

Rio Grande Sierran

May / June 1999

News of the Rio Grande Chapter of the Sierra Club

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Wilderness Conference

May 1 & 2
Albuquerque

Speakers include Mayor Jim Baca
and Activist Dave Foreman.

Sponsored by the New Mexico
Wilderness Alliance, the Southwest
Forest Alliance and the Wilderness
Society.

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1999 NM Legislative Session Wrap Up Report

By Helga C. Schimkat
Chapter Lobbyist

The 1999 New Mexico legislative session came to a close at noon on Saturday, March 20, 1999. Although the political climate at the Roundhouse is less than friendly toward the environment, not too many bad bills got through and many more were tabled in committee or got defeated on the floor. More than 150 bills affecting the environment or the process in which environmental advocates find themselves navigating were introduced during the course of the session. I will review some of the more prominent bills in this article.

Wildlife

Probably the biggest success story of the session from an environmental perspective is that Senate Bill 339 (Senator Garcia) making extreme cruelty to animals (including both domestic and wild) a fourth degree felony passed the legislature and was signed by the governor. Unfortunately, a recent New Mexico Supreme Court case in a very poorly reasoned decision may cause some unintended trouble for this new law. In the case, the Supreme Court held that "animal" as used in the animal

See Legislature on page 15

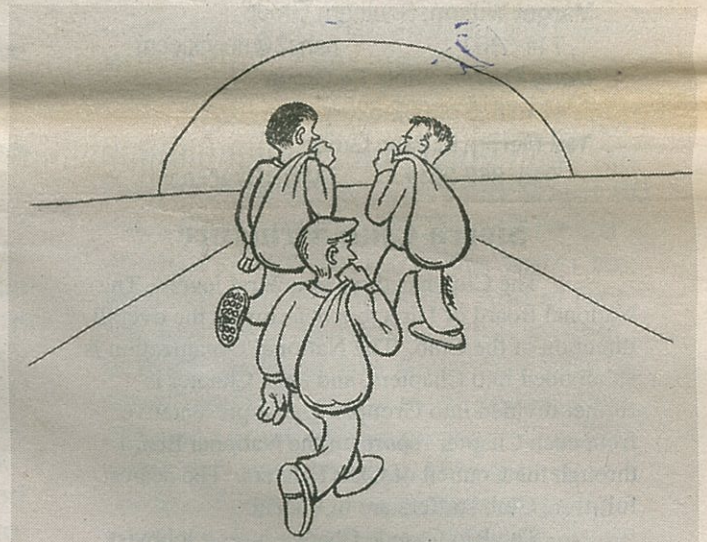
Rio Grande Chapter Establishes Priorities: Water and Sprawl

By John Buchser
Water Issue Chair

Our dry winter has reminded us all that we live in a desert. Most of us have enjoyed the mild winter, while recognizing that we will have to do our best during the coming spring and summer to conserve water.

Conservation is but one of the strategies we need to use in order for us to deal with the challenges of water in a high desert. This resource is finite in quantity. The flow that comes down the river varies from year to year. We are still fortunate to have significant underground supplies, but we are quickly depleting these ancient sources.

See Priorities on page 3



Walking up the Road to the Future

By Susan Gorman
Central NM Group

Just imagine we are all on a journey into the future. We're each carrying a sack of food and water and we believe that there will be additional supplies of food and water along the way. But some news reports are saying water supplies are getting low and that we're using our water faster than it is being renewed. So we decide that we need to stop and confer, to make a water plan so we'll be assured that we'll have enough water for our needs as we travel into the future.

This is not just a fable! You have all read those news reports about our water supply and the need to conserve and hopefully you have wondered what can be done. The good news is that there is a process for Regional Water Planning

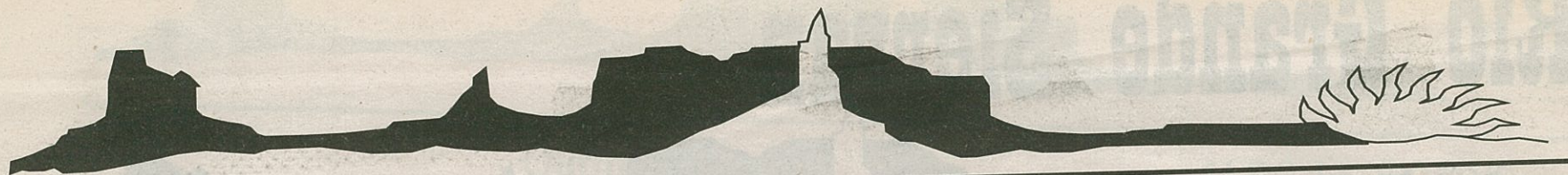
See Journey on page 8



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Sierra Club Structure

The Club has three structural levels. The National Board of Directors determines the overall direction of the Club. The National Organization is subdivided into Chapters, and each Chapter is further divided into Groups. One representative from each Chapter reports to the National Board through the Council of Club Leaders. The nearest full-time Club staffers are in Phoenix.

The Rio Grande Chapter hires a lobbyist full-time during the session of the New Mexico Legislature. The largest part of the Chapter's budget goes to the printing and mailing of this Newsletter, followed by the salary and expenses for the lobbyist.

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Make address changes by contacting Membership Services at 415 977-5649 or www.sierraclub.org

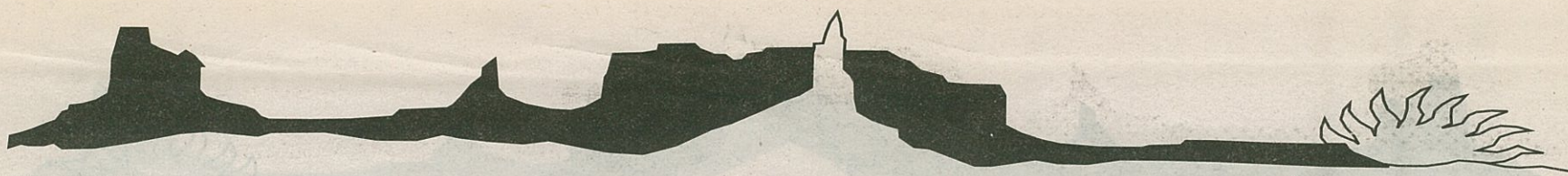
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Water in the Rio Grande Valley

Club Files 60 Day Notice of
Intent to Sue:

A Briefing on Issues in the Middle Rio Grande

By Richard Barish

Central NM Group
Bosque and Riparian Issues

The Sierra Club has filed a 60 day notice of intent to sue the U.S. Bureau of Reclamation and U.S. Army Corps of Engineers over their Rio Grande operations. Defenders of Wildlife, National Audubon Society, Forest Guardians, and Southwest Environmental Center joined with the Sierra Club in filing the Notice. It must be filed at least 60 days before the filing of a suit, but the filing of a notice of intent does not mean that a suit will necessarily be filed. The notice will, however, allow the Club to take quick legal action should it be determined to be necessary in this drought year.

This article will provide background on the environmental problems in the middle Rio Grande that led to the notice of intent to sue and discuss some possible solutions to these problems.

To understand the ecological problems in the middle Rio Grande, you have to understand how the river has changed. The middle Rio Grande between Cochiti and Elephant Butte Reservoirs was once a very different river than the river we see today. The river did not dry up, but supported perennial flows. The river flooded regularly in the spring. As sediment dropped by receding floods blocked the flow of the river in one location, the river would shift its channel to lower ground. The result was a broad floodplain consisting of a patchwork of flowing water, backwater marshes and ponds, meadows, and cottonwood/willow forests. The river and related

See *Rio Grande Briefing* on page 11

The Lower Rio Grande: Down But Not Out

By Kevin Bixby

Southwest Environmental
Center

The Rio Grande in southern New Mexico and west Texas is a basket case. In less than a century, this once dynamic river ecosystem has been reduced to a nearly lifeless ditch. At least 95 percent of the original riparian and aquatic habitats are gone. With the habitats went most of the wildlife.

Some say the river is a lost cause. Maybe, but if we can't restore the ruined ecosystems of today, if we can't learn from and correct the ecological mistakes of the past, what hope is there for the future?

Personally I believe the lower Rio Grande is too important for biological and other reasons to turn our backs on. After all, this is (or was) the most important riparian system in the Chihuahuan Desert, and an important reason why this desert ranks third in the world in species diversity.

Can the river be restored? I believe so, as long as our definition of restored is somewhere ecologically between a wild river and the tamed ditch we have today.

A river in need of water

Above all else, the lower Rio Grande needs water. There are no perennial tributaries to the river. Flows consist mainly of water released out of Elephant Butte Reservoir, along with agricultural return flows and municipal wastewater from Las Cruces, El Paso and Juarez. Not until it is joined by the Rio Conchos coming in from Mexico does the river receive a fresh supply of water.

Like most rivers in the West, the lower Rio Grande is fully appropriated. Every drop has somebody's name on it (or, more likely, several names). But there are no instream flow rights for this

stretch, which means that no drop has the river's name on it.

Since the river has no rights to its own water, the amount of water in it at any given time depends upon what other users are doing. Flows are frequently depleted as a result, and often disappear entirely.

The situation is especially bad below El Paso/Juarez. The Rio Grande Compact requires that Colorado and New Mexico deliver water to Texas at Elephant Butte Reservoir and no further. Below that point, the river's flows are divided between Mexico and the U.S. by treaty. Mexico diverts its share (8%) out of the river at Juarez where it is mixed with untreated sewage and used to irrigate crops.

The U.S. portion is entirely appropriated for the federally-built Rio Grande Project. Most of this water (93%) is used for irrigation, but over the years as El Paso has grown, it has acquired rights to use some project water for municipal purposes through agreements with El Paso County farmers and their irrigation district.

Unfortunately for the river, the Rio Grande Project ends not at the Rio Conchos but at Fort Quitman, about 80 miles downstream from El Paso. There is no legal obligation to deliver water to anybody below this point. And in fact, for practical purposes, the project actually ends at the American Dam in downtown El Paso, the most downstream diversion point for the project. The 250 miles of river below this point is chronically short of water, often drying up completely even during the irrigation season.

Some water does manage to slip past Fort Quitman — more than 165,000 acre feet per year on average since 1969. The Southwest Environmental Center (SWEC), Rio Grande Restoration, and

See *Lower Rio Grande* on next page

Priorities from page 1

There are no icebergs on the horizon, nor pipelines from the north, to "save" us. We must learn to live within the constraints that a finite water supply places on us.

Some challenges:

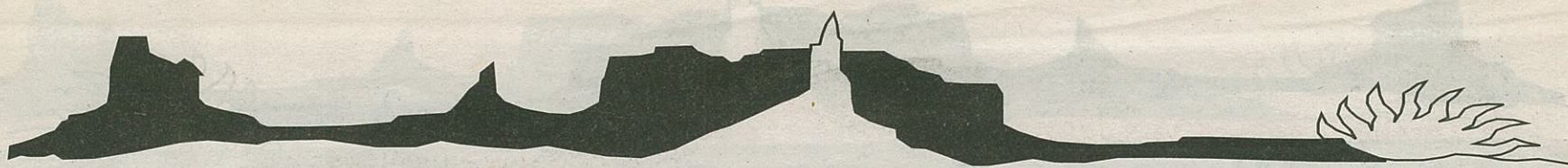
- We need to redefine "growth" in a way that recognizes limits related to our water supply.
- The northern New Mexico acequias have over the years become very effective at managing water during the drier years. We need to learn from their experience.

- We need to quantify how much water we are taking out of our underground supplies. This will enable us to manage this resource for dry years.
- We need to weigh the public desire for lake-based recreation against the evaporative loss caused by above ground reservoir storage in a hot, dry environment (particularly in lakes like Elephant Butte).

In recognition of these challenges, the chapter has chosen two issues, water and sprawl, as its two priorities for the coming year. We have also decided to hire a staffer to

help our members focus on the environmental challenges of dealing with these critical issues. Activists are encouraged to contact any of the members of our various conservation and executive committees to explore ways to help.

This issue focuses on water in the Rio Grande valley. Some of the most prominent water activists in the valley are featured. Enjoy!



Water in the Rio Grande Valley

Lower Rio Grande from previous page

several commercial rafting companies have tried to apply to the Texas Natural Resources Conservation Commission for an instream flow right to this unappropriated water (as have the cities of Albuquerque and El Paso apparently), but we have been stymied by the \$165,000 application fee.

Timing of flows is also a problem. Since nearly all the water released from Elephant Butte is destined for agriculture, releases are timed to meet irrigation demands. In normal years there is plenty of water in the river during the irrigation season, but only a trickle between October and January when dam releases are stopped.

Additionally, releases no longer follow the natural cycle of peak flows during late spring and late summer, a pattern to which cottonwoods, Rio Grande silvery minnows and other native species were adapted, and upon which they depended.

This is the way the river has been managed since 1916. It is undoubtedly a major reason for the disappearance of at least a dozen native fish species from this reach, including sturgeon and silvery minnows. It has also contributed to the near total loss of bosque habitat for the endangered Southwestern willow flycatcher, yellow cuckoo and other riparian dependent species.

The U.S. Bureau of Reclamation (BOR) operates Elephant Butte and Caballo Dams. BOR personnel push the buttons that determine whether water flows in the river or not. By its own admission, BOR has never evaluated the environmental impacts of its operations or considered alternatives, as required by the National Environmental Policy Act. Nor has it ever consulted with the U.S. Fish and Wildlife Service over possible harm to endangered species, as required by the federal Endangered Species Act.

A major impediment to obtaining water for instream flows is figuring out who currently owns rights to the river's water. BOR's claim to ownership of all Rio Grande Project water is contested by the two irrigation districts served by the project. The districts argue that they own the water by virtue of having paid off their share of project construction costs (about one-third of total project construction costs). The matter is currently the subject of a federal "quiet title" lawsuit.

All major water users in the region are parties or intervenors in this case. The trial has gone to mediation behind closed doors. SWEC and others are concerned that the case amounts to de facto covert regional water planning without representation by environmental interests.

Water Quality Standards Serve Status Quo

Water quality is also a concern. There is no regular monitoring for many pollutants, at least not in the New Mexico portion of the lower Rio Grande. Pesticides have been found more often than not, albeit at low levels.

The State of New Mexico has established a water quality goal of "limited" warm-water fishery for the lower Rio Grande, on the grounds that it does not flow year-round and therefore is incapable of supporting a healthy fishery.

The Southwest Environmental Center (SWEC) believes this is a violation of the federal Clean Water Act, the goal of which is to restore the physical, chemical and biological integrity of the Nation's waters. This segment almost always has water in it, even though flows are reduced to a trickle in the winter. More importantly, the river certainly could support healthy fish populations if flows were managed differently. A more appropriate water quality goal would be a healthy warm-water fishery, but this would threaten the status quo in river management.

{SWEC, Forest Guardians and Amigos Bravos proposed this and other changes to New Mexico's water quality standards last year during a review required by the Clean Water Act every three years. We were opposed by an array of powerful interests with their legion of consultants and lawyers, including several irrigation districts, cities and Los Alamos National Laboratory.}

First Water, Then Trees

In addition to more water, the river ecosystem sorely needs restoration of its original mosaic of habitats, notably the cottonwood bosque. First time visitors are usually struck by the absence of trees along the lower Rio Grande. This is the result, in large part, of 60 years of scorched earth management by another federal agency, the U.S. International Boundary and Water Commission (IBWC).

Beginning in the mid 1930's, IBWC confined and straightened the upstream half of the lower Rio Grande between levees, thereby reducing its length by nearly half. Adding insult to injury, IBWC has continued to manage this segment in ways that are devastating to the river ecosystem. Each year the agency mows all vegetation between the levees, and periodically dredges and lines the river channel with rocks. These practices are clearly antithetical to any kind of habitat restoration efforts.

There are signs of progress. Last year (after we threatened to sue), SWEC and IBWC entered into negotiations

resulting in an agreement signed this past March, in which the agency agreed to look at the environmental impacts and alternatives to its current management practices, including impacts to the endangered southwest willow flycatcher. It also agreed to stop mowing certain areas, at least until environmental studies were completed. It further agreed to establish a citizens environmental forum for exchanging ideas and information between the public and the agency.

Although focused on process rather than specific outcomes, the agreement signals a significant change at IBWC, in my opinion. Even before the agreement was signed, IBWC collaborated with SWEC in planting 1000 native trees along the river in February—the largest such planting ever undertaken on the lower Rio Grande, and a feat that would have been impossible under IBWC's previous leadership.

[Kevin Bixby is founder and director of the independent Southwest Environmental Center in Las Cruces. He is a former editor of the Rio Grande Sierran.]

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Nobody made a greater mistake than he who did nothing because he could only do a little.
—Edmund Burke

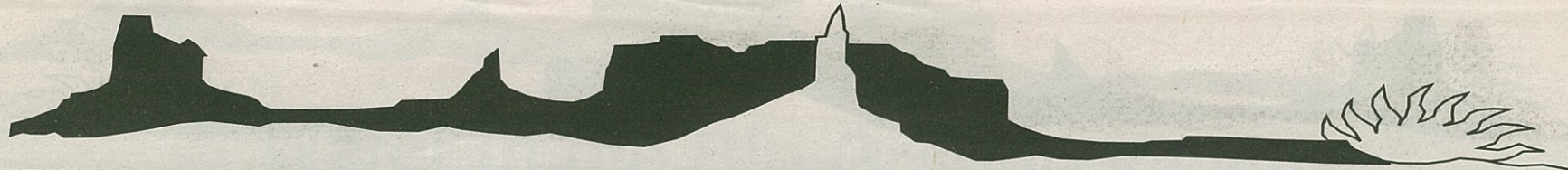
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Water in the Rio Grande Valley

Living River or Dry Ditch?:

The Case for Rewatering a Thirsty Rio Grande

Steve Harris

Rio Grande Restoration

[This section of materials was originally presented at the Roundhouse on February 22 for Celebrate New Mexico Rivers Day, where water activists from around the region gathered to celebrate the many rivers in New Mexico. -- Editor]

The middle Rio Grande is a river under siege. In normal and sub-normal years it simply goes dry. Worse, water that presently flows down it will soon be flowing into the basin's major cities to satisfy urban ratepayers' uncontrolled thirsts and other extravagant uses.

-- By 2005, Albuquerque will have begun depleting about 50,000 acre-feet (50 kaf), its San-Juan Chama water. Under the city's water plan, much of its wastewater (60 kaf), the outflow of its groundwater supply which presently supplements the river, will be recycled, a net loss to the Rio Grande of about 100,000 acre feet.

-- City water users consume an average of 200 gallons each, per day, second highest in the West.

-- Irrigated agriculture diverts 4 acre feet of water for every acre foot its crops require.

-- Downstream water users have a legal expectation of about twice the water to which the middle valley is entitled.

-- The Rio Grande bosque is decaying; the last remaining native minnow is officially declared to be endangered; our migratory birds are disappearing, one by one.

A Management Challenge

A great challenge faces water managers in the Rio Grande: to somehow balance important environmental, economic and development goals for the basin's water, to integrate competing interests into a strategy that balances and sustains uses of the river and its water into the foreseeable future.

That today we are failing to answer this fundamental challenge is witnessed by the fact that the ecological benefits of streamflow, in at least four segments of the river have been sacrificed to diversionary uses. This suggests that the river is not being considered in its proper role as a water user and provider of essential services.

The river has not yet been accorded real recognition or protection in the legal constructs governing the waters of the basin. The river has no effective seat at the table in our strategic forums.

We can remedy past oversights and protect the river if we are willing to accept these assumptions:

-- That the present state of affairs on the Rio Grande is not sustainable.

-- That the natural environment's water uses **should** be balanced with consumptive uses.

-- That economic water uses **can** be balanced with environmental requirements.

-- That, contrary to tradition, water is actually for cooperating over.

A Rio Grande "Reality-Check"

The basic environmental condition of the Rio Grande basin has been accurately described as "a state of drought, occasionally mitigated by periods of abundance". Measured against with its westerly-trending sister, the upper Colorado River, the upper Rio Grande produces 11 million acre feet less water, about 25% of the Colorado.

Before the present one million acres of irrigated agriculture were developed in the basin, the river flowed through great springtime surges from the melting of mountain snowpacks in the headwaters, receded in the hot months of summer, then often filled again during the monsoons of July through October. At approximately 20 year intervals, the moisture from winter storms would fail to come, as it still does, quite often for periods of two to five years.

On an annual average, less than 2.5 million acre feet were (and are) produced by the river's headwaters. Years of abundance, with up to twice this amount were (and are) balanced by years of scarcity, with as little as half the average quantity. Diversions of water

for irrigation claim nearly 95% of the average annual flow of river. Water rights claims to the waters of the Rio Grande, many of which are legally unadjudicated, exceed the actual supply.

The basin's water supply picture would be even bleaker without the addition of 96 kaf of San Juan river water imported into the Rio Grande and the 40 kaf salvaged by the Closed Basin Project in Colorado.

Today, on the average, just 5 % of the river's production of water survives diversion (by about 25 lowhead diversion dams in place from Colorado to El Paso/Juarez) to appear as streamflow at Ft. Quitman, the division point between the upper and lower Rio Grande basins.

Why Streamflow Protection? Why Now?

Dry rivers equate to dead fish. Already, the least hardy species that evolved in the river have disappeared. The most hardy are considered threatened or endangered and thus entitled to federal protection under the Endangered Species Act. Compliance with ESA will require water.

Rio Grande Pueblos have "prior and paramount water rights" that have never been quantified. Sensing that a "trainwreck" is just over the horizon, tribal interests are more determinedly than ever assessing their true position in the basin. It is but a matter of time before tribes will seek to secure the water they deserve. The resolution of Pueblo nations' water claims will require water.

Even New Mexico's ability to honor its water obligations under the Rio Grande Compact is being called into question.

The institutional arrangements that arose in response to 19th century needs, recognized only the irrigation economy as a purpose for the water supplied by the river. Today's realities, little envisioned by early 20th century negotiators, include vastly larger urban drinking water demands, new industries, new social values, such as equity and self-determination for native American tribes and the now unmistakable decline in environmental quality.

Today, we are at the threshold of an important decision: will we attempt to belatedly include the river in our water supply strategies? If this region insists upon clinging to the institutional *status quo*, the river simply will cease to live. Only a bold, intentional change in the way we do our water business will offer hope of preserving existing uses and balancing them with developmental aspirations and the river ecosystem that gives rise to us all. Whether we realize it or not, the decision we are making is between a living river and a dry ditch.

An honest effort to satisfy this full range of modern day water demands will require difficult institutional adjustments and significant shifts in the allocation of legal rights to use Rio Grande water. Securing streamflow regimes will, in large measure, depend upon some agreeable modifications in existing institutional arrangements, small but significant accommodations by the users of the waters of the Rio Grande, to begin to satisfy the public interest in protecting the river-dependent natural environment from further degradation.

In drying up the river, we will flood our courtrooms. Recently Albuquerque and El Paso have applied to their respective states' water authorities for the rights to appropriate the last remaining flood flows of the river. The US Supreme Court is the venue to decide who is entitled to this water.

Ironically, the basin's brightest hope is that so much of the Rio Grande's water is so inefficiently used; 85% of the basin's farms use the least water efficient methods available. If, as a basin, we could realize our water conservation potential, we could shift the savings to the environment, and still accommodate other "new" uses.

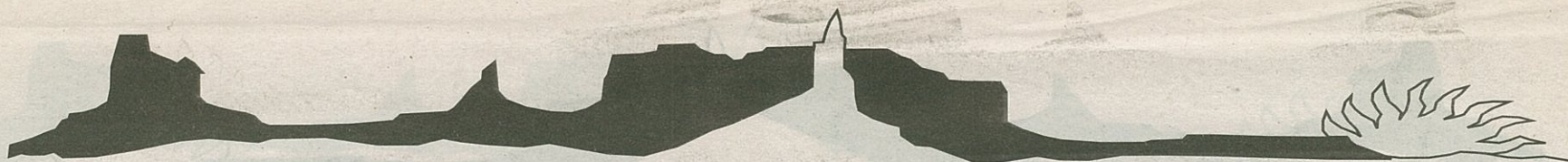
Wet Water's for Drinkin',

Paper Water's for Fightin' Over

In the Western United States today, two kinds of water exist. Most citizens understand "wet water", the kind that flows downhill in response to the laws of God or nature or gravity. Wet water moves through the natural landscape in rivers and streams (and around the human landscape in ditches and pipes), sustaining a complex of living systems.

Fewer understand about the second kind of water, which is "paper water". Paper water, it is said, "flows uphill to money", a nifty feat whose accomplishment requires lawyers. Paper water flows through courthouses and statehouses. What even the most brilliant water lawyers sometimes

Continued on next page



Water in the Rio Grande Valley

forget is that paper water really only needs to exist to help people share water with the greatest degree of security possible. Our paper water rights system has over-allocated the river (assigned more rights than wet water) and given the region its knottiest problem.

Wet water, like the air around us, is an absolute requirement of life on our beautiful blue/green planet, an entitlement that all creatures share. Paper water is too often a commodity to be captured and consumed, haphazardly, for narrow pursuits. We clearly need to be more deliberate in our use of water, more thoughtful of our neighbors, both natural and human. We need to live within our means.

In the present context of legal uncertainty, immediate progress toward legitimate river restoration goals must be made with the voluntary cooperation of a broad range of affected institutions. But time, in which to make the critical adjustments to our water management institutions, grows short.

In the event that we cannot place the river into the proper management context, society within the basin becomes increasingly likely to be forced to sacrifice some or all of the environmental benefits the river has historically provided. Failure to maintain a functioning ecological base will make continued human occupation of the basin problematic. Much, then is at stake.

Streamflow Protection? How?

Rio Grande Restoration suggests that a thoughtful combination of watershed restoration, water conservation and water rights acquisitions, applied in the broadest interests of the users and environment, can reverse the Rio Grande's unmistakable trend toward the extinction.

Protecting Rio Grande streamflow will require maintaining a precarious, wet water balance:

- The river clings for its life to a small water surplus and the obligation of several states to provide agreed-to consumptive amounts to their downstream neighbors.

- The wet water that accrues to the river requires protection from tomorrow's consumptive uses.

- A basin-wide water conservation target of 10 % of existing uses is achievable, if we can provide existing users with sufficient incentive to conserve.

- Securing the last ~ 200 kaf from future depletion will require a serious public commitment to recognizing paper rights to the leakage that is the river's own supply. The path of least resistance in our present "free market" view of the resource is to secure a sufficient quantity of water by purchase. Then, the river's own share of the river must be shepherded through a maze of diversions. This will require the commitment of state water management officials to acquire data and monitor uses. It will also require some storage in the basin's reservoirs.

The difficult task of balancing the Rio Grande's existing uses and development goals with the needs of a declining natural environment demands that the leaders of the basin devise new strategies to sort through the conflicts among competing water uses and integrate conflicting management institutions.

Today, we see urban leaders confidently planning the future conversion, and ultimate consumption, of tribal water, agricultural water, the river's water. Individual water users recognize few connections to other user groups and to the river. Agriculture, already at the mercy of capricious markets continues to build bunkers around existing water institutions, which includes their own massive diversions. Water management institutions are long on paper water management tools, short on substantive knowledge about the wet water system.

Like a fault line in an earthquake zone, great pressures are building around the Rio Grande's scarcity of water. The basin's headlong slide into the crack might be arrested gradually by application of good faith by many water users and the hard work of collaboration. The alternative, of course, is a cataclysm, the old fashioned rumble over water, a conflict with many potential losers. The living river would surely be one of the casualties.

We will hear arguments that we can't protect the river, rationalizations that center on fear of losing things that water rights holders can't bear to lose. To be sure, there are risks to water users and other decisionmakers in the Rio Grande basin in shouldering this task, but there are much greater risks in failing to try.

Steve Harris may be reached at unclergr@laplaza.org, or 505 751-1269

Potential Benefits of Streamflow Protection

Legal

- Protect Endangered Species (Rio Grande silvery minnow).
- Prevent additional listings under ESA.
- Maintain New Mexico's ability to comply with Rio Grande Compact water delivery requirements, thus maintaining southern NM/Texas supplies.
- Provide a reserve for settlement of Pueblo Indian water rights claims.
- Provide drought protection of Mexico's entitlements (under Treaty of 1906).
- Prevent forced curtailments of on-farm uses.
- Reduce legal costs to water-using and water management institutions.

Hydrologic

- Recharge aquifers in all segments.
- Maintain bank and bed storage reserves in all segments.
- Enhance regional conjunctive use strategies: San Luis Valley, Albuquerque, El Paso/Juarez.
- Maintain head in gravity-fed irrigation systems.
- Provide sediment transport capability, enhancing flood protection: middle Rio Grande (MRG) Valley, Ft. Quitman segments.
- Reduce or offset incidental depletions in all segments.

Water Quality

- Mitigate City of Albuquerque wastewater impacts.
- Mitigate irrigation district (EBID/EPCWID) return flow impacts.
- Protect El Paso's (EPPSB) Clean Water Act compliance during drought.

Ecological

- Provide over-bank floods for riparian ecosystem restoration projects:
 - Colorado Heritage River, MRG Bosque, Rio Grande Canalization
 - Project, Ft. Quitman segments.
- Protect National Wildlife Refuges (Alamosa, Bosque del Apache, Lower Rio Grande Valley).
- Protect the Laguna Madre estuarine ecosystem.
- Provide minimum flows for Big Bend National Park.

Economic

- Enhance attractiveness of region for tourism industry.
- Reduce water market pressures on small farmers.
- Provide flows for river recreation (fishing, whitewater industries).
- Promote sustainability of regional economy.

Drought Contingency

- Provide a drought buffer at Elephant Butte Reservoir.
- Provide drought buffers at Amistad and Falcon Reservoirs.

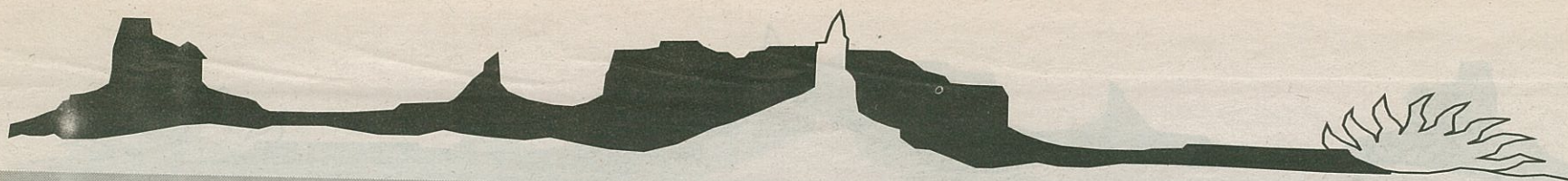
Rio Grande Chapter Conservation and ExCom Meetings

June 19/20 1999 -- 9 am 19th to 12 noon 20th
Penasco, New Mexico

Meet other activists -- enjoy the northern New Mexico
Mountains for the Solstice!

Mountain Village Summer Life
\$60 for Saturday room and meals (4) both days
(other reservations Dan Hemphill 800-445-0724)

Confirm attendance with Gwen Wardwell, Chapter Chair
edenland@earthlink.net / 984-8860



Water in the Rio Grande Valley

Mayor Jim Baca and Dave Forman invite you to the Southwest Wilderness Workshop

Saturday, May 1 & Sunday, May 2,
8:00am - 5:00pm 8:00am - 1:00pm
Lovelace Education Center, Albuquerque, New Mexico

This is a great opportunity for you and a friend to:

- Meet the leaders of the wilderness movement
- Learn essential Wilderness Activist Skills: mapping, field work, grassroots organizing
- Get involved in the Wilderness Adopters Program

Attend candid question and answer sessions with the forces behind the Utah Wilderness effort.

Special Guests include:

Mayor Jim Baca – Albuquerque Mayor, Former Director of BLM
Dave Foreman – Chairman of the Wildlands Project, Father of the New Conservation Movement
Heidi McIntosh – Utah Wilderness Leader, Expert on ORV issues, R.S. 2477
Pam Eaton – Regional Director (4 Corner States) of The Wilderness Society, Expert on media and lobbying
Pete Morton – Resource Economist for The Wilderness Society, Expert on the economic benefits of wilderness
Jim Jontz – Director of American Lands, Author of Big Wild National Wilderness Proposal
Ken Rait – Director of Oregon Natural Resource Council, also of America's Heritage Forest Campaign

For further information, contact New Mexico Wilderness Alliance • 505 255-5966 x 106 • nmwa@earthlink.net

*De-Nile is where we are.
De-Rio Grande is where
we're supposed to be*

Deconstructing Some of the Rio Grande Basin's "Big Lies"

Steve Harris

Rio Grande Restoration

Despite increasing scientific understanding of river, Rio Grande citizens and decisionmakers still see the basin through a filter of popular myths and preconceptions. Consider the popularly held views that the Rio Grande is perpetually (and quite properly) dry below El Paso. "The upper basin and the lower basin are", it is said, "hydrologically disconnected". The Rio Grande Compact seems to prove it.

Yet the streamflow gauging record maintained by the International Boundary and Water Commission shows that almost 200,000 acre feet escape the upper basin in an average year. We conclude that what is uncritically accepted by many water managers is an Orwellian "big lie". A wet river clearly exists, but it has no recognition or protection.

Continuing to accept mythology in the face of facts is the surest way to maintain the *status quo*. And the *status quo* is that the Rio Grande is in the process of dying. How often have you heard (and believed) these "big lies":

The river always went dry

Irrigation development preceded the keeping of streamflow records. Since about 1890, every time the river dried up below a valley, a glance at the gauge readings above the valley shows a reduced, but very real, river. "Normal" droughts, like the one in the 1950's created terrible shortages, but nature just didn't dry up the Rio Grande. Man had played a leading role. "Extraordinary" drought, like the one that archaeologist hypothesize drove the Anasazi people out of the region may have literally dried up the rivers, but droughts of that magnitude have been, mercifully, rare.

The rivers (or the fish) can take care of themselves

The Colorado River seldom reaches the sea. Why? Because 6,000 billion gallons are consumed by human users, like the city of Los Angeles. The Salt River in downtown Phoenix can't take care of itself. Five upstream reservoirs intercept almost every drop. A decision was made to use that river to extinction. The residents of the Rio Grande must realize that we are making the same decision. If we want our children to have a real river, we will have to take greater care in the way we use water. What's happened in arid Arizona can happen here.

We've got to keep the downstreamers from getting OUR water

Whatever happened to fairness and equity? We're all downstreamers. Shouldn't we be much more focused on meeting society's legitimate water needs, than trying to control as much water as possible?

When we start to run out of water, we'll just go out and find some more

There really isn't any new water to develop. We're balancing our accounts on other Indian water, water we owe Texas. We're mining groundwater at an unsustainable rate. No pipeline to Lake Superior. Iceberg towing projects are nowhere on our horizon. Weather modification is a forlorn hope. Wiser, more efficient use of the water we've got is our last, best chance for sustaining our region into the future.

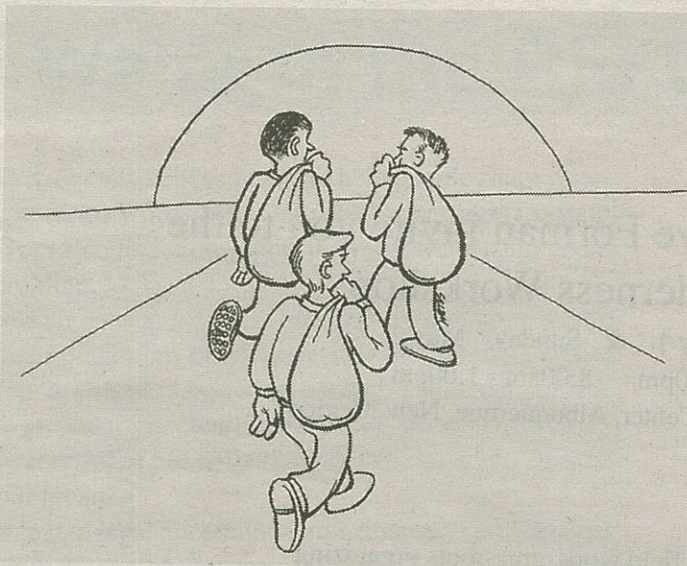
Our technology will save us

That's probably what the Hohokam people thought, too. Even if we develop superpumps and economical ways of powering them and even if desalinization technology becomes cheaper, there's still just so much water. Besides, the "techno-fix" of dams and levees played a large role in getting us into the mess we're in today.

Water Law (or the Compact) won't allow us to protect our streams

Our water institutions were made by fallible people, just like ourselves. For their time, they did a pretty good job of balancing consumptive uses. It's just that they couldn't see the future very clearly. Are our water institutions here to serve us, or shall we admit that we are their slaves?

Water in the Rio Grande Valley



Imagine we are on a Journey into the Future

Journey from page 1

and each of us, as New Mexican water drinkers, can participate in helping to make a water plan for the state which will guide us up that road to the future.

The origins of Regional Water Planning in New Mexico Back in 1980, the thirsty city of El Paso was looking for more water and decided to drill wells across the border in New Mexico nearby. New Mexico's State Engineer said "NO!" and the Texans went to court. Three years later, a US District Court judge ruled that New Mexico could not ban the export of its water to Texas (or any other state) unless that water was clearly needed to serve the needs of New Mexicans.

What to do? One hundred years ago, this disagreement might have been settled by a gun fight. But in 1980, we decided to settle our differences with laws and lawyers. New Mexico's legislature considered this situation with care and passed several important laws to enable New Mexicans within a region to plan for their water future by answering these essential questions:

What is the region's water supply?

How much water is needed now and how much will be needed in the future?

What alternatives can we consider to balance supply and demand?

Do these alternatives reflect the region's values?

What strategies will enable us to make the best alternatives become realities?

The process of seeking answers to these questions is the essence of regional water planning. Why does a region need a regional water plan? One reason for each region to develop a water plan is to determine whether all of the water owned will be needed ... if so, the plan enables the region to retain sufficient water within the region to ensure a sustainable supply. Another reason is that a water plan provides the educational tools to enable the water drinkers of the region to really know the answers to the five essential questions, so that everyone can make that journey into the future with the

assurance that there will be enough water for all the people and other critters who will live in the region. The final reason is that the entire state of New Mexico needs a water plan and the regional plans will provide the essential data and information as well as informed citizens and elected officials to enable the state plan to incorporate the needs and values of the regions.

The Middle Rio Grande Region's Experience

For most of us in the MRG, the water that comes out of our taps is pumped from the aquifer that lies below us. We use some of it, the rest runs down the drain, and eventually, after proper treatment, into the river. The other source of water in the Middle Valley is our great river, the Rio Grande. Some of its waters give life to the cottonwood and willow bosque and the many species that live there. Some of it is diverted for crops and orchards in the river valley; some evaporates; some seeps into the ground to slowly percolate down to replenish our source of drinking water supplies. The rest flows south to other users downstream.

Once we thought the aquifer was like an underground Lake Superior. Everyone said "Don't worry, Be happy!" and used plenty of water. Then, in the early 90's, more accurate studies showed the aquifer is actually much smaller than we thought. We now know that we are pumping water at a rate that is higher than the rate of replenishment; and we are gradually using up our aquifer.

A sixty year old agreement with Texas and Colorado, the Rio Grande Compact, and a treaty with Mexico require that we deliver specified quantities of water to users downstream. Most recent calculations indicate that the total surface water actually used in the Middle Rio Grande region is greater than the amount we are entitled to under the Rio Grande Compact even considering additions from stormwater runoff, and transfers into the Rio Grande river system from the San Juan/Chama project. This means that wastewater return flows of water pumped from the aquifer are needed to meet our surface water delivery obligations. In

other words, we are using the aquifer, our savings account, to keep us out of debt.

To further complicate this situation, as we travel into the future, we know that the population will grow and demand for water will increase. If the population grows at a modest rate of 1.55% per year, the present population in the Middle Rio Grande region of 690,000 will more than double to over 1.5 million by 2050.

We are confronted with 5 hard facts:

1. The Middle Rio Grande region's water supply is limited and we are currently using all that we have.
2. The aquifer, our water savings account, is being used up.
3. We have a legal responsibility under federal law to leave adequate water in the river to provide a habitat for certain endangered fish. As water flow falls below specified levels, water must be taken from other uses to fulfill this requirement.
4. We have a legal responsibility to send a specific amount of water to users downstream. If we do not meet these obligations, water must be taken from other uses to fulfill this requirement.
5. As the population grows, we must make hard decisions about how we allocate our scarce water resources.

The challenge we all face is to work together to make a plan to manage our water resources based on what we know and the values we all hold. Then we must implement this plan and stick to it. Only then will our children and grandchildren be able to enjoy life here in the Middle Rio Grande region.

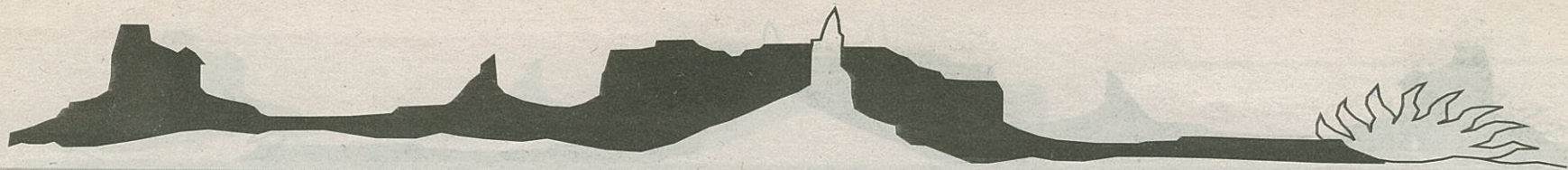
What is the MRG Water Planning Action Committee?

We are pleased to report that by the summer of 1997, more folks were realizing that the MRG region had better get to it and do it! In August, 1997, 200 people came to the first Assembly for Water Planning. A second Water Assembly meeting was held in November, and participants selected an Action Committee to represent them and to devise a process to create a Water Plan. Each of the members of the Action Committee represents a specific group of stakeholders; the major categories are Advocates, Managers, Specialists and Pueblo.

Advocates include irrigators, environmental and wildlife interests, domestic well owners, residential, industrial, commercial & institutional water users, development interests, young people, neighborhoods and acequia associations.

Managers are representatives of the Middle Rio Grande Conservancy District, federal agencies, county and municipal water systems, mutual domestic water systems, private water companies, and flood control districts.

See Journey on next page



Water in the Rio Grande Valley

Journey from previous page

Specialists are bosque and ecosystem experts, geologists, hydrologists, water quality, quantity and surface flow specialists.

Pueblo could include representatives from the eleven tribes in the region.

We adopted this mission for the planning process:

Through an open, inclusive and participatory process, to develop a plan of sustainable water management strategies for the Middle Rio Grande Region and establish a process to implement the plan.

The MRG Water Planning Action Committee has met each month since November, 1997 and has formed Working Groups to focus on specific tasks. Some of the tasks are process oriented - figuring out how to organize the water planning initiative and how to involve more people. Others are product oriented - identifying the issues we face and identifying what it will take to make a plan.

There is now a non-profit

corporation, the Middle Rio Grande Water Assembly, which has established a partnership agreement with the Middle Rio Grande Council of Governments. Through this partnership, we submitted a successful proposal to the Interstate Stream Commission that resulted in an award of \$150,000 for the planning effort. We are on the way!

What's happening in the other 15 regions?

Back in 1986, the state was divided into 16 water planning regions and most of the regions got going on their water plans at that time. Now, more than a decade later, some regions have progressed into the plan implementation stage while others are still working on determining the supply and demand. Making a regional water plan is an ambitious project. There are many opportunities to participate and one thing is certain... if you are interested in learning more about what's happening in your region and offering your help in any way, you'd be welcomed.

In future issues of the Sierran, we'll report about the planning initiatives in the

other regions and provide updates on the Middle Rio Grande plan. We'll provide you with essential information about participation. If you are anxious to get started today, please talk with the appropriate contact for your region. If you aren't sure which region you live in, contact

Mary Helen Follingstad
NM Interstate Stream Commission
505 827-6167
Follingstad_Maryhelen@seo.state.nm.us

How to participate in the Middle Rio Grande Region Initiative

If you live in Bernalillo, Sandoval or Valencia County, you are invited to participate in the MRG planning initiative. You can attend a monthly meeting of the Action Committee every third Wednesday at 5:30 at the US. Army Corps of Engineers Albuquerque Office or join a Working Group to assist with the planning effort. You can request a "Roadshow", a presentation about water planning and the situation in the MRG. To request a roadshow presentation for your group or for more information, contact Susan Gorman, 265-3231, bblairb@aol.com

MIDDLE RIO GRANDE SURFACE-WATER BUDGET — DRAFT

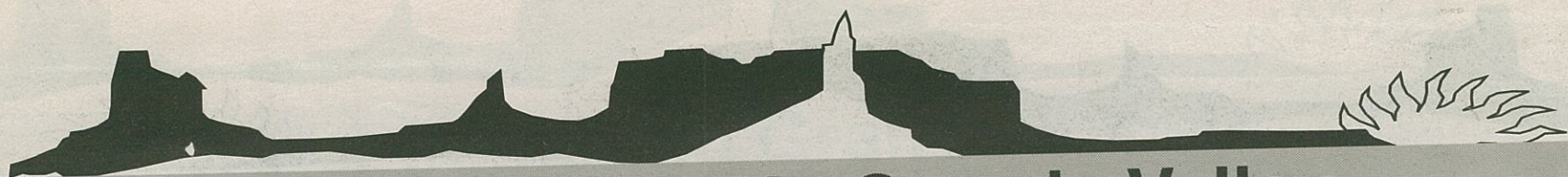
(3/16/99 Draft Version)

(To be revised periodically to incorporate better data)

<u>Annual Inflow</u>		<u>Annual</u>	<u>Natural</u>
		<u>Amount</u>	<u>Variability</u>
		(1000 ac. ft)	(1000 ac. ft)
Rio Grande at Otowi Gage (includes both native & San Juan-Chama)		1,100 ⁽¹⁾	400-2,900 ⁽²⁾
Tributary inflow ⁽³⁾		140	⁽⁴⁾
Tributary recharge to groundwater plus mountain-front recharge		80	
Ungaged tributaries		unknown	
Groundwater inflow ⁽⁵⁾		30	
Storm drain inflow, Albuquerque		6	
Municipal Wastewater		60	
		1,416	
<u>Annual Outflow</u>			
Recharge to aquifer ⁽⁶⁾	Otowi to San Acacia	60	
Open-water evaporation ⁽⁷⁾	Otowi to San Acacia	60	±30
Agriculture: crop and valley-floor turf	Otowi to San Acacia	100	±30
Riparian evapotranspiration,	Otowi to San Acacia	135	±60
Riparian & agri. ET, plus open-water evap. below San Acacia (combined)		100	80-180
Elephant Butte evaporation ⁽⁸⁾		180	
Groundwater outflow at Elephant Butte Dam		30	
Surface-water outflow to downstream users ⁽⁹⁾		707	182-1,800
		1,372	

Notes:

- (1) Average annual flow at Otowi gage over 90+ years; the allowable depletion for 1.1M af Rio Grande native inflow is 307,000 af. (assumes averages of tributary inflow & Elephant Butte lake evaporation)
- (2) Minimum & maximum annual flows at Otowi during 1973-95.
- (3) All gaged tributaries: Santa Fe, Galisteo, Jemez, Tijeras, Puerco, Salado.
- (4) Blank means unknown.
- (5) Deep groundwater inflow from north and northwest.
- (6) From river, drains, ditches; principally into Albuquerque's coalesced cones of depression.
- (7) From river, canals, drains & farm fields.
- (8) Latest-15-year average
- (9) This is the outflow required by the Compact for 1.1M af in at Otowi. The values for natural variability were during 1917-95. (The 102-year outflow average is 923,000 af.)



Water in the Rio Grande Valley

Caring for the Water's Edge

By Susan Gorman

Think back... way back... to the first water's edge you cared about.

For me it was the banks of a small creek running through a pasture near my Grandfather's house in northwestern Iowa. The creek was within kid-walking distance and we ventured forth to explore the muddy edges, jump across, search for critters and play pioneers. Later, I discovered the story of Lewis and Clark and their fantastic voyage up the Missouri River, past Sioux City, IA and Yankton, SD, towns on the edge of the Missouri River where I grew up. The river and the Lewis and Clark Reservoir figured largely in my life until I left to move to Chicago.

Now, as a New Mexican, the cottonwood and willow forest along the banks of the Rio Grande has become my Water's Edge. I admit, it took a while for me to appreciate the Rio. The levees, ditches and diversions were strange to my Midwestern eyes. Where was the "real" Rio?

It took some work but I have found it... with the help of a good friend who guided me to many special places in the Bosque and a special companion who has walked many miles of ditch banks with me for the opportunity to sight a sentinel bald eagle high in a cottonwood tree, admire the easy circling flight of a red tailed hawk, and listen to the excited chatter of hundreds of red winged blackbirds in the oxbow. Together we have watched the awakening of the snow geese and cranes as daylight comes to Bosque del Apache and wondered why just being there makes us feel so happy.

We save what we value and we learn to value places to which we are connected. How do we become connected to our rivers and wetland areas? How do we help others to find that connection, too? How do we, as people who care about the water's edge, ensure that water plans include the rivers and wetlands and the critters that live there?

Water planning is often an anthropocentric - people centered - exercise. After all, each of us needs water to live and each of us has a personal list of essential water uses. When water planners answer the question, "How much water is needed now and how much will be needed in the future?", the answer tends to focus on the water needs of growing human population.

For those of us who believe that water planning must address not only the needs of the human population but also the needs of the other creatures with which we share the resources of the planet, this people centered view must be broadened. The living river system must have a voice. Clearly, this is the responsibility of those of us who consider ourselves environmentalists. If we participate, we can be assured that the resulting regional water plans will include the living river and the natural ecosystems that we believe are essential - the water's edge!

WE must speak for the river!

MRG Water Planners Assemble

By Susan Gorman

Why would over 160 people give up a beautiful Saturday to gather at UNM to talk about water? Perhaps it is because they share a common concern about the Middle Rio Grande region's water supply. The event was the Third Assembly for Water Planning in the Middle Rio Grande, held on March 27.

The program began with reports from Water Assembly President, Bob Swartwout and MRG Council of Governments' Executive Director Dennis Foltz. These two organizations share responsibility for water planning in the region. As Foltz explained the planning process, the MRG Water Assembly will develop the plan and present it to the MRG Regional Water Board whose members are representatives of local governments. The Board members will bring the plan elements to local elected officials who are responsible for implementation. MRGCOG staff will provide administrative and technical assistance to the Water Assembly and be the fiscal agent for the funds which the NM Interstate Stream Commission has awarded to the MRG region.

Swartwout reminded the group that we cannot rely on government funding and the Water Assembly, a non-profit corporation, will be mounting a substantial fund raising campaign. He stressed the need for everyone's participation and support for this

essential initiative. Both Swartwout and Foltz confirmed the commitment of their organizations to the partnership and Foltz reminded the group that trust is an essential element for success.

Roy Montoya, Santa Ana Tribal Administrator, made a statement on behalf of the six Middle Rio Grande Pueblos (Cochiti, Santo Domingo, San Felipe, Santa Ana, Sandia and Isleta) which have formed a water planning coalition. As Montoya explained, it is essential in any discussion to recognize the special status of Indian water rights which are prior and paramount and not subject to the requirements of the RG Compact. The federal government has acknowledged the tribes' sovereign status and rights to sufficient water to sustain their homeland but state and local governments have issued water use permits without regard for the Pueblos' prior rights; the tribes must take necessary steps to defend their rights. Montoya said the pueblos want to work cooperatively on a government to government basis to achieve agreement.

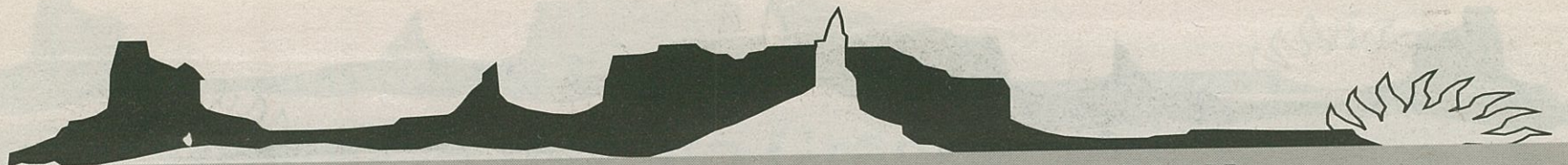
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assistance and support.

Frank Titus, Chair of the Assembly's Technical Working Group, along with a panel of water planning specialists presented a report from the MRG Water Planning Action Committee on the MRG Surface Water Budget. This "budget" is really a balance sheet showing the surface water inflows and outflows in the stretch of the Rio Grande from the bridge at Otowi, below the confluence of the Rio Chama and the Rio Grande, to Elephant Butte Reservoir.

The water budget shows that the difference between the inflow and outflow, is a mere 44,000 acre feet of water in an average year. In a dry year that small positive balance can sink into a deficit causing an under- delivery of water to the downstream users. The water budget focuses principally on surface water and more work is planned to explain the connections between groundwater and surface water systems. Furthermore, the budget does not emphasize the natural variability of the inflows and outflows or the dynamism of the complex system as a whole. For example during the period from 1973 to 1995, the gauge at Otowi registered flows as low as 400,000 acre-feet and as high as 2,900,000 acre- feet and open water evaporation estimates range from 30,000 to 90,000 acre-feet. In spite of the huge variability of the flows, the RG Compact sets a maximum allowable depletion for the Middle Rio Grande region so in a wet year when flows at Otowi are above 1,500,000 acre-feet, the region is still only

See MRG Planners next



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Mayor Jim Baca advised that the water planning initiative must involve business leaders, elected officials, and the tribes to succeed. The City of Albuquerque is working on a growth management strategy that everyone can live with and is implementing a water management strategy to ensure the city's future water supply. Baca said that the City Public Works Department is committed to the regional water planning process and that Assembly members should call on them for

assistance and support.

Frank Titus, Chair of the Assembly's Technical Working Group, along with a panel of water planning specialists presented a report from the MRG Water Planning Action Committee on the MRG Surface Water Budget. This "budget" is really a balance sheet showing the surface water inflows and outflows in the stretch of the Rio Grande from the bridge at Otowi, below the confluence of the Rio Chama and the Rio Grande, to Elephant Butte Reservoir.

The water budget shows that the difference between the inflow and outflow, is a mere 44,000 acre feet of water in an average year. In a dry year that small positive balance can sink into a deficit causing an under- delivery of water to the downstream users. The water budget focuses principally on surface water and more work is planned to explain the connections between groundwater and surface water systems. Furthermore, the budget does not emphasize the natural variability of the inflows and outflows or the dynamism of the complex system as a whole. For example, during the period from 1973 to 1995, the gauge at Otowi registered flows as low as 400,000 acre-feet and as high as 2,900,000 acre- feet and open water evaporation estimates range from 30,000 to 90,000 acre-feet. In spite of the huge variability of the flows, the RG Compact sets a maximum allowable depletion for the Middle Rio Grande region so in a wet year when flows at Otowi are above 1,500,000 acre-feet, the region is still only

See MRG Planners next page



Water in the Rio Grande Valley

Rio Grande Briefing from previous page

threatened by current river conditions and operations.

One source of problems for the minnow is diversion dams in combination with the drying of the river. Silvery minnows release their eggs into the current when they reproduce, where they float downstream. Under natural conditions, the fish would swim back upstream in the course of their lives. Diversion dams now prevent them from doing this. As a result, the surviving minnow population has become heavily concentrated in the reach of the river between the San Acacia diversion dam, roughly 13 miles north of Socorro, and Elephant Butte Reservoir. However, this is precisely the area that is most vulnerable to being dried up during the irrigation season. In 1996, the last drought year, the entire flow of the Rio Grande was diverted from the river at San Acacia for use by farmers, resulting in tens of thousands of minnow deaths. Even in 1998, an year of average precipitation, a good portion of this stretch was dry for most of the summer. In addition to this problem, silvery minnows suffer because they prefer shallow, slow flowing water and silty or sandy substrate, habitat that is now less common with the changes that have been made to the river.

The Rio Grande will never be what it once was. People are not going to abandon their use of river water and their homes and farms in the Rio Grande valley. Nonetheless, there are things that can be done to restore comparatively healthy ecosystems in the middle Rio Grande. The first thing that can be done is to get more water for the river so that it does not dry up, or dries up less, in the summer. Since we live in a desert, this is not, of course, a simple proposition. There is little water available for purchase. However, there are potential sources of water.

Water could potentially be made available for the river if water resources were used more efficiently. In spite of the fact that we live in a desert, our use of water is astonishingly inefficient. The Middle Rio Grande Conservancy District (MRGCD), the entity that provides water to farmers, has conveyance canals that were built many years ago and that require the diversion of about four times the amount of water actually needed for irrigation just to transport the water through their system. Farmers in the middle valley typically irrigate by flooding their fields, which, needless to say, results in great losses from evaporation in the hot New Mexico sun. In spite of some improvements in recent years, residents of Albuquerque still use more water per capita than almost any city in the west. All of these inefficiencies can be addressed and could lead to more water for the river.

Water could also be made available

Janet Gerwin

Pajarito Group

Presently, Los Alamos enjoys exclusive use of its own little aquifer(s?). We don't know the configuration down there. Some of the water is nearly 35,000 years old and we don't think it is being replenished. On the other side of town, the water is only 1,000 to 5,000 years old, and we think we are getting some slow replenishment from the Jemez Mountains. Not as fast as we are pumping it out, though. I (and other SC members) have talked to two of our seven county councilors about the Office of the State Engineer's limitation on the number of acre feet the County (including the Laboratory) is allowed to pump annually. They refuse to believe us (that there could be any limitation on what they want to do.) I've warned them that the 1,400 acre/ft of San Juan/Chama water which the DOE is bequeathing to us may be paper water rights, not wet water rights, and that our rights may not be senior enough to be depended on. They didn't believe anything I said. So, on to an open letter to all the councilors, with a copy to the local newspaper. I've warned the paper that this is coming and they seem cooperative. I am on the Surveillance and Monitoring Subcommittee of the Citizens Advisory Board. Therefore, I get details of the AEC and DOE dumping in our canyons. Some of the more repulsive chemicals and isotopes have leaked 325 feet through the canyon floor on their way to the major aquifer(s) at about 625 feet down. The County Council is trying to add 10,000 to 15,000 more inhabitants and many more businesses to the townsite, in a desperate attempt to bring in more gross receipts taxes. (The DOE eliminated its annual subsidy to the town.) So, I am attempting to use New Mexico OSE water rules to cool down the frenzied rush to sprawl and degradation.

in drought years through contracts with farmers who voluntarily choose to sell their water. The Bureau of Reclamation put this proposal forward in 1996 as their solution to preventing a repeat of that year's minnow disaster, but then failed to implement it. A program could also be devised whereby some farmers would use groundwater in drought years, thereby allowing more water to remain in the river.

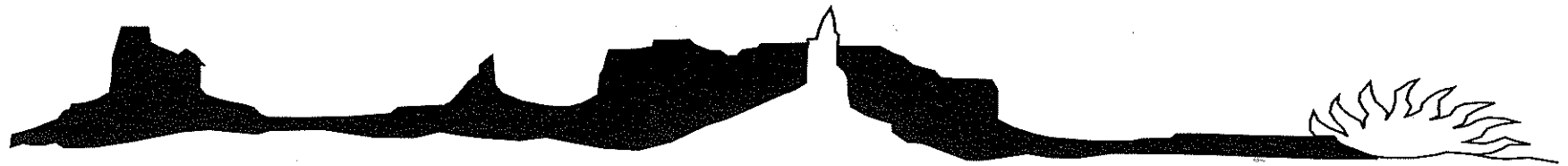
More water could also be made available in the summer if some Rio Grande Compact water deliveries were made during that season. Increased evaporation and transpiration losses could be offset by water acquired for the river. Water acquired for the river could in this way be leveraged into a substantially greater quantity of water.

In addition to getting more water, we also need to mimic as much as possible the natural conditions of the river. This means, among other things, flooding in the springtime when the cotton is flying, expanding the floodplain where possible (obviously not in Albuquerque), removing the diversion dams and replacing them with infiltration galleries or other means of diversion that do not create a barrier to fish movement, creating shallow, low-flowing water and backwaters, and reintroducing sediment into the system above the Rio Puerco. Some work is currently being done that could lead to accomplishing a few of these goals. For instance, the Corps of Engineers is negotiating with the Santa Fe railroad to move the railroad bridge at San Marcial, which is the primary physical obstacle to controlled springtime flooding, and the Bureau of Reclamation has agreed to study removal of the San Acacia diversion dam.

Water on the Pajarito Plateau

The Sierra Club and other environmental groups have been involved in negotiations and discussions on various fronts for a number of years. While it is not impossible that these negotiations will yet succeed, as of yet, we do not have agreement on a plan that would lead to a healthy Rio Grande. The problems are myriad. All of the solutions cost money. However, Senator Domenici, at whose urging we can only speculate, seems more interested in polarizing the debate as the environmentalists out to do in the farmers than he is in trying to work out constructive solutions. He is politicizing the issue, presumably to use it to attack the Endangered Species Act.

Moreover, the Rio Grande Compact Commission, Interstate Stream Commission, and the State Engineer, whose primary concern in this is ensuring that New Mexico meets its obligation to deliver water to Texas under the Rio Grande Compact, object that proposals will result in increased river depletions and impair their ability to meet New Mexico's Compact delivery requirements. They are, in general, not receptive to environmental concerns. Irrigators feel that their way of life is threatened by the assertion of the river's environmental needs and have been slow to change their traditional reluctance to make any concessions to the environment. Santa Ana Pueblo alone among the irrigators has made a serious effort to address environmental problems on the river. The Bureau of Reclamation, the agency primarily responsible for river operations on the Rio Grande, has shown little willingness to rock the boat and seriously tackle the problem of environmental restoration.



Public Lands

Public Lands, Fire, and Restoration: National Forest Protection and Restoration

By Bryan Bird
Executive Committee

Fire season is upon us! As we head into an especially dry summer, there are some things New Mexicans might consider. Our forests are going to burn and how are we to accommodate this natural phenomenon? Immediately, we should prepare to protect outstanding ecological and cultural elements as well as human life and property. In the long run, what is the most appropriate and cost-effective restoration method for our national forests?

Dealing with fire and restoration on national forest lands requires consideration of public policy. National Forests are not intended for private profit as they are a public holding to be managed for the greatest "net public benefits" [36 C.F.R. 219.1(a)]. To date, the federal timber sale program has proven itself an ecological and economic failure. If federal forests are to provide the greatest good to the greatest number of people in the form of water quality, fish, wildlife, biodiversity, recreation and other non-timber values, a bold, new management directive is imperative.

The National Forest Protection and Restoration Act (NFPRA) is a viable solution. NFPRA would: 1) end the federal timber sales program, saving tax payers at least \$300 million in the first year, 2) prohibit any new timber sales and phase out existing sales within two years, 3) redirect logging subsidies to facilitate economic recovery and diversification of rural communities, 4) continue funding counties (county receipts taxes) in the transition period, and 5) begin a scientifically-based ecological restoration program. NFPRA would not end permitted and personal use activities such as firewood gathering.

History

The intent of the National Forest system has been lost in a history of subversion by private interests. In 1891 Congress granted the president the power to set aside forestlands as "forest reserves" with the intent to protect watersheds, wildlife, and recreation opportunities. Shortly after in 1894 regulations were adopted making it illegal to "cut, remove, or use any of the timber, grass, or other natural product" on National Forest land, nor "settle upon, occupy, or use

any [National Forest] lands for agricultural, proprietary, mining, or other business purposes." The turning point in the history of the National Forest system came in 1897 with an appropriations rider entitled the Organic Act, allowing resource extraction on forest reserves for the first time. Since then, the USFS has had to struggle with the competing demands of often-contradictory goals, such as timber and clean water production.

National Forests in the U.S. comprise less than 20% of commercial forestlands in the nation while 73% are privately held and the remainder is in other ownerships. Just 3.9% of America's wood consumption is extracted from National Forests. Further, timber production on National Forests dropped by 70 percent between 1988 and 1996 while jobs in the lumber and wood products sector actually increased. The 2000 recreation, hunting, and fishing in National Forests will contribute 31.4 times more income to the nation's economy, and will create 38.1 times the number of jobs, than logging.

Fire and Ecological Restoration

The legacy of commercial timber production on National Forest lands has resulted in some legitimate restoration needs and the need to redefine our relationship to fire. In some cases, restoration is justified where roads threaten habitat and water quality and where streambeds and riparian zones have been altered. Restoration spending should initially focus on roads and watercourses. To achieve ecologically appropriate restoration of public forestlands, a noncommercial mechanism is necessary to insure that private, bottom line economics are not the ultimate goal. Further, unbiased, scientific entities must determine the need for and method of restoration.

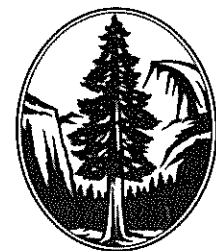
Fires, especially in the Southwest, are normal, even "catastrophic" fires, to a degree. The American taxpayer spends \$500-900 million annually suppressing fire. It is time to take the economic incentive for fire suppression out of the equation and allow this natural process to do its job. The contention that our forests are unhealthy is not universally

supported. Not all ponderosa pine forests existed historically in "open, park-like" stands; some dense "dog-hair" thickets are natural, depending on site-specific factors (Shinneman & Baker 1997). Fire rarely burns down entire forests, more often it leaves a diverse mosaic of living forest as seen in the Oso fire in the Jemez Mountains. Stand replacing fires, though not common, do occur and can be beneficial, depending on forest type, as witnessed in the now famous Yellowstone fires. In fact, some computer models indicate that the most efficient path back to natural conditions may be large-scale fire. Of course, some thinning is necessary to prevent fires from moving into residential areas and threatening private property, but large-scale commercial thinning of our national forests is unrealistic and prohibitively expensive.

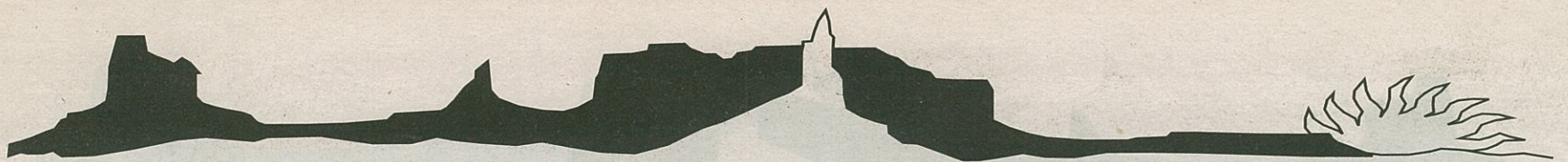
Ecological needs of our National Forests, without the obligation to provide an unessential commodity. Science would finally dictate the management of public forests, forest-community economics would be stabilized, and timber workers would be prioritized for restoration jobs. Call or write Representative Udall (U.S. House of Representatives, Washington, D.C. 20515) to express support for the bill and ask him to sign on as a co-sponsor.

Sources:

Zero-Cut: The Campaign to End Logging on Public Lands. 1998 Information Packet. Public Media Center.
H.R. 2789. National Forest Protection and Restoration Act 1997 Introduced to the 105th Congress by Cynthia McKinney (D-GA) & Jim Leach (R-IA).
Shinneman, D.J. and W.L. Baker. 1997. Nonequilibrium dynamics between catastrophic disturbances and old growth forests in ponderosa pine landscapes of the Black Hills. Cons. Biol. Vol. 11(6): 1276-1288. 1997.



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Mining

EI CAJETE UPDATE: Mining in New Mexico

By Abe Jacobson
Mining Issues Committee

THE GOOD

In 1993 the Mining Act was passed by the legislature and signed by Governor Bruce King. This gave New Mexico what is perhaps the best statute of its kind in the nation. The Act carefully distinguished between "existing mines" (that is, pre-existing the Act), that had not been forward-engineered by modern standards, and "new mines", which were held to higher standards of operation and minesite reclamation. The basic premise of the Act is that new mines must be reclaimed to allow a "self-sustaining ecosystem" appropriate to the pre-disturbance local environment. The Act applies on all lands: Private, State, and Federal.

THE BAD

Gary Johnson came into the Governor's mansion in 1994 at the same time as the Gingrich revolution. We went in one fell swoop from a climate that favored the public interest and the environment, to one that sought at all costs (that is, costs to be borne by the public) to serve a particularly brutal vision of laissez-faire corporatism. The Johnson administration's "Annual Resources Report (1995)" proclaims without a trace of irony (page 3): "Jennifer Salisbury, Cabinet Secretary for the Energy, Minerals, and Natural Resources Department, and the Johnson administration have committed to positioning New Mexico as the best state in which to conduct extractive resource business."

Good news for mining multinationals like Unocal, Phelps Dodge, and Mitsubishi, but bad news for those of us concerned more about New Mexico's and economic and social sustainability.

Though deprived of the chance to live under a Mobutu or a Pinochet, shoveling his country's resources overseas, we can at least get a resource-colony theme park, right here in New Mexico, provided by Gary Johnson and his political appointees. Such a deal!

Predictably, the Johnson administration has systematically sought to undercut the Mining Act. One mode of attack has been a pattern of administrative understaffing. Another has been to purge the Mining Commission of all but one environmentally committed member, and then stacking it with industry cheerleaders led by Chairman Terry Fletcher, an executive with a large uranium-mining corporation. Still a third front of attack against the Mining Act has been a pattern of administrative rulings ("Orders") from EMNR Department's

Mining and Minerals Division (MMD) which have attempted to bend the Act and its associated Rules in favor of industry. None of these Orders by itself was blatant enough to provide obvious traction for appeal, though. Sort of like a football team making slow progress by running the ball 3 yards at a time and never fumbling.

AND THE UGLY

However, in permitting Richard Cook's El Cajete mine in the Jemez in March 1998, MMD really went for the bold, 80-yard touchdown pass. MMD's innovation was to permit a new mine as an existing mine! (Does this sound like Alice in Wonderland?) This would both (a) relieve the mine operator (Copar Pumice Company) of bothersome adherence to the more stringent environmental standards of new mines, and (b) more importantly, in the long run, set a precedent for incremental "mine creep" by which new mine pits and sites could be permitted under the relatively lax standards of an existing mine. It was a recipe for voiding much of the Mining Act. The Act carefully differentiates between existing mines and new mines, demanding more stringent cleanup and site reclamation for the latter. The solution: Make all mines EXISTING mines! Duh.

All that was needed for MMD's bold attack on the Act was for a precedent to sneak under the public's radar screen. Armed with such a precedent, corporations like Phelps Dodge and its partner Mitsubishi could look forward to an attractive business plan of expanding "existing" mines to conceal what are in fact "new mines". All that was needed was an expandable permit boundary, explicitly outlawed by the Act but not impossible according to the imagination of MMD's Director.

COOKING THE BOOKS

The MMD Director in March 1998 attempted to create this precedent. The defunct Las Conchas pumice mine's permit area was expanded, long after its inception, by over an order of magnitude with a stroke of the Director's pen, in an administrative fiction worthy of Kafka. The new El Cajete mine, which existed only on paper and was in fact a new mine, was administratively swallowed into Las Conchas' existing-mine permit despite being over a mile away from Las Conchas.

BIG D

Your Sierra Club, ably represented by Doug Wolf of the New Mexico Environmental Law Center, fought back. We appealed the MMD Order to the Commission, where -guess what!- the Director's Order was confirmed in a 4-3 vote on 22 June 1998. We then sued the Commission in First Judicial Court, claiming

that the Commission's upholding of MMD was contrary to law. The Department (read: the considerable taxpayer-provided resources at Johnson's disposal) entered as an intervenor, and so did Richard Cook's Copar, which operates El Cajete.

Briefs and counter-briefs were lobbed back and forth like ordinance for months, and then finally in early February 1999 the oral arguments were heard by Judge Art Encinias of the First Judicial District. Within two weeks, the Court ruled in our favor. The ruling was not subtle. It gave short shrift to the law-bending sophistry of the other side. The Court affirmed that the Mining Act clearly prohibits the expansion of a permit boundary a posteriori. On 5 March Judge Encinias ordered the Commission to convene and to order the Department to "vacate" the El Cajete "existing-mine" permit order of exactly one year earlier.

SOCIALISM FOR THE RICH, CAPITALISM FOR THE POOR

You might think that the Johnson administration, fiercely hostile to taxpayer-funded legal advocacy for welfare clients, would have thrown in the towel at this point, and would have ceased misusing tax monies to argue a bankrupt case whose only possible beneficiary is a major political contributor. But no, this administration's hostility to welfare patronage is curiously selective.

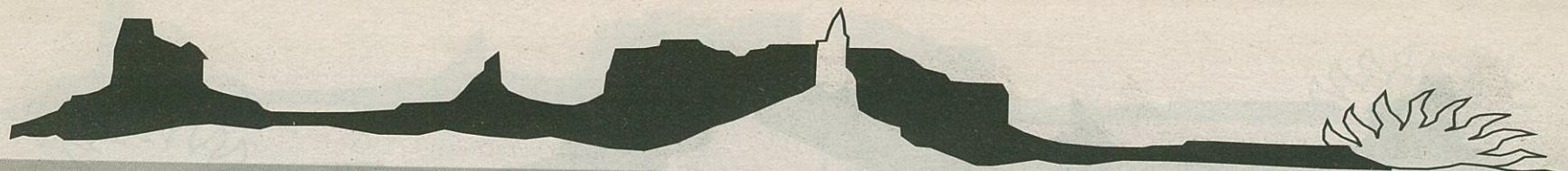
The Administration's dogged commitment to Copar's interests was revealed by its decision to appeal the trial court's ruling to The New Mexico Appellate Court. We are again facing the same three kin-in-opposition: The Commission (read: the mining industry), the Department (read: the Johnson administration), and Richard Cook's Copar Pumice.

ARE WE HAVING FUN YET?

In a revealing sidebar, the Commission (who is the defendant) has maintained that it enjoys an automatic stay from the trial Court's order (pending appeal during their 7 April meeting in which they were required by the Court to vacate the permit, the Commission instead declined to do as so ordered, asserting immunity from the Court's order. Some Commissioners even proceeded to belittle the Judge's reasoning to the media (see the Journal North, 8 April). The Commission claims that this case falls under a doctrine of automatic stay for the State and its entities. Sovereign immunity from the law.

We disagree, having studied the fine print of New Mexico's judicial stay doctrine: Excluded from such stays are judicial orders in the form of a "mandamus". Our counsel has astutely shown that the Court's order of early March is most

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Public Lands

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certainly a mandamus, that is, something directing a specific action by the Commission as remedy. Immediately after the Commission's meeting in which it unilaterally declared its immunity from the Court's order pending appeal, our counsel set to work drafting a motion to find the Commission in civil contempt. This was delivered to District Court the following day. The Commission's counsel was quoted in the media as complaining that such a motion by our counsel was "inflammatory".

BLM's RESOURCE ADVISORY COUNCIL PLANS TO PLACE "CUSTOM AND CULTURE" INTO FEDERAL GRAZING REGULATIONS

By John Horning
Forest Guardians

The Resource Advisory Council was formed in 1995 by Secretary Bruce Babbitt to advise the BLM on management concerns, most prominently the grazing regulation issue. Each state had its own "RAC" whose first order of business was to formulate Grazing Standards and Guidelines. New Mexico's RAC was quickly commandeered by the right wing New Mexico Cattlegrowers Association with the help of Lt. Gov. Bradley. The New Mexico RAC did something that no other state RAC did, they wrote Standards for a "custom and culture" Guideline. So radical was this ploy that the Interior Department required an EIS be submitted, since adoption of these Standards and Guidelines would require amending the Resource Management Plans of each BLM operating area.

The Draft EIS for the RAC Standards and Guidelines was released February 5 with a ninety day comment period (comments due by May 17, 1999). The alternatives presented include a "County option" written by the Coalition of Counties, a RAC written preferred alternative and the "Fallback Standards" that are the BLM's current grazing standards. After a careful review of the sometimes confusing EIS, the Fallback alternative is by far the best alternative for increased ground cover, wildlife habitat and riparian restoration. The "RAC preferred alternative" is a serious threat to the continued authority of the BLM in

grazing management and the "County Option" alternative outright strips the BLM of operational authority of THE PUBLIC'S rangelands.

What is wrong with the "RAC preferred alternative"? For the first time since the Taylor Grazing Act, the BLM would be forced to base grazing decisions not on science and resource protection, but also on the effect decisions have on the profitability of the local rancher, the local customs or lifestyles of the populace of the immediate area and the culture of the local area. Never mind that the resources affected are PUBLIC resources owned equally by everyone in the United States. Never mind that the degradation of resources affects many, many more people than the local populace.

This so-called "Human Dimension" would in effect replace all other criterion as the limiting criterion to the decision making process and lead to a paralysis of grazing management on BLM lands because almost any decision to protect resources could be claimed to affect a ranchers bottom line.

The Fallback standard is the best alternative presented because it:

- A. Protects the most segments of streams
- B. Protects and restore the most upland rangeland
- C. Creates and protects the most wildlife habitat, restoring diversity to grazing areas that have become oversimplified ecologically
- D. Focused on Resource Protection

Grazing guidelines like the Fallback Standards are badly needed because 53% of BLM lands are in immediate need of improvement as cited by the BLM. Unfortunately, even the Fallbacks need improvement because of their lack of specificity for New Mexico. The Sierra Club, along with other environmental groups will be providing recommendations for more specific Standards that will lead to enforceable guidelines.

The "RAC preferred alternative" is a dangerous precedent that could not only lead to further degradation of our rangelands and riparian areas, but would give encouragement to those who would like to privatize, one way or another, our federal lands as well as opening the door to future inclusions of these "custom and culture" or "property rights" regulations in future government lands management regulations. These lands belong to all Americans, not just the ranchers and developers.

With enough response we can win this one! We need a huge public response to DEFEAT the PREFERRED RAC ALTERNATIVE. Please write and FAVOR the FALLBACK ALTERNATIVE. Send comments to:

John W. Whitney
Bureau of Land Management
P.O. Box 27115
Santa Fe, NM 87502-0115



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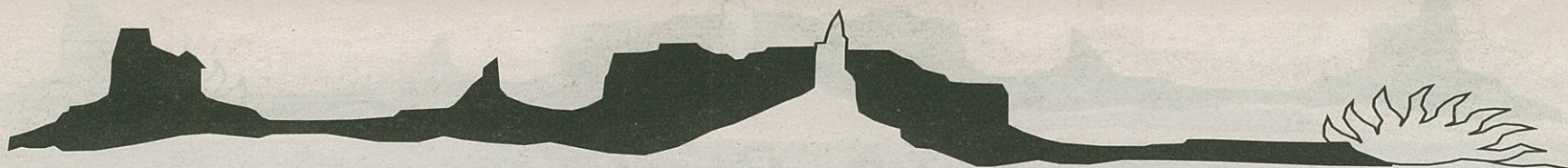
Nominating Committee Designated for the Rio Grande Chapter

It may seem like we just got finished voting, and here we go again. The direction of the Club is determined by a group of dedicated volunteers. In addition to interests in environmental issues, members of the elected leadership develop skills in effectively communicating -- both with each other, with the membership, and with the public.

The nominating committee has been appointed by the Chapter Chair and approved by the executive committee. This group makes recommendations to the membership on what it feels are viable candidates for these elected positions.

The activists who have taken on this task of determining next year's slate of candidates for the Rio Grande Chapter executive committee -- are as follows. Please, contact one of these folks if you have interest in being involved in the leadership of the Chapter.

Lawrence Gibson	915 594-7342	gibson@ece.utep.edu
David Farrell	895-3352	dafarrelli@hotmail.com
Jeremy Kruger	242-8022	kruger7@aol.com
David Bouquin	662-3741	dbouquin@rt66.com
Doug Fraser	662-5204 or 474-7615	



Legislature

Legislature from page 1

cruelty statute currently on the books (the new law takes effect July 1, 1999) does not apply to wildlife. Although the intent of the new law is to include wildlife, that may need to be established by a court in a future case.

Unfortunately, Senate Bill 229 (Senator Feldman) which would have added protection for "threatened" species to the New Mexico Wildlife Conservation Act was defeated on the Senate floor despite the fact that many interested parties admitted that the Act was meant to include protection for threatened species but that it was left out due to typographical error several years ago. Much of the debate on the floor focused on the recent Notice of Intent to Sue regarding the silvery minnow. [Refer to separate article on page 3 by Richard Barish - Editor] Although the defeat was unfortunate, the Game and Fish Department has said that the protection for threatened species would have existed on paper only. Also, House Bill 410 (Representative Begaye) giving the Game Commission the authority to regulate the commercial use of reptiles and amphibians was tabled in Senate Conservation Committee. However, Representative Begaye is committed to working on the bill during the interim and will attend the next Game Commission meeting. The department's initial opposition and later lukewarm acceptance of the bill was a factor in the bill being tabled.

Several bad wildlife bills were defeated including Senate Joint Resolution 1 (Senator Lyons) that would have allowed the electorate to vote on a constitutional amendment creating a state right to hunt and fish (defeated on the Senate floor). Senate Bill 736 (Senator Aragon) requiring the department of game and fish to conduct studies on the social, cultural and economic impact of all wildlife management decisions and to conduct studies in the area affected by such decision was tabled in the Senate Conservation Committee. Senate Bill 89 (Senator Lyons) creating a "Big Game Partnership" never made it out of the House Appropriations and Finance Committee. The bill would have allowed the game commission to enter into "cooperative" agreements with public and private landowners to "manage" wildlife. The bill was extremely vague and broad and could potentially have led to bad things

happening to wildlife with taxpayer dollars.

The House and Senate budget bills that were vetoed did include a general fund appropriation for the Conservation Services Division of the Game and Fish Department. One bill had a \$100,000 appropriation and the other a \$400,000. If the general fund appropriation to CSD is not made in the budget that will come out of the special session, the Department will have to try to cover more of CSD's needs out of the Department's game protection fund monies. Even if a general fund appropriation is made for CSD, it is likely that the governor will line item veto the appropriation as he has done in the past.

Air Quality

Several bills were introduced that would have reduced the time that the Environment Department has to issue construction permits: House Bill 203 (Representative Heaton), House Bill 325 (Representative Pearce) and Senate Bill 626 (Senator Macias). The Heaton and Pearce bills were merged into one bill and then both that bill and the Macias bill were amended so that although the time frame was decreased, the Environment Department could extend it for "good cause." Additionally, the bills allow an applicant to pay for outside consultants for the acceleration of processing the permit. Both bills passed the legislature and the governor has signed House Bill 203/325. Senate Bill 676 (Senator Sanchez) was a very bad air quality bill that was never heard in its first committee.

Water

House Bill 321 (Representative Gubbels) reauthorizes the water quality control commission and has been signed into law by the governor. Originally the bill had included new language destroying the "de novo" nature of appeals that is critical for grassroots organizations but that language was amended out at the initiative of environmentalists. Representative Gubbels' House bill 405 giving the state engineer greater enforcement powers for over-diversion made in through the House and the Senate Conservation Committee but then did not get a hearing in the Senate Judiciary Committee.

Unfortunately, House Bill 592 (Representative Stell) did make it through the legislature. The bill expands on a New Mexico exemption to the federal Clean Water Act for flood and irrigation control facilities. Both the Environment Department and the federal EPA oppose the bill. The governor has signed the bill. The EPA may wind up suing the State of New Mexico at some point over this New Mexico exemption.

Senate Bill 84 (Senator Feldman) creating a aquifer storage and recovery program passed the legislature and was passed by the governor. The water banking bills (Representative Gubbels' House Bill 455 and Senator Wilson's Senate Bill 512) created an enormous amount of debate but failed to make it through the system. Also, Representative Gubbels' and Senator Wilson's income tax credit bills (House Bill 105 and Senate bill 45) for agricultural and livestock interests that undertake water conservation plans (up to \$50,000 in income tax credit) did not make it through the process.

Electricity

The worst news of the session is that Senate Bill 428 (Senator Sanchez) passed the legislature. The bill deregulates the electricity generation industry without providing for adequate environmental and consumer protections. The bill allows for the recovery of at least 50% of industries' stranded costs and only pays lip service to renewable energy programs and clean sources of energy, thereby providing no mechanism for getting New Mexico to move away from using dirty coal plants to generate electricity. The governor has passed the bill. The better deregulation bill, House bill 865 (Representative Pederson) did not get anywhere.

A good electricity bill, Senate Bill 615 (Senator McKibben) which would have made net metering for self-generation of electricity feasible, was tabled in the Senate Conservation Committee. House Bill 218 (Representative M.P. Garcia) passed the House but did not get heard on the Senate floor. The bill provided for the energy, minerals and natural resources department to conduct a demonstration of on-site electric generation.

See Legislature on next page