

*Defenders of Wildlife · Forest Guardians
National Audubon Society · New Mexico Audubon Council
Sierra Club · Southwest Environmental Center · Land and Water Fund of the Rockies*

**For Immediate Release:
June 12, 2003**

Contact:
Letty Belin, LAW Fund – 505-983-8936
Kara Gillon, Defenders of Wildlife – 505-248-0118
John Horning, Forest Guardians – 505-988-9126

**APPELLATE COURT AFFIRMS BUREAU OF RECLAMATION'S
RESPONSIBILITY TO CONSERVE RIO GRANDE ECOSYSTEM**

Denver, CO – Conservation groups celebrated today's ruling from the Tenth Circuit Court of Appeals that the U.S. government must consider all available sources of water when considering how to conserve the dying Rio Grande ecosystem and protect endangered fish and wildlife.

The panel's decision is the culmination of a 1999 lawsuit brought by six local, regional and national environmental groups who challenged the failure of the U.S. government to assess the impacts of its operation of dams and diversions on the Middle Rio Grande and its refusal to acknowledge its obligation to restore the native species and habitat of the river. The panel found that federal management of the Rio Grande has caused extensive damage to New Mexico's natural resources – including the federal listing of endangered fish and bird species under the Endangered Species Act – and that the U.S. Bureau of Reclamation is responsible for mitigating these impacts.

“Now it is clear that the Bureau has the authority they need to analyze the full impacts of its river management program, a reluctance that has served only to harm its efforts to recover these species, as required by the ESA,” said Letty Belin, attorney for the Land and Water Fund, which represented the groups. “It is highly unlikely that the bureau will go so far as to shut off the tap, but it can no longer stay couched in the other extreme of shrugging its shoulders and hoping for the best.”

Years of unsustainable and water management have led to endangerment of numerous species of wildlife, including the Southwestern willow flycatcher and the Rio Grande silvery minnow. The silvery minnow now exists in only 5% of its historic range, which happens to be in the reach of the river most prone to drying. Greatly increasing both urban and agricultural water conservation, restoring river and bosque habitat, reestablishing the silvery minnow in multiple locations, reconnecting the river, and establishing a permanent endangered species conservation water pool are all ways to avoid the year-to-year crisis in which we are currently entwined.

“This is a landmark legal ruling that should serve to reframe the debate about how to restore the Rio Grande,” said John Horning of Forest Guardians. “By upholding Judge Parker in all respects, the 10th circuit ruling will ensure that all water users recognize that we have a shared moral and legal responsibility to restore this once Great River.”

The ruling comes at a particularly welcome time as the Bureau of Reclamation and other

Defenders of Wildlife · Forest Guardians
National Audubon Society · New Mexico Audubon Council
Sierra Club · Southwest Environmental Center · Land and Water Fund of the Rockies

stakeholders develop a long term program that will provide ESA compliance while also undertaking recovery actions for the silvery minnow and southwestern willow flycatcher. “Today’s ruling opens our options to a whole new suite of actions that will benefit endangered species,” said Kara Gillon, with Defenders of Wildlife. “We hope that now we have the tools to reverse the decline of the entire river ecosystem.”

The groups say the ruling is timely because the river is likely to go dry in the coming days, an event that could certainly further jeopardize the already critically imperiled silvery minnow. The plaintiffs have criticized a March 2003 U.S. Fish and Wildlife Service plan that would allow up to 116 miles of the Rio Grande to dry.

In 2001, the Bureau of Reclamation consulted with the Fish and Wildlife Service on the effects of its management of dams and water diversions in the Middle Rio Grande. Fish and Wildlife found that Reclamation’s activities jeopardize the Rio Grande silvery minnow and southwestern willow flycatcher. Judge Parker of the U.S. District Court found that Reclamation does have discretion in how it manages the dams, reservoirs and diversions in the Middle Rio Grande, and that the agency must examine reduction or restriction of water deliveries as a way to make water available to maintain some silvery minnow habitat.

The Middle Rio Grande, home to the last remaining population of the Rio Grande silvery minnow, is a unique and critical stretch of river. It boasts the biggest intact stretch of native cottonwood-willow bosque left anywhere in the Southwest, but it is deteriorating as the cottonwoods seeded in the 1940’s die without being replaced and non-native species continue to invade. The Middle Rio Grande is also home to about two-thirds of New Mexico’s wildlife species, but we are losing these species. Fourteen species in the Middle Rio Grande are on the state list of threatened and endangered species; two are on the federal list: the Rio Grande silvery minnow and the Southwestern willow flycatcher. In fact, this past April the Rio Grande itself was named America’s Fifth Most Endangered River by American Rivers.

The Rio Grande silvery minnow has been called the “canary in the coal mine” regarding the health of the Rio Grande. As the Court stated, “the silvery minnow provides a measure of the vitality of the Rio Grande ecosystem, a community that can thrive only when all of its myriad components – living and non-living – are in balance.”

The silvery minnow is the last of five native fish of its kind in the river, all of which have gone extinct or been extirpated from the river. Until humans drastically altered the function of the Rio Grande, the silvery minnow was well-adapted to life in a healthy desert river. The silvery minnow is a pelagic spawner, and spawns only during the melting of the winter snowpack, taking its cues from the timing and intensity of this runoff. Its semi-buoyant eggs then are able to float downstream, where it can establish populations in a wide range of the river. The silvery minnow prefers shallow, braided stretches of water. Since its listing in 1994, the minnow has continued its rapid decline; its populations now are way below those of 1994 and among the lowest ever

*Defenders of Wildlife · Forest Guardians
National Audubon Society · New Mexico Audubon Council
Sierra Club · Southwest Environmental Center · Land and Water Fund of the Rockies*

found.

Letty Belin and Laird Lucas of the Land and Water Fund represented Defenders of Wildlife, Forest Guardians, National Audubon Society, New Mexico Audubon Council, Sierra Club, and the Southwest Environmental Center.

###