depletions under that activity are not an issue.</i></p> |
| Comment |
| <p>6. <u>Factual Problem.</u></p> <p>The Draft EA indicates that the Middle Rio Grande is a high gradient, warm water river (Section 3.2.3). The sentence is factually incorrect. The Middle Rio Grande is a "low" gradient, warm water river.</p> |
| Response |
| <p><i>Noted, the text in 3.2.3 has been changed.</i></p> |
| Comment |
| <p>7. <u>Biology Update.</u></p> <p>Much of Section 3.2.4, Threatened and Endangered Species Environmental Consequences discussion related to the Rio Grande Silvery Minnow (RGSM) is outdated and does not reflect the significant scientific work that has been conducted over the past 5-7 years. We also understand it may not be necessary to fully update this section because Reclamation and the Corps are working to update the Threatened and Endangered Species science as part of development of the new Middle Rio Grande Water Operations Biological Opinion. However, the attached document titled "June 25, 2010 Five-Year Status Review of the Rio Grande Silvery Minnow (<i>Hybognathus amarus</i>)" provides a relatively recent update on the Rio Grande silvery minnow. We recommend its review for inclusion of new information in Section 3.2.4 refinements.</p> |

Response

Comment noted. The document will be added to the reference section, and it will be utilized for the 2011 Biological Assessment.



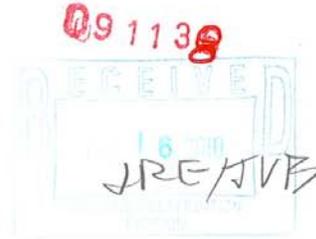
IN REPLY REFER TO:

ALB-186
ENV-1.10

United States Department of the Interior

BUREAU OF RECLAMATION
Upper Colorado Region
Albuquerque Area Office
555 Broadway NE, Suite 100
Albuquerque, NM 87102-2352

DEC 14 2010



Interested Parties (See Enclosed List)

Subject: Scoping Notice Regarding the 2011-2016 Supplement to the Rio Grande Supplemental Water Programmatic Environmental Assessment (EA)

6. 11 11 11

Dear Ladies and Gentleman:

The Bureau of Reclamation is preparing an EA for the continuation of the Supplemental Water Program (Program) for the years 2011 through 2016. This action consists of a water acquisition and storage program, concurrence with San Juan-Chama storage waiver requests, the continued conveyance of water from Low Flow Conveyance Channel to the Rio Grande, and the implementation of water conservation practices by water contractors.

This EA serves as an update to the May 31, 2006 EA, which was also a 5-year document. These EA's are tiered off the March 2001 EA and evaluates only the impacts of the Program associated with the updated elements in compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 43314335).

This EA shall serve as the appropriate documentation for future acquisition activities 2011 thru 2016 by Reclamation for the benefit of the endangered Rio Grande Silvery Minnow and Southwestern Willow Flycatcher.

Scoping, as defined in the Council on Environmental Quality regulations, is "an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action." This scoping period is meant to provide interested members of the public, Native American tribes, local governments, and non-government organizations an opportunity to comment on the proposed projects and to obtain information that will focus the EA on important issues.

The scoping process helps us to identify the following:

- The important issues, resource concerns, and possible impacts to be addressed in the EA;
- Those issues that are not important, or that have been addressed by prior environmental review, and eliminated from further study;
- Existing information sources;
- Other environmental review, permits, and consultation requirements; and

- Alternatives to be evaluated in the EA.

Reclamation will gladly provide any additional information needed by you or your staff. To discuss the EA or arrange a meeting, please contact Ms. Marsha Carra, Environmental Protection Specialist, at 505-462-3602.

Sincerely,



Mike A. Hamman
Area Manager

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COMMENTS

John R. E. 1-27-2011
NM State Historic Preservation Officer
*Please notify us
when the new EA is prepared*