Comment Letter A1

United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Post Office Box 649
Albuquerque, New Mexico 87103

IN REPLY REFER TO:

February 6, 2004

ER 04/12

Douglas Echlin
Lead Environmental Protection Specialist
Environmental Management Division, USIBWC
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Mr. Echlin,

The U. S. Department of the Interior (DOI) has reviewed the Draft Environmental Impact Statement (DEIS), River Management Alternatives for the Rio Grande Canalization Project (RGCP), Sierra and Dona Ana Counties, New Mexico, and El Paso County, Texas. The following comments are provided for your consideration during preparation of the Final EIS.

The RGCP, completed in 1943, extends 105.4 miles from Percha Dam in Sierra County, New Mexico, to American Dam in El Paso, Texas. The project was constructed to provide flood control and facilitate water deliveries to the Rincon and Mesilla Valleys in New Mexico, El Paso Valley in Texas, and Juárez Valley in Mexico.

The U.S. Section, International Boundary and Water Commission (USIBWC) currently operates and maintains the RGCP and works to enhance the ecosystem in the project area. The purpose of the DEIS is to identify an operation and maintenance plan that maximizes ecosystem enhancement and restoration in the project area while meeting the water delivery and flood protection mandates of the RGCP.

GENERAL COMMENTS

We strongly support the USIBWC's efforts to enhance and restore riparian and aquatic ecosystems in the project area. The DEIS provides adequate background information on the facilities in the project area and adequately explains the purpose and need of the project. Based on our review of the DEIS, we believe that the Targeted River Restoration Alternative would provide the most ecological benefits to the project area.

A1-1 The Rio Grande floodplain in the project area tends to have high salinities. To improve this situation so that native vegetation can benefit, high flows in this river reach could flush the soils and improve the floodplain. We encourage high flows whenever possible.

SPECIFIC COMMENTS

A1-2 2.2.4 Sediment Management, *Sediment Removal from the Mouth of Arroyos*, Page 2-7, Paragraph 2, Sentence 4

This sentence indicates that most of the installed instream test structures are silted and no longer functional. We recommend that more information be provided regarding siltation around the structures (i.e., upstream siltation vs. downstream siltation). Instream structures often become silted on their upstream side, yet provide quality scour pool habitat downstream.

A1-3 2.4.2 Floodway Management, *Lowering of Stream Banks*, Page 2-16, Paragraph 2, Sentence 3

We recommend that the word "Reservation" be replaced with "Refuge."

A1-4 2.5 Targeted River Restoration, Page 2-17

This alternative would provide the most benefits to aquatic and riparian ecosystems in the project area. We fully support the concept of high flows that would create aquatic habitat and improve soil conditions in the floodplain.

A1-5 2.9.2 Water Acquisition, *Water Rights Acquisition*, Page 2-41, Paragraphs 1 and 2

We support the collaborative development of water conservation programs and water banking for the RGCP area. However, we recommend that impacts to fish and wildlife resources associated with these programs (i.e., lining of ditches, etc.) be identified and that mitigation be developed and implemented.

A1-6 2.10.1 Linear Projects, Page2-45

We strongly support the development of effective grazing guidelines, compliance policies, and monitoring programs.

A1-7 2.10.2 Point Projects, Page2-46 and 2-47

We recommend that point project areas (i.e., planting and bosque enhancement areas, stream bank shave downs, meander reopenings, and arroyo dredging areas) be excluded from grazing. Controlled grazing may (or may not) be appropriate in these areas after target vegetation becomes established and the study period is completed (i.e., that period of time necessary to determine the project is achieving its intended functions). We also recommend that best management practices be incorporated to minimize disturbance to point project areas associated with RGCP maintenance activities.

A1-8 2.12 Summary Comparison of Alternatives Effects, Table 2.12-1, Page 2-51, Endangered and Other Special Status Species, Column 5, Target River Restoration Alternative

One of the benefits of the Targeted River Restoration Alternative is that the development of meanders could potentially create suitable habitat for the southwestern willow flycatcher, yellow-billed cuckoo and other rare species. It also has other potential benefits for the yellow-billed cuckoo.

A1-9 Section 3 Affected Environment; Subsection 3.1 Water Resources; Subsection 3.1.3 Water Quality, first paragraph, last sentence

A1-9 The USGS surface-water monitoring stations are identified by 8-digit numbers; thus, the El Paso station Rio Grande at El Paso, TX, referenced in the text is 08364000, not 8364000. More water-quality information about this site can be found on the internet at http://nwis.waterdata.usgs.gov/tx/nwis/qwdata?begin_date=03/01/2000&end_date=08/31/2002&site_no=08364000&agency_cd=USGS&format=por_table.

A1-10 3.1.1 Water Consumption, *Water Releases*, Page 3-6
We recommend that the USIBWC work collaboratively with irrigation districts and others to encourage and promote, where possible, the conversion from water intensive crops to crops which require less water.

A1-11 3.1.2 Water Delivery, *RGCP Channel*, Page 3-8, Paragraph 1
Where possible, we recommend that debris be left in the channel to diversify and improve aquatic habitat.

A1-12 3.1.2 Water Delivery, *RGCP Channel*, Page 3-8, Paragraph 2
Where possible, we recommend that the use of permanent erosion-protection structures (i.e., riprap, gabion baskets or concrete) be minimized and that banks be protected with vegetation, tree root masses, large cobbles or boulders.

A1-13 3.6.1 Threatened and Endangered Species
We recommend that project related effects to the yellow-billed cuckoo be addressed in the final EIS.

A1-14 4.3.4 Flood Control Improvement Alternative, *Soil Erosion*, Page 4-15
We support the reduction or termination of grazing in riparian areas in order to allow vegetation to recover. We also support the construction of grazing exclusion fences from wetland and river bank areas.

A1-15 4.14.3 Biological Resources, Table 4.14-3 Mitigation Measures for Biological, Page 4-18
We support the implementation of the mitigation measures identified on page 4-18.

We appreciate the opportunity to review the Draft EIS. We trust our comments will be of use during completion of the final document.

Sincerely,

Stephen R. Spencer

Stephen R. Spencer
Regional Environmental Officer

Comment Letter A2

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

February 9, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Mr. Echlin:

In accordance with our responsibilities under Section 309 of the Clean Air Act, the National Environmental Policy Act (NEPA), and the Council on Environmental Quality Regulations for Implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Draft Environmental Impact Statement for River Management Alternatives for the Rio Grande Canalization Project.

A2-1

The EPA rates your DEIS as "LO," i.e., EPA has "Lack of Objections" to the lead agency's proposed action. In the final selection process, we ask that suitable mitigation measures be incorporated into the selected alternative as appropriate. Our classification will be published in the Federal Register according to our responsibility under Section 309 of the Clean Air Act, to inform the public of our views on proposed Federal actions.

EPA appreciates the opportunity to review the DEIS. Please send our office one copy of the FEIS when it is sent to the Office of Federal Activities, EPA (Mail Code 2252A), Ariel Rios Federal Building, 1200 Pennsylvania Ave, N.W., Washington, DC 20004.

Sincerely yours,

Michael P. Jansky, P.E.
Regional Environmental Review
Coordinator

Comment Letter A3

TEXAS PARKS & WILDLIFE

February 9, 2004

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Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street
El Paso, Texas 79902

Re: Draft Environmental Impact Statement (DEIS) on River Management Alternatives for the Rio Grande Canalization Project (RGCP)

Dear Mr. Echlin:

A3-1

Staff review of the above-referenced DEIS proposed alternatives indicates that Alternative 4-Targeted River Restoration Alternative would yield the highest level of benefit to fish and wildlife resources within the RGCP and, likely, to adjoining river segments.

A3-2

Proposed management strategies within Alternative 4 would potentially promote improved water quality by reducing erosion and nutrient input from grazing and other agricultural practices. The Texas Commission on Environmental Quality (TCEQ) Texas Water Quality Inventory (305b) reports for 1996 and 2002 (draft) mention concern for total phosphorus, orthophosphate, and sediment levels within segment 2314-Rio Grande Basin. Additionally the report includes concerns for contact recreation within this segment. As proposed, alternative 4 would afford the best possibilities to improve water quality in regard to these and other criteria. Further, restoration of riparian bosque will serve to shade the river and thus potentially reduce evaporation and water temperature during summer months.

A3-3

As proposed, Alternative 4 would restore approximately ten miles of river channel by re-opening meanders in the river that were cut off during construction of the RGCP. Restoration of these meanders will improve instream and riparian habitat by creating backwater habitats within the RGCP right of way and by reestablishing native riparian communities. The potential exists within these reestablished meander backwater habitats for establishment of aquatic macrophytes and thus improved instream habitat and water quality.

Currently, the vast majority of the Rio Grande within the RGCP is classified as run habitat. The homogenous character of the river within the RGCP is not conducive to maintenance or propagation of aquatic communities native to the area.

A3-4

Implementation of water conservative irrigation practices would serve fish and wildlife resources by reducing water demands and water contamination from return agricultural runoff (resulting from current flood irrigation practices). Proposed "seasonal peak flows" would serve to promote and propagate riparian communities, remove fuel load and

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improve fish and wildlife habitat.

A3-5 Alternative 4-Targeted River Restoration Alternative has additional potential positive effects. Although the possibility that this could create useable habitat for Rio Grande silvery minnow (*Hybognathus amarus*), was not mentioned, the project descriptions sound almost ideal: "pulse flows; opening of meanders; seasonal peak flows; backwater habitat; etc. are just what this fish species needs. Even "relatively unstable" substrate of sand and silt is quite suitable.

Where it now occurs, the Rio Grande silvery minnow was found to be abundant in areas with little or no water velocity (<10 cm/sec). Spawning by Rio Grande silvery minnow occurs over a brief period (about 1 month) in late spring-early summer (May-June) and coincides with spring runoff. This alternative would allow flood surges to simulate overbanking flows which would be beneficial to reproductive success. The creation of low-velocity habitats (backwaters and embayments) enhances survival and growth of young. Although this is a relatively short reach (the distance traveled by drifting eggs and larvae can exceed 100 miles), there would be potential egg/larvae habitat.

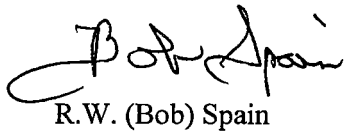
This reach is considered as one of the potential reestablishment sites in the Recovery Plan. The main downside is that "The reach below Caballo Dam is channelized". The assumed causes of extirpation from this section are "water quality degradation, canalization, change in hydrology, diversion (physical barriers and de-watering)." The Targeted River Restoration Alternative sounds like it could rectify these problems.

A3-6 In addition, creating habitat for southwestern willow flycatcher seems to also support this alternative.

A3-7 Restoration of riparian and wetland habitats would potentially buffer the river from natural erosional processes and concomitant sedimentation, agricultural runoff, and erosion due to grazing. Further, removal of water consumptive invasive species such as salt cedar and Russian olive will help to augment water supplies. Alternative 4 predicts an increase in wildlife habitat of 72% and an increase in wetland habitat of 60%. Other alternatives would not improve these parameters to the same degree.

Questions can be directed to Rollin MacRae in Austin (512-389-4639).

Sincerely,



R.W. (Bob) Spain
Assistant Director, Resource Protection Division

RWS:JRM:sh

Comment Letter A4

From: Smokovich, Nick [NSmokovich@state.nm.us]
Sent: Tuesday, February 10, 2004 11:28 AM
To: 'sallyspener@ibwc.state.gov'
Cc: 'dougechlin@ibwc.state.gov'
Subject: Restoration alternative

A4-1 Being involved in restoration along my stretch of the Rio Grande I ask you to please strongly consider option 4 . It may not be the easy choice, but in the long run it will provided move benefits to the citizens of both the US and Mexico.

4. Targeted River Restoration: This alternative also builds on the improvements of Alternative 2, with emphasis on environmental measures associated with partial restoration such as pulse water flows to promote riparian corridor development, opening of meanders, and modification of arroyos to increase aquatic habitat diversification. Environmental measures would extend beyond the USIBWC right of way through the use of voluntary conservation easements.

Thank you for your time,

Nick Smokovich
New Mexico Forestry Division
Stewardship/Timber Forester
Socorro District
HC 32, Box 2 -- 1701 Enterprise
Socorro, Nm 87801
Off: (505) 835-9359
Fax: (505) 835-9452
E-Mail: nsmokovich@state.nm.us

Comment Letter A5

This February 19, 2004 letter is included in Appendix M, along with follow up correspondence by the USIBWC (March 4, 2004), and response from the New Mexico Department of Cultural Affairs, Historical Preservation Division (May 10, 2004). Code A5b has been assigned to this response, and comments numbered A5b-1 to A5b-5 for discussion in Chapter II.

Comment Letter A6

NEW MEXICO DEPARTMENT OF AGRICULTURE

Agricultural Programs and Resources Division
MSC APR
New Mexico State University
P.O. Box 30005
Las Cruces, NM 88003-8005
Phone: (505) 646-2642

March 1, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Mr. Echlin:

First, I would like to congratulate the United States Section International Boundary and Water Commission for their preparation of the Draft Environmental Impact Statement (DEIS) on the River Management Alternatives for the Rio Grande Canalization Project (RGCP). This has been a long process and I commend your efforts in keeping the goals of the RGCP, water delivery, and flood control in mind while trying to rehabilitate the ecosystem in the RGCP. The New Mexico Department of Agriculture (NMDA) would like to take this opportunity to submit the following comments for consideration on the DEIS and inclusion in the final documents.

General Comment

A6-1 Only one public hearing was held concerning the DEIS, on January 27, 2004 in El Paso, Texas. Of the 30,289 acres comprising the RGCP area, less than 20% of the acreage affected by this DEIS is located in Texas. NMDA questions why public scoping meetings and technical workshops were held in Las Cruces, but no public hearings were held in New Mexico.

Section 2 Alternatives Descriptions

A6-2 In the discussions on the grazing lease program administered by USIBWC there is very little information describing what current management practices are used for grazing leases and the proposed modified grazing practices. Some of the information cited in this section, specifically section 2.2.2, is not readily available for review and proper comment. For example, the USIBWC 2000 citation refers to a letter from E.J. Smith to Parsons and in section 2.3.2 a link is given to USEPA Pollution Prevention as http://es.epa.gov/oeca/ofa/pollprev/graz.html that no longer exists at this particular

address. NMDA would like to see an expanded explanation of what specific changes the USIBWC would make to grazing leases.

Section 2.6.1 Linear Projects and Section 2.6.2 Point Projects

A6-3 The conservation easements are described as being voluntary in nature, however, throughout the DEIS and the sections named above, it seems USIBWC has already decided where the land will come from and has actually targeted lands for retirement and/or easements.

Section 2.9.2 Water Acquisition – Groundwater Use

A6-4 This section discusses the use of groundwater to establish riparian vegetation along the RGCP. However, there is no discussion of conjunctive use or potential problems this might cause in depletions, river flows, and delivery of water to El Paso County Water Improvement District # 1 or deliveries to Mexico.

Section 2.9.2 Water Acquisition – Water Rights Acquisition
Section 2.11.3 Water Acquisition

This section defines the implementation strategy for water acquisition to meet requirements for the RGCP river management alternatives critical to the viability and long-term sustainability of environmental measures taken in some of the alternatives. This section states water banking and water conservation measures within irrigation districts would be the preferred vehicle to acquire water for environmental measures. Section 2.11.3 takes water acquisition a step forward and estimates a cost for water acquisition based on financing of on-farm conservation projects at approximately $3,000 per acre (in line with the King and Maitland 2003 study).

A6-5 USIBWC should look at the cost of financing a bit closer as King and Maitland (2003) also state that there are problems associated with conservation such as, land preparation, use of canal water in drip systems, and the changes in surface water-groundwater interaction in the RGCP area and the additional costs these problems might create. There is no discussion of how this would be accomplished in accordance with New Mexico water laws as required by Council on Environmental
A6-6 Quality (CEQ) Regulation, Section 1502.16 (c) *Environmental Consequences*, which states:

> "Possible conflicts between proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian Tribe) land use plans, policies and controls for the area concerned."

This requires, through the National Environmental Policy Act (NEPA), that there be a discussion included about how the purchase of water rights through on-farm

conservation/water delivery improvements would work under New Mexico water law.

A6-7 Lastly, there is little discussion concerning what would happen to lands retired from agricultural production. Section 4.8.1 includes a brief discussion and estimates that approximately 3,154 acres are needed for environmental measures but does not state how the land will be retired. Will this occur through an outright purchase of land and water from willing sellers; and who would then care for the land? Would this land be part of the agricultural easements **needed** and would this land acquisition be achieved through those agricultural easements? The relationship between retirement of agricultural land and conservation easements, if any, should be clarified.

Section 4.9 Socioeconomic Resources and Environmental Justice
Appendix G Preliminary Cost Estimates for the Alternatives

A6-8 Section 4.9 explains the method of analysis for the socioeconomic resources and environmental justice in the RGCP. The potential economic impacts on the three counties encompassing the RGCP from the proposed construction of levee improvements to the system, loss of irrigated cropland (either through conservation easements or water conservation program), and vegetation management were analyzed using the Economic Impact Forecast System (EIFS). First, the EIFS system is not documented in the DEIS and documentation specific to this model is not readily available. CEQ NEPA Regulation 1502.21 *Incorporation by Reference* states, "no material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment." CEQ regulation 1502.22 *Incomplete or unavailable information* further requires that an agency make clear that information is lacking or explain why the information is incomplete or unavailable. The EIFS model is not referenced in the DEIS nor can information about this model be found through the U.S. Army Construction and Engineering and Research Laboratory. Further, the spreadsheets referenced (CH2M-Hill 2000b) in conjunction with the crop loss estimates are not readily available nor is the information used to calculate the economic impacts of those losses.

A6-9 The EIFS model should be more clearly documented and explained throughout Section 4.9 of the DEIS and the economic analysis should be open for public scrutiny. Most of the impacts occurring in the RGCP will occur in Dona Ana County, New Mexico and the DEIS should show what the impacts of proposed actions will have on each county. If USIBWC purchases materials and supplies, along with the labor, from El Paso County there will be positive impacts in Texas while the negative impacts occur largely in New Mexico. NMDA recommends that an analysis of the impacts of each alternative be completed for each county involved.

A6-10 Due to the size of the El Paso County economy NMDA questions whether the rational threshold value (RTV) profile might be skewed because of the large economies in the

whole project area. The DEIS reports no significant impact to the region based upon the RTV, however these figures are not presented in detail showing positive or negative impacts or the annual RTV for the region or sub-regions. NMDA also recommends that cost estimates be presented in more detail in Appendix G. The nature of the preliminary cost estimates does not allow for scrutiny of the purchases for the project, including complete results from the EIFS model showing the economic sectors included in that model and the related direct expenditures may solve this problem.

Again, I would like to commend the USIBWC on the preparation of the DEIS for the RGCP and want to thank you for the opportunity to submit the comments described in this letter.

Sincerely

Julie Maitland
Division Director

JM/td

Comment Letter A7

NEW MEXICO INTERSTATE STREAM COMMISSION

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March 1, 2004

VIA FACSIMILE (915) 832-4167

Mr. Douglas Echlin
Lead Environmental Protection Specialist
Environmental Management Division
U.S. International Boundary and Water Commission
4147 North Mesa Street, C-310
El Paso, Texas 79902

Re: New Mexico Interstate Stream Commission's Comments
Draft Environmental Impact Statement
River Management Alternatives for the Rio Grande Canalization Project

Dear Mr. Echlin:

A7-1 The New Mexico Interstate Stream Commission (NMISC) has reviewed the Draft Environmental Impact Statement (DEIS) for River Management Alternatives for the Rio Grande Canalization Project. The NMISC's principal concerns with any river modification project center about the potential for increased water depletions as an attendant consequence. Any additional water depletions on the Lower Rio Grande in New Mexico are untenable as they could put New Mexico at risk by compromising its ability to meet its Interstate Compact obligations.

A7-2 The NMISC has no significant concerns with the implementation of any of the alternatives considered, assuming that there will be no net increase in water depletions. The NMISC is pleased with the effort IBWC put into the DEIS both to quantify potential increased water depletions that may be realized for each of the alternatives considered, and to estimate realistic costs associated with acquiring necessary offsetting water rights to ensure the protection of existing water users. All but the no-action alternative are predicted to have desirable outcomes such as long-term improvement in water quality, a reduction in soil erosion, an overall reduction in flood risk, and improved wildlife habitat. NMISC supports achieving these worthwhile goals provided they can be attained without increased water depletions.

Thank you for the opportunity to comment on the DEIS, and I look forward to further interaction with you as the process evolves. If you have any question or would like

additional information from NMISC, please do not hesitate to contact Mr. Greg Lewis of my staff at (505) 827-7867.

Sincerely,

Estevan R. López, P.E.
Director

cc: Rolf Schmidt-Petersen
Kevin Flanigan
Greg Lewis

Jrb/riogrande/genera/isccommentstoDEIS.f01

Comment Letter A8

GOVERNOR
Bill Richardson

STATE OF NEW MEXICO

DEPARTMENT OF GAME & FISH

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Zia Pueblo, NM

Leo Sims
Hobbs, NM

March 1, 2004

Mr. Douglas Echlin
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, Texas 79902

Re: River Management Alternatives for the Rio Grande Canalization Project.
NMGF No. 9102

Dear Mr. Echlin

A8-1 In response to the draft environmental impact statement regarding the above referenced project, the New Mexico Department of Game and Fish supports the implementation of the Targeted River Restoration Alternative. This alternative has the best chance to restore some of the wildlife habitat lost to prior USIBWC management activities. If the Targeted River Restoration alternative is not implemented, the Department would recommend that the Integrated USIBWC Land Management Alternative be used.

Thank you for the opportunity to review and comment on your project. If you have any questions, please contact Pat Mathis at (505) 522-9796 or pmathis@state.nm.us.

Sincerely,

Lisa Kirkpatrick

Lisa Kirkpatrick, Chief
Conservation Services Division

LK/pm

xc: Joy Nicholopoulos, New Mexico Ecological Services, USFWS
Luis Rios, Southwest Area Operations Chief, NMGF
Pat Mathis, Southwest Area Habitat Specialist, NMGF

Comment Letter A9

State of New Mexico
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March 16, 2004

Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, Texas 79902

Dear Mr. Echlin:

RE: DRAFT ENVIRONMENTAL IMPACT STATEMENT: RIVER MANAGEMENT ALTERNATIVES FOR THE RIO GRANDE CANALIZATION PROJECT; U.S. SECTION INTERNATIONAL BOUNDARY AND WATER COMMISSION; DECEMBER 2003

This transmits New Mexico Environment Department (NMED) comments concerning the above-referenced Draft Environmental Impact Statement (DEIS).

The United States Section, International Boundary and Water Commission (IBWC) has submitted for review a Draft Environmental Impact Statement (DEIS) for River Management Alternatives for the Rio Grande Canalization Project, Sierra and Dona Ana Counties, New Mexico, and El Paso County, Texas. The proposed action involves long-term river management alternatives for the Rio Grande Canalization Project. The area of concern includes approximately 105.4 mile-long reach of the Rio Grande from below Percha Dam in Sierra County, New Mexico to American Dam in El Paso, Texas. The Rio Grande Canalization Project was completed in 1943 to provide flood control and to facilitate water deliveries to the Rincon and Mesilla Valleys in New Mexico, El Paso Valley in Texas, and Juarez Valley in Mexico.

The DEIS addresses four river management alternatives:

- Alternative 1 - No Action; This alternative consists of continuing RGCP activities directed toward flood protection and water delivery through management of the levee system, floodway maintenance through mowing and grazing leases, maintenance of pilot channel and irrigation facilities, and sediment control and disposal.

- Alternative 2 - Flood Control Improvement; Approximately 60 miles of existing levees would be raised two feet, and 6 miles of new levees would be constructed in unconfined areas where flood levels could extend past ROW boundaries. Grazing leases would be modified to improve erosion control and vegetation treatments would control salt cedar. A 2.8-mile floodwall would be constructed in the Canutillo area.

- Alternative 3 – Integrated IBWC Land Management; This alternative would be the same as Alternative 2 except environmental measures would be included within the floodway to lands under IBWC jurisdiction. Environmental features include development of a riparian corridor and management of mowed floodway vegetation to encourage native grass development in combination with salt cedar treatments.

- Alternative 4 – Targeted River Restoration; This alternative would be the same as Alternative 2 except that this alternative emphasizes environmental measures associated with partial restoration of the RGCP, including pulse flows to promote riparian corridor development, and opening of meanders and modification of arroyos to increase aquatic habitat diversification. Seasonal peak flows would be created by controlled water releases from Caballo Dam during high storage conditions in Elephant Butte Reservoir. Voluntary conservation easements would be used to extend environmental measures to preserve existing wildlife habitat and encourage native bosque development. Reestablishment of six former meanders would be conducted.

The (IBWC) final decision should address the following environmental issues and water quality concerns:

A9-1 1. We support the purpose of Alternative 4 action to continue to accomplish the current functions of the canalization project, but also to integrate these functions with enhanced natural ecosystem functions that are currently degraded or impaired by the canalization project. River management alternatives should include environmental restoration measures to support and increase natural stands of native riparian and wetland vegetation, to promote natural active channel functions, to maintain water quality standards and designated uses of the lower Rio Grande, and to support native aquatic species and enhance diversification of aquatic habitats along the RGCP.

A9-2 2. The RGCP project in New Mexico is covered under Water Quality Standards segments "20.6.4.101 RIO GRANDE BASIN - The main stem of the Rio Grande from the international boundary and water commission sampling station above American dam upstream to one mile below Percha dam", and "20.6.4.102 RIO GRANDE BASIN - The main stem of the Rio Grande from one mile below Percha dam upstream to the headwaters of Caballo reservoir including Caballo reservoir" (State of New Mexico Standards for Interstate and Intrastate Surface Waters, 20.6.4 NMAC as amended through October 11, 2002, New Mexico Water Quality Control Commission".) These water quality segments are further divided into several assessment units for sampling and reporting purposes.

A9-3 3. Please refer to the latest version of the CWA Section 303(d) list (2002-2004) of New Mexico's impaired stream reaches (http://www.nmenv.state.nm.us/swqb/links.html) (DEIS 3-9). At this time, the Lower Rio Grande (HUC 13030102) is not listed as impaired and is meeting its designated uses. However, the basis of this determination is an assessment of this stretch of the Rio Grande that is not current and was last assessed by NMED Surface Water Quality Bureau approximately 10 years ago. Currently, (2004 sampling season) this stretch of the Rio Grande is undergoing an intensive water quality survey by the Bureau. Among other things, bacteria appear to be a pollutant of concern in this reach of the river and may be listed in future reports. If impairments are found,TMDLS will be developed, and a Watershed Restoration Action Strategy (Implementation Plan) will be conducted. Section 303(d) of the

Federal Clean Water Act requires states to develop Total Maximum Daily Load (TMDL) management plans for water bodies determined to be water quality limited. A TMDL documents the amount of a pollutant a water body can assimilate without violating a state's water quality standards. It allocates that load capacity to known point sources and nonpoint sources at a given flow. These issues should be part of the determination for what type of environmental improvements and restoration measures will be implemented.

A9-4 4. This DEIS does not address how the El Paso-Las Cruces Regional Sustainable Water Project in Sierra and Dona Ana Counties, New Mexico and El Paso County, Texas will be integrated into this 20-year plan, and should be addressed in secondary and cumulative affects of this DEIS. The El Paso-Las Cruces Regional Sustainable Water Project Sierra and Dona Ana Counties, New Mexico and El Paso County, Texas project addresses the provision of high quality water needed to achieve successful treatment and to meet federal drinking water standards; to deliver water efficiently and promote water conservation; and provide overall benefits to the riverine ecosystem, particularly aquatic and riparian habitats.

A9-5 5. A principal objective of the Clean Water Act is to "restore and maintain the physical, chemical, and biological integrity of surface waters"(1972) (FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251 et seq.) TITLE I—RESEARCH AND RELATED PROGRAMS DECLARATION OF GOALS AND POLICY SEC. 101(a).) Karr and Dudley (1981) defined biological integrity as "the ability [of the ecosystem] to support and maintain a balanced, integrated, and adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of the natural habitat of the region" (Karr, J. R. and D. R. Dudley. 1981. Ecological Perspective on Water Quality Goals. Environmental Management 5:55-68.) Although the attempt is made to mimic some of the normal hydrologic cycle with the project activities in Alternative 4, the DEIS does not sufficiently address the necessary provision of sufficient in-stream flows year round so that river functions and restoration measures can actually be maintained and thereby, support an effective and properly functioning river, with an active floodplain, adjacent fringe wetlands and riparian ecosystem, and effective surface/ground water interface and a thriving aquatic community. Without this issue being adequately analyzed and addressed, this River Management project may fail or continue to cause significant impacts to the biological integrity of the ecosystem contained in the RGCP.

A9-6 6. Several levels of action should be considered with respect to reservoir releases, flood control, levee designs and river restoration options, possibly using HGM or similar modeling techniques and applying landscape level functional assessments to various combinations of levee design and restoration efforts. The options given in this document are too narrow to adequately choose the best plan or most likely successful option at the greatest return for costs incurred.

A9-7 7. Types of actions combining innovative riverbed management techniques with in-stream fish habitat creation or maintenance should be considered.

A9-8 8. Over bank flows by releases of water from Caballo dam are being directed primarily to restore the cottonwood component of the riparian system. Healthy riparian and wetland ecosystems display a high diversity of microsites and complex, high frequency disturbance regimes. In addition, monocotyledonous plant species such as sedges and rushes, and other plants with fibrous root systems such as sandbar willow, play a significant role to

stabilize banks with their fibrous root systems, and play other important roles in the biological integrity of the wetland-riparian ecosystem, including sediment and nutrient sinks, water temperature control, ground water recharge, sustainability of wildlife and aquatic productivity, and nutritional resources for aquatic ecosystems. A more holistic approach to promote and maintain a larger variety of plant species in diverse interdependent sites and in appropriate locations should be considered.

A9-9 9. The U.S. Environmental Protection Agency (USEPA) requires National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) coverage for storm water discharges from construction projects (common plans of development) that will result in the disturbance (or re-disturbance) of one or more acres, including expansions, of total land area. Because this project will exceed one acre (including staging areas, etc.), it will require appropriate NPDES permit coverage prior to beginning construction (small, one - five acre, construction projects may be able to qualify for a waiver in lieu of permit coverage - see Appendix D).

Among other things, this permit requires that a Storm Water Pollution Prevention Plan (SWPPP) be prepared for the site and that appropriate Best Management Practices (BMPs) be installed and maintained both during and after construction to prevent, to the extent practicable, pollutants (primarily sediment, oil & grease and construction materials from construction sites) in storm water runoff from entering waters of the U.S. This permit also requires that permanent stabilization measures (revegetation, paving, etc.), and permanent storm water management measures (storm water detention/retention structures, velocity dissipation devices, etc.) be implemented post construction to minimize, in the long term, pollutants in storm water runoff from entering these waters. In addition, permittees must ensure that there is no increase in sediment yield and flow velocity from the construction site (both during and after construction) compared to pre-construction, undisturbed conditions (see Subpart 9.C.1)

You should also be aware that EPA requires that all "operators" (see Appendix A) obtain NPDES permit coverage for construction projects. Generally, this means that at least two parties will require permit coverage. The owner/developer of this construction project who has operational control over project specifications (probably the ISIBWC), the general contractor who has day-to-day operational control of those activities at the site, which are necessary to ensure compliance with the storm water pollution plan and other permit conditions, and possibly other "operators" will require appropriate NPDES permit coverage for this project.

The CGP was re-issued effective July 1, 2003 (see **Federal Register/Vol. 68, No. 126/Tuesday, July 1, 2003** pg. 39087). The CGP, Notice of Intent (NOI), Fact Sheet, and Federal Register notice can be downloaded at: http://cfpub.epa.gov/npdes/stormwater/cgp.cfm

A9-10 10. Any construction Under Section 404 of the Clean Water Act, anyone who proposes to discharge dredge or fill material into waters of the United States must obtain a permit from the U.S. Army Corps of Engineers (USACE). Furthermore, Section 401 of the Clean Water Act requires that those responsible for the project also obtain a water quality certification from the state in which the discharge originates. The purpose of the Section 401 State water quality certification is to ensure that the project will comply with applicable State water quality standards and the Anti-degradation Policy.

A joint 404/401 application form is available on the USACE website: http://www.spa.usace.army.mil/reg/. Details of project activities will be required as part of the 404/401 application. The application should be submitted to:

U.S. Army Corps of Engineers
Regulatory Branch
4101 Jefferson Plaza, NE
Albuquerque, NM 87109-3435

and:

New Mexico Environment Department
Surface Water Quality Bureau
Harold Runnels Bldg.
1190 St Francis Dr.
PO Box 26110
Santa Fe NM 87502

Violations of State water quality standards could lead to penalties under the New Mexico Water Quality Act. Section 74-6-10.1 B of the Act states, "Any person who violates any provision of the New Mexico Water Quality Act other than Section 74-6-5 NMSA 1978 or any person who violates any regulation, water quality standard, or compliance order adopted pursuant to that act shall be assessed civil penalties up to the amount of ten thousand dollars ($10,000) per day for each violation."

A9-11 11. Waste or other materials left in drainages is considered "refuse in a watercourse." NM WQQC 20.6.2.2201 DISPOSAL OF REFUSE: No person shall dispose of any refuse in a natural watercourse or in a location and manner where there is a reasonable probability that the refuse will be moved into a natural watercourse by leaching or otherwise. "Watercourse" means any river, creek, arroyo, canyon, draw, or wash, or any other channel having definite banks and beds with visible evidence of the occasional flow of water.

A9-12 12. During any activities associated with this project, existing native riparian vegetation and wetlands should be protected to the maximum extent possible, and those areas should be delineated including areas in intermittent drainages and around springs. Recommendations for replacing removed riparian and/or wetland vegetation should also be included in project plans.

We appreciate the opportunity to comment on this project.

Sincerely,

Ron Curry
Secretary

NMED File No. 1847ER

Comment Letter O1

DOÑA ANA COUNTY FARM AND LIVESTOCK BUREAU
P.O. Drawer 2246 • Las Cruces, New Mexico 88004 • (505) 524-8632 • FAX (505) 524-8426

February 23, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC
4171 North Mesa Street, C-310
El Paso, Texas 79902

Dear Mr. Echlin

Dona Ana County Farm & Livestock Bureau represents many of the farmers here in our county. Almost all of these Farmers have depended on the IBWC over the years to help provide for efficient delivery of the most important resource in our region, Water.
In addition, the IBWC has also helped maintained the Rio Grande in Dona Ana County in years past to prevent a flood from causing loss of life and destruction of property.

O1-1 However, it has been brought to the attention of the Agricultural community here in Dona Ana County that those primary functions have changed. The IBWC, because of the threat of legal action several years ago by Southwest Environmental Center, have not only stopped cleaning the river channel but have also stopped mowing and maintaining the river banks in certain areas which are both contrary to what the IBWC legal obligations are.

O1-2 We are unaware of whatever legal precedence that has allowed this to happen. The farmers, who helped pay to establish and maintain the Lower Rio Grande project over the years, as well as being one of the principal industries of our local economy, have become secondary to environmental groups that seem to really only want to exhibit control over the resource.

My constituents and I strongly feel that Draft Environmental Impact Statement (DEIS) on River Management Alternatives for the Rio Grande Canalization Project must adhere to the following:

O1-3

1. IBWC was set up to efficiently deliver water; this is especially important now due to the drought we are currently experiencing. Therefore the river channel should continue to be dredged according to legal requirements.

O1-4

2. Also, if the river channel and banks within the levees are kept clean, then any additional flood control is unnecessary. This would save any additional major construction proposed other than that required by the Army Corps of Engineers.

DOÑA ANA COUNTY FARM AND LIVESTOCK BUREAU
P.O. Drawer 2246 • Las Cruces, New Mexico 88004 • (505) 524-8632 • FAX (505) 524-8426

O1-5

3. With water rights almost completely being allocated within this system the IBWC has no water rights for the allowance of planting trees that would use substantial amounts of water.

Thank you for your attention on this matter. If you require any additional information regarding this matter please correspond to us at:

Dona Ana County Farm & Livestock Bureau
PO Drawer 2246
Las Cruces, NM 88004

Or you may call me at (505) 526-6165, again Thank you.

Sincerely

Phillip Arnold, President DACF&LB

Comment Letter O2

NEW MEXICO PECAN GROWERS
1985 Salopek Road
Las Cruces, NM 88005

February 25, 2004

Mr. Douglas Echlin
USIBWC
4171 North Mesa, C-310
El Paso, Texas 79902

Dear Sir:

Thank you for your invitation to comment on your agency's river management proposals as outlined in the Rio Grande Canalization Project Draft Environmental Impact Statement.

We, the Board of Directors of the New Mexico Pecan Growers (NMPG), and on behalf of our 100 plus membership, want to extend our appreciation to the agency for what it has done for, and meant to, agriculture in southern New Mexico. For hundreds of years, the valley's mainly agricultural communities – Pueblo, Hispanic, European - could never truly prosper when the river was "natural." Farmers remember – while others may not – that the river's floods, disease, and drought were a constant threat to life here. We are thankful for your "taming" of the river to the benefit of all.

O2-1 The agency's objective to improve the river's environmental conditions is commendable *if* it means real improvements that will benefit the whole valley. Above all, they must be practical since we are dealing with the reality of limited resources with respect to both water and money. Therefore, it is our opinion that the International Boundary and Water Commission should commit resources only to those actions that will:

O2-2

1. Improve water delivery – there has been a serious decline in this area over the past years, and the plans didn't seem to indicate that you knew there was an increasing problem; since soil salinity is a significant issue for all of this region's farmland, the valley's irrigation system – and it's proper functioning – is a key component of soil conservation objectives.
2. Conserve water – as you know, drought is a regular occurrence in this region; in addition, if we consider urban population growth and the increasing demands on water, serious conservation plans are a must;

NEW MEXICO PECAN GROWERS
1985 Salopek Road
Las Cruces, NM 88005

O2-2 (cont.)

some of the environmental objectives you propose are in direct opposition to this.

3. Improve flood control – our valley is due for the 100-year flood, so this should be a priority for those areas that need to be shored up.
4. Preserve farmland – our region's farmland is of statewide importance, and already provides significant environmental benefits in addition to socio-economic benefits; the benefits of the proposed environmental enhancements, on the other hand, are not clear - and need to be, considering the costs.

O2-3

In addition, we are very concerned that many of the government projects with environmental objectives consistently undervalue agriculture's environmental contribution. Appropriate cost and benefit decisions cannot be made unless the analysis includes an accurate description of the agriculture and benefits thereof specific to the region. Your analysis does not include statements showing, for example:

1. Dona Ana County is the number one pecan producer in the country on a per acre basis, producing approximately 75% of New Mexico's pecans, with the state consistently the second largest in improved variety pecans in the country;
2. The Mesilla Valley pecan orchards and chile farms give the region its character, and are a significant drawing point for the tourist industry;
3. Pecan orchards provide habitat for wildlife - particularly to summer migrating birds;
4. Agriculture in general provides a consistent food and water source to valley wildlife – particularly during times of drought;
5. Agriculture in the valley provides aesthetic beauty, recreation and health to our urban "cousins";
6. Pecan orchards, specifically, contribute greatly to:
    - Energy conservation
    - Pollution and dust control – significant in our arid region
    - Improving our air quality by removing carbon dioxide and generating oxygen

NEW MEXICO PECAN GROWERS
1985 Salopek Road
Las Cruces, NM 88005

O2-4 Based on what I have outlined above, the only plan that seems cost justified is the Flood Control Alternative, which we understand includes salt cedar removal and replacement with willows. But this is contingent only on the condition that it includes, a) improvements in water delivery such as getting back to controlling the sediment buildup in the river and b) water conservation.

We thank you again, and look forward to a prosperous relationship.

Sincerely,

David Salopek, President

Phillip Arnold, Vice President

Leslie S. Fletcher, Treasurer

Frank P. Salopek, Secretary

Buddy Achen, Director

Benny Salopek, Board Member

Willie Joe Koenig, Board Member

Cc: Commissioner Art Duran
USIBWC

Gary Esslinger
Elephant Butte Irrigation District

Rebecca Miller
Rio Grande Citizens Forum

Comment Letter O3

BRINGING RIVERS TO LIFE

American Rivers

FOUNDED 1973

February 27, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

On behalf of American Rivers, we are pleased to see that the International Boundary and Water Commission is beginning to address the impacts of U.S.-Mexico boundary activities on the Rio Grande, and in particular preparing an environmental impact statement (EIS) on the revision of the Canalization Project. This project provides an opportunity to look toward restoration of the Rio Grande.

O3-1 We are concerned, however, that the alternatives evaluated in the draft EIS may not encompass the necessary measures for restoration of the physical and biological integrity of the Rio Grande while providing allowing for flood damage reduction and water delivery. We urge the IBWC to consider another alternative focused on river restoration, as developed by The Alliance for the Rio Grande Heritage. Such an alternative would include:

O3-2

1) Restoration of the natural meanders and streamside habitats of the Rio Grande
2) Acquisition of water rights from willing sellers to help restore streamside ecosystems
3) Innovative approaches, including purchase of land from willing sellers, for flood damage reduction, rather than traditional engineering approaches such as levees
4) A halt to the grazing and mowing of vegetation along the river that is inhibiting vegetation growth
5) Complete modeling and analysis to determine the true need for flood control works
6) All the restoration options outlined in the scope of the 1999 agreement between the IBWC and the Southwest Environmental Center

O3-3 The IBWC has an historic opportunity here to restore the legendary Rio Grande. We look forward to seeing a full discussion of river restoration measures in the final EIS.

Sincerely,

S. Liz Birnbaum

S. Elizabeth Birnbaum
Director of Government Affairs

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Comment Letter O4

EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD

P.O. Box 511
El Paso, Texas 79961-0001
PHONE: 915-594-5500
FAX: 915-594-5699

February 27, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
U.S. International Boundary and Water Commission
Environmental Management Division
The Commons, Building C, Suite C-310
4171 N. Mesa Avenue
El Paso, Texas 79902

Ref: Draft Environmental Impact Statement (DEIS) – River Management Alternatives for the Rio Grande Canalization Project (RGCP)

Dear Mr. Echlin:

Thank you for the opportunity to review and comment on the above referenced DEIS. We have reviewed this document and have found it to be comprehensive and well written, and commend IBWC and its NEPA Consultant for taking the time and effort necessary to produce what we believe is an excellent product.

O4-1 In general, EPWU's major concern is that any environmental enhancement measures, implemented as part of the selected management alternative, remain consistent with the following criteria: the measures selected for implementation should (a) maintain, to the greatest extent possible, the efficiency and reliability of the raw water supply delivery; (b) have no negative impacts on water quality; and (c) be "water rights neutral" to current users (i.e. be offset by corresponding reductions in agricultural water use). Although the DEIS in general appears to confirm that these criteria will be met under all Management Alternatives, adequate monitoring of the actual impacts after implementation is critical to confirm predictions.

Following are more specific comments concerning the DEIS:

O4-2 1) In the second paragraph of the "Implementation Strategy" section (page ES-5 of the Executive Summary), we suggest that the following qualifying phrase be added at the start of the second sentence (additional text underlined): "<u>In accordance with the objectives of the Council, and within the limits of available manpower and resources</u>, the Council would serve in an advisor capacity..". We believe adding this phrase makes good sense given the voluntary nature and limited available manpower resources of the Paso del Norte Watershed Council.

O4-3 2) Section 2.9.2 on page 2-41 states that "a number of measures under consideration as part of the RGCP management alternatives would result in water consumption..", and that because IBWC does not own water rights, "water rights acquisition in cooperation with EBID and EPCWID#1 becomes a critical element in the viability and long-term sustainability of several environmental measures". EPWU strongly agrees with these statements. As stated above in our general comments, we believe that any increased water consumption arising from the implementation of management alternatives must be accounted for and the corresponding water rights secured. This is an extremely important concept to existing holders of Rio Grande Project water rights. Accurate, reliable, and defensible water accounting methods must be established for the water rights acquisition component of the RGCP. This is referenced in item #(2) on page 2-42 with respect to the farmer's concern for the proper definition/determination of the actual volume of water saved and the linkage to an economic incentive. This method of water rights transfer for either the farm conservation or water banking method would require establishment of a thorough and comprehensive flow metering and water use monitoring program that is available for review and which gains the approval of all affected parties (farmers, irrigation districts, and the Bureau of Reclamation).

O4-4 3) EPWU supports designation of the "Integrated USIBWC Land Management" alternative as the preferred alternative. The features of this alternative are most consistent with the concepts, mitigation and enhancements of the El Paso-Las Cruces Regional Sustainable Water Project, specifically with regard to the relatively low water demands when compared to the "Targeted Restoration" alternative.

O4-5 The "Targeted Restoration" alternative calls for use of controlled peak flow releases to achieve over-bank flooding. The estimated 7,336 AF of water releases required for these peak flows would be in excess of the irrigation requirement and would therefore flow through the Project largely unused (although the Hudspeth County Conservation and Reclamation District may be able to capture some portion of this water). We believe this represents an extremely inefficient use of Project water. As you know, the efficient use of water is a very important consideration in this arid region.

O4-6 4) As currently proposed, we definitely oppose the selection of the "Targeted Restoration" alternative. We believe that this alternative exhibits more uncertainty and risk than the other alternatives relative to the water supply, water rights offsets, and water supply reliability of the Rio Grande Project.

O4-7 However, if the "Targeted Restoration" alternative is ultimately selected as the preferred alternative, we recommend investigation of the following option. Since the desired end result is the flood irrigation of specific riverbank areas, then achieving this by over-bank flooding caused by excess releases is very poor water management. Therefore, it would be much more prudent and efficient to use portable pumping equipment to directly divert the required volumes of water from the river onto each targeted flood area. Furrows could be built around the targeted areas to contain the water and achieve the desired soil moisture conditions. For example, if a total of four separate 3 inch water applications are assumed, then only 516 acre-feet of water would be required, as compared to the 7,336 acre-feet required using the peak flow method. Other advantages of this method include the ability to implement flood irrigation even during water short years and, because less water is required, and a potential for earlier implementation of the associated enhancement measures.

O4-8 5) Page 3-61. There are 9 archaeological sites which have been recorded within RGCP Right of Way. Of these 9 sites, 7 are prehistoric sites and two multi-component sites (with both prehistoric and historic period occupations). The prehistoric sites date to the Archaic period (5500B.C.-A.D. 900), and the Mogollon Late Pithouse (Jornada)(A.D. 750 -1100) and the Mogollon Late Pueblo (Jornada) to Late Pueblo Jornada (A.D. 1175-1400). The historic sites include a room block, a trial and corral (1536 A.D-1993A.D.)

Currently, none of the nine prehistoric and historic properties have been formally identified, evaluated and nominated to the National Register of Historic Places (NHRP). The site records, however, indicate that several of these archaeological sites have potential to be designated into the NRHP. Sites LA 131204, LA 1671, and LA 72703 in particular have significant potential to contribute to prehistoric research under Criteria "A" and Criteria "D" (36 CFR 60.4) and as a part of the Section 106 process. The agency should seek a formal determination of eligibility from the State Historic Preservation Officer (SHPO) concerning the status of these archaeological sites.

We hope you find these recommendations constructive.

Sincerely,

Michael P. Fahy

Michael P. Fahy, P.E.
Planning and Development Manager

Xc: Edmund G. Archuleta, P.E., General Manager
Nick Costanzo, Assistant General Manager
David R. Brosman, P.E, Chief Operations Officer
Bert Juarez, P.E., Chief Technical Officer
Ed Fierro, P.E., Water Rights Engineer
Valerie Provencio, Environmental Planner

Comment Letter 05

NEW MEXICO NATURAL HISTORY INSTITUTE
A Nonprofit Corporation
1750 Camino Corrales
Santa Fe, New Mexico 87505-7502

29 February 2004

USIBWC Environmental Management
Attn.: Douglas Echlin
4171 North Mesa, C-310
El Paso, TX 79902

Dear USIBWC:

O5-1 Finally an effort by the IBWC to consider damage to the environment! We thank you for the EIS. Provided that the Targeted River Restoration alternative is chosen, it will do good.

But not enough good; even that alternative as written does not bring ecological thinking sufficiently into the project.

O5-2 Water flows are the key. The plan should make clear that releases from Caballo will be allowed to re-shape the channel, with some help by removing barriers and letting the river move around between levees (which in some reaches should be set back). Further, some mechanical help will be needed to re-establish wetlands. Minimal flows should be specified, to support aquatic and marsh wildlife.

O5-3

O5-4 A second key is vegetation manipulation: get rid of saltcedar, restore native cottonwoods and other species. Stream-side grazing by livestock should be eliminated in order to promote native vegetation.

O5-5 We favor purchase of land and of water-rights to increase flows and to increase floodplain habitat.

Please, let's see a revised alternative to restore a once-wonderful resource, lost for these many decades.

Sincerely,

Roger S. Peterson
Secretary
(an ecologist)
RogPete@aol.com

Comment Letter O6

Brittany Club....Doña Ana County Associated Sportsmen....Ducks Unlimited....
Fisheries Society....German Shorthair Club....Las Cruces Chapter Turkey Federation....
Mesilla Valley Fly Fishers....Mule Deer Foundation....New Mexico Shooting Sports Association....Organ
Mountain Bowmen ....Picacho Gun Club....Quail Unlimited....Rocky Mountain Elk Foundation....
Wildlife Society....Wild Turkey Sportsmen Association

SOUTHWEST CONSOLIDATED SPORTSMEN

February 29, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran:

We are writing to express our concern regarding the future of the lower Rio Grande, and the revision of the Canalization Project currently being updated by the International Boundary and Water Commission. We believe this is an important opportunity to undo much of the damage that has been done to the Rio Grande over the past century.

O6-1

We strongly urge the IBWC to develop a management plan that broadly restores the physical and ecological health of the Rio Grande and restores a more natural river channel, while providing flood protection and water delivery. However, the options outlined in the Draft Environmental Impact Statement fail to meet this goal, would bring little ecological benefit, and falls short of the restoration potential for the Rio Grande. We strongly urge the IBWC to develop a new river restoration alternative that fulfills the IBWC's 1999 agreement with the Southwest Environmental Center. This alternative should include the following measures:

O6-2

1) Aggressively restore the natural meanders and streamside habitats of the Rio Grande.
2) Acquire water rights from willing sellers to help restore streamside ecosystems.
3) Use innovative approaches, including purchase of land from willing sellers, for flood control rather than traditional engineering approaches such as levees.
4) Cease the grazing and curtail mowing of vegetation along the river that is inhibiting vegetation growth.
5) Include more complete modeling and analysis to determine the true need for flood control works.
6) Consider all the restoration options outlined in the scope of the 1999 agreement between the IBWC and the Southwest Environmental Center.

O6-3 The development of this Canalization EIS is an important and historic opportunity to reverse the slow ecological death that the lower Rio Grande has suffered. To take advantage of this opportunity, the IBWC should show vision and leadership by reaching beyond the narrow approaches that are mostly presented in the Draft EIS. The Southwest Environmental Center, of which we are a member, has put forth this vision, and we endorse the recommendations made by SWEC for the IBWC to help restore the Rio Grande.

O6-4 Of the alternatives presented in the DEIS, we support Targeted River Restoration.

Thank you for your Concern, and I look forward to your response on this urgent issue.

Sincerely,

S.D. Schemnitz

Sanford, D. Schemnitz
Chairman

Cc: Governor Bill Richardson
Office of the Governor
State Capitol. Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter O7

THE ALLIANCE FOR THE RIO GRANDE HERITAGE

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Amigos Bravos
Defenders of Wildlife
Forest Guardians
Land and Water Fund of the Rockies
National Audubon Society of New Mexico
National Parks Conservation Association
NM Public Interest Research Group
Rio Grande Restoration
Rio Grande/Rio Bravo Basin Coalition
Southwest Environmental Center
Sierra Club
World Wildlife Fund

March 1, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
Environmental Management Division
International Boundary and Water Commission
4171 North Mesa Street, C-310
El Paso, TX 79902

Via Hard Copy and Facsimile (915-832-4167)

Re: Draft Environmental Impact Statement, River Management Alternatives for the Rio Grande Canalization Project, Sierra and Dona Ana Counties, NM and El Paso County, TX

Dear Mr. Echlin:

These comments are submitted on behalf of the Alliance for the Rio Grande Heritage ("Alliance") and the Environmental Defense. The Alliance is a coalition of local, regional and national conservation organizations representing over 1 million members and supporters, including approximately 14,000 in New Mexico. The Alliance is a coalition dedicated to restoring the ecological health of the upper basin of the endangered Rio Grande in a manner that benefits the river and its watershed, as well as the people, wildlife and plant species that make the area their home. Environmental Defense is a national conservation organization with 400,000 members, dedicated to protecting the environmental rights of all people. Environmental Defense links science, economics and law to create innovative, equitable and cost-effective solutions to society's most urgent environmental problems.

Thank you for the opportunity to provide comments on the content and scope of the Draft Environmental Impact Statement (DEIS) for River Management Alternatives for the Rio Grande Canalization Project (Project). The Alliance and Environmental Defense have a long-standing interest in the natural environment of the Rio Grande watershed.

We are encouraged that USIBWC recognizes the breadth of environmental issues underlying river management in the Project. We approve of the broad scope of work set forth in the Federal Register announcement of its intent to prepare an EIS:

The USIBWC as lead agency proposes to collect information necessary for the preparation of an EIS; to analyze flood protection measures and alternatives to current management, including watershed-oriented and non-structural alternatives and collaborative measures with other agencies and landowners; to determine to what extent project management can support restoration of native riparian and aquatic habitats, as well as the restoration of natural fluvial processes such as channel meanders and overbank flooding. *Federal Register* August 10, 1999.

Further, we greatly appreciate IBWC's effort to craft a partial restoration alternative for the Project. There is a great need to restore this 105-mile reach of the river. As the DEIS recognizes, the vast majority --close to 90 percent or 7415 acres--of the Project lands are below average to poor quality habitat. This river reach also runs through Las Cruces, the second largest city in New Mexico, and El Paso, the fifth largest city in Texas. These cities, with a combined population of more than half a million people, currently enjoy access to an extremely limited portion of Project lands (less than 4 percent). As we know from local oral history projects, the river historically played a vital role in the lives of long time residents. A partially restored river could greatly enrich the lives of the current half a million residents through opportunities for economic development, recreation, environmental education and enhanced quality of life.

O7-01a The Targeted River Restoration alternative (Alternative 4) identifies many of the conceptual components of a successful partial river restoration alternative. Important elements include periodic flooding of the floodplain, riparian habitat restoration , creation of diverse channel characteristics such as meanders and side channels to diversify aquatic habitat, and revegetation with native plants. The alternative fails, however, in its proposed implementation as it is neither feasible nor sustainable. In support of this conclusion, we rely on Tetra Tech ISG's technical review which is attached hereto as Appendix A and incorporated into our comments.

O7-01b Due to these deficiencies and others which we address in greater detail below and in attached appendices, we strongly urge IBWC to stay the issuance of the final EIS and prepare and circulate a revised draft EIS pending completion of the proposed "cooperative hydraulic study" in the Canalization Project. *See* 40 C.F.R. § 1502.9(a). In a letter dated January 16, 2004, IBWC indicates a "cooperative hydraulic study" will commence in the "near future." (1/16/04 letter attached hereto as Appendix B). We know of no harm from delaying the Final EIS pending the completion of this study.

O7-01c The results of such a "cooperative hydraulic study" are required to justify the need for additional flood control improvements (Alternative 2), and will provide the measure and the basis for designing a feasible and sustainable restoration alternative for the RGCP. This "cooperative hydraulic study" will provide a unique opportunity to engage the stakeholders in a collaborative process to converge on a preferred alternative that has broad based support. The hydraulic study will answer basic questions for water users like what are the impacts to flood control from restoration and how much water will be consumed by restoration measures. These answers can contribute to a larger discussion about unresolved issues for water users including potential impacts from

occurrence of endangered species, the source of environmental water and a mutually acceptable method of acquisition or leasing. The stakeholders could initiate such a collaborative process with federal financial and technical support from the IBWC, Bureau of Reclamation, and the Fish and Wildlife Service.

The Range of Alternatives Is Inadequate

Development of alternatives is the heart of the EIS. 40 C.F.R. § 1502.14. CEQ regulations call on the IBWC to "[r]igorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated," "[d]evote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits," "[i]nclude the alternative of no action," and "[i]nclude appropriate mitigation measures not already included in the proposed action or alternatives." Id. § 1502.14 (emphasis added). IBWC has failed on the first 2 of these 4 counts.

O7-02a

The DEIS has not adequately fleshed out the alternatives, making impossible a reasoned choice among them. "The 'touchstone for our inquiry is whether an EIS's selection and discussion of alternatives fosters informed decision-making and informed public participation.'" *City of Angoon v. Hodel*, 803 F.2d 1016, 1020 (9th Cir. 1986). First, the IBWC has not devoted substantial treatment to the Flood Control Improvement alternative. Table 2.11-1 and Appendix G contain cost estimates of all alternatives except for the No Action alternative. Without complete information, comparison on this basis is ineffective.

O7-02b

Moreover, IBWC's discussion of the Flood Control Improvement Alternative is confusing. Preliminary Flood Control Improvement Estimates (DEIS 2-10) refer, for the first time, to an "evaluation" that calls into question the basis and need for flood control improvements. To what evaluation is the IBWC referring?

O7-02c

This section also states that these proposed actions (*see, e.g.,* Table 2.3-1) are adopted as a work assumption "because of the potential overestimation of levee deficiencies in terms of flood containment capacity" (DEIS 2-9). This statement implies that the type and extent of activities proposed in Table 2.3-1 are premature and could change. This interpretation, if correct, conflicts with your response to Question 19 in your letter of November 14, 2003 (*see* Appendix H), which states that "estimates of levee freeboard . . . are already available and supported by appropriate technical evaluations" and that "all potential freeboard increases identified by the 1996 hydraulic modeling simulation will be eventually addressed by in-place rehabilitation" (emphasis added). IBWC must clarify whether this alternative is ready to be a proposed action or is still an estimate or approximation of what may happen and that may change upon further investigation.

O7-02d

Furthermore, what are IBWC's plans for additional NEPA compliance regarding levee rehabilitation due to structural deficiencies? *See* DEIS 2-10, 2-39. It does not

make sense to propose flood control improvements before a full investigation of flood control capacity is complete. *See* DEIS at 2-9 ("These measures were adopted only as a work assumption to estimate effects of potential construction activities because of the potential overestimate of the levee deficiencies in terms of flood containment capacity, and incomplete information on the structural integrity of the levee system.")

O7-02e These questions exist in large part because IBWC has not used the best available tools to analyze the need for levee enhancements – standard two-dimensional flooding routing model to simulate the 100-year floodwave movement. The proposed increase in levee heights along with proposed new levee construction may not be required at all. The IBWC has acknowledged that "current estimates of levee deficiencies and potential flood risk will be reduced with the use of two-dimensional models because they account for the attenuation of flood peaks as they spill into the floodway." Letter of Nov. 4, 2003, from IBWC to Kevin Bixby.

O7-02f The need for, extent of, and costs of levee improvements are purely speculative at this time. For these reasons, this alternative – and its inclusion in the Integrated USIBWC Land Management and Targeted River Restoration Alternatives – is unreasonable and IBWC must remove it from consideration.

O7-02g Second, IBWC has not investigated an appropriate and plausible controlled release for the Targeted River Restoration alternative. The long term success of riparian restoration projects depends on an accurate assessment of the timing, duration, magnitude and most importantly, the frequency of the projected overbank flooding. A 5,000 cfs release is not likely to happen, thus the success of the alternative is doubtful. While we strongly support the concept of designing restoration efforts around a controlled peak release of the largest feasible size from Caballo Reservoir, we are concerned that IBWC may select an impractical alternative that is doomed to fail.

O7-02h IBWC admittedly states that "...at present the feasibility of any release is questionable as...Caballo Dam operation regime...would not support peak discharges near the 5,000 cfs theoretical maximum value," (DEIS App. G-19) and that "...(w)hile the potential extent of overbank flows was analyzed based on a maximum theoretical value - 5,000 cfs discharge- it is important to emphasize that full discharge conditions would be reached only after several years of planning, gradual implementations and regular monitoring." (DEIS F-1) Without an increase in water supply, a change in water operations or replacement of the Caballo Dam outlets, it is impossible to have 5,000 cfs on a frequent enough basis to support river restoration projects. The DEIS does not address these issues.

O7-02i The magnitude and duration of the release are also unclear. Throughout the DEIS, the release period varies: "...a release period of 24 hours was assumed to increase soil moisture by overbank flooding and ponding" (DEIS 4-6); "...a target water use of 7,336 ac-ft/yr was calculated on the basis of one 6-hour discharge of 3,700 cfs (which added to an average 1,300 cfs irrigation would result in the theoretical 5,000 cfs discharge) on a monthly basis." (DEIS App. G-19); and that which most undercuts the

success of the alternative, the DEIS suggests that the "discharge duration would be limited not by theoretical considerations on the desirable peak duration, but by the water availability and cost." (DEIS F-3) In discussing the duration of discharge, in addition to the above questions, the DEIS also fails to account for a ramp-up or ramp-down of flows, altering the estimates of water consumption. Lastly, failure to correctly assess the floodwave attenuation invalidates water consumption rates, the predicted area of inundation (516 acres) and the cost assigned to the alternative.

O7-02j We also believes reasonable alternatives do exist and were not considered by IBWC. "The existence of a viable but unexamined alternative renders an environmental impact statement inadequate." *Resources Ltd. v. Robertson*, 35 F.3d 1300, 1307 (9th Cir. 1994) (citations omitted). We propose here an alternative that will address these flaws and be feasible, sustainable, and environmentally friendly. Inclusion of such an alternative in a revised draft EIS would assist in IBWC achieving NEPA compliance.

Proposed new alternative:

O7-03a
- Select a design restoration hydrograph and peak discharge out of Caballo Reservoir according to the method suggested in Appendix A (Suggested alternative approach for river restoration design, p. 10). The frequency, duration and magnitude of the peak flow should be selected based on a review of the bankful discharge and gaging records.

O7-03b
- Using a two-dimensional flood routing model, identify potential areas of inundation and design site specific restoration projects intended to maximize the area of inundation and reestablish an active channel able to move laterally. Such projects would include: wetland enhancements, bank destabilization, river channel widening, development of secondary and side channels, floodplain terracing, reconnected meanders, etc.

O7-03c
- Implement restoration projects at evenly distributed locations throughout the project. Because of the unique opportunities they present for enhancing wetlands and aquatic habitats, restoration projects should focus on sites where water and sediment are currently discharged into the river, including arroyos, drains, wasteways, and outfall channels.

O7-03d
- Establish a long-term funding program to purchase water rights and land from willing sellers as needed to support restoration activities.

O7-03e
- Maintain minimum winter flows to sustain native fish species as recommended by the New Mexico Fishery Resource Office of the U.S. Fish and Wildlife Service in their report, Davenport, S.R., C. Hoagstrom, and J.R. Smith, (2003), *Fish Community and Physical Habitat Associated with Habitat Enhancement Structures.*

O7-03f

- Phase out mowing and grazing unless needed to achieve clear restoration or flood control objectives. Establish a program to control non-native invasive species.

O7-03g

- Use a two-dimensional flood routing model to conduct an integrated analysis of the impacts of flood control measures and restoration projects, rather than treating them as separate and unrelated activities. Where additional project flood containment capacity is needed, give priority to river-friendly measures such as increased floodplain storage, purchase of additional land or easements, and levee setbacks.

O7-03h

- Work with local governments to actively discourage development near the river.

The Capital Cost Evaluation for Water Acquisition Significantly Inflates the Cost of Water Rights Acquisition

O7-04a

Capital cost estimates for acquisition of water rights are inflated by up to eighty percent. The sole basis for estimating costs is the cost of financing on-farm water conservation programs (DEIS 2-48). Investments in water conservation practices will secure 1 acre-feet of water for every $3000 invested (Id.).

While we agree that some of the water to offset additional consumptive use by the environment may be secured through water conservation practices, outright purchase of water rights is the simplest, the most flexible, and the cheapest method of obtaining water rights. This holds true whether one looks at the cost of purchasing water righted land or water rights alone. Not only is it the cheapest method, King and Maitland (2003) contend that "outright" purchase is "likely the most acceptable method to irrigators for acquisition of water."

O7-04b

Cost estimates based on purchase of water-righted lands. With the exception of the Las Cruces area where water righted lands sell on average for $10,000 per acre, water righted agricultural lands within EBID range from $4000 to $8,000 per acre with an average 3 acre-foot allotment per acre (King and Maitland, 2003 at p.99). Thus, the cost of securing 1 acre-foot of water would range from $1,333 to $2,666 throughout EBID with the exception of Las Cruces. Under this method of water rights acquisition, the average cost per acre-foot is $2000 or thirty-three percent less than the DEIS projected cost through financing water conservation practices.

O7-04c

Cost estimates based on purchase of water rights. If a water bank was established, like the Special Water User's Association (see NMS Sec. 73-10-48), then the cost of purchasing water rights is even lower. Currently, the City of Las Cruces is purchasing water rights
on a 40- year lease basis (that amounts to an outright purchase) for between $333 to $1000 per acre-foot (King and Maitland, 2003 at p. 100). IBWC has over 8000 acres in the floodway that these water rights could be made appurtenant to. The average cost per acre-foot is $666 or almost eighty percent less than the DEIS projected cost through financing water conservation practices.

Using these alternative, and arguably more acceptable, methods of estimating the cost of water rights acquisition, Table 2.11-1 Preliminary Capital Cost Evaluations should be amended to present the alternative bases for estimating capital costs for water rights acquisition as follows:

O7-04c (cont'd)

Basis for Calculation	Flood Control Improvement Alternative	Integrated USIBWC Land Management Alternative	Targeted River Restoration Alternative
Capital Costs (millions)			
Water Rights Acquisition Alternative Estimates	1078 ac-ft/yr	2,203 ac-ft/yr	9461 ac-ft/yr
Acquisition of water rights ($666/af)	0.7	1.5	6.3
Acquisition of water righted lands ($2000/af)	2.2	4.4	18.9
Financing of Water Conservation practices	3.2	6.6	28.4

Additional Recommended Edits to the DEIS

O7-04d

□ 1st full paragraph: replace 'temporally' with 'temporarily'

□ USDI, BLM 1991: this reference is not contained in Section 6.2. Whatever the reference is, it is likely outdated, since the BLM issued new regulations and guidelines in 1995 (e.g., Rangeland Reform). *See* 43 C.F.R. Part 4100.

□ Table 2.4-1: replace '130' with '13.'

Discussion of the Affected Environment Disregards Key Information

O7-05a

From the beginning, the discussion of the affected environment is muddled because the DEIS has failed to "describe the environment of the area(s) to be affected or created by the alternatives." 40 C.F.R. § 1502.15. In other words, what precisely is the "project area" or "potentially affected area"?

O7-05b

IBWC has arbitrarily narrowed the geographic scope of the DEIS to the Rio Grande Canalization Project (RGCP). In several instances, when discussing the affected environment or environmental impacts, the discussion is limited to the RGCP itself. *See* DEIS 4-1 ("indirect [impacts] are those that occur primarily within the RGCP"); 4-85 ("along the RGCP"). While the proposed alternatives may take place within the RGCP, the indirect and/or cumulative impacts may extend beyond those boundaries. The discussions on affected environment and environmental impacts must reflect the location of the impacts, not of the activities.

O7-05c Secondly, it is not clear what the IBWC means when using the RGCP to denote a geographical area. While the river miles covered by the project are noted (105.4 miles from Percha diversion dam to American diversion dam), the lateral extent of the project is not. Please define the right-of-way controlled by IBWC that adjoins the river, at least in terms of its length and width along the river.

O7-05d In the discussion of Aquatic Biota (Section 3.7), the DEIS skews the baseline conditions that are important in evaluating the alternatives and the significance of adverse impacts. IBWC must analyze habitat suitability and availability of the affected environment for native fish species. By characterizing the suitability of aquatic habitat in terms of non-native species rather than natives, IBWC distorts the condition of the existing environment. Similarly, IBWC should discuss whether the fish community found in the affected area is native, non-native, or both (DEIS 3-41).

Environmental Consequences Are Not Defined

O7-06a "NEPA . . . establishes 'action-forcing' procedures that require agencies to take a 'hard look' at environmental consequences." *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989). "Statements [EISs] . . . shall be supported by evidence that the agency has made the necessary environmental analyses." 40 C.F.R. § 1502.1. Our comments will demonstrate that IBWC has failed to make these environmental analyses.

O7-06b Under NEPA, "conclusory remarks [and] statements that do not equip a decisionmaker to make an informed decision about alternative courses of action, or a court to review the Secretary's reasoning" is insufficient. *Natural Resources Defense Council v. Hodel*, 865 F.2d 288, 298 (D.C. Cir. 1988). This is exactly the type of Environmental Consequences analysis that IBWC has presented in this DEIS, due largely to the inadequate description of the alternatives.

O7-06c It is impossible to use the DEIS to assess the impacts resulting from the interplay of restoration projects and flood control measures presented in the alternatives. The impacts of these two types of activities are interrelated. Restoration projects that promote overbank flooding and hydrologic connectivity between the channel and floodplain will reduce the water surface elevations downstream, possibly eliminating the need for additional levee enhancement. Conversely, flood control improvements, by confining flooding to the active floodplain, will force more water volume downstream. In addition, restoration projects may decrease the efficiency of water delivery in the river channel, necessitating the purchase of water to offset additional losses to evapotranspiration. However, these costs may be more than offset by the cost savings in additional levee height and floodwall construction. It is impossible to make a reasoned decision about the tradeoff among these variables based on the DEIS.

O7-06d In addition, IBWC cannot postpone analysis to a later date, nor will a subsequent EA be allowed to tier from this DEIS. *See, e.g.* Letter of Nov. 14, 2003, at page 3 ("Further hydraulic studies are anticipated to assist in the design of mitigation projects

after the completion of the EIS"); DEIS at 2-10 ("Results of this evaluation are required to ascertain the need for a levee rehabilitation program, and to re-assess the overall flood control strategy for the RGCP"). IBWC has violated NEPA as the agency cannot avoid analysis of environmental consequences by saying that the analysis would be done in a future site-specific EA. As several courts have recognized:

> NEPA is not designed to postpone analysis of an environmental consequence to the last possible moment. Rather, it is designed to require such analysis as soon as it can reasonably be done. If it is reasonably possible to analyze the environmental consequences in an EIS for an RMP, the agency is required to perform that analysis. The EIS analysis may be more general than a subsequent EA analysis, and it may turn out that a particular environmental consequence must be analyzed in both the EIS and the EA. But an earlier EIS analysis will not have been wasted effort, for it will guide the EA analysis and, to the extent appropriate, permit "tiering" by the EA to the EIS in order to avoid wasteful duplication. *Kern v. BLM*, 284 F.3d 1062, 1072 (9th Cir. 2002) (citations omitted).

Indirect and Cumulative Impacts Analysis Is Incomplete

O7-07a Because IBWC artificially narrowed the scope of discussion of the affected environment, the discussion of indirect and cumulative impacts is incomplete (or vice versa). Indirect impacts "are caused by the action and [may be] farther removed in distance." 40 C.F.R. § 1508.8. Cumulative impacts, because they are the result of actions regardless of who undertakes them, may also occur farther in distance. *See id.* 1508.7.

O7-07b The cumulative impacts analysis omits at least one, and judging from its brevity many others, activity that will have cumulative impacts. The Rio Grande Project, located just upstream of the RGCP, has impacted and will continue to impact the RGCP as well as the potentially affected environment.

O7-07c The DEIS provides little information about the impacts of construction and operation of the RGCP itself on the river ecosystem. We recognize that significant changes occurred prior to the project, notably the straightening of the river's alignment and the changes in flow patterns following construction of Elephant Butte Dam in 1916. As observed in the Engineering Report for the RGCP:

> In past years the river has occupied channels in various parts of the valley. After numerous changes the present channel, now occupied by the river, has resulted, and this channel is shorter and straighter than at any time in its history. *Final Report. Control and Canalization of the Rio Grande: Caballo Dam, New Mexico to El Paso, Texas*. American Commissioner to the Secretary of State. December 14, 1935. p. 41

O7-07d However, we believe construction and management of the project have exacerbated a process of environmental degradation that was already in motion at the time of the project's construction. By fixing the river channel in its 1935 alignment, for example, the project made permanent the loss of aquatic habitat diversity that had resulted from the straightening of the river in response to the altered flow and sediment regimes following construction of Elephant Butte Dam. Indeed, IBWC engineers viewed the river's post-dam straightness as a distinct advantage to the project:

> If a channel approximating the present one can be stabilized and maintained, before other major changes occur, the construction cost will be minimized. It is accordingly proposed to use the present channel whenever feasible, changing its alignment only in places where excessive curvature results in erosion of its banks. *Id.*

Others have commented about the ecological impacts of the project:

> Management practices associated with the Canalization Project aimed at maintaining the water conveyance and flood capacity of the river channel have resulted in a notable loss of in-stream habitat diversity, riparian vegetation and floodplain wetland habitat. The traditional means of maintaining water convenyance and flood capacity have also disrupted ecological processes that are vital to the functioning of the riverine and riparian communities. Presentation before the water quality control commission by John Pittenger, aquatic biologist, NM Department of Game and Fish. May 12, 1992.

> The environmental consequences of channelization activities include the severance of the river from its floodplain; the straightening, narrowing and incising of the river channel; the curtailment fo the meandering process that formed oxbows and backwaters, and the loss of native wetland and riparian vegetation. The incised channel and dam operations prevent overbank flows and periodic scouring of floodplain areas...the streambed consists almost entirely of sand, which actively shifts and moves downstream even at moderate flows. The changed hydrology and current management practices largely preclude natural regeneration of native cottonwoods and willows and promotes the growth of non-native vegetation such as salt cedar and Russian olive, which have largely replaced the native cottonwood/willow vegetative complex. Cumulatively, all of these changes have significantly reduced the complexity of aquatic habitat and its ability to support a healthy fish community. *Draft Fish and Wildlife Coordination Act Report for the El Paso-Las Cruces Regional Sustainable Water Project.* Submitted to International Boundary and Water Commission. September, 2000. Prepared by Mike Buntjer, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office.

O7-07e We are particularly interested in the impacts of the project on native fish. The project appears to have had a profound impact on the fish community. A total of twenty-one (21) native fish are reported as occurring in the Rio Grande Canalization Project

(RGCP). Stotz N., 2000, *Historic Reconstruction of the Ecology of the Rio Grande/Rio Bravo Channel and Floodplain in the Chihuahuan Desert*, Table 3-1. Two-thirds (14 out of 21) of those species have been extirpated from the RGCP. *Id.* Of those 14 species, almost half (6 out of 14) were extirpated either during or after the construction of the RGCP. *Id.* Those six species and dates of extirpation from the RGCP are listed below.

O7-07e (cont'd)

Scientific name	Common name	Date of Extirpation
Notropis simus simus	Rio Grande Bluntnose Shiner	1940
Notropis jemezanus	Rio Grande Shiner	1949
Astyanax mexicanus	Mexican Tetra	1950s
Hybognathus amarus	Rio Grande Silvery Minnow	1950s
Gila pandora	Rio Grande Chub	1960s
Macrhybopsis aestivalis	Speckled Chub	1960s

Compliance with 1999 Memorandum of Understanding

O7-08a

In section I.B. of the MOU (attached as Appendix C), IBWC makes several commitments related to this DEIS. We believe that the IBWC has not satisfied two of those commitments:

First, the MOU states that "the DEIS shall make explicit the statutory or other basis for USIBWC's flood protection mandate." IBWC and the DEIS speak only in vague terms in this regard, referring to "conventions, treaties and agreements" that require the "protection of lands along the river from floods through levee and floodway projects." (DEIS 1-4). The IBWC fails to point to a particular treaty, convention(s), agreement(s), statute, or other document that details the origin of the 100-year design flood, the flood protection mandate, etc.

O7-08b

Secondly, the MOU states that USIBWC shall "Analyze, pursuant to NEPA, the indirect and cumulative effects of 'past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such actions;' such actions' impacts are to include, but not be limited to, impacts of USIBWC actions in the project on the Rio Grande ecosystem above and below the project.[i] As discussed previously, we believe the DEIS fails to provide the level of discussion of cumulative impacts as required by NEPA.

Conclusion

O7-09a

One of NEPA's most important functions is to require a federal agency to seek out information concerning the environmental consequences of proposed federal actions – "the basic thrust of an agency's responsibilities under NEPA is to predict the environmental effects of proposed action before the action is taken and those effects fully known." *Scientists' Institute for Public Information, Inc. v. AEC*, 481 F.2d 1079, 1092 (1973). As discussed above, two-dimensional modeling is essential to making a rational

choice among alternatives. Without it, DEIS is unable to answer important questions about the sustainability of the alternatives and the need for proposed improvements to flood control. Yet the very purpose of NEPA is to reduce such speculation and collect the necessary data before the actions are to be implemented. *See Foundation for North American Wild Sheep v. Dept. of Agriculture*, 681 F.2d 1172, 1179 (9th Cir. 1982).

O7-09b

Because the very success of the alternatives is at question, we suggest that the IBWC delay selection of its preferred alternative and issuance of the Final EIS until it is able to complete two-dimensional modeling for these alternatives. This information is essential, and the costs of obtaining are not exorbitant. 40 C.F.R. § 1502.22.

Thank you for accepting the above comments. We look forward to seeing our concerns addressed and implemented in a revised Draft EIS. Also, we would be willing to meet with the IBWC, Bureau of Reclamation and other stakeholders to craft an improved alternative. If you have any questions or are interested in working together to develop such a management plan, please contact Kevin Bixby.

Sincerely,

Kevin Bixby, SWEC
for the Alliance for the Rio Grande Heritage

Mary Kelly
Environmental Defense

Member groups of the Alliance include:

Advocates for the West
Amigos Bravos
Audubon of New Mexico
Defenders of Wildlife
Forest Guardians
National Parks Conservation Association
New Mexico Public Interest Research Group
Rio Grande Restoration
Rio Grande/Rio Bravo Basin Coalition
San Luis Valley Ecosystem Council
Southwest Environmental Center
Sierra Club
World Wildlife Fund

Appendix A

Review of the Draft Environmental Impact Statement for River Management Alternatives for the Rio Grande Canalization Project

United States Section
International Boundary and Water Commission

Prepared for:

Alliance for the Rio Grande Heritage
Las Cruces, New Mexico

Prepared by:

Tetra Tech, ISG
Albuquerque, New Mexico

February 26, 2004

Review of the Draft Environmental Impact Statement
for
River Management Alternatives for the
Rio Grande Canalization Project

Introduction

O7-10a There are three major deficiencies with the International Boundary and Water Commission's Draft Environmental Impact Statement (DEIS) River Management Alternatives for the Rio Grande Canalization Project. These deficiencies make it difficult to evaluate and compare the three DEIS alternatives described, or to select a preferred alternative. The deficiencies would also directly jeopardize the long term success if any of the project management alternatives were implemented. One or more components of the Flood Control Improvement Alternative, the Integrated Land Management Alternative or the Targeted River Restoration Alternative would probably not be implemented based on a more thorough investigation of the river hydrology and flood hazard prediction. As a result of the incomplete analyses, an informed decision about the alternative selection comparing the three alternatives and their potential costs is not possible. The only recourse is to request further analyses of the DEIS alternatives and republish the DEIS in the future, so that the NEPA process can be adequately completed. It is also suggested that new alternatives be formulated that incorporate various combinations of components in the existing alternatives.

The major deficiencies are:

1. Failure to analyze the proposed river restoration projects and the other alternative management projects with an appropriate and plausible controlled release from Caballo Dam with respect to magnitude, frequency and duration.
2. Failure to apply available river flood routing tools to assess proposed levee height increases and construction of additional levee or floodwalls.
3. Failure to analyze a full range of cumulative project impacts on the potential reach wide response to improved flood control, land use management changes and proposed river restoration projects in terms of sediment transport, flood routing and channel morphology.

Each of these deficiencies in the DEIS analyses limit the accurate assessment of long term predicted river response, costs associated with alternative implementation, and assessment of environmental impacts. Each deficiency alone is justification for re-evaluating the costs and impacts of the proposed alternatives. In addition, the International Boundary and Water Commission's (IBWC) approach to river management discussed in the DEIS fails to demonstrate

an understanding of the existing river morphology, hydrology and hydraulic relationships. This portends a high probability that the river restoration projects will not meet expectations and will not be sustained over the long term.

O7-10b An environment impact statement is supposed to be a relatively final document, sufficiently complete in the description and analyses of the feasibility of projects, to permit the lead agency, other agencies and the general public to make informed decisions about the selection of alternatives. The document should include sufficient data and information to review the analyses of impacts and costs associated with those impacts such that the reader when selecting from the proposed project alternatives would have a reasonable expectation and certainty that the selected project alternative would be implemented essentially as described in the document. This DEIS represents a loosely integrated compilation of projects and concepts that, by admission in DEIS, will probably not be constructed in the scope or extent that they are presented. Specifically:

1. The levee analysis (both in areal extent, cost and need) is clearly and admittedly incomplete in the DEIS. By selecting the flood control alternative or the other alternatives with a levee enhancement component, the reader is selecting only the concept of the flood control option. The $55 million flood control improvement cost is not justified in this document.

2. The long term success of the proposed river restoration projects is admittedly contingent on the availability of high flows to sustain the project design. It is recognized in the DEIS that the water is currently unavailable and is unlikely to be available in the future. In fact, the releases from Caballo Dam required for restoration are essentially impossible based on the storage limitations in the reservoir and the hydraulic head (full reservoir conditions) required to operate the outlet gates at the prescribed restoration flow of 5,000 cfs, the maximum discharge at the outlet works. Therefore, all the costs and benefits associated with the river restoration projects are speculative at best. Selecting this alternative is nothing more than a vote for a restoration concept. If restoration activities were implemented on the basis that sustaining restoration projects were contingent on the frequency of the 5,000 cfs controlled release, the restoration design would fail over the long term.

This is not how an EIS process is supposed to be conducted. The lead agency is to have prepared a definitive project design that has a reasonable certainty that the project could be implemented. The alternative project impacts and the costs would also be reasonably expected barring unforeseen circumstances. In this DEIS the reader is not sure as to whether levee enhancements are necessary, exactly where they would be implemented or their potential costs. Similarly, the reader is not sure from the DEIS whether there will be any overbank flooding on a reasonably frequent bases to support the Targeted River Restoration Alternative. For example on page 3 of the November 14, 2003, IBWC response to the Bixby letter (Appendix H, DEIS), the statement, "(f)urther hydraulic studies are anticipated to assist in the design of mitigation projects after the completion of the EIS." How can the reader select from the alternatives when the final mitigation projects, their costs or whether the required hydraulic studies will actually be completed at all are not specified. This was supposed to done for the EIS process not after it. The perception is that the DEIS is just a set of guidelines for selecting an alternative concept

rather than a description of the specific project features and final costs upon which project alternatives can be compared. This approach fundamentally circumvents the DEIS process. To provide meaningful review of alternatives, additional analyses and reformulation of the DEIS will be required.

O7-10c It also appears that the range of alternatives seems too narrow. Flood control should have several levels of action that evaluate the benefits and costs of a range of levee designs including one alternative design where only minimal levee enhancement is considered. The same is true with varying levels of river restoration. There should be a full restoration alternative, an alternative that addresses improving only the active channel, an alternative for maximizing riparian habitat, and other alternatives that integrate with the levee flood control alternative. If these alternatives had been evaluated with a two dimensional flood routing model, different combinations of levee design and restoration would constitute various alternatives.

Deficiency 1. Failure to analyze the proposed river restoration projects and the other alternative management projects with an appropriate and plausible controlled release from Caballo Dam with respect to magnitude, frequency and duration.

Controlled water release for overbank flooding is presented as a potential project component for the Targeted River Restoration Alternative. The proposed water release from Caballo Dam would increase the typical irrigation release of 1,300 cfs by 3,700 cfs, creating a peak discharge of 5,000 cfs which constitutes the maximum outlet works discharge from the dam. The source of water would be 'purchased water rights' and would be limited by storage restrictions in Caballo and Elephant Butte Reservoirs. The projected area of inundation for restoration activities is 516 acres and it is indicated that most of the restoration activities involving the "...regeneration of native woody vegetation would take place largely in the Rincon Valley (page 2-18 DEIS)". It is recognized on page 3-21 of the DEIS, that the riparian areas are hydrologically disconnected from the river and are "...rarely inundated by overbank flows." In fact, the DEIS states (p. 3-21) that the "...vast majority of the RGCP is considered disconnected from the river.

According to the DEIS, a healthy riparian system consists of an active floodplain and diverse channel characteristics that provide a varied aquatic habitat (p. 3-20). These features are formed and supported by "...periodic flooding and high velocity flows which may be accompanied by some erosion, bank scouring and local loss of vegetation (p. 3-20, DEIS)." The DEIS (p. 3-20) also acknowledges that "...periodic flooding is required for the establishment and maintenance of native vegetation communities." "Developing and sustaining native bosque communities could include...hydrologic modifications, planting/natural regeneration...and natural or induced flooding (p. 4-21 DEIS)." "Once the vegetation becomes established, ***periodic*** peak flows would be conducted to sustain native communities...(p. 4-30 DEIS)."

For the long term success of the proposed riparian restoration projects in the Targeted River Restoration Alternative, it is necessary to assess the timing, duration, magnitude and most importantly, the frequency of the projected overbank flooding. The DEIS (p. 4-6) recognizes that "...releases are an ecologically sound and effective approach to support development of the riparian corridor..." for site specific restoration techniques. The magnitude of controlled release overbank flooding is limited by the Caballo Dam outlet works capacity of 5,000 cfs. Tributary flooding downstream of Caballo Dam is too infrequent to support river restoration activities. Flood timing is addressed in the DEIS (p. 4-6) with the statement that "...overbank flows would be induced during the early irrigation season, the most suitable for cottonwood establishment." "The estimated water consumption for the Targeted River Restoration Alternative would be 9,461 ac-ft, 78 percent of which would be associated with controlled water releases from Caballo Dam in early spring to induce overbank flows (p. 4-52, DEIS)" It was reported in Table 4.1-5 (p. 4-6 and on p. 2-18, DEIS) that this would inundate 516 acres. A cost of $4,003,605.00 was assigned to this controlled release based on the purchase of 3,492 acres associated with water rights acquisition to provide water volume for the controlled release.

O7-11a **Inadequate Reservoir Stage and Storage to Provide the Targeted Restoration Flow**

The DEIS explains (both in the body of the report and in the appendices) why the controlled release from Caballo Dam is not possible and is unlikely to inundate the projected 516 acres listed in Table 4.1-5. In Appendix F, it is revealed that a controlled release of 5,000 cfs (the maximum possible discharge from the outlet gates) from Caballo Dam can only occur "...when the reservoir reaches maximum water surface elevation (p. F-1, DEIS). The maximum water surface elevation is 4,182, approximately 10 ft above the top of the active conservation pool elevation and "...above typical reservoir operation conditions (p. F-1, DEIS). The Caballo Reservoir water surface elevation has reached 4,182 only once (1942) since the dam construction in 1938 (Figure 1, pers. comm. Mike Landis 2004). The reservoir has been operated under Court Order No. CIV-90-95 HB/WWD since 1997 and the reservoir level during the summer irrigation has been controlled about elevation 4145 (plus or minus about 3 ft), roughly between 50,000 af and 80,000 af of storage. The spillway crest elevation is 4161 with radial gates that when closed extend the conservation pool up to 4172.44. The flood pool reaches an elevation of 4182 at which the outlet works can discharge 5,000 cfs. IBWC admittedly states in Response to the WWF September 2003 Comments (p. 19, Appendix G, DEIS) that "...at present the feasibility of any release is questionable as...Caballo Dam operation regime...would not support peak discharges near the 5,000 cfs theoretical maximum value." The 5,000 cfs is the proposed flow for the evaluation of Targeted River Restoration Alternative. The fact that approximately 5,000 cfs peak discharge or higher can not be achieved or would be achieved so infrequently (four times in the past 65 years: 1942, 1987, 1992, 1995 at the USGS gage below Caballo Dam) invalidates all of the projected restoration benefits and costs outlined in the DEIS.

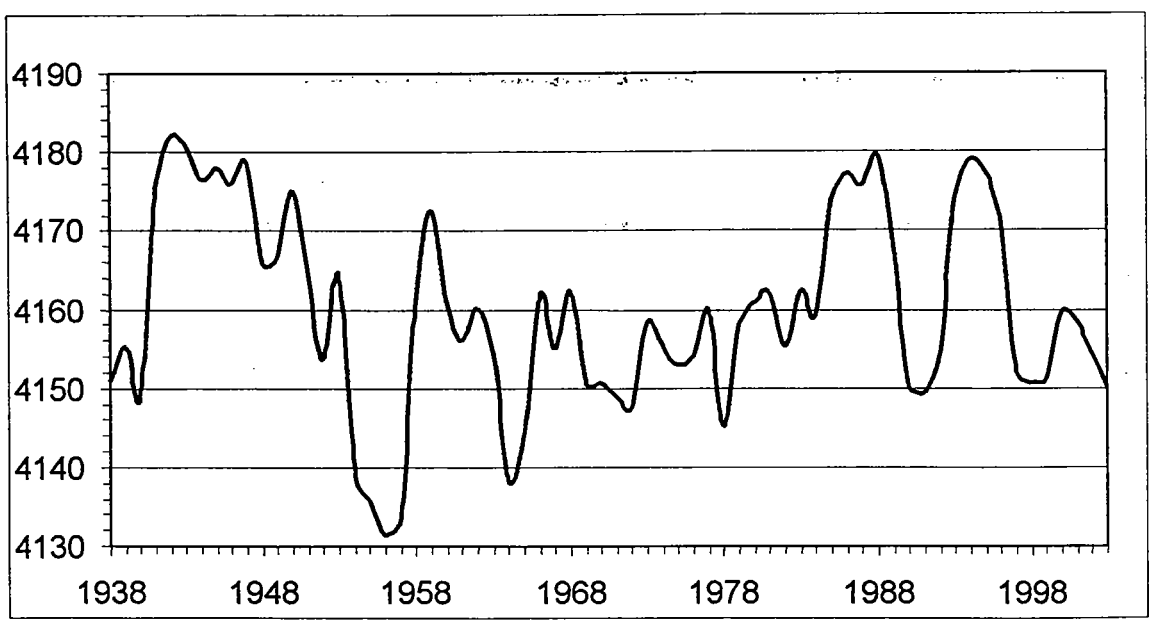

Figure 1. Maximum Annual Water Surface Elevation in Caballo Reservoir (1938-2003)

O7-11a (cont'd)

On page F-1 of the DEIS, it is stated that the "...simulation of controlled releases from Caballo Dam was conducted to estimate the potential extent of the overbank flows." The DEIS continues (p. F-1) stating, "...(w)hile the potential extent of overbank flows was analyzed based on a maximum theoretical value -5,000 cfs discharge- it is important to emphasize that full discharge conditions would be reached only after several years of planning, gradual implementations and regular monitoring." This statement is echoed on page 4-6 of the DEIS where it is suggested that "...the maximum Caballo Dam discharge value would be reached at the end of a 20-year implementation period by gradually increasing releases of small magnitude." Without an increase in water supply, a change in water operations or replacement of the Caballo Dam outlet works, it is impossible to have 5,000 cfs on frequent enough basis to support river restoration project. The DEIS does not address these issues. The Targeted River Restoration Alternative is based on the implausible assumption that a change in water management and reservoir operation would occur to generate 5,000cfs. The DEIS should provide the analysis of reservoir operation and water supply management that would justify 5,000 cfs. Without this analysis, this alternative has no justification or merit.

O7-11b **Inadequate Pulse Flow (5,000 cfs) Frequency to Support Restoration Activities**

River restoration flows have to exceed the bankfull discharge with a sufficient frequency to maintain the active channel, sustain hydrologic connectivity with riparian area restoration projects and reduce vegetation encroachment to eliminate the need for mechanical vegetation removal. Bankfull discharge is often considered as the dominant or channel-forming discharge for alluvial rivers (Richards, 1982) and may be defined as the flow at which the bed material is mobilized and the banks begin to erode. Wolman and Miller (1960) emphasized that the channel shape is affected by a range of flows, not just a single peak discharge. The channel forming discharge is assigned a flow frequency that is in the range of the bankfull discharge return period usually between 1 and 2 years for alluvial rivers (Richards, 1982). Channel forming flows in the range of the bankfull discharge will vary throughout the RGCP reach. Maintaining the active channel requires that flows approach the channel forming flows on a frequent basis to eliminate vegetation encroachment within the active channel. Generally, bankfull discharge must occur at least once every three years to avoid the channel narrowing processes associated with vegetation encroachment (FLO Engineering, 1995). The recommended restoration design flow for the San Acacia to San Marcial reach is the two year return period flood of 5,600 cfs at San Acacia (Save Our Bosque Task Force, 2004). This seasonal peak flow is recommended with a frequency of four out of ten years with no more than two consecutive years without attaining a discharge of at least 5,600 cfs. A similar analysis of bankfull discharge and periodic flood frequency should have been performed for the DEIS. The restoration project designs such as terrace lowering to enhance overbank flooded would then be based on the restoration design flow.

Within the framework of the Targeted River Restoration Alternative, creating and sustain a restored active channel with improved natural channel features is not considered. In fact, the "...pilot channel routine maintenance would be continued (p. 2-19, DEIS)." The only channel restoration activity would be the "(l)imited changes in the RGCP channel geometry...introduced in the Rincon Valley by reopening of former meanders (p. 2-19, DEIS)." Riparian habitat enhancements are likely to fail if not integrated with improved natural alluvial channel functions. The full opportunities for river restoration have not be assessed in the DEIS.

Active channel features are formed and supported by "...periodic flooding and high velocity flows which may be accompanied by some erosion, bank scouring and local loss of vegetation (p. 3-20, DEIS)." The DEIS (p. 3-20) also acknowledges that "...periodic flooding is required for the establishment and maintenance of native vegetation communities." Lowering stream banks in the RGCP is suggested to increase the potential for recurrent flooding based on "...small scale flood cycles likely to occur at 1 to 3 year intervals (p. 2-42, DEIS)." As previously stated, the proposed overbank flow of 5,000 cfs associated with the Targeted River Restoration Alternative will not occur with the frequency to support river restoration activities under the current operating conditions of Caballo Reservoir. It must be concluded that there is no justification for the benefits and costs (Table G-1) associated with the Targeted River Restoration Alternative.

O7-11c **High Flow Duration and Inaccurate Estimate of Pulse Flow Volume**

Overbank flooding has many benefits including the nutrient cycling, removal of bosque litter, reduced soil salinity levels, recharged groundwater levels and native vegetation regeneration. A minimum flow depth of 0.5 ft has been recommended to assess overbank flooding associated with the Middle Rio Grande URGWOM planning model flows evaluated with the FLO-2D model for overbank flooding (URGWOM ID Planning Teams, 2004 communication). Duration-acreage for overbank flood depths is being predicted by the FLO-2D model to evaluate overbank flows for the various URGWOM planning hydrograph scenarios. While a recommended flood duration has not been established, it is generally acknowledged throughout the Bosque research community on the Middle Rio Grande that overbank flood duration of about seven days is preferred, but a minimum overbank flood inundation duration of three days will provide some ecological benefits including reducing soil salinity. This is based on the premise of mimicking the natural hydrograph (Crawford, 1993 and pers. comm., 2004). For the Middle Rio Grande reach from San Acacia to San Marcial, the mean annual flow duration for bankfull discharge of 5,660 cfs (restoration design flow) or higher (post-Cochiti, 2-yr flood) for the pre-Cochiti period from 936 to 1973 was 9.9 days, or about 10 days. For the post-Cochiti period from 1974 to 2002, the mean annual flow duration of the 2-year flood of 5,660 cfs is 5.8 days or roughly 6 days. The annual duration discharges in this range has decreased, encouraging channel narrowing. For restoration purposes in the San Acacia to San Marcial reach, a spring hydrograph with a peak discharge of 5,660 cfs with a duration of approximately 6 days was recommended (Save Our Bosque Task Force, 2004). The rate of change in the mean hydrograph is 175 cfs/day for the rising limb and 135 cfs/day for the recessional limb.

In the DEIS (p. 4-6), "...a release period of 24 hours was assumed to increase soil moisture by overbank flooding and ponding." This statement is contradicted in the Response to the WWF September 2003 comments (p.19, Appendix H) which states that "...a target water use of 7,336 ac-ft/yr was calculated on the basis of one 6-hour discharge of 3,700 cfs (which added to an average 1,300 cfs irrigation would result in the theoretical 5,000 cfs discharge) on a monthly basis." The Appendix H statement volume is based on a 24 hour discharge, not a 6 hour peak discharge, however, it is now unclear whether the 3,700 cfs was intended for a 6 hour or a 24 hour release. On page F-3 of the DEIS, it is suggested that the "discharge duration would be limited not by theoretical considerations on the desirable peak duration, but by the water availability and cost." In any event, the 24 hour overbank inundation duration is insufficient to provide the restoration benefits proposed for the Targeted River Restoration Alternative.

O7-11c (cont'd)

Based on a 24 hour peak discharge release of 5,000 cfs, the controlled overbank flood release "...above irrigation levels over a 1-day period would be equivalent to 7,336 ac-ft, the value used in the water consumption (Section 4.1.6) and cost calculations (Sections 2.11.3) (p. F-3, DEIS)." This volume is exactly 3,700 cfs for 24 hours and does not include either a ramp-up and or a ramp down in the hydrograph. It assumes that the increase the outlet gates release is instantaneous from the 1,300 cfs irrigation release to 5,000 cfs. It is likely that the rising and falling limbs of the controlled release hydrographs would occur over the course of six to twenty four hours. As a result of the erroneous instantaneous release assumption, the volume of water associated with controlled release would either be much greater than 7,336 af extended for more than 24 hours or if the controlled release was limited to a 24 hour period, the volume associated with the 5,000 cfs peak discharge would be much less than 7,336 af. The total volume associated with a 24 linear ramp up to 5,000 cfs from 1,300 cfs, combined with the subsequent 24 hour recessional limb, would double the required release volume to 14,672 af. If the entire 5,000 cfs increase was confined to a 24 period with a 12 hour sustained 5,000 cfs release and 6 hour rising and falling period above 1,300 cfs, the total release volume would be 3,668 af. In either case, the water consumption and cost calculations are incorrect for the Targeted River Restoration Alternative.

To generate a release of 5,000 cfs from Caballo Dam, both storage and hydraulic head on the gates has to be considered. During an average hydrologic year, 10 ft of additional water storage in Caballo Reservoir would have to be provided and sustained for 24 hours to maintain a constant release. In the Corps' 1996 Hydrologic and Hydraulic Report for the Rio Grande Canalization Improvement Project, it is stated that during the spring and summer months, the USBR maintains a conservation pool of 231,000 af in Caballo Reservoir. To generate the maximum outflow of 5,000 cfs, it appears that a maximum storage on the order of 284,000 af is required. In other words, approximately 50,000 af of additional storage must be deposited in Caballo during normal operations in order to have sufficient hydraulic head to begin releasing 5,000 cfs. Once the additional storage volume in Caballo Reservoir has raised the water surface elevation to 4,182, an additional volume (7,336 af) must be released from Elephant Butte, to sustain the water surface elevation at 4,182 to sustain the 24 hour, 5,000 cfs release.

Area of Inundation Associated with a 5,000 cfs Pulse Flow is an Arbitrary Assessment

O7-11d

The key result of the Targeted River Restoration Alternative is a prediction of the area of inundation upon which restoration benefits and costs can be assigned. To estimate the area of inundation for the 5,000 cfs, the 24 hour controlled release was based not on water volume released from Caballo Dam, but rather it was based on water surface elevation in the river channel associated with the 5,000 cfs release. The river water surface elevation was predicted using the applied single discharge, one-dimensional HEC-RAS model. To vary the water surface in the downstream direction, a simplistic approximation of floodwave attenuation was estimated. It was based on the predicted 100-yr flood attenuation in a RGCP reach with no tributary inflow (river mile 80.4 to 84.8) using the Corps of Engineers HEC-1 model (Table F-2, DEIS). The floodwave attenuation was estimated as a 1.5% percent reduction in the peak discharge per mile. The problems associated with this assumed floodwave attenuation estimate are as follows:

O7-11d (cont'd)

1. The HEC-1 model has only limited capability to assess flood diffusion and so floodwave attenuation using this model is merely a guess.
2. Floodwave attenuation of a 5,000 cfs peak discharge for a limited duration of 24 hours is much different than the floodwave attenuation associated with a discharge ranging from 17,700 cfs to 19,100 cfs for the 100-year flood. For the 100-year flood, it is likely that most of the active floodplain will be inundated whereas from Figure 2-3, it can be seen that only a small portion of the RGCP ROW is inundated with 5,000 cfs.
3. Actual floodwave attenuation is based on the controlled release volume, floodplain and channel storage and flow resistance and not an arbitrary assignment of percent reduction in the peak discharge.
4. The controlled release peak discharge attenuation is estimated from 5,000 cfs at river mile 105.4 to 2,600 cfs (the approximate mean bankfull discharge) at river mile 63.3. Depending on the bankfull discharge which is spatially variable through this reach and the proposed duration of the 5,000 cfs flow, the floodwave attenuation could be more significant.
5. Since floodwave attenuation is primarily a function of the controlled release volume and the proposed release volume in the previous section has been shown to be based on an instantaneous increase to 5,000 cfs, the entire analysis requires a detailed flood routing assessment using a two-dimensional model to assess the potential area of inundation.
6. If the controlled release of 5,000 cfs is less than 24 hours as described in the previous section, it is likely that floodwave will be attenuated to less than bankfull discharge before river mile 63.3 and the proposed restoration project benefits would not be realized.

Failure to correctly assess the floodwave attenuation invalidates both the estimates of water consumption, the predicted area of inundation (516 acres) and the cost assigned to the Targeted River Restoration Alternative. The arbitrary assignment of the percent reduction in the peak discharge governs the predicted area of inundation. The floodwave attenuation and the area of inundation can only be reasonably estimated using a two-dimensional flood routing model such as FLO-2D. FLO-2D will accurately assess the relationship between channel storage and floodplain volume for a given limited volume of overbank flow. It should be noted that Parsons, Phoenix, Arizona office is a licensed user of the FLO-2D model.

Suggested Alternative Approach for River Restoration Design

O7-11e

An approach for designing river and riparian restoration that is both simple and effective and has worked well for the Middle Rio Grande was used in the preparation of the Conceptual Restoration Plan for the San Acacia to San Marcial Reach (Save Our Bosque Task Force, 2004). The following steps were applied in that project to establish a restoration design flow hydrograph and are discussed in the context of how the steps could be applied to the RGCP reach:

1. Establish a mean bankfull discharge for the entire reach by conducting cross section analyses or by analyzing FLO-2D modeling results.
2. Conduct an annual flow frequency (estimate return period), duration and timing analysis for the estimated bankfull discharge based on the post-Caballo record. If the return

O7-11e (cont'd)

period of the bankfull discharge is 2 to 3 years, then the bankfull discharge can be established as the restoration design flow.

3. Perform a sensitivity analysis for a range of flows higher and lower than the bankfull discharge in terms of frequency and duration using the post-Caballo gage record.
4. Develop an area of inundation versus discharge curve using the FLO-2D model.
5. Select or confirm the restoration design flow based on frequency, duration, area of inundation and relationship to the bankfull discharge.
6. Determine the volume of the restoration design flow hydrograph and evaluate on a historical basis, how the restoration design flow would have affected historical water management.
7. Evaluate any additional storage or water volume requirements necessary to release the selected restoration design flow hydrograph from Caballo Reservoir.
8. Examine future management and operation conditions to provide the restoration design flows including water right purchases, storage volume location, and timing of restoration flows with irrigation releases from Caballo Reservoir. Flexibility with drought conditions and flow duration can be considered.
9. Using the FLO-2D model to identify areas of inundation for the selected restoration flows, floodplain areas can be selected for restoration project to enhance channel/floodplain connectivity, increase floodable acreage, enhance wetlands and flooded bottomlands, reconnect old meanders bends, and develop secondary and side channels to extent overbank flooding.

No substantial change in Middle Rio Grande water operations is necessary to provide the post-Cochiti restoration discharge of 5,600 cfs in the San Acacia to San Marcial on most years. During a sequence of dry years, altering the shape of the Cochiti Dam release but maintaining the release volume would be sufficient to achieve the desired peak flow duration. The guidelines for the restoration flow is a bankfull discharge or higher with a frequency of at least 4 out of every 10 years with no more than two consecutive years without a bankfull discharge and a minimum duration of at least 3 days. If this restoration hydrograph can be provided with the prescribed frequency and duration, the need for channel maintenance should be very limited. This logical approach was not followed in the DEIS analysis because the selected 5,000 cfs restoration flow cannot be released from Caballo Dam with the frequency required to support restoration. The above Step 2 is missing from the DEIS analysis.

As an example of applying the proposed approach, suppose a restoration design flow of 3,500 cfs was selected based on a review of the bankfull discharge and gaging records. Table 3.4.1 identifies flows that represent the highest monthly average flow on record, a 3,500 cfs release from Caballo Dam (July 1987). Using this discharge, the DEIS identifies approximately 350 acres within the ROW for potential riparian restoration. There are approximately 8,300 acres within the ROW (p. 3-24 DEIS). The 350 acres is less than the 516 acres associated with the 5,000 cfs dam release, but with the 3,500 cfs release there is greater potential for more frequent inundation to support restoration projects. Even more important is the opportunity to augment the irrigation release with only 2,200 cfs instead of 3,700 cfs. This reduces the required hydraulic head water surface elevation in Caballo Reservoir to 4,152, within the typical range of operation in the past two years (4,152.7 in March, 2002, p. F-1, DEIS). For the extended drought

O7-11e (cont'd)

conditions during the period from January 2002 to September 2003 the water surface elevations in Caballo ranged from 4130 up to 4154. Even during this drought period, the water surface in the reservoir reached an elevation where a 3,500 cfs discharge could have occurred. Accordingly, a discharge over 3,000 cfs occurs about 11% of the time in post-Caballo gage record (Table 3-4 of the August, 2003 Reformulation Report). A restoration alternative using 3,500 cfs as design peak discharge could have been formulated and would have included:

- ✓ A peak discharge return period frequency analysis.
- ✓ Floodplain terrace lowering projects to increase the floodable acreage at 3,500 cfs.
- ✓ Reconnected meander bends at 3,500 cfs.
- ✓ Volume of water required to be released from Elephant Butte to generate 3,500 cfs for 3 days with a frequency of at least 4 times in every 10 years with no more than 2 consecutive years without a 3,500 cfs peak discharge. This would include the volume of water necessary to raise the Caballo Reservoir water surface to 4,152.
- ✓ Costs associated with the water rights purchase as well as the restoration project construction.
- ✓ Restoration activities such as wetland enhancement, river channel widening, bank destabilization, development of secondary and side channels, and other projects designed to increase the channel/floodplain hydrologic connection.
- ✓ Restoration projects that focus on the enhancement and floodability of the riparian grasslands, wetlands and native woodlands listed in Table 3.4-4, p. 3-24, DEIS.

A 3,500 cfs controlled release alternative with estimates of the area of inundation, volume of water required, constraints and costs when presented with the 5,000 cfs controlled release alternative and perhaps a 2,600 cfs controlled release alternative, would have constituted a set of DEIS alternatives from which a preferred restoration alternative could have been selected. The selected alternative would include preferred levee rehabilitation components and the cumulative impacts of the restoration projects on required levee heights.

O7-11f

Summary

Failure to analyze the proposed river restoration projects and the other alternative management projects without an appropriate analysis of the controlled release from Caballo Dam in terms of magnitude, frequency and duration leads to the following conclusions:

- The DEIS is misrepresenting the frequency of a controlled release of 5,000 cfs. A prescribed controlled release of 5,000 cfs that is not associated with a summer flood event is not possible under the current operation of Caballo Dam without significant changes in water management or a retrofitting of the outlet works.
- A 5,000 cfs release is admittedly so infrequent ("...at present the feasibility of any release is questionable...", Appendix H, p 19. WWF response, DEIS) that it would not sustain restoration projects over the long term.
- The projected area on inundation (516 acres) for the 5,000 cfs qualifies as an unsubstantiated guess.

- The benefits and costs determined for the Targeted River Restoration Alternative are not supported by the DEIS analyses.

Deficiency 2. Failure to apply available river flood routing tools to assess proposed levee height increases and construction of additional levee or floodwalls.

O7-12a

Prior to the advent of commercially available and industry accepted two-dimensional flood routing models about 15 years ago, all flood studies for levee designs were based on the Corps of Engineers' HEC-2 hydraulic model. HEC-2 eventually evolved into HEC-RAS in the last seven years or so, but the premise of the HEC-RAS model as used on the RGCP project is the same as HEC-2; a single discharge, one-dimensional prediction of the water surface elevation at surveyed or digitally interpolated cross sections. The HEC-2 and HEC-RAS (steady state) models use a standard step method to solve the energy equation and predict the water surface profile. For normal depth flow in natural channels, the flow profile for short reaches is assumed to very close to that for uniform flow. The primarily limitations of the applying the HEC-2 or HEC-RAS models are:

- The HEC-2 and HEC-RAS (steady state) models do not perform flood routing and do not account for the storage effects in the channel or on the floodplain (floodwave attenuation).
- The predicted water surface is uniform across the entire channel and floodplain cross section.

Accurate flood inundation and the prediction of water surface elevation are primarily dependent on the flood hydrograph volume. As the floodwave progresses downstream and overbank flow occurs, water volume is stored on the floodplain and decreases the volume of water available for downstream flooding. Flood volume storage occurs both in the channel and on the floodplain and the greater the channel flow area and the wider floodplain, the more available storage volume available and the smaller the resultant downstream peak discharge. The decrease in the peak discharge in the downstream direction is referred to as floodwave attenuation. If the flood hydrograph has a narrow, steep peak, the floodwave attenuation can be significant as the limited volume in the hydrograph is stored on the floodplain. If the flood hydrograph has broad flat peak discharge,,little floodwave attenuation may occur. The effect of floodwave attenuation is to reshape the narrow, steep flood hydrograph into a broader flat hydrograph as the flood progresses downstream.

When a flood peak discharge duration is several days to a week, all the available floodplain storage can be filled and eventually the peak discharge will be similar throughout the study reach. In this case, the application of HEC-2 or HEC-RAS may be appropriate. If the flood peak discharge duration is only several hours or less than one day, the floodwave attenuation can be very pronounced and somewhere within the study reach possibly the entire flood peak discharge can be conveyed within the channel. The most important variable when determining the potential maximum flood water surface elevation is the flood volume. In the past, the use of HEC-2 and HEC-RAS assumed a worse case scenario by ignoring or crudely estimating floodwave attenuation and thereby constructing levees to conservatively high predictions of water surface elevations. Generally, three feet of freeboard was added to the

estimated maximum water surfaces to account for superelevation, wave run-up, and the approximate methods of computing water surfaces.

The 100-year Tributary Flood Hydrographs Have Short Duration Peak Discharges

O7-12b

If a tributary flood occurs in the RGCP reach, it is likely that the peak discharge will attenuate very quickly when the flood peak reaches the Rio Grande. Local flooding near the confluence and for a short distance downstream would be expected. The 100-year design flood for the RGCP was based on a Corps of Engineers HEC-1 analysis of a 24 hour storm of 2.39 inches over the entire region. The storm was assumed to be a general storm that covers the entire 900 square mile watershed with 46% (1.09 inches) of the 24-hour total rainfall of 2.39 inches occurring in 1-hour. In other words, approximately half of the storm rainfall occurs in one hour uniformly over the entire 900 square mile basin. This results in flood hydrographs in the Rio Grande that are relatively steep and narrow (limited volume) where the discharge within 5,000 cfs of the peak (generally in the range of 20,000 cfs) occurs within a 6 hour time period. This is the type of flood event that can significantly attenuate in a flat slope channel with limited conveyance capacity. The channel bankfull discharge is almost an order of magnitude small than the 100-year peak discharge in most of the RGCP reaches.

The Corps applied the Muskingum-Cunge method to route flows in the Rio Grande channel and arroyo channels. The channel and floodplain cross sections were estimated with a typical eight point station representation. The flood storage was then assessed using the floodwave celerity relating the change in discharge to the change in flow area. The variable flow area at each cross sections multiplied by the reach length was used to approximate the potential overbank storage between cross sections. This application assumes that the pressure gradient and inertial terms in the momentum equation are negligible. The HEC-2 model and subsequently the HEC-RAS model with revised Manning's n-value roughness coefficients were then applied to estimate the water surface elevations based on the Muskingum-Cunge predicted peak discharges in the RGCP.

The complicating factor for predicting the water surface elevations on the RGCP floodplain is the fact that the extensive floodwave attenuation that would occur for an isolated tributary flood is offset by the numerous tributary flood inflows generated from the 100-year general storm assumption. The limitations and concerns associated with the prediction of the 100-year flood water surface elevations used in the evaluation of the levee heights are two-fold: 1) The Corps' narrow and steep hydrographs are sustained down the arroyo channels system and throughout the RGCP; 2) Channel and floodplain roughness values are underestimated and promote a steep, narrow peak discharge by overpredicting floodwave celerity.

The application of the general regional storm hydrology is based on a worse case scenario to conservatively estimate the flood peak discharges. Flood routing using the crude approximation for the floodplain cross section also overestimates the peak discharge by limiting the amount of floodwave attenuation. This will add to the conservative estimate of the water surface elevations associated with the overpredicted peak discharge. The narrow peak flood hydrographs in figures 6-11 in the 1996 Corps' report would be subject to significant floodwave attenuation in the Rio Grande active floodplain. This would be demonstrated by use of the FLO-2D two-dimensional flood routing model.

O7-12c

Underestimated Tributary and RGCP Channel and Floodplain Roughness

The steep narrow flood hydrographs in the Rio Grande is a product of the very fast floodwave movement in the tributary arroyo channels. These steep narrow flood hydrographs are the partial result of having 50% of the 24 hour general storm occur in 1 hour uniformly over the entire basin, but it is also the result of the underestimated roughness for the tributary channels and floodplains. A uniform roughness of 0.02 was used for all channels and n-values ranging from 0.03 to 0.04 were applied for the overbank areas. These overbank values are on the order of 2 to 4 times too low which would significantly reduce the floodwave celerity moving through the system (both the tributaries and the Rio Grande channel). Parson's recognizes this problem and reruns the HEC-RAS for the RGCP reach with more representative roughness values of 0.04 for floodplain grasslands and 0.15 for cottonwood communities. For shallow flows, the 0.04 for floodplain grassland is still about 50% low. Parsons did not, however, revise the underestimated RGCP channel n-values which should be on the order of 0.025 to 0.040 or higher. Parsons also did not adjust the tributary roughness and rerun the tributary inflow flood simulations performed in the Corps (1996) study. Spatial variability of both the channel and floodplain roughness values was very limited (non-existent in the channel) in both the Corps and Parsons applications of the HEC-RAS model. The effect of underestimating the hydraulic roughness is to overpredict the peak discharge. Slowing down the floodwave movement through the system with high roughness values will broaden and flatten the flood hydrographs and reduce the peak discharges. While underestimated lower n-values would tend to decrease the water surface elevations, the over steepening of the flood hydrograph and resultant higher peak discharge would overpredict the water surface elevations. Application of the FLO-2D model would include more representative roughness values for the channel and floodplain and would allow significant spatial variability of roughness in the system.

O7-12d

Uniform Water Surface Elevations at a Cross Section for Levee Designs

HEC-2 and HEC-RAS hydraulic models predict a single water surface elevation for the entire river channel and floodplain cross section. This is a significant departure from reality unless the entire active floodplain is completely inundated. Even in this case, differences in water surface elevation from one side of the river floodplain to other can be on the order of several feet, equivalent to the suggested increase in levee height. If the entire floodplain cross section is not inundated, then is possible to have flooding on one side of the river and not on the other. In the Middle Rio Grande from San Acacia to San Marcial, there is a positive slope away from the river resulting in 1 ft to 5 ft lower topography against the levee. The river banks are higher than the floodplain topography along the levee because of the sediment deposition in the dense vegetation on the bank during overbank flows. During flood events, the survey crews must cross areas along the levee that are flooded in order to stand on the bank next to the river and be on dry land. The spatial variability in flood inundation in this reach of the Middle Rio Grande is significant resulting in some areas that are dry on each side of the river even for the 100-year flood. The effects of floodwave attenuation are pronounced in this 45 mile reach. Using the FLO-2D model, the 29,900 cfs 100-year peak discharge at San Acacia is attenuated to less than 4,000 cfs at San Marcial. There are no significant intervening tributary floods. Even in upstream reach where the floodplain is entirely inundated, the predicted water surface is 4 ft higher on the western edge of the floodplain than on the eastern edge. The FLO-2D model has the advantage of representing the grid system spatial variability in roughness and topography. The predicted water surface elevations are a function of the flood volume not just an arbitrary,

conservative peak discharge. The FLO-2D predicted water surface elevations in the San Acacia to San Marcial reach of the Middle Rio Grande are being used for levee analysis and design by the Albuquerque District of the Corps of Engineers.

O7-12e **Using the Best Available Tools to Analyze Alternatives**

Without simulating the 100-year floodwave movement with an industry accepted two-dimensional flooding routing model, the DEIS analysis has not used the best available technical tools to determine the need for levee enhancements. The proposed increases in levee height are probably overpredicted or may not be required at all. In the response to the WWF September 2003 comments (p. 12 of 31 in Appendix H, DEIS), IBWC states, "(s)ince targets for flood control improvements and timing of implementation are not fully defined, a conservative approach was adopted in the EIS for evaluation of potential effects." The DEIS states on page 2-9 that the flood control improvements for the levee system are only a preliminary estimate. The Flood Control Improvement Alternative "...incorporates levee height increase and building of additional levees or floodwalls as the two measures to be considered...". "These measures were adopted only as a work assumption to estimate effects of potential construction activities because of the potential overestimate of the levee deficiencies in terms of flood containment capacity, and incomplete information on the structural integrity of the levee system (p. 2-9, DEIS)." Not only does the DEIS recognize the potential overestimate of the 100-year flood water surface predictions, but it is also acknowledges that because the structural problems have not been fully analyzed it is unclear how much levee modification is necessary. On page 2 of the IBWC response to the Bixby letter of November 4, 2003 (Appendix H, DEIS), it is noted that "current estimates of levee deficiencies and potential flood risk will be reduced with the use of two-dimensional models because they account for the attenuation of flood peaks as they spill into the floodway." This implies that the costs associated with the Flood Control Improvement Alternative are incomplete, inaccurate and cannot be evaluated with the other proposed alternatives.

O7-13

Deficiency 3. Failure to analyze a full range of cumulative project impacts on the potential reach wide response to improved flood control, land use management changes and proposed river restoration projects in terms of sediment transport, flood routing and channel morphology.

The DEIS states that "(c)umulative effects are defined as impacts on the environment that result from the incremental impact of the active when added to other past, present and reasonable foreseeable future actions (p. 4-85. DEIS)". This would apply to proposed alternative projects that would have cumulative impacts in the downstream direction. Restoration activities are proposed in DEIS that would increase overbank storage resulting in enhanced floodwave attenuation and would reduce the need for downstream levee improvements. This is not recognized in the DEIS. In fact, the Targeted River Restoration Alternative is noted on page 4-10 to have adverse effect on flood control at five locations. Nothing is mention about the potential for increased floodwave attenuation associated with enhanced overbank flooding. Conversely, flood control improvements will confine flooding to the active floodplain forcing more volume downstream and increasing downstream water surface elevations and possibly flood management and restoration projects. This is not addressed in the application of the HEC-2 and HEC-RAS models. There is a balance that can be struck between the improved river functions, increased flood control and conveyance efficiency.

Restoration projects that promote overbank flooding and hydrologic connectivity between the channel and floodplain will reduce the water surface elevations downstream possibly eliminating the need for additional levee enhancement. Increased channel conveyance associated with a more dynamic and wider channel combined with increased overbank flooding will significantly enhance floodwave attenuation. There is an additional cost associated with this restoration approach; efficient water delivery of in-channel flows would be impacted. Additional losses to evaporation and gains in groundwater storage would have to be offset by water rights purchase. The cost of additional water rights purchase may be more than offset by the cost savings in additional levee height and floodwall construction. Accurate estimates of conveyance efficiency can be assessed by comparing measured hydrographs at numerous locations in the system pre- and post restoration. Volume losses can than be mitigated with water right purchases.

The impacts of the various projects will be cumulative in the downstream direction and need to be assessed. There should be a DEIS analysis that identifies the levee height requirements with floodway management measures, potential river restoration activities and maintenance of the pilot channel. These management and flood control activities are interrelated and need to be evaluated as such. The alternatives have been presented in the DEIS as if the impacts are mutually exclusive. The DEIS alternatives represent a series of disconnected concepts when, in reality, the implementation of multiple projects from each alternative is likely. For that the reason, additional alternatives describing various combinations of the alternatives is required. In addition, analysis of the cumulative impacts of the various combinations of the alternatives is also required.

It is impossible to use the DEIS to assess the cumulative impacts between the restoration projects and levee improvements and make a decision on the selection of alternatives. The DEIS should be revised and should report completed analyses that will allow the agencies to select

O7-13 (cont'd)

alternatives. In its present form, the DEIS only allows the reader to select a conceptual approach to river management based on three incomplete alternative analyses. If the Corps proceeds to reassess the flood routing through RGCP using FLO-2D, is it likely that the Flood Control Improvement Alternative as presented in the DEIS would be superseded. It is recommended that the DEIS be delayed until the FLO-2D study is complete so that a legitimate flood control alternative can be formulated and presented to the public.

With regard to the Upper Rio Grande Water Operations (URGWOPs) planning effort, the timing of flows through RGCP and potential controlled releases from Caballo Dam "...could be influenced by findings of the operations evaluations (p. 4-86, DEIS)." If URGWOPs is likely to effect water delivery or otherwise impact the alternatives listed in the DEIS, then it is recommended that the reformulation of the DEIS be delayed until the URGWOPs planning effort is complete. Otherwise, a selected or preferred alternative could be rendered ineffective by the URGWOPs planning effort. This is of particular concern for the Targeted River Restoration Alternative.

Concluding Comments

The RGCP river reach is in a severe state of dysfunction. The channel has been engineered, maintained and managed with the sole focus to convey water efficiently and safely from Caballo Dam to the diversion structures. The IBWC mission is to preserve water delivery and flood control to the detriment of the river environment including the diversity of the riparian and aquatic habitat. The past piecemeal, nonintegrated measures to incorporate environment enhancements have not significantly contributed to sustaining river functions and riparian habitat. The river system has been dominated by continual vegetation mowing and channel dredging. Page 2-6 of the DEIS states; "The RGCP main channel is maintained by removing debris and deposits, including sand bars, weeds, and brush that grow along the bed and banks. Any major depositions or channel closures by sediment loads from arroyo flows are removed. Channel excavation is performed with bulldozers, excavators, front end loaders and scrapers either from the bank or from within the channel." "If required, annual maintenance includes placement of additional riprap to protect meandering channel and stream banks. Any scouring or gouging of the banks due to flooding is repaired immediately." Millions of dollars have been spent on controlling the river channel and yet if no channel maintenance had been done at all, the river would look better and still efficiently deliver the water to the diversions.

O7-14a

There is a mismatch between channel morphology, flood hydrology and sediment load in the RGCP system. If the river channel was permitted to respond to variable sediment load and flooding, it would gradually take on more river-like features including a greater width-to-depth ratio, enhanced meanders, more wetlands, increased channel bank erosion and migration across the floodplain. A mobile bed in alluvial river provides form and definition. Sand bars, bank erosion and features such as meanders and wetland areas are healthy for the ecosystem. IBWC's mission to provide efficient water deliver is its justification to limit sediment supply and movement in the channel by dredging and by encouraging sediment storage in detention dams. IBWC had been eliminating sediment from the RGCP because it is perceived as a detriment to a stable channel. On page 2-6, the DEIS indicates that, "major depositions or channel closures caused by sediment loads from arroyo flows are removed." Dredging is conducted at the mouth of arroyos to "maintain grade of the channel bed and ensure the channel conveys irrigation deliveries (p. 2-7, DEIS)." Sediment deposition at arroyo confluences provide the opportunity for the river channel to shift course, migrate across the river valley, provide slow velocity habitat and induce overbank flooding. Instead IBWC deprives the channel of needed sediment to maintain an active channel morphology.

O7-14b

The DEIS is replete with comments about sediment deposition and erosion problems. There is an entire section devoted to sediment deposition beginning on page 3-7. On page 2-43 the DEIS indicates that "...the need for additional sediment load reduction might be identified in the future..." Currently, "...the need for sediment removal along the RGCP channel has been identified only for the Seldon Canyon RMU." On page 4-5, the DEIS states that "...stream bank stabilization with sand bar willow was recommended for...sediment input reduction...". With respect to grazing, the primary objective would be improved erosion control and bank stability (p. 4-20, DEIS). Table 4.14.-1, p. 4-81, projects are listed that are designed to reduce "...the possibility of sediment entering the river." The notion that sediment in the river is problem pervades the entire document.

O7-14c

O7-14d

The Middle Rio Grande has a significant sediment deficient (Save Our Bosque Task Force, 2004) that has resulted in dramatic channel narrowing and vegetation encroachment. Restoration projects are now being focused on attempting to restore some of the channel functions. There is also a sediment deficit in the RGCP and the river needs all the available sediment to support an more active channel "...formed by periodic flooding and high velocity flows, which may be accompanied by some erosion, bank scouring and local loss of vegetation...(p. 3-20, DEIS)." This statement should also include 'accompanied by sediment deposition, sand bar formation and channel migration'. A solution to the problem of an inactive alluvial channel (narrow, incised with stable banks) is to add sediment and allow the system comes to equilibrium. Having a more active channel will be a significant enhancement to the aquatic habitat. There would also be some loss of conveyance efficiency. In turn, however, a restored river channel would be more effective in flood control. The loss of conveyance efficiency could be offset by water rights purchase.

Summarizing the most important restoration issues, the DEIS states on page 1-2 that the criteria for the alternative management strategies included "...environmental measures that would take advantage of existing hydrologic conditions and the ability to manage river flows from upstream reservoirs within certain reaches of the river. Management of river flows from upstream reservoirs would be constrained by infrastructure limitations, water delivery requirements and water availability. Partially restoring riparian ecosystem within these hydrologic constraints has been demonstrated in other reaches of the Rio Grande." This is very laudable objective and it is well stated. Unfortunately, the DEIS Targeted River Restoration Alternative did not fulfill this objective for the following reasons:

- The 5,000 cfs release was not accurately analyzed in terms of frequency, duration, required volume and cost. The hydrograph volume associated with the 5,000 cfs (7,336 af) release did not include the rising and falling limbs of the hydrograph or the storage volume (increase in water surface elevation) in the Caballo Reservoir required to have sufficient head for the maximum gate release (~50,000 af).
- If the 5,000 cfs is not sufficiently frequent (2-3 year return period) based on historical operations (or modified operations) of the reservoir, then the DEIS restoration plan design for the Targeted River Restoration Alternative should have been based on the maximum discharge available with a return period frequency of a 2 to 3 year return period flood. Assessing the restoration design flow should have been accomplished by assessing historical reservoir operations, determining a reasonable volume of additional water to increase in reservoir water surface elevation to generate a restoration release essentially every other year, and then computing the discharge from the outlet works rating curve.

References

Crawford, C.S., A.C. Cully, R. Leutheuser, M.S. Sifuentes, L.H. White, J.P. Wilber, 1993. "Middle Rio Grande Ecosystem: Bosque Biological Management Plan," Middle Rio Grande Biological Interagency Team, U.S. Fish and Wildlife Service, Albuquerque, NM.

FLO Engineering, 1995. "Green River Flooded Bottomlands Investigation, Ouray Wildlife Refuge and Canyonlands National Park, Utah," prepared for the Recovery Implementation Program for the Endangered Fishes of the Upper Colorado River, Breckenridge, Colorado.

Richards, K., 1982. Rivers, Form and Process in Alluvial Channels. Methuen & Co., New York.

Save Our Bosque Task Force, 2004. "Conceptual Restoration Plan, Active Floodplain of the Rio Grande, San Acacia to San Marcial, New Mexico, Phase II. Specific River Issues," Prepared by Tetra Tech, ISG, Albuquerque, New Mexico.

Wolman, M.G. and J.P. Miller, 1960. "Magnitude and Frequency of Forces in Geomorphic Processes," Journal of Geology, V. 68, pp. 54-74.

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO

OFFICE OF THE COMMISSIONER
UNITED STATES SECTION

JAN 16 2004

Mr. Kevin Bixby
Executive Director
Southwest Environmental Center
275 North Downtown Mall
Las Cruces, New Mexico 88001

Dear Mr. Bixby:

Reference is made to my letter dated November 14, 2003, concerning the one-dimensional hydraulic model that the U.S. Section of the International Boundary and Water Commission (USIBWC) utilized for the Draft Environmental Impact Statement (DEIS) for the Rio Grande Canalization Project. I take this opportunity to inform you that the USIBWC, through a pending Memorandum of Agreement with the U.S. Army of the Corps of Engineers, Albuquerque District, plans to use FLO-2D for a cooperative hydraulic study in the Canalization Project from Percha Dam in New Mexico to American Dam in El Paso, Texas in the near future.

The model will take environmental alternatives into considerations in a more detailed fashion, such as the amount of water consumed by restoration features, the area of floodplain that could be wetted by design restoration flows, etc. The cooperative study will include purchasing the FLO-2D software and training of our engineers by the model developer. I trust this effort will address your concerns regarding the adequacy of the modeling for the Canalization Project as expressed in your undated letter to me received in October 2003, and as expressed in our meeting on October 24, 2003.

It is my intention to keep you updated on these modeling plans through the USIBWC Engineering Services Division. Both Mr. Jim Robinson (915) 832-4152 and Dr. Rong Kuo (915) 832-4747 are available to address any questions regarding this effort.

Sincerely,

Debra J. Little
Acting Commissioner

cc:
Sue Watts, Co-Chair
Paso del Norte Watershed Council
Texas Agricultural Experiment Station
1380 A&M Circle
El Paso, Texas 79927-5020

Julie Maitland, Co-Chair
Paso del Norte Watershed Council
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P.O. Box 30005
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Beth Bardwell, Program Officer
World Wildlife Fund
Chihuahuan Desert Program
100 E. Hadley Street
Las Cruces, New Mexico 88001

Appendix C

MEMORANDUM OF UNDERSTANDING
BETWEEN
UNITED STATES SECTION
INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO
AND
SOUTHWEST ENVIRONMENTAL CENTER

This Memorandum of Understanding (MOU) is made this 22nd day of March, 1999 by and between the United States Section, International Boundary and Water Commission, United States and Mexico (USIBWC), represented by the United States Commissioner, John M. Bernal of El Paso, Texas, and the Southwest Environmental Center (SWEC), represented by its Director, Kevin Bixby of Las Cruces, New Mexico.

WITNESSETH:

WHEREAS, the USIBWC operates and maintains flood control works along the Rio Grande in the "Canalization Project," which runs from Percha Dam in New Mexico south to just above American Dam on the New Mexico-Texas boundary, and in the "Rectification Project," which runs from American Dam south to Fort Quitman, Texas. The Rectification Project reach of the Rio Grande also serves as part of the boundary between the United States and Mexico and provides flood protection in both countries.

WHEREAS, construction of the Canalization Project was authorized by Act of August 29, 1935, 49 Stat. 961; and construction of the Rectification Project was authorized by the Convention Between the United States of America and Mexico on Rectification of the Rio Grande, dated November 13, 1933.

WHEREAS, the USIBWC and SWEC share the common goals of exploring and implementing means of maintaining and operating the Canalization and Rectification flood control projects in a manner that will serve the purpose of the projects and enhance the potential natural qualities of the Rio Grande and its surroundings.

NOW, THEREFORE, the parties hereto agree as follows:

I. The USIBWC will take the following actions:

A. USIBWC has requested and received a list of endangered, threatened and candidate species from the appropriate United States Fish and Wildlife Service (USFWS) field offices to begin the biological assessment process leading to consultation on both Canalization Project and the United States portion of the Rectification Project. The biological assessment on the Canalization Project will be completed by August 15, 2000. The biological assessment on the Rectification Project will be completed by October 1, 2000. Each biological assessment shall consider the impacts of USIBWC actions in both projects. USIBWC will provide interested members of the public, who have previously requested notice, and members of the citizens' environmental forum (see I(D) below) notice of the transmission of each BA to the U.S. Fish and Wildlife Service when that transmission takes place, and USIBWC will provide to those requesting them a copy of each BA immediately upon request.

B. USIBWC shall issue a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) relating to the Canalization Project by August 15, 1999. USIBWC will hold at least two Scoping Meetings for the EIS, one of which will take place in Las Cruces, New Mexico. USIBWC will release a Draft EIS by February 15, 2001 and will issue a Record of Decision (ROD) by August 15, 2001. The scope of the EIS will include analysis of available flood protection measures and alternatives to current management, including watershed-oriented and non-structural alternatives, and including collaborative measures with other agencies and landowners, to determine to what extent project management can support restoration of native riparian and aquatic habitats, as well as the restoration of natural fluvial processes such as channel meanders and overbank flooding. The DEIS shall analyze, pursuant to NEPA, the indirect and cumulative effects of "past, present, and reasonably forseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions;" such actions' impacts are to include, but not be limited to, impacts of USIBWC actions in the project on the Rio Grande ecosystem above and below the project. The DEIS shall make explicit the USIBWC's modeling assumptions concerning the magnitude and frequency of flood events that flood protection is meant to control. The DEIS shall make explicit the statutory or other basis for USIBWC's flood protection mandate.

C. USIBWC will issue a NOI for an EIS relating to the United States portion of the Rectification Project within five months after funds become available, if the funds become available for fiscal year 2000. Funds are requested for fiscal year 2000 and, if they are not received in fiscal year 2000, then USIBWC will issue a NOI within two months of the time it becomes aware that funds are not available, and USIBWC will continue to pursue acquisition of funds. If funding becomes available in fiscal year 2001 or later, USIBWC will publish another NOI within 30 days after funds become available to USIBWC. When the funds are available, the USIBWC will complete a Draft EIS within two years after the NOI is issued and will issue the ROD within three years after the NOI. The scope of the Rectification EIS will include analysis of available flood protection and alternatives to current management, including watershed-oriented and non-structural alternatives, and including collaborative measures with other agencies and landowners, to determine to what extent project management can support restoration of native riparian and aquatic habitats, as well as the restoration of natural fluvial processes such as channel meanders

and overbank flooding. The DEIS shall analyze, pursuant to NEPA, the indirect and cumulative effects of "past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions;" such actions' impacts are to include, but not be limited to, impacts of USIBWC actions in the project on the Rio Grande ecosystem above and below the project. The DEIS shall make explicit the USIBWC's modeling assumptions concerning the magnitude and frequency of flood events that flood protection is meant to control. The DEIS shall make explicit the statutory or other basis for the USIBWC's flood protection mandate.

D. USIBWC by February 1, 1999 will undertake to establish a Rio Grande citizens' environmental forum for exchange of information, which the USIBWC will keep informed of its activities on the Rio Grande between Caballo Dam and Fort Quitman, Texas. To select members of the forum, USIBWC will advertise in newspapers of general circulation in Las Cruces, New Mexico, and El Paso, Texas, and consider applications from all interested parties. To the extent possible, the forum will represent all parties with major interest in the Rio Grande (environmentalists, irrigation districts, municipalities, etc.) The forum will meet regularly, with an organizational meeting no later than 60 days following the execution of this agreement, at least four times per year, to exchange information between the USIBWC and forum members. The forum will include a position for the SWEC. The Commissioner of the USIBWC or a senior staff designated by the Commissioner shall attend all meetings of the forum.

E. USIBWC will establish "green zones" along the Canalization Project of the Rio Grande. These green zones are provisional, pending the outcome of the Canalization EIS, and may or may not be permanent. In addition, in emergency situations (i.e., experience in a flood event shows that the green zones, or a portion of them, causes or threatens damage to flood protection or an act of God, such as a fire, requires USIBWC to take action), USIBWC retains authority to conduct maintenance in all these areas after notifying the citizens' environmental forum. The USIBWC has concluded that the establishment of the study areas described herein is categorically excluded from review under the National Environmental Policy Act (NEPA). The green zones are as follows:

1. Percha Dam to the Dona Ana County Line (a 5 river-mile distance on each side of the channel for a total distance of 10 corridor miles) — This will be a study area for the purpose of helping to demonstrate the effects of additional habitat growth on the environment. USIBWC, in cooperation with SWEC, will develop a study protocol for this endeavor by April 1, 1999. USIBWC will permit vegetation to grow along the banks of the river for a width of 10 to 35 feet adjacent to the river channel (depending on the right of way and geography of the river).

2. Selden Canyon (an 8 river mile distance on each side of the channel for a total of 16 corridor miles) — The USIBWC owns the bed and banks of the river throughout Selden Canyon. USIBWC hereby adopts an agency policy against conducting vegetation maintenance in these areas of Selden Canyon.

3. Shalem Bridge to Picacho Bridge (a 5 river-mile distance on each side of the channel for a total of 10 corridor miles) — This will be a study area for the purpose of helping to demonstrate the effects of additional habitat growth on the environment. USIBWC, in cooperation with SWEC, will develop a study protocol for this endeavor by April 1, 1999. On both sides of the river channel, USIBWC will refrain from vegetation maintenance in a 35 foot wide band from the edge of the channel toward the levees. At intervals no more frequent than every 800 feet, the USIBWC will maintain an observation point of not more than 100 feet. Areas 400 feet upstream and downstream from the bridges themselves will continue to be maintained. USIBWC will continue to maintain areas outside the 35 foot wide green zone.

F. USIBWC and SWEC will cooperate in a tree planting effort in 1999. USIBWC will contribute 200 tree poles, which it will obtain from the El Paso Projects Office of the Bureau of Reclamation, in addition to up to 800 poles provided by the SWEC, to be planted in the green zones. SWEC and USIBWC will cooperate and jointly decide the location of poles to be planted within the green zones. USIBWC, in cooperation with SWEC, will utilize its best efforts to obtain and provide necessary equipment, including mechanized augers, to facilitate timely tree planting.

II. The SWEC will take the following actions:

A. SWEC will provide one individual to be a member of the Rio Grande citizens' environmental forum. That member will make reasonable efforts to attend scheduled meetings and events.

B. SWEC will cooperate with USIBWC in developing by April 1, 1999 a study protocol for the green zone study areas established pursuant to this agreement. SWEC will assist the USIBWC by conducting plot studies within the green zones at locations and frequencies to be determined by the USIBWC and SWEC in the study protocol.

C. The SWEC, pursuant to arrangements made with the USIBWC, will provide and deliver on site up to 800 tree poles for planting in 1999. SWEC will also provide volunteer labor to plant all 1000 poles, including those provided by the USIBWC.

D. For as long as the USIBWC complies with this MOU, SWEC shall refrain from filing an action in any federal court regarding any of the issues raised in the SWEC's Notice of Violation of the Endangered Species Act and the National Environmental Policy Act, dated May 8, 1998, which was addressed to the USIBWC Commissioner, the Secretary of State, and the Secretary of the Interior.

III. Anti-Deficiency Act

Nothing in this MOU shall be construed to require a violation of the Anti-Deficiency Act, 31 U.S.C. sections 1301, 1341, 1342, 1350, 1351 and 1511-1519.

IV. Dispute Resolution

In the event of a disagreement over the meaning of or compliance with this MOU, the parties to this agreement will make efforts to settle any such disagreement amicably and cooperatively between the parties prior to seeking any other civil remedies available. In the event of any alleged violation of this MOU, including but not limited to unforeseen delays in accomplishing the measures discussed in this MOU, USIBWC and SWEC will meet within 14 calendar days of written notice of any alleged violation to discuss all pertinent information, and if both parties agree in writing, the parties may amend the MOU.

V. Termination

Either party may terminate this MOU upon 30 days written notice.

IN WITNESS WHEREOF, the parties hereto execute this instrument to be effective when signed by both parties.

John M. Bernal
Commissioner, United States Section
International Boundary and Water Commission
United States and Mexico

Kevin Bixby
Director
Southwest Environmental Center

William A. Wilcox, Jr.
Legal Advisor, United States Section
International Boundary and Water Commission
United States and Mexico

Edward B. Zukoski
Staff Attorney
Land and Water Fund
For Southwest Environmental Center

Comment Letter O8

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March 1, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
Environmental Management Division
International Boundary and Water Commission
United States Section
4171 N. Mesa Street, C-100
El Paso, Texas 79902

Re: Draft Environmental Impact Statement on River Management Alternatives for the Rio Grande Canalization Project

Dear Mr. Echlin:

Enclosed please find a complete set of the comments of Elephant Butte Irrigation District on the recent DEIS. This full set was emailed to you today, but we were also informed by your office that comments postmarked by March 1 would be considered timely and we wanted you to have the original signed comments of EBID. If there is any problem with the timeliness of receipt of EBID's comments, please advise me immediately. Thank you for your cooperation in this request.

Sincerely,

HUBERT & HERNANDEZ, P.A.

Lee E. Peters

LEP:jjb
Enclosures
cc: Mr. Gary Esslinger, Elephant Butte Irrigation District (with enclosures)

Comments of
Elephant Butte Irrigation District
on
Draft Environmental Impact Statement
River Management Alternative for the
Rio Grande Canalization Project

Submitted to:

International Boundary and Water Commission
United States Section
c/o Mr. Douglas Echlin
Lead Environmental Protection Specialist
Environmental Management Division
4171 North Mesa Street, C-100
El Paso, Texas 79902

March 1, 2004

Submitted by:

Elephant Butte Irrigation District

Gary Esslinger
Treasurer-Manager
P.O. Drawer 1509
Las Cruces, New Mexico 88004-1509

The Elephant Butte Irrigation District opposes any of the actions proposed in the Draft Environmental Impact Statement (DEIS) except for a true no-action alternative. The U.S. Section of the International Boundary and Water Commission (IBWC) proposes to engage in activities far outside of its authority and mission in two of the alternatives examined in the DEIS. The IBWC improperly fails to identify its preferred alternative among the four alternatives reviewed in the DEIS. The IBWC should have reviewed a true no-action alternative, which excludes the actions taken under the Memorandum of Understanding it entered with the Southwest Environmental Center in 1999, and IBWC should select a true no-action alternative to guide its actions for the future. A true no-action alternative is the only approach to IBWC's management of the Rio Grande Canalization Project (RGCP) which is legal, within its authority and mission, consistent with local needs, and fiscally responsible.

O8-01a

O8-01b

O8-01c

Introduction

O8-02a

The constituent members of the Elephant Butte Irrigation District (EBID) own all of the surface water rights within the New Mexico portion of the Rio Grande Project. EBID owns the New Mexico distribution system formerly operated by the U.S. Bureau of Reclamation. EBID is vitally interested in the present and future operations of the IBWC since the latter's mission is to insure the efficient conveyance of water through the Rio Grande channel. The efficient conveyance of water through the river to EBID's diversions is essential to EBID's operations, particularly now in a period of drought. No water in the Rio Grande Project can be unnecessarily lost or wasted. Correspondingly, any new uses of

water in Southern New Mexico can only occur through the transfer of water from an existing use, if allowable under law.

EBID is also interested in the IBWC's other function, to provide flood control by retaining flows within the river channel and outer levees. EBID supports the flood control function by sponsoring and maintaining a number of flood control structures on arroyos which are tributary to the Rio Grande. Flood protection benefits all development in the Hatch and Mesilla Valleys, not just agricultural lands. No action should be taken which would compromise the existing flood control system.

O8-02b

O8-02c

The IBWC evaluates four alternatives in the DEIS, but fails to include the required no-action alternative, which is the alternative that should be adopted. EBID refers to this unevaluated alternative as the True No-Action alternative. The version actually evaluated in the DEIS, referred to as the Actual No-Action alternative, illegally takes water rights and violates the IBWC's mission by limiting river channel dredging, failing to mow banks, and planting new vegetation in the IBWC-controlled area. The second evaluated alternative (the Flood Control one) proposes over $55 million in purported, but unnecessary, flood control enhancement. The only reason this alternative would be appropriate is if substantial riparian growth is allowed, since that growth would impair the existing adequate flood control measures.

O8-02d

The third alternative, referred to as the Integrated alternative, is a mix of unnecessary flood control enhancements and allowing a substantial amount of riparian growth. The fourth and final alternative, called the Restoration alternative, actively encourages large

swaths of riparian growth and slow-moving, or still, river flows, added to the unnecessary flood control measures. All alternatives are illegal and/or inappropriate; only a true no-action alternative can be selected.

Legal Deficiencies in the DEIS

1. The IBWC lacks the authority to adopt alternatives which overtly promote riparian and wildlife habitat.

O8-03a

The Integrated and Restoration alternatives would require the IBWC to undertake actions far beyond its legal authority and its designated mission. There is no attempt at an analysis of the legal authority of the IBWC in the DEIS. Thus, the assumption that the IBWC even has the authority to examine these proposed future courses of action is fatally flawed. That review should have been made at the scoping stage of this DEIS, or at the latest the time of the Reformulation of River Management Alternatives report (issued August 2003). Nevertheless, the Restoration and Integrated alternatives could never legally be undertaken by the IBWC and should be disregarded at this DEIS stage.

The IBWC begins by misstating its "mission" as including "the need to accomplish flood control, water delivery, and operation and maintenance activities in a manner that enhances or restores the riparian ecosystem" (ES-1). IBWC's true mission is more accurately stated elsewhere as carrying out and protecting the "rights and obligations established in the conventions, treaties, and agreements between the United States and Mexico" (1-4). Those functions which are relevant to the RGCP are "[d]istribution between

O8-03a (cont'd)

the two countries of waters of the Rio Grande", "[r]egulation and conservation of waters of the Rio Grande" and "[p]rotection of lands along the river from floods" (1-4). Without referring to the authority quoted from, the DEIS elsewhere concludes the IBWC mission to be ". . . to provide environmentally sensitive, timely, and fiscally responsible boundary and water services along the United States and Mexico border region" (1-4). Outside the DEIS but in related documents, IBWC states:

> The challenge is . . . improving the environmental conditions of a river that . . . now functions as a water conveyance and delivery system.

Letter to K. Bixby. The latter comments appear to most accurately reflect the IBWC's direction and intentions. While the IBWC improperly fails to select one of the four alternatives as its "preferred" one, information available to EBID outside formal channels indicates that IBWC prefers to select the budget-busting Restoration alternative or the next-step-down Integrated alternative.

O8-03b

IBWC has failed to identify <u>anything</u> in the treaties, conventions, minutes and agreements that it is legally obligated to follow and carry out which gives IBWC the authority to engage in activities which require so-called "environmental" benefits. The simple fact this that IBWC's <u>authority</u> and <u>mission</u> is to accomplish two duties in operating and maintaining the RGCP — efficiency in water conveyance/delivery and flood control. These two duties serve IBWC's internal and international responsibilities in the RGCP because following them provides adequate and efficient water supplies to users (agricultural, municipal and others) in Mexico and the United States (New Mexico and Texas) and provide

flood protection to the Hatch, Rincón and Mesilla Valleys in New Mexico and the El Paso and Juárez areas in Texas and Mexico.

O8-03c The other simple fact is that any "restoration" or "enhancement" of riparian vegetation and aquatic or terrestial wildlife habitat detracts from the water efficiency and flood control functions. The DEIS recognizes this fact but fails to account for it. For example, IBWC repeatedly admits that it does not own or control any water rights in the RGCP (ES-5, 2-41; Reformulation, 3-25, 4-4). Therefore, any water used for new riparian vegetation, river meanders and pools, and wildlife habitat will necessarily cause a corresponding reduction in someone's supply. Since use of groundwater for any of these purposes has been ruled out, only surface water remains. For this reason, the summary of effects in the DEIS shows these reductions of available water supply required by the four alternatives — 35.3 acre feet (af); 1,078 af; 2,203 af; 9,461 af. The IBWC is already removing at least 35.3 acre feet every year (and has since 1999) because of existing environmental measures taken as a result of the illegal Southwest Environmental Center Memorandum of Understanding (SWEC MOU).

Consumptively using water through vegetative growth, slowing the water flow, and other measures proposed in the DEIS act in a direction completely contrary to IBWC'S authority and mission. IBWC cannot meander the river and create aquatic wildlife pools and move water efficiently. It cannot create substantial new vegetative growth in the river area and prevent that vegetation uprooted in a flood from harming people and property. It cannot "pulse" water releases to encourage riparian growth and retain the water quality damaged by the release of built-in salts in the flooded banks. The answer to this seeming dilemma for

the IBWC is not in huge expenditures to retire productive farmlands and to build unnecessary additions to flood control structures.

O8-03d

Nothing in the 1906 Treaty, the 1944 Treaty, the 1936 Rio Grande Canalization Project Act, or any related documents authorizes the overt reduction of the water supply of Mexico or the United States, or of any State within the latter. Similarly, there is nothing in the creation or reauthorizations of the IBWC that give it any authority (or "mission") to take "pro-environmental" actions or to do anything that would work against its core duties. IBWC itself has pointed only to the National Environmental Policy Act (NEPA) as its authority to evaluate, and take, the types of actions proposed in the Reformulation report and in the DEIS. However, all that NEPA requires an agency to do is to evaluate the environmental consequences of a project before beginning it. Chemical Weapons Working Group, Inc. v. U.S. Dept. of Army, 935 F.Supp. 1206, affirmed 111 F.3d 1485 (D. Utah 1996).

O8-03e

NEPA does not add to IBWC's responsibilities, except to follow the procedures set forth in the law and the Council on Environmental Quality (CEQ) regulations. Sierra Club v. U.S. Fish and Wildlife Service, 46 F.3d 835 (8th Cir. 1995). Likewise, NEPA does not change the "mission" of IBWC nor does it require IBWC to make management decisions that exceed its legal authority. Fund for Animals, Inc. v. Rice, 85 F.3d 535 (11th Cir. 1996). The Department of State NEPA regulations, which IBWC is required to follow, mandate a procedure, not a type of decision. 22 CFR §§ 161.1 - 161.12. This is, of course, because NEPA itself does not require that an agency make an environmentally-friendly decision.

Wyoming Farm Bureau Federation v. Babbitt, 199 F.3d 1224 (10th Cir. 2000). NEPA only mandates a procedure. Committee to Save the Rio Hondo v. Lucero, 102 F.3d 445 (10th Cir. 1996).

O8-03f

Where a federal agency lacks the discretion to engage in a certain project, NEPA does not apply to that project. Sac & Fox Nation v. Norton, 240 F.3d 1250 (10th Cir. 2001). Here, IBWC cannot undertake a project which prevents it from fully carrying out its duties to efficiently convey water and provide flood control. NEPA certainly does not dictate that IBWC violate those duties, nor does it require that IBWC modify its duties.

O8-03g

The IBWC's confusion about the propriety of its authority or "mission" appears to be skewed by its recent experience on the reach of the Rio Grande in South Texas. There, the U.S. Fish and Wildlife Service (FWS) issued a Biological Opinion in 1993 directing certain actions of IBWC under the authority of the Endangered Species Act (ESA). These actions were required to protect threatened and endangered species present within the area of IBWC responsibility along the river in South Texas. An assumption by IBWC that the same legal authority and requirements compel it to take similar actions within the RGCP in New Mexico is simply erroneous. There are no aquatic, terrestrial or airborne species located within the RGCP that are threatened or endangered. Extensive surveys have failed to locate any threatened or endangered species in the area. There is no critical habitat for any endangered or threatened species with the RGCP. There is no FWS Biological Opinion driving any action of IBWC, or any other federal agency. Similarly, the threat by SWEC to sue IBWC under the ESA, contained in its 1998 letter, is groundless. That threat does not justify the

actions acceded to by IBWC in the MOU.

O8-03h Given the situation within the RGCP, there is no affirmative legal obligation upon IBWC to introduce threatened or endangered species into the river area, nor to create new or enhance existing habitat that these species might use. Arizona Cattle Growers' Assoc. v. U.S. Fish and Wildlife, 273 F.3d 1229 (9th Cir. 2001). (habitat modification does not constitute harm under ESA unless it actually kills or injures the species). In fact, there is no affirmative obligation upon IBWC to preserve or protect existing areas that are used as habitat. San Carlos Apache Tribe v. United States, 272 F.Supp.2d 860 (D. Ariz. 2003) (potential injury to a species is insufficient to constitute harm under ESA). This even extends to riparian areas which are actually used by airborne species such as the Southwest Willow Flycatcher, but are not used for nesting and are not within its area of critical habitat. Thus, there is a complete absence of a legal mandate for the IBWC to take actions similar or related to those it had to implement on the lower river.

O8-03i EBID is strongly opposed to any actions by IBWC, and any related agencies, which would introduce presently non-existent endangered, threatened, candidate or sensitive species, or species of concern or special status species, to the RGCP or adjacent areas. This type of action would endanger EBID's water supply, and its constituents' lifeblood, by subjecting it to federal control through the ESA. There has already been a federal court decision in New Mexico requiring a federal agency to exert control over non-federal water rights, control that the agency did not previously have, solely for the enhancement of aquatic habitat for the silvery minnow in the mainstem of the middle Rio Grande. Any effort by the

IBWC to create the environment to foster similar species in the RGCP area will be resisted by EBID, to the fullest extent possible.

O8-03j There being no legal mandate, requirement or obligation to protect, create or enhance riparian areas or species habitat within the RGCP, the IBWC's focus is properly on its sole legal duties — water delivery efficiency and flood control. Any alternatives outside the scope of IBWC's limited legal duties and authority are illegal and should be rejected at the DEIS stage since some of these alternatives have already improperly been inserted into the Reformulation report and the DEIS.

2. The Restoration and Integrated alternatives cannot be implemented because the necessary water rights cannot be acquired.

O8-04a Initially, IBWC ignored the reality of water rights within the RGCP and assumed water could be obtained at no cost and without restrictions. Comments at an early stage by EBID caused IBWC to reformulate the alternatives. Yet, the DEIS still contain incorrect assumptions about water availability to fulfill these plans. After realizing that water is not available just for the taking, IBWC assumed that removal of salt cedar would free up enough water for offsetting new vegetative uses. This too proved unrealistic (2-42). Next, IBWC looked to direct acquisition of water rights from farmers (presumably all within New Mexico). Because of the requirement of retiring farmland associated with this type of acquisition, IBWC now proposes to pay for on-farm conservation measures, again assuming that it could acquire the water rights from the savings. Alternatively, IBWC now looks to acquiring annual water supplies through water banking. Neither of these methods is

O8-04a (cont'd)

presently feasible, and may never be. Moreover, the cooperation of EBID will be required on any method by which IBWC would acquire or use water within the New Mexico portion of the Rio Grande Project. EBID does not believe that the 1920 Act applies to water uses within EBID, so the Bureau of Reclamation's role in water right transfers is irrelevant. EBID will not approve or cooperate on any IBWC project that is implemented over its objection.

O8-04b

First, the direct acquisition of water rights from within EBID is not an option at the present time. The socioeconomic effects of such transfers are discussed elsewhere in these comments. All that needs to be stated here is that the amounts IBWC proposes to transfer to nonproductive uses will dramatically impact the Southern New Mexico economy. Second, there is no method allowed under New Mexico water law to transfer water "saved" from on-farm conservation methods to another entity or for another purpose. Third, it is questionable whether New Mexico water law recognizes the types of water uses proposed under the Restoration and Integrated alternatives as beneficial uses. If not, no transfer of any water rights would be approved. Fourth, a water banking system is not presently in place. If and when it is, it may not allow or include the types of uses IBWC intends to put water to. Moreover, the IBWC uses are permanent or not readily adjustable on an annual basis since vegetative growth needs water every year or dies, or, as in the case of willows and cottonwoods, vegetation has taken root into the river-connected groundwater and will use water regardless of whether water "rights" are obtained. Fifth, a water banking system is being developed in order to allow transfers from agricultural uses to more important uses like

municipal uses, not nonproductive uses as proposed by IBWC.

O8-04c IBWC is also assuming that other legal impediments can be easily overcome. It is not likely that Congress will easily amend the authorized purposes of the Rio Grande Project, particularly without the support of the Project beneficiaries, EBID and the El Paso County Water Improvement District No. 1. IBWC also assumes the necessity of a contract or other approval of the Bureau of Reclamation under the (1920 Act); even if such a contract is necessary, it does not exist. Finally, IBWC assumes that transfers will meet any approval required of the New Mexico State Engineer. These legal impediments are simply assumed away by IBWC, but it is not likely that all such impediments are overcome and approvals obtained, even over the 20-year horizon IBWC is working under. Moreover, these barriers will not likely be overcome over the opposition of the irrigation districts.

3. The DEIS does not comply with the requirements of NEPA and the CEQ regulations.

O8-05a The DEIS, as mentioned, fails to include a true no-action alternative, in violation of 40 CFR §1502.14 (d). The actual no-action alternative in the DEIS includes measures required of IBWC in the SWEC MOU, including "no-mow" zones, planting of hundreds of trees, and limits on river dredging. A true no-action alternative could not include these measures because they are not part of IBWC's duties and "mission" and they were not themselves evaluated under NEPA. IBWC made no effort to comply with NEPA to evaluate any environmental effects, positive or negative, resulting from implementation of the 1996 MOU. IBWC instead claimed a categorical exclusion on novel grounds, that they were

implemented on an "experimental" basis. If they were indeed experimental then these measures cannot become part of a no-action alternative because that assumes they are an integral part of IBWC's work. Without separate NEPA evaluation, the SWEC MOU measures cannot become part of IBWC's regular operations. There is no such "experimental" exclusion from NEPA.

O8-05b

Neither NEPA nor the CEQ regulations contain categorical exclusions; agency NEPA regulations must be reviewed. The Department of State NEPA regulations contain no categorical exclusion close to that claimed by IBWC. See, 22 CFR §161.7 (b). In fact, those regulations state:

> (c) Actions normally requiring environmental assessments. A Departmental action *shall* require the preparation of an environmental assessment if the action is not one known normally to require an environmental impact statement and is not categorically excluded. . . . such as those actions involving: (2) Wetlands, floodplains . . .

22 CFR §161.7 (c). On the other hand, the "[m]andatory actions required under any treaty or international agreement to which the United States Government is a party" are ordinarily <u>exempt</u> from NEPA requirements, simply because the Department (and IBWC) lack the discretion to implement measures, such as overtly pro-environmental ones, other than its mandatory ones. This is a critical point, because a true no-action alternative (in other words, continuation of the regular duties of IBWC) is itself not subject to NEPA review or documentation. It is the extension of measures <u>outside</u> the IBWC's duties which triggers NEPA review because they are discretionary, but the same measures are prohibited for the

same, simple reason that they outside its duties. Thus, IBWC never should have even considered measures outside its authority; had it acted properly, IBWC would not be preparing an EIS. NEPA review thus becomes a self-fulfilling prophecy.

O8-05c IBWC, however, misunderstands its functions. It is not required to evaluate pro-environmental measures which are outside its authority (i.e., outside its agency discretion) to consider. If it does so, it must evaluate them under NEPA, but it cannot implement them because they exceed its authority. The point is why evaluate these measures to begin with?

O8-05d In addition to not evaluating a no-action alternative, IBWC fails to identify its preferred alternative, in violation of 40 CFR §1502.14 (e). The failure to do so deprives the public, and particularly real stakeholders like EBID, from determining what the IBWC's true direction and intentions are, and from commenting on them. This forces commenters to use a "shotgun" approach, which diffuses effective comment on the true direction of the agency.

4. The DEIS has omitted significant environmental effects.

O8-06 The IBWC is required to identify and discuss all of the significant environmental effects that could result from the evaluated alternatives. 40 CFR §1502.16; Middle Rio Grande Conservancy District v. Norton, 294 F.3d 1220 (10th Cir. 2002). The DEIS omits a number of serious potential effects from measures called for in the Restoration and Integrated alternatives. These are detailed in the additional comments included herewith. Due to the very short amount of time allowed for comments, EBID was unable to coordinate the comments of its reviewing consultants.

O8-06 (cont'd)

Since an EIS must evaluate the significant environmental effects of a proposed agency action, the omission of one or more of those effects renders the EIS faulty and it must be redone or revised. Environmental Defense Fund, Inc. v. Andrus, 619 F.2d 1368 (10th Cir. 1980). Essentially, the DEIS has failed to evaluate any adverse environmental effects of the measures it proposes, assuming erroneously that all effects would be beneficial to the environment. This does not excuse IBWC's requirement to evaluate all environmental effects — beneficial and detrimental. 40 CFR §1508.27(b)(1); Catron County Bd. Of Comrs. v. U.S. Fish and Wildlife Service, 75 F.3d 1429 (10th Cir. 1996).

5. The DEIS fails to consider state, regional and local plans.

O8-07a

The IBWC is required to discuss "[p]ossible conflicts between the proposed action and the objectives of Federal, regional, State, and local . . . land use plans, policies and controls for the area concerned". 40 CFR §1502.16. The DEIS fails to include any such discussion. New Mexico adopted a State Water Plan in 2003, but the DEIS does not mention it. Doña Ana County, and the City of Las Cruces, New Mexico, have adopted land use plans, but they are not mentioned either. For example, these plans emphasize the preservation of farmland in the County and around the expanding City.

O8-07b

Additionally, the El Paso – Las Cruces Regional Sustainable Water Project, an offshoot of the New Mexico – Texas Water Commission, has adopted plans and strategies for supplying municipal water uses in the region (overlapping much of the same area of IBWC jurisdiction). The DEIS briefly mentions these documents under the category of

O8-07b (cont'd)

"Cumulative Effects", but completely misconstrues their meaning and their significance. While recognizing that "[c]umulative impacts would have been significant for all resource areas", the DEIS irrationally concludes that the entire Project "is no longer viable" (4-86). This is a long-term project, looking to providing means for supplying regional water for municipal purposes. The DEIS fails to analyze how the Restoration and Integrated alternatives create competition for water sources between nonproductive uses and important human water uses. It is important to identify the conflict between this regional plan and a proposed federal plan for the same sources of water. The Sustainable Water Project recognizes that long-term sustainable uses must be developed from the renewable surface water supply, and not from the finite groundwater sources. The proposed alternative IBWC actions will directly compete for those same sources.

6. No Takings Implications Assessment was prepared by IBWC.

O8-08

Executive Order 12630 requires a federal agency to prepare a Takings Implications Assessment (TIA) where a federal action could effect a taking or limitation on the use of private property. The actual no-action alternative is already taking private water rights without any compensation to the owners. The estimate of annual consumption of 35.3 acre feet is readily provided in the DEIS (ES-7) for the effects of the no-mow zones alone. No estimate is made of the water lost from the planting of hundreds of trees and the termination or limiting of dredging implemented as a result of the SWEC MOU. These measures have been implemented for 4-5 years, without any environmental evaluation or compensation for

O8-08 (cont'd)

the water these governmental actions are consuming. This is precisely the type of actions for which a TIA is mandated.

IBWC repeatedly admits it owns no water rights; yet, it fails to explain how it has implemented the SWEC MOU requirements without paying for the water used (and lost). With this attitude, EBID is understandably uncomfortable with the prospect of substantial increases in water use if the Restoration or Integrated alternatives are adopted. Applying the IBWC's own valuation figures, the 35.3 afy have an annual value of over $100,000, and a 6-7 year value of two-thirds of a million dollars. Under the Restoration alternative, IBWC estimates that $28.4 million in water rights will be affected or will have to be acquired. A TIA is essential to properly evaluate IBWC's proposals.

Policy Deficiencies in the DEIS

1. All alternatives but a true no-action one are far too expensive to be feasible.

O8-09a

Compared to the minor expense of the present IBWC operations within the RGCP, those alternatives other than the no-action alternative are far too expensive for any purported benefits provided. Moreover, none of these alternatives would ever receive Congressional authorization or funding because the benefits are marginal, especially compared to the costs. None of the action alternatives meet IBWC's professed goal to provide "fiscally responsible boundary and water services" (1-4).

O8-09b

Examined in the DEIS are essentially only two alternatives, the no-action alternative and a $55 million flood control alternative. There are two additional variations of the latter

alternative, authorizing increasing amounts of vegetation in the floodplain. The only way expenditure of $55-plus million could be justified is to protect against the damage to existing structures from the new vegetation swept downstream in floods. Vegetation, especially trees, in the floodplain endangers the diversion structures of the Rio Grande Project as those trees can be uprooted in a flood, carried downstream and rammed up against dams.

O8-09c The incredible amounts proposed for all alternatives but the current operations within the RGCP cannot be justified under any reasonable analysis. Nor is there any effort to do so. Despite the responsibility of the IBWC to conduct a benefit-cost analysis to support its proposals, the IBWC has failed to do so. This type of analysis is necessary in order to assess the trade-off between a huge outlay of financial resources and the purported benefits of the project alternatives. The DEIS affords a reviewer, and in particular a stakeholder like EBID, no ability to compare benefits and costs. For this alone, the flood control-plus alternatives should be rejected because any need for them and their benefits cannot be determined. The only justification for these alternatives that can be discerned from the DEIS is an unsubstantiated desire (on someone's part) to have "native" vegetation grown in the Rio Grande floodplain. As stated previously, there is no legal mandate nor compelling public policy requiring such a "restoration". Instead, it would run contrary to decades of IBWC involvement in the RGCP and would be antagonistic to IBWC's legal mission and mandate. Furthermore, the actual loss of flood control capacity and the removal of water rights from productive uses raises the costs of these alternatives far beyond any potential benefits. The IBWC does not even attempt to place a value on any purported social benefits of "native"

vegetation restoration, probably because such an assessment would fall far short of the costs.

2. Water use in the various alternatives is inaccurate and understated.

The extended process resulting in this DEIS has convinced the IBWC of one clear truth — the IBWC neither owns nor controls any water rights within the RGCP. The corollary to this fact is the IBWC must acquire water rights, or the right to use water, through the irrigation districts and/or with their cooperation. Since virtually all projects proposed in the DEIS occur in New Mexico, the water source necessarily must be from within EBID.

O8-10a

There is a deliberate effort in the DEIS to understate water use in the various alternatives, and therefore also understate the effects of the removal of water from current productive uses into nonproductive applications. The best example of this is in the Executive Summary, where the water use of the three action alternatives is shown. The Flood Control alternative will use 1,078 acre feet per year (afy), the Integrated alternative 2,203 afy, and the Restoration alternative 9,461 afy (ES-7). In an effort to minimize the effects of the withdrawal of these amounts from current agricultural uses, they are shown respectively as 0.17 %, 0.36 %, and 1.55 % of "the combined diversions of Rio Grande Project water along the RGCP" (ES-7). These percentages, in fact, calculate to annual uses under these scenarios of 1,097 afy, 2,322 afy, and 9,998 afy, at the 645,000 average diversion (3-6). This mathematical error is unexplained. Since essentially all these uses must come from within EBID, the real percentages would be around .30%, .63%, and 2.72%, respectively, of the EBID diversions. The expression as a percentage is a deliberate understatement of the

effects of these alternatives.

O8-10b An attempt to show the real effect is made later, as the amount of irrigated farmland retired and crop value reduced by the removal of these water rights from productive uses. Figures for the Flood Control alternative are not shown, but under the Integrated alternative 734 acres and $900,000 annual value would be removed, and under the Restoration alternative 3,154 acres and $4,000,000 annual value. These figures are questioned by EBID as to their accuracy, as they show only $1,226 to $1,268 per acre in lost crop value and many crops grown in EBID have a higher value (pecans, vegetable, etc.). These farmland retirements will cost the taxpayers $6.6 million and $28.4 million; respectively. No benefit-cost analysis can justify this expense and the commensurate reduction of agricultural production.

O8-10c The most significant omission in IBWC's analysis is the failure to show the repercussions in the local economy of the loss of $1 to $4 million per year. Even though these would be permanent removals of water rights from the agricultural economy, only annual numbers are shown; there is no attempt to show anything more, even though these actions would minimally affect the Southern New Mexico economy by $20 to $80 million over the DEIS' planning horizon of twenty years. Any economist would tell the IBWC that the removal of this amount of dollars circulating in the local economy would be much higher than solely the amount of the lost production value itself. Virtually all the money earned from each acre would be spent in the local area by the farmer. The only attempt to evaluate employment effects is the estimate of the reduction of farmworker jobs of 7 – 9 and 35 – 40,

O8-10c (cont'd)

respectively. These effects are substantially understated when they examine only one small part of the employment affected by the loss of millions of dollars from the local economy.

Despite the conclusions of the DEIS that millions will be removed from the local economy, IBWC makes contradictory conclusions, like:

> Loss of water due to the creation of wetlands and bosque enhancement areas would have a small effect on commercial farming and land use.

(4 – 87). The failure to assess the full effect on the economy is a serious flaw in the DEIS analysis.

3. The DEIS essentially ignores the IBWC's obligation to examine environmental justice effects.

O8-11

The gross understatement of the economic effects of the removal of productive water rights and farmland from the economy distorts the impacts of these plans on environmental justice criteria the IBWC is required to examine. Presidential Executive Order 12898 (February 11, 1994) requires IBWC to include environmental justice as part of its "mission". IBWC must then adequately examine the effects of its programs and environmental actions upon "minority populations and low-income populations". A majority of EBID's constituent members are Hispanic or members of other minority groups; this fact is not reflected in the DEIS even though it will be these farmers who would be enticed to sell their water rights for the IBWC program. What is reflected to a small degree in the DEIS is that overall Doña Ana County not only has a majority minority population but is one of the economically poorest countries in the nation. Removal of millions of dollars of annual economic activity from the

O8-11 (cont'd)

area can only harm these populations, but the DEIS minimizes these effects. Furthermore, the policies and plans of local governments and regional planning efforts place priority upon transitioning water rights into municipal uses should they be moved out of their present agricultural use. The IBWC's plans to acquire water for permanent nonproductive uses would be in direct competition with the ability of municipal suppliers to acquire the same water rights to serve people. Moreover, to the extent that transitioning agricultural water rights into municipal uses increases the economic value of the water used, the IBWC plans would damage the ability of those local governments to develop good paying jobs for local people.

4. The DEIS fails to account for drought conditions.

O8-12

The DEIS routinely uses water supply averages and numbers from a recent time period and not long-term figures. This ignores historic droughts, long-term sustainability, and the current drought. Any long-term planning by IBWC must account for drought conditions, because its anticipated uses for riparian restoration will create permanent uses. Once a willow or cottonwood takes root, its water supply is derived more from groundwater than surface water. Acquisition of a surface water supply in times of drought does not fulfill the water requirements of these established trees, as shown by the recent experience of EBID's allocation of only eight inches of a normal three foot annual allotment. If an acre of cottonwoods needs 3.48 afy, an EBID water right acquired by IBWC will not provide the annual water needs of these trees. The trees will use this amount of water annually, whether

surface water is present or not (4-2). The DEIS provides no means for handling the impact, under this scenario, of the use by this acre of cottonwoods of 2.75 afy above and beyond the annual surface water right. The DEIS, at a minimum, should propose the acquisition of adequate water rights under drought scenarios, which may require the acquisition of groundwater rights sufficient to supply the actual use of water in all years, including those in drought. EBID will require nothing less, if its approval would be sought on such a plan.

5. The IBWC is not treating its United States entities fairly.

O8-13a The IBWC is required to treat all of the affected entities within the United States equally and fairly. EBID has commented extensively to the IBWC on various IBWC programs where IBWC takes a decidedly pro-Texas stance. EBID remains extremely concerned about Texas complaints about the quality of water delivered into that state. The alternatives proposed by IBWC in the DEIS will not improve water quality in the system, and will likely harm it. To this end, IBWC should not undertake any action which favors, or harms, one or the other state.

O8-13b Along this line, the entire array of alternatives disfavor New Mexico and EBID. Virtually the entire project area for any of the reviewed alternatives is in New Mexico and not Texas. All the water needed for any of the alternative projects will have to be acquired in New Mexico and from New Mexico water right owners. All environmental measures will take place in New Mexico. The Rio Grande will be slowed within New Mexico, by the lack of dredging and the creation of meanders and the like, and water consumption will increase

O8-13b (cont'd)

in New Mexico due to these measures and the dramatic increase in riparian vegetation. These will only increase the calls by Texas to hold New Mexico responsible for delivery reductions (since Mexico's supply is reduced only under limited conditions) and water quality changes. The measures proposed by IBWC in the DEIS will only exacerbate the ongoing disputes between the two states and will result in the IBWC being continually drawn in on the side of the more politically powerful state, Texas. This should never be the result of a federally-sponsored and-financial project. Condition (c) in the United States Senate's ratification resolution for the 1944 treaty provides that nothing in that treaty authorizes IBWC to alter or control the distribution of waters to users within the two states. IBWC is failing to follow this mandate.

O8-13c

Furthermore, even though virtually all of the effects of the proposed projects would be felt in New Mexico, IBWC held its only public hearing on this DEIS in El Paso, Texas. EBID's request to hold an additional hearing in New Mexico was ignored. Also ignored was a joint request by almost every New Mexico stakeholder to allow more time for them to file comments on this DEIS; only a few more days was allowed. Even though this DEIS is the result of years of work by IBWC, it is permitting the stakeholders and the public only a few weeks to respond to it. This is plainly inadequate, especially in light of the fact that the only opportunity any party has to challenge the EIS in court is based on the record created.

6. The cessation of river dredging affects quantity of water delivered but no assessment is made.

Routine dredging of the river at points where flow is impeded is necessary to meet

O8-14a IBWC's legal duties and mission. To fail to do so violates IBWC's responsibilities to insure efficient water flows to Mexico under treaties and to EBID and its sister irrigation district in Texas. Dredging was routinely conducted up to the MOU with the Southwest Environmental Center in 1999 but none has been conducted since. IBWC makes the simplistic explanation that "[d]redging of the main channel has not been required since 1996" (1-15). EBID contends that dredging is continually needed and that the failure to dredge in almost 8 years is a dereliction of the IBWC's duties. Dredging to maintain a channel to facilitate efficient river flows is even more essential in times of drought, which have affected this area recently. Smaller volume flows require a more defined channel so water does not slow, stop and pool.

O8-14b There is no apparent assessment in the DEIS of any volume reduction caused by the slowing of water flows in the river due to the failure of IBWC to dredge. Perhaps the IBWC deems such an assessment unimportant, but EBID does not. Without such an evaluation, IBWC deprives EBID of the ability to determine the veracity of IBWC's contentions that the lack of dredging has no effect on water quantity and that there had been no "need" for dredging in almost 8 years. Added to the fact that the failure to conduct dredging is a substantial change from a true no-action alternative, this omission is a substantial flaw in the DEIS.

O8-15

7. The no-mow zones create environmental hazards, not benefits.

IBWC fails to account for the actual result of its refusal to mow certain areas under

the SWEC MOU. Instead of fostering "native" vegetation, as desired, the no-mow zones are growing tumbleweeds and other non-native undesirables, which end up blowing into the river, ditches, drains and farmers' fields. They are creating an environmental hazard, but IBWC ignores these effects of its short-sighted agreement with SWEC.

Conclusion

O8-16a Any alternative but a true no-action plan violates the IBWC's legal requirements to facilitate efficient water flows and protect people and property against flooding. The actual no-action alternative reviewed is illegal and cannot be implemented because it includes measures already undertaken by IBWC and which violate IBWC's legal duties. All but the no-action alternatives are very expensive and provide nowhere near the amount of benefits required for adoption of any of them. This DEIS contains numerous serious omissions and defects that invalidate its current use.

O8-16b No proposed project can be implemented without an agreement for the use of water, or the transition of water rights, through EBID. No plan should even be proposed until this and other legal impediments are solved. No project should promote the introduction of any threatened, endangered or similar species, but at a bare minimum the use of EBID water will require one or more Safe Harbor Agreements to protect against the takeover of private water

O8-16c rights under the ESA. If EBID is left with no other recourse, it will refuse to allow any use of EBID water and effectively block implementation of any imprudent alternative selected by IBWC.

EBID urges the IBWC to reject all alternatives and to fulfill its duties by returning to

only those functions it routinely performed prior to 1999.

PART A.

COMMENTS ON LEGAL AND FISCAL ASPECTS OF THE DEIS

O8-17a **CONCERN I:**

The alternative project proposed by USIBWC that provides for extensive planting of woody vegetation in the pilot channel and flood way is not in keeping with the original intent of the Congress and should not be adopted (see Public Law 392 of August 29, 1935).

RATIONAL FOR CONCERN:

The objective of the 1935 act funding the canalization project was to provide "equitable division of the waters of the Rio Grande and to properly regulate and control, to the fullest extent possible, the water supply for use in the two countries as provided by treaty". The 1935 Canalization Project Act did not provide for a heavily vegetated river, but for a straight flood channel between two levees that would carry flood waters without risk to US or Mexico and that would provide for the efficient water delivery to US and Mexican water users. The proposed planting of woody vegetation of the flood ways and the re-institution of river meanders as proposed by the USIBWC will not be incompliance with intent of the authorizing act. The original legislation called for operation and maintenance in "substantial accordance with the engineering plans" that had been developed for the project. The re-vegetation of the river channel as now proposed by the USIBWC was not a part of the original operation and maintenance provisions that were included in the engineering plans submitted to the Congress.

O8-17b **CONCERN II:**

The alternative project proposed by USIBWC that provides for extensive planting of woody vegetation in the channel and flood way, and the re-installation of river meanders is not in keeping with the intent of an international agreements between the US and Mexico. The alternate proposals of the USIBWC in the DEIS should not be adopted. (see the February 1, 1933 Convention between the US and Mexico on the rectification of the Rio Grande; this agreement was ratified by the US Senate on April 25, 1933; also see Minute Number 129 of February 1, 1933).

O8-17b (cont'd)

RATIONAL FOR CONCERN:

1. The US-Mexico Convention of 1933 contemplated a straightened river channel, both above and below El Paso that would run between levees and that would be keep clear of all brush and other obstructions that might retard flow. Section III. – Proposed Plans in Minute 129 describes this concept in the Rectification Project as follows:

> "The treatment to be given the river ..... consists of a general straightening following the present channel of the river where ever possible, and cutting across the bends where necessary to decrease length. Along each side of the new channel, ... levees will be built of sufficient height and far enough apart to pass the floods. The channel thus created will always be kept clear of brush and other obstructions that might retard the flow"

2. The Canalization Project above El Paso was a key element in the 1933 US-Mexico agreement. The plan for the project was attached as an exhibit to Minute Number 129 (see item (2) on page 2 of Minute No. 129). In Minute 129 there is the acknowledgement and a number of references to the U.S. provision of an up-stream flood-water storage- reservoir (Caballo Reservoir) and the canalization of the Rio Grande from Percha Dam to El Paso. Both were both needed in order to remove the threat of flooding in the El Paso/Juarez area. The purpose of canalization of this reach of the river was to ensure that scouring velocities would occur in the river at El Paso in order to remove sediment there that caused the river bed to be higher than parts of El Paso and Juarez (see Minute Number 129).

3. The 1933 international Convention that lead to Minute Number 129, dealt for the most part with the rectification project on the Rio Grande from El Paso downstream to Ft. Quitman, Texas. However, the engineering concepts and goals of the canalization and rectification projects were similar, if not identical. Both envisioned a straightened river channel with no flood-flow obstructions between the levees (see Exhibit No. 3 to the Convention). From El Paso downstream to Ft. Quitman, the joint US-Mexico river rectification project followed a design very similar to that of the canalization project above El Paso.

O8-17c **CONCERN III:**

The time required for a comprehensive evaluation of all of the environmental aspects of the DEIS is beyond the reasonable expectation. The expenditure for a comprehensive review is beyond reasonable expectation for a non-Federal agency. The USIBWC has placed an unreasonable burden of the Elephant Butte Irrigation District and on other water users in New Mexico. As a comprehensive review is out of the question, no changes from the original canalization operation and maintenance plan should be adopted.

RATIONAL FOR CONCERN:

A non-federal stakeholder should not be expected to spend tens of thousands of dollars in the review of a DEIS in order to protect themselves from the invasive acts of a federal agency.

1. A multi-disciplinary team is required for an adequate review of the DEIS. In preparation of the DEIS, the USIBWC used at least three contractors whose expertise included ecology, biology, anthropology, wildlife science, fisheries, fishery sciences, botany, journalism, water resources, environmental engineering, and civil engineering. These contractors included 11 MA and MS degree staff and 6 PhDs. There were at least 12 federal employees who reviewed the DEIS. See Table 5.2-1 and 5.2-2 in the DEIS.

2. The public and individuals in the private sector can not afford to take the time needed for a comprehensive review of a federal DEIS that took three to five years to prepare and that may have cost more than one million to write so that the USIBWC can select a plan that will cost $10 to 15 million to design, and that will cost over $100 million when all the proposed plans are fully implemented. This compares to the annual operation and channel maintenance work that should be done for less than one million dollars per year.

O8-17d **CONCERN IV:**

A petition was sent to the USIBWC on asking for a public hearing on the DEIS in New Mexico as virtually all of the proposed water consuming activities proposed by the USIBWC are in New Mexico. This petition was signed by 10 stake-holders in a letter sent to the USIBWC on January 4, 2004. The Elephant Butte Irrigation District has sent a second letter to the Commissioner request a public hearing in New Mexico.

O8-17d (cont'd)

RATIONAL FOR CONCERN:

In a telephone conversation, a responsible USIBWC staffer rejected a plea by EBID for a second public hearing on the DEIS in Las Cruces, New Mexico as being too expensive. This refusal to meet with those most affected by the proposed USIBWC plan is not in keeping with the intent of section 2(b) of Executive Order 11514 and CEQ regulations 1506.6. The failure on the part of the USIBWC to hold more than one public meeting on the DEIS is also unfair when members of the public must expend significant sums of their own money to counter unneeded and unacceptable federal works projects. Because of a lack of adequate public hearings, no changes from the original canalization operation and maintenance plan should be adopted.

O8-17e

CONCERN V:

All of the expenditure of federal money and non-federal private and public money could have been avoided by following CEQ regulation 1500.4 on Reducing Paper Work. For this reason no changes from the original canalization operation and maintenance plan should be adopted.

RATIONAL FOR CONCERN:

CEQ regulations state that agencies shall reduce excessive paper work by using a finding of no significant impact when an action will not have a significant impact on the human environment. Table ES-2 in the Executive Summary consistently gives the effects of continuing the authorized canalization operation and maintenance as "no change from baseline conditions". Table ES-2 does not list a single adverse environmental impact that will be caused by continuing the "no action alternative". There is absolutely no rational for the USIBWC to have prepared a DEIS when a finding of "no significant effect" could have been prepared for a fraction of the cost of writing, reviewing and defending the DEIS. This is an inexcusable waste of money tax money and private resources on the part of the USIBWC.

O8-17f

CONCERN VI:

The DEIS is misleading and for this reason only the original annual maintenance and operation work should be approved.

O8-17f (cont'd)

RATIONAL FOR CONCERN:

The DEIS actually describes only choices: the "no action" project and one very costly alternative project. The two choices are:

1. the annual levee and flood-way maintenance and dredging of the pilot channel is the "no action" project; and
2. the other is a $55 million major levee relocation and reconstruction project. There are two other versions of the levee project, each providing for additional channel vegetation and flow modifications. The only rational for the $55 million levee work is to provide sufficient additional channel capacity to allow vegetation planting in the floodway.

O8-17g

CONCERN VII:

Much of the rational for important elements in the alternative project offered in the DEIS are referenced to studies not included in the DEIS and not obtainable by public reviewers. Because the DEIS fails to disclose pertinent analysis on the need for flood control facilities, no changes from the original canalization maintenance plan should be adopted.

RATIONAL FOR CONCERN:

1. The justification of the expenditure of over $55 million dollars of tax money for **"Flood Control Improvements"** is not found in Appendix B, a US Army Corp of Engineers (USACE) study, but in a Parsons report that is not provided in the DEIS (see page 2-9 of the DEIS). The USACE 1996 study does indicate the need for some flood control improvements, particularly in the Canutillo area, but it does not speak to the significant expenditures for levee modifications proposed by the USIBWC in the DEIS. The USIBWC should develop a new, stand alone project, if significant new levee work is justified by flood control concerns in the El Paso/Juarez area. Piggy-backing a $55 million flood control project on a million dollar O&M project is totally unjustified.

2. It appear that the only rational for spending $55 million to increase the height of 60 to 65 miles of levees in New Mexico is to provide additional flood capacity so as to allow the extensive planting of vegetation in the river floodway. This places a huge price on the value of a single new cotton wood tree grown in the floodway, an expenditure that is not justified.

PART B.

COMMENTS ON THE ENVIRONMENTAL ASPECTS OF THE DEIS

O8-18 **CONCERN I:**

The USIBWC proposed "environmental" modifications of the Canalization Project are not in keeping with the intent of Minute Number 129, nor the 1933 act that made the project possible. For these reasons, no changes from the original canalization operation and maintenance plan should be adopted.

RATIONAL FOR CONCERN:

In describing the Rectification Project in Minute 129 a river channel with "environmental amenities" is not pictured. The plan for the Rectification Project calls for a river, "in conjunction with the proposed Caballo Dam and Reservoir", ... "that will take on more the nature of a large central drain or canal than a river"(see Section III. – Proposed Plan (c).) Because the Canalization Project and the Rectification were both conceived to accomplish the goals of flood control and water delivery, and because of the reference of the Canalization Project in Minute 129, it is not unreasonable to believe that both the United States and Mexico pictured the river, after straightening and levee construction, as having "more the nature of a large central drain or canal than a river".

CONCERN II:

The DEIS fails to demonstrate how the USIBWC proposed "environmental" alternates will restore the original riparian ecosystem that prevailed prior to the canalization project. The DEIS fails to establish what the totality of the "native vegetation" was before initiation of the original canalization operation and maintenance activities. The DEIS raises a valid question: Are the proposed plantings the real essence of the riparian vegetation along the Rio Grande channel prior to 1935? As there is evidence that the USIBWC proposed alternative is not designed to restore the pre-1935 "native vegetation", changes to the original canalization project should be rejected.

O8-19a **RATIONAL FOR CONCERN:**

The text in Section 2 of the DEIS notes that Table 2.6-3 includes "all point projects" in the environmental alternatives. The goal of the planting is described as the "seeding and planting of "native vegetation" (see pages 2-6 to 2-15). The phrase "restoration" is used in the text to describe USIBWC intentions. The "Bosque enhancement" elements of the USIBWC plan call for removal of established salt cedar, and for seeding or planting of "native vegetation", but the DEIS is unspecific as to what the totality of "native vegetation" was in 1935 or now is See page 2-14 and 2-15. The focus of the proposed planting is almost totally on "willows " and "cottonwoods". Were cottonwoods and willows the totality of the native vegetation in 1935? Historical records indicate that this may not be the case.

O8-19b

In 1904 E.O. Wooton, a biologist at New Mexico College of Agricultural and Mechanic Art carried out a 55-day botanical survey of central part of the State. Wooton traveled in a wagon and on the second day of his trip after leaving Las Cruces and going northward up the Rio Grande, he described the river valley vegetation as being "full of cochanilla, tornillo, some large mesquite, ... and cotton wood bosques". At other sites along the Rio Grande, Wooton reported the bottom lands to be grassed "with alkali sacaton, salt grass, and vine mesquite". In the flood plains he invariably found tornillo, willows, mesquite, and cottonwoods (see "The Trail of E.O. Wooton" by Dr. Kelly W. Allred, published in New Mexico Resources, issue IX, Spring 1993.)

O8-19c

Clearly, there were stands, "bosques" and thickets of cottonwoods and willows along the Rio Grande channel in 1904, but there was a great deal of other "native vegetation" growing there, too. Does the USIBWC plan to be faithful the total realm of riparian vegetation that existed in 1935? How would "canalization project" function in its role of preventing floods and efficiently transporting water to the users in the US and Mexico? It very doubtful that the many stands of cottonwood and that the stream-bed willow persisted as late as 1935 to the same extent as that found by E.O. Wooton in 1904 (see page 5 of Allred's paper). The DEIS notes that the Rio Grande ecosystem was "highly altered from events pre-dating" the canalization project (see page ES-1). This raises a significant question about the USIBWC's proposed "environmental" plans. What ecosystem is to be restored: Is it the 1870 ecosystem? Is it the 1904 "native vegetation" found by Wooton? Is it the 1935 conditions? None of these are described in the DEIS.

CONCERN III:

In the 1990's the USIBWC altered the original operation, dredging and maintenance procedures for the Canalization Project (see page 1-14). These changes have been as environmental disaster, to the waste of water resources belong to water users in the Elephant Butte Irrigation District, to localized flooding of private lands, and to an increase in the potential for urban flooding. The USIBWC has been resistant in their acknowledgement of their responsibility for the adverse conditions created in their quest to enhance ecosystem functions (see correspondence from EBID to the USIBWC in Appendix H to the DEIS). Because of the problems created by these USIBWC changes in dredging and maintenance procedures, no changes from the original canalization operation and maintenance program can be supported.

O8-20a **RATIONAL FOR CONCERN:**

1. In the late 1990's the USIBWC created 13 artificial ponds or embayments in the bed of the Rio Grande by installing rock weirs. The DEIS reports that the creation of these ponds was a mitigation requirement of the USACE as a part of a 404 dredging permit. Telephone requests to both the El Paso office and the Albuquerque 404 enforcement branch of the USACE failed to produce any Corp permits to the USIBWC. The El Paso office records were hand sorted but no permit was found that related to a Corp mitigation requirement. The Albuquerque office representative said that information on a 404 permit with the USIBWC could not be released without a "Freedom Of Information" request. On November 27, 2003, Mr. Neil Shaffer a stream ecologist with the New Mexico Environment Department told EBID staff that he had checked the Rio Grande near Derry, New Mexico and that he had found one of the worst cases of stream eutrophication that he had ever observed. The following day Dr. Phil King and Dr. John W. Hernandez of the EBID took a field trip of the river from Garfield upstream to above Percha Dam. A serious eutrophication problem did exist in the very shallow USIBWC embayments: floating algae were present, massive amounts of stringy attached algae filled the water, the river bottom was carpeted with what appear to be Asian clam shells, and bones from dead fish littered dry sections of the river. No live fish were seen. Given the large concentrations of attached algae in the ponds wide diurnal swings in pH and in dissolved oxygen in these USIBWC ponds would be expected making fish-life untenable.

O8-20b

2. Dredging of the channel has not been performed by the USIBWC since 1996. This has lead to the build up of sediment in the river channel, to an increase in the level of the channel, and to the formation of islands. Reports of local flooding in the Radium Springs area have been received because the increased channel elevation. The drought of the past years has exasperated the problem as river scouring has not occurred. The combination of these conditions has increased the potential for urban flooding in New Mexico, Texas and Mexico. It should also be noted that the flood potential may have also been impacted by "no-mow" zones created by the USIBWC in the flood way.

O8-20c

3. Since 1999 the USIBWC has allow and/or planted a very large number of cottonwood poles in the flood way. The USIBWC reports planting 800 poles, but environmental groups has also been active in planting vegetation (see page 2-5). Many cottonwood poles have died or are stunted, but there is no doubt that the USIBWC vegetation program has consumed water charged to the water users in the EBID. The USIBWC has no water rights; two letters have been sent to the USIBWC protesting this illegal use of District resources (see Appendix H). The USIBWC refuses to acknowledge any resource loss on the part of the EBID. This is an unacceptable situation.

CONCERN IV:

"Salinity Management" is an element in a number of the USIBWC proposed "environmental" options (see pages 2-14,2-15, 2-16, and 2-20. As with many of the proposed actions that will lead to greater consumptive use of water in the channel and on the flood way, salinity management could cause the total dissolved solids in the irrigation water delivered to Texas and Mexico to increase resulting in significant economic losses. The adverse effects of the USIBWC's alternative project on water quality are sufficient, in and of themselves, to reject all elements of the alternate projects. The DEIS fails to address the salinity issue and the impact that increases will have on down-stream water users. The only water quality analysis in the DEIS is with respects to suspended solids: the DEIS predicts that water quality will improve if the USIBWC alternate project is selected (see Table ES-2 and Table 2.12-1) Water quality will not improve as a result of the proposed new activities. For this reason the proposed alternate should not be accepted.

RATIONAL FOR CONCERN:

O8-21a

There is good reason for the inclusion of salinity management as a part of the USIBWC alternate proposals. Evaporation of sub-surface water from the river-channel sands and from flood-way soils has left significant residual salts in the surface sands and soils. Evapo-transpiration from flood-way grasses and bosque salt cedars can also leave salt deposits in surface soils. The level of concentration of these salts may become so high as to preclude the growth of all vegetation except for the most salt-tolerant plants. The failure of cottonwood poles to grow in the floodplain (see Concern III.) may have resulted from high soil salinities.

O8-21b

The methods to be used for "salinity management" are not well articulated in the DEIS although words about "chemical treatment" are included. The salt build up in the channel and flood plain soils can not be transmuted; there are only two treatments that may work: remove all of high salt soil from the flood plains (and this is a very expensive process; and removal of the salt from the soil. If soil leaching is used, the salts will move downstream and will be carried on to farm field where severe economic impacts will result.

O8-21c

Other land-use practices proposed in the DEIS that can have an adverse impact on water quality are the proposed opening of "meanders", "back shaving" of the channel banks, and surge flooding of the flood way. All three of these proposals will result in increases in the salinity of the water delivered to Texas and Mexico; all three can significantly impact quality and water users. None of these processes should be employed in any future operation and maintenance program for the canalized reach of the Rio Grande.

CONCERN V:

O8-22

The DEIS fails to prove that the original annual canalization project operation and maintenance activities have not enhanced aspects of the ecology of the Rio Grande. The USIBWC admits as much. (see page ES-1, page 1-1, and Table ES-2). As the original maintenance procedures have been effective in improving wildlife habitat since the 1930's, the alternative project proposed by the USIBWC is not needed and should be rejected.

O8-22 (cont'd)

RATIONAL FOR CONCERN:

The canalized section of the Rio Grande with its grass lands, bosque, and wetlands, in conjunction with the EBID drains and farm lands along side the flood way, now provide a diverse vegetation and wildlife habitat. Many different birds, particularly water fowl, are routinely found feeding on irrigated fields and in the cover provided in the near-by drain system. Deer have been seen in the flood way near the Leasburg Diversion dam and beavers are found in the drains on occasion. The native grasses that cover the flood way offer cover and food for a variety of small animals. Small fish are routinely found in the drain system and at times in the river channel. Massive groves of trees can be found on the irrigated lands along side the river channel. The Canalization Project in conjunction with the Rio Grande Project has produced an enhanced diverse ecosystem.

CONCERN VI:

The creditability DEIS is in doubt. The authors of the DEIS have consistently mislead the reader by presenting the most optimistic data available; by using literature citations for studies done else where giving the reader the sense that the study is wholly applicable to Southern New Mexico; by using unrelated statistical analysis to imply that the land and water resources to be committed are minimal at best; and by including detailed analysis of "environmental benefits" that are at best very unlikely to be attained. The use of biased data and analysis is good reason to doubt the rational for accepting any of the USIBWC's proposed modifications to the canalization project.

RATIONAL FOR CONCERN:

O8-23a

1. Using the most optimistic data:

   (a) The long-term average annual precipitation given in the DEIS for Las Cruces 10 inches per year.(page 3-1). No reference is cited, but it appears to come from the rounding-off of the data in Table 3.1-1 which is for the period 1959-2002. This data does not include the drought of the early 1950's. A more applicable measure of area rainfall would be the use of median values.

O8-23b

(b) Table 4.1-2 provides an optimistic estimate of the water savings by converting from (mature) salt cedar to (newly planted) cottonwood stands. A savings of 1.48 acre-feet per acre is estimated. Any water rights gained by reduction in evapo-transpiration will have to be approved by the New Mexico State Engineer (NMSEO) as a part of the current adjudication process. The NMSEO has made a number of estimates over the years of water salvage from salt cedar eradication. The estimate of 1.48 acre-feet per acre is very high. The NMNSEO should have been consulted before using the estimate in Table 4.1-2. Also see the optimistic overall estimate of addition consumptive use for the USIBWC proposed project given in Table 4.1-4

O8-23c

2. Using citations for work done in other regions as being fully applicable to the saline channel flood way of the Canalization area in Southern New Mexico.

(a) On the effects of grazing on riparian areas: Pratts 1989; this study may only be applicable to Montana.

(b) On wetlands creation: Crawford, 1996; this is a Middle Rio Grande study and is of questionable applicability.

(c) On Rio Grande vegetation: Crawford, 1996; this is a Middle Rio Grande study and is likely limited in its scope.

(d) On raising water tables: Wozniak, 1995; a study of historical changes in the Middle Grande. This study is not likely to closely relate to ground water levels now found in the Canalization area.

(e) On the establishment of cottonwoods: Stromberg, 1991; this is a California study and is unlikely to be applicable to the DEIS area.

(f) On the establishment of cottonwoods: Dresden 1999; this is a Middle Rio Grande study and may not be applicable.

3. The use of statistics to imply that adverse impacts on land and water resources are quite minimal as a result of the proposed USIBWC projects:

O8-23d

(a) Table ES-2, Table 4.1-3. Table 4.1-4 and Table 4.1-5 try to convey the idea that the increased water use by new vegetation is really insignificant when the entire supply in the Rio Grande Project is considered. This is a false conclusion as the impact of the new consumptives uses proposed by the USIBWC are on the water users in New Mexico and on those with wells along the river above Las Cruces.

O8-23e

(b) Table ES-2 and Table 4.11-5 convey the sense that air emissions during levee construction will be quite small when compared to the total emission in three counties.

O8-23f

(c) Sections 4.8.5 and 4.8.6 conveys the idea that the farm land resources required for the USIBWC alternative discussed are small (3.9% and 16.6 %) of the farm lands within one quarter of a mile of the river. Taking these lands out of production will have a significant impact on farm income and on the efficient operation of the EBID water delivery system in the area. However, the DEIS concludes that there will be "no impact" on low-income and minority families, and on farm population and rural housing when irrigated lands are retired to off-set the additional water use caused by the proposed massive re-vegetation programs. The negative effects of the reduction in the grazing that is now allowed on the floodway will most like be felt by low income minority families. The DEIS fails to recognize this impact.

4. The use in the DEIS of extensive analysis of "environmental benefits" for endangered species and aquatic life that have little chance of long-term attainment:

O8-23g

(a) The DEIS gives four page in Section 3 and five pages in Section 4 to the environmental impacts on the proposed alternate projects on threatened and endangered species. The DEIS could have been simplified if the conclusion of the section was stated up front: the habitat for endangered and threatened species is not found within the jurisdictional lands of the USIBWC with the exception of the willow fly-catcher where habitat is found in areas adjacent to the USIBWC right-of-way.

O8-23h

(b) The DEIS gives five pages to aquatic environment in Section 3 and three pages in Section 4. Table 3.7.5 lists fish species that have been found in the artificial ponds and embayment constructed by the USIBWC . Given the effects of the drought on stream flow and the eutrophic conditions that have developed it is unlikely that a sustainable population of fish can be developed in the river from Percha Dam down stream to El Paso unless much greater allocations of water are made to this limited objective. The DEIS fails to comment on the effects of these ponds on water salinity and the growth of mosquitoes and the effects of vectors on disease transmission.

PART C.

COMMENTS ON THE WATER RESOURCES ASPECTS OF THE DEIS

PART C.

O8-24a COMMENTS ON THE WATER RESOURCES ASPECTS OF THE DEIS

Water Rights Acquisition

The EIS is correct in the opening sentence of section 2.9.2: "...the USIBWC does not own water rights." The document then goes on to assume that USIBWC can acquire water rights through cooperation with EBID and EPCWID#1. EBID has no plans to cooperate with USIBWC on the acquisition of water rights by federal agencies. EBID favors a grass-roots approach to restoration policy development rather than a federal effort that appears to steamroll the concerns and rights of local Project Water users.

O8-24b The EIS document cites the World Wildlife Fund (WWF) report by King and Maitland (2003), which examines potential mechanisms for putting water to environmental use in the Rio Grande Project. However, the EIS document misses one of the central points of that report:

O8-24b (cont'd)

"The first and most critical project that must be executed before, or at least in parallel with, physical restoration projects is the development and negotiation of the rules and institutional framework under which water can be acquired, transferred, managed, and accounted for restoration projects. The details of this framework will have profound effects on what is feasible and how projects are executed."

The EIS has skipped over the development of any institutional framework to allow for the transfer, accounting, and management of the water of the Rio Grande Project for environmental restoration. The USIBWC EIS is exactly the sort of counterproductive restoration planning that King and Maitland envisioned when they stated the need for an institutional framework before restoration activities that affect Project Water supply are implemeted. The restoration alternatives presented in the EIS are infeasible under existing policies, and the EIS only makes general references to conservation and water banking that have no way of being implemented without significant institutional development, which is not addressed in the EIS.

It is unfortunate that the USIBWC's EIS process has skipped over the critical institution-building step, as it creates a divisive rift between environmental groups and agricultural water users who would be the principals in the development and implementation of water policies aimed at supporting river restoration. A more constructive approach would have been to convene a meeting of stakeholders and develop a consensus on how water could

O8-24b (cont'd)

be managed for restoration without infringing upon the rights of existing water users. While water conservation is an important goal for Project Water users, it does not create water for other uses - it makes more water available for beneficial use by existing Project Water users.

The EIS leaves this issue unanswered, and if one of the restoration alternatives is selected, the increased consumptive use will, by default in the absence of the necessary institutional framework, come out of Project Water, reducing the water available for beneficial use by EBID, EPCWID#1, and Mexico.

O8-24c

Under current allocation and accounting, losses of Project Water supply due to adoption of a restoration alternative would be shared by the two U.S. districts and Mexico on a proportional basis. However, discussion among the districts and USBR contemplate a changed operating agreement that would establish a state line index to ensure that EPCWID#1 and Mexico are getting their equitable share of Project Water. If this is done, EBID would bear the burden of the water loss. While the details of future operating agreements are subject to a confidentiality order, this is a serious concern to EBID in particular.

O8-24d

Even the No Action alternative includes measures such as no mow zones and no dredging of the main channel that have been implemented with no appropriate NEPA process. In 2003, the first water-short year since 1978, the river efficiency (Project Delivery/Project Release) was 93 percent for the year. While this is within the bounds of historical efficiency for the level of release that occurred in 2003, it is below what would be expected, and the USIBWC's failure

to dredge the main channel was undoubtedly one contributing factor. The No Action alternative should be a true No Action alternative - it should include full traditional mowing and channel dredging practices.

O8-24e Indicative of the lack of attention to institutional constraints on the proposed restoration options, section 4.15.1 states that Upper Rio Grande modeling will improve the river's delivery efficiency, insuring more water would be available for measure implementation. This is entirely false. If delivery efficiency of the Upper Rio Grande Basin is improved in the Middle Rio Grande (MRG), more water will be delivered to Elephant Butte Dam, which will count toward New Mexico's delivery obligation under the Rio Grande Compact and be stored as usable Project Water or Credit water for New Mexico under the Compact. If efficiency is improved in the Rio Grande Project, the available supply to Project Water users is increased. In no case does the USIBWC obtain a water right for such efficiency increases, and there is no way that an agency with no water rights can offset increased depletions of Project Water.

O8-24f Since USIBWC does not have the capacity to acquire water rights to offset consumptive losses of the restoration alternatives, the No Action alternative should be selected. The No Action alternative should eliminate no mow zones and restore channel dredging.

Consumptive Loss Estimates

O8-25a The consumptive loss estimates presented in the EIS are incorrect and misleading. In table

O8-25a 4.1-1, evapotranspiration (ET) estimates for several vegetation types are given, which are derived from the USBR's AWARDS system and ET Toolbox. A value of 3.48 acre-feet/acre is given for cottonwood. This is presumably based on the crop coefficients contained in the ET Toolbox, which were derived from research at Bosque del Apache. The cottonwood stand in that research had large tree spacing, and very little understory, resulting in a low leaf area index, a key factor in ET. If cottonwood is allowed to grow very densely, it is likely that it will use about the same amount of water as saltcedar. Dense growth occurs when flooding induces seed germination of cottonwood, as will happen with the proposed flood releases. Therefore, the replacement of saltcedar with cottonwood will not save the water that the EIS assumes it will.

O8-25b Furthermore, the document does not consider maintenance of the native vegetation, a process that will be far more costly and time consuming than current mowing practices. Based on USIBWC's difficulty in keeping up with channel dredging duties, this will be an unmanageable demand on their resources. If this maintenance is not diligently performed, saltcedar will overtake the native vegetation, and the project will result in a high water consuming montypic stand of saltcedar, the worst of all options.

O8-25c Also in the consumptive use estimates is a value of 4.01 acre-feet per acre for pasture grass (table 4.1-1). This value is inappropriate for the conditions of grass between the levees, which is not irrigated and is generally stressed by salt and lack of moisture. It is very unlikely that

the mowed vegetation that is grazed uses more than about 2 acre-feet per acre, making the increase in consumptive use by changing vegetation even higher than the estimates. The inputs for determining the consumptive use estimates presented in table 4.1-1 are not presented, but the results indicate a lack of understanding or attention to detail in the selection of inputs.

O8-25d The estimates of consumptive use are poorly documented and very counter intuitive. They underestimate the adverse effects of the restoration alternatives on water quantity. The No Action alternative should be selected, with mowing and main channel dredging restored.

O8-26 **New Mexico-Texas Water Commission**

The EIS states that the El Paso-Las Cruces Regional Sustainable Water Project is no longer viable, and that while cumulative impacts would have been significant for all resource areas, the project's defunct status makes that irrelevant. Aquifer storage and recovery, surface water treatment plants, and several other aspects of the project are alive and well, and proceeding. As the EIS states, the restoration alternatives will significantly affect these projects, and the EIS absolutely must address these impacts. In the absence of such an analysis, only the No Action alternative, modified as stated previously, can be adopted.

O8-27 **Vector Control**

While one of the goals of river restoration is to develop adequate habitat for wildlife, an unfortunate consequence is the creation of habitat for mosquitoes and other disease vectors.

O8-27c (cont'd) The Rio Grande runs through populated areas, and the restoration alternatives will certainly dramatically increase the mosquito population. With the Rio Grande Project's proximity to Mexico, where migration from central and southern Mexico to Juarez and the United States can bring malaria, dengue fever, and other mosquito-borne diseases into the system. The recent outbreak of West Nile virus presents a new threat to people in the area. No consideration of health effects or the economic cost of vector control is included in the EIS, a critical omission. Las Cruces got its name from the crosses marking the graves of people who died either from the desert or fevers associated with the river. Restoring the river should not be taken to the point of endangering human health.

O8-28 **No Mow Zones**

The USIBWC unilaterally created no mow zones along the river under an MOU with the Southwest Environment Center (SWEC). As stated earlier, these zones use more water than mowed vegetation and reduce the flood carrying capacity of the river. Another serious problem for people who live in the area is the weeds that grow in the no mow zones. Farmers have a difficult time with weed control in their fields, and the presence of heavy weed cover and seed production in the no mow zones exacerbates the problem. Tumbleweeds are very prevalent in the no mow zones, and they present both a weed and a safety problem, as they blow around and interfere with traffic. They also present a fire hazard, particularly when dry tumbleweeds build up near or against buildings. The objective of the no mow zones was presumably to develop native vegetation, but tumbleweeds, or Russian thistle, are what came

in. EBID fears that a similar process will occur with saltcedar that will overtake native riparian vegetation, and the IBWC is not in a fiscal position to prevent it.

Paso del Norte Watershed Council

Comment Letter O9

Executive Committee

Susan Watts, Chair, *Ecologist*

Julie Maitland, Assistant Chair, *New Mexico Department of Agriculture*

Valerie Provencio, Secretary, *El Paso Water Utilities*

Ari Michelsen, Treasurer, *Texas A&M Agricultural Research & Extension Center*

Kevin Bixby, *Southwest Environmental Center*

Christopher Brown, *New Mexico State University*

Tim Darden, *New Mexico Department of Agriculture*

Miguel A. Flores, *Instituto Nacional de Investigaciones Forestales, Agricolas y Pecuarias*

Alfredo Granados, *Universidad Autónoma de Ciudad Juárez*

Inga Groff, *League of Women Voters*

Ed Hamlyn, *Urban Planner*

Brian Hanson, *U.S. Fish & Wildlife Service*

Jennifer Atchley Montoya, *World Wildlife Fund*

Carlos Rincon, *Environmental Defense*

Dan Santantonio, *City of Las Cruces*

Zhuping Sheng, *Texas A&M Agricultural Research & Extension Center*

Rosemary Staley, *City of El Paso*

Jim Stefanov, *U.S. Section, International Boundary & Water Commission*

Marylin Taylor, *Private Citizen*

Beatriz Vera, *Rio Grande/Rio Bravo Basin Coalition*

For information contact the Council Program Coordinator
Phone: 915-859-9111 x229
Fax: 915-859-1078
Email: pdnwc@pdnwc.org
Texas Agricultural Experiment Station
1380 A&M Circle
El Paso, TX 79927-5020
www.pdnwc.org

1 March 2004

Mr. Douglas Echlin, Lead Environmental Protection Specialist
Environmental Management Division
USIBWC
4171 N. Mesa St., C-100
El Paso, TX 79902

Dear Mr. Echlin:

We appreciate the opportunity to comment on the DEIS for River Management Alternatives for the Rio Grande Canalization Project. As you know, the Paso del Norte Watershed Council is an alliance of private citizens, non-governmental organizations, representatives of federal and state agencies, water utilities, municipal governments, and universities dedicated to providing an integrated vision for watershed management in our region. We are eager to assist with projects that will result in ecosystem improvement and will be actively involved in the adaptive management activities arising from the adoption of the preferred alternative.

We applaud the effort by the USIBWC to integrate restoration of the Rio Grande ecosystem into its management of the Canalization Project ("Project"). We understand that the USIBWC has a responsibility to continue to operate the project for its intended original purposes of flood management and water delivery. We are encouraged that the USIBWC has recognized the need to improve ecological conditions within the project while meeting existing responsibilities and that it has undertaken a broad scope of work as stated in the Federal Register announcement of their intent to prepare an EIS:

> The USIBWC as lead agency proposes to collect information necessary for the preparation of an EIS; to analyze flood protection measures and alternatives to current management, including watershed-oriented and non-structural alternatives and collaborative measures with other agencies and landowners; to determine to what extent project management can support restoration of native riparian and aquatic habitats, as well as the restoration of natural fluvial processes such as channel meanders and overbank flooding. (Notice of Intent to Prepare an Environmental Impact Statement (EIS), International Boundary and Water Commission, U. S. Section. Federal Register, August 10, 1999, page 44752.)

Description of Alternatives.

Flood Control Alternative

It appears that non-structural methods of flood control were dropped from consideration in the DEIS. These methods include: obtaining additional flood storage capacity on the floodplain by purchasing land and easements from

O9-1 adjacent landowners and by entering into cooperative agreements with other agencies, particularly the BLM; building or rebuilding levees further away from the channel (levee setbacks); and USIBWC involvement in local land use planning to discourage incompatible development near the river.

In the portions of the document describing flood control projects, it is not clear what is actually being proposed in the way of levee construction, and we are concerned that decisions about flood control improvements may be premature. Each of the action alternatives includes raising approximately 60 miles of levees and constructing 2.8 miles of new levees, at a cost of $56 million. However, several statements in the DEIS suggest that the type and extent of levee work has yet to be decided. These statements include the following:

> As we stated in our letter to Debra Little (November 14, 2003), we believe that two-dimensional flood routing models provide several advantages, including more accurate predictions of flood behavior than one dimensional hydraulic models such as HEC-1 and HEC-RAS. We are pleased that USIBWC has decided to use FLO-2D for a cooperative hydraulic study in the Canalization Project in the near future. (Letter to Kevin Bixby from Debra Little, January 16, 2004.)

O9-2 It is our understanding that a one-dimensional hydraulic model was used to determine the adequacy of existing flood capacity in the project and is the basis for proposing levee improvements in the DEIS. We also understand that one-dimensional models tend to overestimate downstream flood elevations, as acknowledged by USIBWC. ("Current estimates of levee deficiencies and potential flood risk will be reduced with the use of two-dimensional models because they account for the attenuation of flood peaks as they spill into the floodway." Letter to Kevin Bixby from Debra Little, November 4, 2003, in Appendix H of DEIS). We are also aware that USIBWC is in the process of evaluating the structural integrity of the levees, and considers levee removal "a very real possibility in the upper reach once a full understanding of structural deficiencies from ongoing studies is completed in 2004." (ibid.)

The results of these two pending studies—two-dimensional modeling and levee structural analysis—may dramatically alter conclusions about what, if any, flood control improvements are necessary. We recommend that you delay final decisions about construction and modification until a clearer picture of what is actually needed emerges.

Targeted River Restoration Alternative (TRRA)

O9-3 The Targeted River Restoration Alternative (TRRA) is an excellent step towards integrating river restoration with flood management and water delivery. We support the restoration measures contained within this alternative, including controlled releases, over bank flooding, conservation easements, reopening of former meanders, targeted planting of native vegetation, and salt cedar control. These measures provide a foundation for meaningful and sustainable restoration of the river. We encourage you to consider their application in the downstream half of the project as well.

O9-4 We support the approach of using controlled releases out of Caballo Reservoir to restore a diversity of aquatic and riparian habitats. We believe this approach, based as it is on mimicking the river's pre-dam spring peak flows, has the advantage of letting the river itself determine the optimum mix and location of habitats through the action of channel forming flows. As such, it

holds the greatest promise of producing sustainable results requiring the least degree of human management intervention.

O9-5 We support the proposal to acquire conservation easements on up to 1618 acres of land outside the USIBWC's right-of-way. We suggest establishing a long-term program to fund the acquisition over time of land and easements from willing sellers, along with water rights, as needed to achieve restoration objectives.

O9-6 We also support the targeted planting of native species, although we believe the river itself will, if allowed to, provide the conditions needed to reestablish native plant communities, provided there is seed stock. This is preferable to continuous management intervention. Some suggested approaches for the re-establishment of native habitats include:

- In areas with wide floodways, allow long and wide wildlife habitat blocks of tree species to regenerate parallel to the river. These blocks would have to be of a width that would not compromise flood control activities. One way to accomplish this would be to expand isolated young cottonwood stands that have volunteered and not been mowed to larger and longer blocks (paralleling the river) with pole plantings or rooted cuttings. Another way would be to attempt spring plantings of bank willow slips among these cottonwood stands to create a mid- and over story foliage profile.

- Continue to leave standing dead cottonwoods as foraging and nesting sites for wildlife. Plant additional isolated cottonwoods along the floodway for the same functions.

- Revegetate spoil areas with a mix of native grasses, including: purple three-awn (Aristida purpurea), four-winged saltbush (Atriplex canescens), Plains bristle grass (Setaria macrostachya), alkali sacaton (Sporobolus airoides), side oats grama (Bouteloua curtipendula), and sand dropseed (Sporobolus cryptandrus).

- As an alternative to riprap, encourage bank willow growth along channel banks, which effectively stabilizes soils and armors the banks in high flows, yet does not create a high resistance-to-flow value under these conditions.

In summary, we commend you for preparing a document that contains a great deal of information about USIBWC's management of the Canalization Project that we and other stakeholders will undoubtedly find useful for many years to come. We applaud the conceptual approach to river restoration based on controlled releases out of Caballo Reservoir contained in O9-7 the TRRA, and we look forward to assisting in the implementation of specific projects based on this approach. We encourage you to choose the TRRA as your preferred alternative and to utilize the information from the two-dimensional flood modeling before any final decisions are made about the construction and/or movement of levees.

Sincerely,

Sue Watts

Sue Watts, Ph.D.
Chairperson, Paso del Norte Watershed Council

EL PASO ZOO

AMERICAN ZOO AND AQUARIUM ASSOCIATION

Comment Letter O10

Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-100
El Paso, Texas 79902

Dear Mr. Echlin,

O10-1 Please provide me with the answers to the following questions, regarding the faunal surveys used in the DEIS studies of the Rio Grande Canalization Project:

-what survey methodologies were used?
-how much time was spent in the field conducting the surveys?
-when were the surveys conducted?
-how many researchers were out in the field collecting data?
-how many data collection sites were there?

I am trying to get a handle on how the survey processes worked, due to results that were noted in the DEIS document.

Thank you for the information,

John Kiseda

John Kiseda
Animal Curator
El Paso Zoo
4001 E. Paisano El Paso, TX 79905
Ph: 915-521-1850
Fax: 915-521-1857

Comment Letter P01

LOMA PARDA DAIRY
PO BOX 75
GARFIELD, NEW MEXICO 87936
505-267-5901
email lomaparda@zianet.com

Mr. Douglas Echlin
Environmental Mgt. Division
USIBWC
4171 North Mesa Street C 100
El Paso, Texas 79902

Re: Comments draft EIS Rio Grande Project

Dear Sir:

P01-1 Please consider this letter as an official comment to your draft EIS. I have read the draft and would like to point out to you that your report does not correctly identify the land ownership along the west side of the river in the Garfield area, specifically the area adjoining the Jaralosa Berrenda Sibley and Tierra Blanca arroyos. We own a large commercial dairy which is located on the lower Berrenda and Jaralosa. The ownership to the IBWC row from the BLM is not continuous. We own several hundred acres in fee simple lands in this corridor which is farmed. Our relatives also farm several hundred acres. There are El Paso Electric facilities which run across IBWC right of way and a County maintained road which services these lands as well as provides access to the Berrenda Flood Control Dam. Our deed contains a reserved easement in perpetuity across IBWC land for purposes of watering our livestock. There are at least two other such easements that I know of. The report does not address how your alternatives may affect these perpetual easements. There are millions of dollars of improvements located on these lands and the proposed flooding of the floodway would jeapordize these investments. Furthermore there is no water to spare. Please make sure you fully and accurately reflect and understand the ownership pattern of lands in this specific area. It is not an area which has 100 percent BLM adjoining the IBWC ROW. There are also over one thousand acres of New Mexico State Land the adjoin the river area which are privately farmed and or ranched. We and our neighbors officially oppose any proposal that would impair our private property rights and our perpetual easements.

P01-2

P01-3

Very Truly Yours,

Herman E. Ortiz
Partner, Ortiz Farms and Loma Parda Dairy

Comment Letter P02

MIKE DIPP FARMS

FARM ADDRESS: 800 Washington • Anthony, New Mexico 88021
BUSINESS ADDRESS: P.O. Box 55 • El Paso, Texas 79940

FARM PHONE
(505) 882-3916

BUS. PHONE
(915) 544-0230
(915) 533-8020

February 16, 2004

Mr. Douglas Eghlin
Lead Environmental Protection Specialist
U S B W C Environmental Management Division
4171 N. Mesa Street C-130
El Paso, Texas 79902

Dear Mr. Eghlin,

P02-1

In reviewing the alternatives that are being proposal, we strongly support the first (1st) recommendation "No Action Alternative Excluding the MOU".

We support the above because of several factors but in our opinion, if the I B W C follows the intent and letter of the law, this is probably the best way to avoid lawsuits.

We appreciate very much the opportunity to address this very important issue.

Sincerely,
Mike Dipp Jr.

Comment Letter P03

Fletcher Farms, Inc.
6105 Shalem Colony Trail
Las Cruces, N. M. 88007
(505) 524-8385 Fax: (505) 523-0899
E-Mail: fletcherfarms@zianet.com

Wednesday, February 18, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, Texas 79902

RE : DEIS for the Rio Grande Canalization Project

I am writing you to strongly protest the DEIS for the Rio Grande River as submitted and written. I have many issues with this document but will only briefly list a few.

P03-1 1. The **only legal mandate** for the USIBWC is to provide for water delivery per the compact and flood control of the lower Rio Grande River. These issues have not been addressed or minimally considered within the DEIS.

P03-2 2. This document is illegal as it does not follow the dictates of the NEPA (National Environmental Act.)

P03-3 3. This document suggests/mandates an increase in water use and diversion. This basin has been closed by the New Mexico State Engineer and the volume of water within this basin is fully and probably excessively appropriated. Where is this extra water supposed to come from? Where are the historical beneficial water rights for this supposed new appropriation? The USIBWC lack of maintenance of the river channel is now affecting the efficient delivery of water to the parties of the compact. When is the USIBWC going to again dredge the channel?

P03-4

P03-5 4. The Agricultural industry is economically minimized within this document! The Agricultural industry in Dona Ana County is second only to the WSMR/NASA as per economic size and impact, and the concerns and needs of the Ag industry are not included in the DEIS.

P03-6 5. This plan violates the original plan and purpose of the USIBWC.

6. This plan was written solely by and for the interests of the Southwest Environmental Center.

Sincerely,

LESLIE S. (Les) FLETCHER
President
FLETCHER FARMS, INC.

Comment Letter P04

COLQUITT COMPANY

301 PASEO REAL DRIVE
PHONE AREA CODE 505 824-4144
CHAPARRAL, NEW MEXICO 88081
FAX 505 824-4242

February 19, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

RE: River Management Alternatives for the Rio Grande Canalization Project (RGCP)

Dear Mr. Echlin:

P04-1 I am writing in reference to the management of the Rio Grande River. I have read the various management alternatives and feel that the **"NO ACTION ALTERNATIVE"** is what I prefer.

P04-2 I would ask that the International Boundary and Water Commission live up to its contractual and legal obligations and keep the river dredged, the levies mowed, etc.

P04-3 I would like to see the Memorandum of Understanding (MOU) signed with the Southwest Environmental Center (SWEC) be set aside.

P04-4 In this time of drought I would ask that the International Boundary and Water Commission keep its mandate to insure the contractual deliveries of water to the parties who are entitled to it.

Your consideration of our position is greatly appreciated. If you have any questions, please call me.

Sincerely,

JOHN B. COLQUITT

JBC/brw

Comment Letter P05

February 20, 04
Lack Farms, Inc.
P.O. Box 274,
Hatch, New Mexico 87937

Mr. Douglas Echlin,
Lead Environmental Protection Specialist
USIBWC
4171 North Mesa Street c-310
El Paso, Texas 79902

Dear Mr. Echlin,

I would like to take just a moment of your time to offer my opinion in reference to some changes being considered by IBWC in the manner in which it maintains the riverbed of the Rio Grande.

I am a 3rd generation farmer in the Hatch Valley. In fact, I have lived on two farms, that each had their west bank boundary bordering the Rio Grande river. Currently, my husband and I are ag producers farming 1300 acres of land in the Hatch area. The first farm that we farm starts just below the Caballo State Park. We also lease land in the Hatch area and end our farms south of Rincon, just east of Mnt San Diego, or Tonuco Mountain as the locals call it. I hold both fond memories, playing on the sand bars of the river in winter months, riding horseback inside the levees, canoeing down the river, ect. And at the same time have vivid nightmares of three particular floods, which cost my husband and I the loss of livestock, hundreds of acres of farm crops in all three incidents, with no monetary compensation from any agency. Which memory do you think is more vivid in my mind?

P05-1

As a native New Mexican, I understand the value of this river water. Certainly the lifeline, blood supply to all agriculture producers. I understand her value to all recreation activity. Yet, I think we lose focus of why these dams were built and why the river channel was developed. The Rio Grande is the supply line for this critical source of water, delivering water to two states and a neighboring country.

P05-2

The river channel must be maintained to deliver this minimal water supply in the most efficient way possible. The river channel that I have lived on for 44 years has less than one foot freeboard. Any 3" rain above us, will overflow the river. The riverbed must be dredged and maintained as a river channel.

P05-3

This past year, through NRCD funding, we had a 400 acre bosque treated for salt cedar eradication. With one government program in place to conserve water, why would you consider planting other trees to waste water?

P05-4 As an ag producer, I am constantly searching for ways to conserve water. Laser leveling, drip irrigation, set aside acreage, soil moisture monitoring. With the conditions of our lakes, and the availability of surface water, my conservation practices are not just financial. We are conditioning ourselves for future survival. Our waterways and water rights were based on beneficial use, yet those rights are being threatened. And the heaviest burden of water conservation is being placed on ag producers. Who's water rights will be used to water, and what financing will be used to maintain these river parks? Who will be responsible for water safety and who will police cleanliness in these parks?

P05-5 Both the general public and ag producers feel a sadness as we witness empty lakes, dry riverbed and empty canals. Imagine the depression that will be felt when we see abandoned fields, grown over with tumbleweeds. Will New Mexico still be the Land of Enchantment? We are an ag production state, lets not lose sight of that.

Thank You,

Rosie Lack

Rosie Lack

Comment Letter P06

TED COX FARMS

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-130
El Paso, TX 79902

Dear Doug,

P06-1 I am writing to assure you that there is considerable concern among my fellow farmers concerning the changes in the traditional maintenance of the river channel. We feel that there was not enough effort put forth to continue with a proven maintenance program that was the epitome of maximum water conservation.

Therefore, I wish you would follow the NO ACTION ALTERNATIVE with the exclusion of all terms and conditions of the Memorandum of Understanding.

Thank You ,

Ted Cox

PO BOX 2643 ANTHONY,NM 88021
PHONE: HOME (505) 882-2090

Comment Letter P07

February 23, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

RE: DEIS for the Rio Grande Canalization Project

Dear Mr. Echlin,

P07-1 This letter is in reference to the Draft Environmental Impact Study (DEIS) dated December 2003. I would like to state, for the record, that the only acceptable option in Table 2.1-1 is the "No Action Alternative". I am against the other three alternatives as listed in the table. The management of the Rio Grande is of utmost importance and I would like to state my points concerning this management issue.

P07-2 1. The alternative features in table 2.1-1 violate the original plan and purpose of the US International Water and Boundary Commission. (USIWBC)

P07-3 2. This plan takes water out of productive and beneficial use.

P07-4 3. The USIWBC would be creating new uses of water *in the midst of a drought*.

P07-5 4. The agriculture industry in Dona Ana County is minimized. Agriculture in Dona Ana County is second only to WSMR/NASA as per economic size and impact.

P07-6 5. The purposes of the USIBWC (provide water and delivery, flood control of the lower Rio Grande, responsibility to water users) have not been addressed in this proposed draft.

Thank you for your time and consideration in this extremely important issue. When water issues are concerned, the impact on the agricultural industry cannot be overstated.

Sincerely,

David P. Salopek
David Salopek Farms

Comment Letter P08

February 23, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

RE: DEIS for the Rio Grande Canalization Project

Dear Mr. Echlin,

P08-1 This letter is in reference to the Draft Environmental Impact Study (DEIS) dated December 2003. I would like to state, for the record, that the only acceptable option in Table 2.1-1 is the "No Action Alternative". I am against the other three alternatives as listed in the table. The management of the Rio Grande is of utmost importance and I would like to state my points concerning this management issue.

P08-2 1. The alternative features in table 2.1-1 violate the original plan and purpose of the US International Water and Boundary Commission. (USIWBC)

P08-3 2. This plan takes water out of productive and beneficial use.

P08-4 3. The USIWBC would be creating new uses of water *in the midst of a drought.*

P08-5 4. The agriculture industry in Dona Ana County is minimized. Agriculture in Dona Ana County is second only to WSMR/NASA as per economic size and impact.

P08-6 5. The purposes of the USIBWC (provide water and delivery, flood control of the lower Rio Grande, responsibility to water users) have not been addressed in this proposed draft.

Thank you for your time and consideration in this extremely important issue. When water issues are concerned, the impact on the agricultural industry cannot be overstated.

Sincerely,

Marion H. Salopek
David Salopek Farms

Comment Letter P09

Road Runner PECANS

A Natural Product of David Salopek Farms

February 24, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

RE: DEIS for the Rio Grande Canalization Project

Dear Mr. Echlin,

P09-1 This letter is in reference to the Draft Environmental Impact Study (DEIS) dated December 2003. I would like to state, for the record, that the only acceptable option in Table 2.1-1 is the "No Action Alternative". I am against the other three alternatives as listed in the table. The management of the Rio Grande is of utmost importance and I would like to state my points concerning this management issue.

P09-2 1. The alternative features in table 2.1-1 violate the original plan and purpose of the US International Water and Boundary Commission. (USIWBC)

P09-3 2. This plan takes water out of productive and beneficial use.

P09-4 3. The USIWBC would be creating new uses of water *in the midst of a drought*.

P09-5 4. The agriculture industry in Dona Ana County is minimized. Agriculture in Dona Ana County is second only to WSMR/NASA as per economic size and impact.

P09-6 5. The purposes of the USIBWC (provide water and delivery, flood control of the lower Rio Grande, responsibility to water users) have not been addressed in this proposed draft.

Thank you for your time and consideration in this extremely important issue. When water issues are concerned, the impact on the agricultural industry cannot be overstated.

Sincerely,

Paulina Salopek

Paulina Salopek
David Salopek Farms

1985 Salopek Rd.
Las Cruces, New Mexico 88005
(505) 526-5949

Comment Letter P10

GARCIA PECAN FARM
Post Office Box 931
Anthony, NM 88021

February 24, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Sir:

This letter is in regards to the draft Environmental Impact Study by the International Boundary & Water Commission on management practices for the Rio Grande Canalization Project.

P10-1 It is my believe, as a farmer, that the No Action Alternative, with the terms and conditions of the Memorandum of Understanding excluded, is the best management alternative. I object to the alternative features.

P10-2 The changes in the Memorandum of Understanding, as you know, were contrary to the practices outlined in the 1977 Environmental Impact Study. All of these changes were, and are, quite significant and substantial in nature. No environmental assessment or impact study was done on either of these changes.

P10-3 What requires the IB&WC to consider habitat restoration for any reason and how are they addressing the ongoing drought and conservation of our precious water resources, instead of creating more? The IB&WC mandate is flood control and insuring contractual deliveries of water. I believe their responsibility is to the water users and parties of use.

P10-4 To sum up this letter, I propose that in representing the best interest of the farmers up and down the valley, you would consider taking no alternative actions which would continue to impose, or impede, flood way management.

Thank you very much for your consideration to this very important matter.

Respectfully yours,

Frank A. Garcia

Frank A. Garcia

Comment Letter P11

February 24, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC 4171 North Mesa Street, C-310
EL Paso, TX 79902

Dear Mr. Echlin:

I am writing this letter to comment on the Draft Environmental Impact Statement (DEIS) on River Management Alternatives for the Rio Grande Canalization Project.

In lieu of the current drought conditions and lack of water supply the International Boundary and Water Commission (IBWF) should not be making significant changes to the manner in which it maintains the riverbed of the Rio Grande. The critical changes, in my opinion, favor the view of environmentalist who wants to create a river that benefits wildlife and fish rather than people. Furthermore, to plant hundred of cottonwood trees along the river without any water rights is not feasible given the shortage of water supply. These actions will remove more water out of the river system and should be stopped immediately. P11-1

The taking of pro environmental alternatives presented in the DEIS will result in the removal of large amounts of water from its current productive uses, which the IBWC has no water rights for these uses. Nothing could be worse for the farmers and workers in this area of New Mexico which is one of the poorest and suffers high unemployment. P11-2

These actions are completely outside IBWC authority and would actually operate against its mission of flood control and channel maintenance for the efficient delivery of water. P11-3

Sincerely yours,

Hector Franco

Franco Farms

38

Comment Letter P12

Ulmer Inc.
P.O. Box 2625
Anthony, NM 88021
Bus. (915) 877-3345
Fax (915) 877-3322

Ulmer Inc.

February 24, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Sir;

P12-1 As a lifetime farmer in this area, I am taking this opportunity to state my thoughts and position on the proposed changes to the irrigation system and river. The existing system has proven itself over decades to be efficient and consistent. I feel that any of the proposed changes would only complicate a proven entity and obviously create a greater demand on an already scarce and precious commodity. Therefore, I am adamantly against the new proposals.

For any information, please feel free to contact me at the above address at your convenience.

Sincerely,

J.J.Ulmer Jr.
Owner/Operator
mcu

Comment Letter P13

February 25, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, Texas 79902

Dear Mr. Echlin:

The purpose of this letter is to comment on the issues of Draft Environmental Impact Statement (DEIS) on River Management and Alternatives for the Rio Grande Canalization Project. As you are well aware, the Mesilla Valley and surrounding areas are currently in a drought situation. The actions that the International Boundary and Water Commission are planning to make will have a significant impact on the agricultural future of the area. P13-1

The Rio Grande provides much of the necessary water needed for our crops and any change to the river to ensure Pro-environmental alternatives could in turn hurt the economy and the future of farming. Having cottonwood trees planted to promote natural habitats, removes water of the river system and again limits the amount of water that is used for agricultural use. These changes favor the view of environmentalists who want to create a river that benefits wildlife and habitat and not the people who so much depend on the water of the river. We as farmers benefit wildlife far more than the river ever will. P13-2

The IBWC mandate is flood control and to insure safe delivery of water. I believe that their responsibility is to deliver the water to the parties who are entitled to it. I also believe that the IBWC should live up to its legal obligations and keep the river dredged, the levies mowed, etc. P13-3

The management category that I favor is the "**No Action Alternative**". This is the only way that we will be insured that our water source will benefit the people and the valley that so much depends on it. P13-4

Thank you for your consideration in this very important matter.

Sincerely,

Andrew L. Jacques
Jacques Farm
8809 Hwy. 28
Anthony, NM 88021

Comment Letter P14

RIO VALLEY
Chili Incorporated

Corporate Offices
P.O. Box 131 Rincon, New Mexico 87940
Phone: 505.267.4636 Fax: 505.267.4633

Sales Offices
311 West Main Street Oakland, Illinois 61943
Phone: 217.346.3143 Fax: 217.346.3151

February 26, 2004

Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Issue: Draft Environmental Impact Statement (DEIS) on River Management Alternatives for the Rio Grande Canalization Project

Mr. Echlin,

My name is Bruno Carson, my family and I have been farming in the Hatch and Rincon area since 1958. I have some concerns regarding the IBWC not doing their jobs. Some of my concerns are:

P14-1 IBWC is not and has not been keeping the Rio Grande River channel clean and maintained properly for efficient water delivery. They have stopped mowing certain areas of the river and have completely stopped grading along the river levees by my families farms. For example in 1998 after heavy rainfall the Rio Grande ran over the levee which flooded our farms. There was some extensive damage to our wheat and chili crops in which we lost over 100 acres. We also lost several head of registered Brangus Cattle, and by family members trying to save the livestock they almost lost their lives as well. It is evident that every time we get a heavy rain the arroyos run which causes the river to run over, which could be prevented if the river is kept clean of debris and channeled properly.

P14-2 Also another concern is the Southwest Environmental Center planting cottonwood trees and shrubs. As we all know these trees and shrubs will deplete the water from the river system. This hurts us farmers as we are very limited on water.

P14-3 Mr. Echlin IBWC's functions are the efficient delivery of water and flood protection. We ask they start doing what they are supposed to do.

Sincerely,

Bruno Carson

Bruno Carson

Comment Letter P15

RIO VALLEY
Chili Incorporated

Corporate Offices
P.O. Box 131 Rincon, New Mexico 87940
Phone: 505.267.4636 Fax: 505.267.4633

Sales Offices
311 West Main Street Oakland, Illinois 61943
Phone: 217.346.3143 Fax: 217.346.3151

February 26, 2004

Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Issue: Draft Environmental Impact Statement (DEIS) on River Management Alternatives for the Rio Grande Canalization Project

Mr. Echlin,

P15-1 My name is Kit Carson. My family has been farming in the Hatch and Rincon area over 40 years. I have some concerns regarding the IBWC. It is apparent that the IBWC has not been performing there functions, which is to provide efficient water delivery and flood protection. The past 10 to 15 years my family has purchased large farms in the Rincon area, and IBWC has done a poor job of maintaining such as mowing certain areas of river and not grading the river levees. In 1998 after heavy rains the river ran over causing flooding on our farms. This damaged well over 100 acres of wheat and chili crops. We even lost several head of registered Brangus Cattle. Some of our family members risked their lives by trying to save our livestock. This could have been prevented had the river been maintained of debris and channeled properly.

P15-2 Another concern of mine is why the Southwest Environmental Center is planting Cottonwood trees and along with shrubs. Isn't it evident that we are already short of water and these trees and shrubs will deplete the water from the river system. This will hurt us farmers since we are already very limited to water for our crops.

P15-3 Mr. Echlin IBWC's functions are the efficient delivery of water and flood protection. I ask the EBWC to start maintaining these areas as they are intended to do.

Sincerely,

Kit R. Carson

Kit Carson

Comment Letter P16

RIO VALLEY
Chili Incorporated

Corporate Offices
P.O. Box 131 Rincon, New Mexico 87940
Phone: 505.267.4636 Fax: 505.267.4633

Sales Offices
311 West Main Street Oakland, Illinois 61943
Phone: 217.346.3143 Fax: 217.346.3151

February 26, 2004

Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Issue: Draft Environmental Impact Statement (DEIS) on River Management Alternatives fro the Rio Grande Canalization Project.

Mr. Echlin,

P16-1 My name is Nick Carson, my family and I have been farming in the Hatch and Rincon area since 1958. Since I have bought large farms in the last 10 to 15 years in the Rincon area, I have noticed that the IBWC has not been doing their jobs. Especially when it comes to keeping the Rio Grande River channel clean and maintained in a proper way for efficient water delivery. Your people have stopped mowing certain areas of the river and have completely stopped grading along the river levees by our farms. In 1998 after rains above us the river ran over the levee which flooded our farms. We lost over 100 acres of wheat and chili crops, several head of registered Brangus Cattle, and nearly caused four of my family members to loose their lives trying to save the livestock. After this happened the IBWC in the Hatch Facility was made aware of this. It is evident that every time we get any kind of rains the arroyos run which in turn causes the river to run over on us, simply because the river has not been cleaned and channeled in the last 15 to 20 years.

P16-2 I also understand that you people (IBWC) have entered into an agreement with the Southwest Environmental Center to plant hundreds of cottonwood trees and other shrubs. "Sir all of these things takes a lot of water!" Which we all know that we don't have, and I am sure there are absolutely no water rights. These trees and shrubs will deplete the water out of the river system which we need as farmers, and as is we are already very limited on water.

P16-3 Mr. Echlin I kindly ask to have your people (IBWC) to start cleaning and dredging the river as the IBWC is supposed to, and stop siding with all of these environmental people.

If you have any further questions on any of these issues I can be reached at 505-267-8333 or 505-644-0300.

Sincerely,

Nick Carson

Nick Carson

Comment Letter P17

RIO VALLEY
Chili Incorporated

Corporate Offices
P.O. Box 131 Rincon, New Mexico 87940
Phone: 505.267.4636 Fax: 505.267.4633

Sales Offices
311 West Main Street Oakland, Illinois 61943
Phone: 217.346.3143 Fax: 217.346.3151

February 26, 2004

Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Issue: Draft Environmental Impact Statement (DEIS) on River Management Alternatives for the Rio Grande Canalization Project

Mr. Echlin,

P17-1 My name is Rory Carson, my family and I have been farming in the Hatch and Rincon area since 1958. I have some concerns regarding the IBWC not doing their jobs. It is apparent that the IBWC has not been performing there functions. Their functions are to provide efficient water delivery and flood protection. The past 10 to 15 years my family has purchased large farms in the Rincon area. IBWC has done a poor job of maintaining such as mowing certain areas of river and not grading the river levees. A good prime example of this is in 1998 after heavy rains the river ran over causing flooding on our farms. This damaged well over 100 acres of wheat and chili crops. We even lost several head of registered Brangus Cattle. Some of our family members risked their lives by trying to save our livestock. This could have been prevented had the river been maintained of debris and channeled properly.

P17-2 Mr. Echlin IBWC's functions are the efficient delivery of water and flood protection. I ask the EBWC to start maintaining these areas as they are intended to do.

Sincerely,

Rory Carson

Rory Carson

Comment Letter P18

HARVEY FARMS, LTD. CO.
Phil Harvey, Jr.
P.O. Box 40
Mesilla, NM 88046
505-524-9316
Fax 505-525-2448

February 26, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Mr. Echlin,

I am writing in reference to the DEIS regarding management practices for the Rio Grande Canalization Project, that has been released for public comment. We own a farm north of Las Cruces of approximately 550 acres and feel that any decision made will have serious consequences regarding our ability to continue to use river water for irrigation in the future.

P18-1 As you know, the mandate of the IBWC is flood control and to insure the contractual deliveries of water to various parties of interest, including EBID, from which we get our water. There are four management alternatives outlined in the DEIS, and I strongly urge that you adopt the No Action Alternative, with the terms and conditions of the 1999 MOU with SWEC excluded. The adoption of any of the other management alternatives severely compromises the mission of the IBWC and would drastically change the river channel's design and purpose as a water conveyance system.

P18-2 The creation of an additional use of our precious water, in the form of frivolous habitat restoration, will have a strong negative impact on overall water quality, as well as quantity available for productive, historical use. Instead, the IBWC needs to address the ongoing drought and seek more efficient delivery methods to valid users of the water, rather than create additional uses. The MOU with SWEC must be terminated, as it was not subject to proper legal and environmental review.

P18-3

P18-4 The only viable alternative is the No Action Alternative, without the MOU with SWEC. The financial cost of the other alternatives is intolerable, especially if it is borne by the taxpayers of this nation. The cost in lost livelihoods and in destroyed farming operations will be immeasurable, if our limited water resources are allowed to be wasted on unsound

environmental schemes, such as those proposed in the other management alternatives. I strongly urge the IBWC to follow the intent and letter of the law and to fulfill its mandate of flood control and insuring contractual deliveries of water.

Thank you for this opportunity to comment on the DEIS.

Sincerely,

Phil Harvey, Jr.

Comment Letter P19

BEASLEY, MITCHELL & CO., LLP
CERTIFIED PUBLIC ACCOUNTANTS

3-002

February 26, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

P19-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

P19-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

509 SOUTH MAIN, SUITE A • P.O. DRAWER 550 • LAS CRUCES, NEW MEXICO 88004
TELEPHONE (505) 528-6700 • FACSIMILE (505) 528-6775

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

A. Paul Mitchell
Certified Public Accountant

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter P20

D & L FARMS, INC.
P.O. BOX 2075
CANUTILLO, TX 79835

February 27, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, Texas 79902

P20-1 At this time, we would like to express our concerns on the operations of the Rio Grande River Project. In 1977 the IBWC conducted an Environmental Impact Study pursuant to the recently passed National Environmental Protection Act, on the operation and maintenance of the Rio Grande Canalization Project. It allowed for and included sediment removal from the normal flow channel and lower end of arroyos, floodway leveling, a vegetative management program, road shaping and resurfacing, replacement of rock bank riprap and other basic maintenance of the IBWC's physical plant and assets. In 1996 the IBWC stopped dredging silt from the river channel, contrary to the 1977 Environmental Impact Study.

P20-2 The floodway must be kept clean and free of any debris and vegetation that will hamper the water flow. The main canal or channel must be kept clean and the sediment must be removed. All river and irrigation structures need to be well maintained and in operation. All of these steps must be done in order for flood control and water distribution.

P20-3 We are in favor of the No Action Alternative <u>excluding</u> the Memorandum of Understanding.

Sincerely,

Mike Dutton
Manager

Comment Letter P21

DILA PROPERTIES, INC.
P.O. BOX 2075
CANUTILLO, TEXAS 79835

February 27, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, Texas 79902

P21-1 At this time, we would like to express our concerns on the operations of the Rio Grande River Project. In 1977 the IBWC conducted an Environmental Impact Study pursuant to the recently passed National Environmental Protection Act, on the operation and maintenance of the Rio Grande Canalization Project. It allowed for and included sediment removal from the normal flow channel and lower end of arroyos, floodway leveling, a vegetative management program, road shaping and resurfacing, replacement of rock bank riprap and other basic maintenance of the IBWC's physical plant and assets. In 1996 the IBWC stopped dredging silt from the river channel, contrary to the 1977 Environmental Impact Study.

P21-2 The floodway must be kept clean and free of any debris and vegetation that will hamper the water flow. The main canal or channel must be kept clean and the sediment must be removed. All river and irrigation structures need to be well maintained and in operation. All of these steps must be done in order for flood control and water distribution.

P21-3 We are in favor of the No Action Alternative <u>excluding</u> the Memorandum of Understanding.

Sincerely,

Mike Dutton

Mike Dutton
Manager

AGCOM

Comment Letter P22

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa St. C-310
El Paso, TX 79902

Dear Mr. Echlin:

P22-1 As a long-time farmer and water rights owner I am deeply concerned about the Draft Environmental Impact Study being done by the IBWC. Any decision made will have serious and direct consequences upon the availability and use of the Rio Grande. As we all are very aware the Rio Grande has been an intregal part of our history and livelihood. Any change in the channel design and purpose of the water would be detrimental to this area.

P22-2 In my opinion the "No Action Alternative" with the terms and condition of the Memorandum of Understanding excluded is the best management alternative for this area. I appreciate your attention to this matter.

Sincerely,

Mike McNamee

217 OLEANDER • EL PASO, TEXAS 79922 • (915) 833-6364

Comment Letter P23

From: Joe Nelson
4901 Vinton Rd.
Anthony, NM 88021

February 27, 2004

To: Mr. Douglas Echlin
USIBWC
4171 North Mesa Street, C-310
El Paso, Texas 79902

COMMENTS FOR: Draft Environmental Impact Statement (DIEIS) on River Management Alternatives for the Rio Grande Canalization Project.

First of all so you know where this comment is coming from; I am a dirt Farmer. The only income I have comes from Farming. The land I own was not given to me by anyone. The land that is not paid for I am obligated to keep making the payments every year or I loose that Farmland. I worked every day for 33 ½ years at the same time I was farming to be able to get part of this land all paid for. I have a big investment in the Mesilla Valley. Actually my whole working life's investment is in these farms I own. This is my 401K Plan. I do not have retirement coming from some Government Agency until I die.

P23-1 It was my understanding that the **IBWC's** **duties** are to efficiently **deliver water** into the **Elephant Butte Lake and To EBID, EP#1 and Mexico 's Farmers**. Not to build habitat for more birds, fish and wild animals that hinder us Farmers getting water from the River, and use our **precious water**. There is a tremendous amount of habitat already along the Rio Grande River and the Drainage Canals. Not to mention all the Federal and State Land we have in New Mexico. **We here in New Mexico already have Thousands upon Thousands of Acres dedicated to habitat for these critters.**

P23-2 I've lived in this Mesilla Valley since 1956. It seems to me at that time; I only saw Squirrels and Foxes in one rock pile by the Rio Grande South of Vado, New Mexico. Now they are very widespread throughout this Mesilla Valley. Birds have also increased all up and down this Farmland. This is due to a lot more habitat with the Pecan Orchards, Drains growing up, and Farmers using Pesticides that are much less harmful to wildlife. Do we get any credit for this? There used to not be any White Winged Dove in this Mesilla Valley. Now they are just thick at my house and Farm Southwest of Anthony, NM. I had several Coons come by the house. We also see Foxes regularly. Coyote's come by occasionally. Skunks have been a real bad problem and we have had to trap them and call the Animal Control to get them. If you have ever had a Dog that you sleep with get sprayed by a skunk you would understand this better.
Birds of all kinds are very plentiful out here in the Mesilla Valley. I fail to see the need for more. They are almost at nuisance quantities now.

P23-3 **It is my sincere belief that the IBWC is responsible to the water users and the parties of use. You should be doing whatever needed to keep the River Channel clear in order for water to get into the Elephant Butte Reservoir and to run Smoothly down to us from Caballo Dam.**

P23-4 **The No Action Alternative, with the terms and conditions of the MOU excluded, is the best management alternative for us.**

Sincerely,

Joe A. Nelson

Joe A. Nelson

February 8, 2004

Comment Letter S01

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 N. Mesa St., C-310
El Paso, TX 79902

Re: Draft Environmental Impact Statement
River Management Alternatives for the Rio Grande Canalization Project

Dear Doug:

I appreciate the work that has gone into developing and evaluating the river management alternatives for the Rio Grande Canalization Project. The U.S. Section of the International Boundary and Water Commission (USIBWC) is to be commended for its commitment to improving ecological conditions along the Rio Grande consistent with its water-delivery and flood-control responsibilities and treaty mandates.

S01-1 Of the alternatives evaluated in the draft environmental impact statement, the **Targeted River Restoration Alternative** clearly would do the best job improving ecological conditions along the Rio Grande in the Canalization Project reach. I hope the USIBWC will select it as the preferred alternative.

S01-2 The Targeted River Restoration Alternative provides a good framework and starting point for integrating ecosystem considerations more fully into management of the Rio Grande. The measures that are unique to this alternative, such as controlled water releases for overbank flooding and re-opening former river meanders, are especially important for establishing and maintaining elements of native ecosystems within the Canalization Project.

S01-3 I am disappointed not to see more linear and point projects identified for the southern river management units. I hope that, as the USIBWC begins to implement the Targeted River Restoration Alternative and gains experience with the different management approaches in it, you will seek opportunities to apply those approaches more widely within the Canalization Project.

Very truly yours,

John Sproul

John Sproul
601 West Yandell Dr. #25
El Paso, TX 79902

Comment Letter S02

February 17, 2004

Mr. Douglas Echlin
USIBWC Environmental Management Division
4171 North Mesa C-310
El Paso, TX 79902

Dear Mr. Echlin:

S02-1 I support the TARGETED RIVER RESTORATION alternative, but it does not go far enough. I agree with the Southwest Environmental Center's view and propose the following additions:

S02-2 Let nature do the work:

Use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate areas between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosysem.

Assist nature by:

removing channel armoring to let river meander between the levees;
lowering banks to maximize the area that can be flooded between the levees;
planting native vegetation and controlling non-native species such as salt cedar;
install structures in channel to create aquatic habitat diversity, e.g. boulders;
maintain minimum winter flows to support fish;
create wetlands connected to river, like Picacho Wetlands;
phase out all mowing and grazing everywhere unless these activities serve clear restoration and/or flood management purposes;
extend restoration measures downstream of Mesilla Dam: meanders, native vegetation plantings, conservation easements.

Establish 20 year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
Use better modeling (two-dimensional) to determine if/where current levees are inadequate. The final EIS should be delayed until this modeling is completed.
Where additional flood protection is needed, give priority to river friendly measures: flood easements, wetlands, levee setbacks. Raise levees or build new ones only as a last resort.
Work with local governments to disscourage additional development near river.

Sincerely,

Geri Tillett

Mrs. Geri Tillett
2140 Gladys, Las Cruces, NM 88001

Comment Letter S03

February 17, 2004

Mr. Douglas Echlin
USIBWC Environmental Management Division
4171 North Mesa C-310
El Paso, TX 79902

Dear Mr. Echlin:

S03-1 I support the TARGETED RIVER RESTORATION alternative, but it does not go far enough. I agree with the Southwest Environmental Center's view and propose the following additions:

S03-2 Let nature do the work:

Use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate areas between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosysem.

Assist nature by:

removing channel armoring to let river meander between the levees;
lowering banks to maximize the area that can be flooded between the levees;
planting native vegetation and controlling non-native species such as salt cedar;
install structures in channel to create aquatic habitat diversity, e.g. boulders;
maintain minimum winter flows to support fish;
create wetlands connected to river, like Picacho Wetlands;
phase out all mowing and grazing everywhere unless these activities serve clear restoration and/or flood management purposes;
extend restoration measures downstream of Mesilla Dam: meanders, native vegetation plantings, conservation easements.

Establish 20 year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
Use better modeling (two-dimensional) to determine if/where current levees are inadequate. The final EIS should be delayed until this modeling is completed.
Where additional flood protection is needed, give priority to river friendly measures: flood easements, wetlands, levee setbacks. Raise levees or build new ones only as a last resort.
Work with local governments to disscourage additional development near river.

Sincerely,

Robin Tillett

Mrs. Robin Tillett
451 N. Roadrunner Pkwy Apt. 610
Las Cruces, NM 88011

Comment Letter S04

19 February 2004
4845 Grider Rd.
Las Cruces, NM
88007-6840

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC
4171 North Mesa Street, C-310
El Paso, Texas 79902

Subject: Comments on Draft Environmental Impact Statement (DEIS) on River Management Alternatives for the Rio Grande Canalization Project

SO4-1 1. IBWC's functions are the efficient delivery of water and flood protection. IBWC cannot change its focus to promote environmental changes.

SO4-2 2. Several years ago, the IBWC entered into an agreement with the Southwest Environmental Center to stop the mowing of certain areas along the river and to plant hundreds of cottonwood trees without any water rights, these actions remove water out of the river system and should be stopped. In fact IBWC should again start mowing operations and should remove any planted trees.

SO4-3 3. Major construction for additional flood control is unnecessary, so long as the riverbed is dredged and maintained according to the legal requirements under which the IBWC operates. The "No Action" alternative in the DEIS, with the SWEC agreement measures removed, is the proper choice.

SO4-4 4. Pro-environmental alternatives presented in the DEIS would result in perpetual removal of substantial amounts of water from its current productive uses. The IBWC has no water rights for these consumptive uses. Nothing could be worse for this area of New Mexico.

SO4-5 5. The proposed riparian restoration actions are completely outside IBWC's authority and would actually operate contrary to its designated mission of flood control and channel maintenance for efficient water delivery.

Please add these comments to your DEIS.

Michael D. Clelland

Sincerely,
Michael D. Clelland
Very Concerned Water User

cc: Elephant Butte Irrigation District

Comment Letter S05

February 19, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

S05-1 If only the Alternatives presented in your Draft Environmental Impact Statement may be considered we strongly recommend adoption of Alternative Four. Even that falls short of what is necessary to undo some of the damage which past and present operations have done.

S05-2 We strongly recommend actions which will broadly restore the physical and ecological health of the Rio Grande while maintaining flood control and water delivery. Specifically we urge restoring natural meanders and streamside habitat; cessation of grazing and mowing of vegetation along the river which inhibits vegetation growth, and consideration of all the restoration options outlined in the 1999 agreement between and IBWC and the Southwest Environmental Center.

S05-3 Many of the options which would improve the environment would also improve the situation for farmers and ranchers, farmers, and the general public. Saltcedar management increasing available water, the benefits of trees absorbing pollutants, providing shade reducing evaporation, and all plants improving air quality are examples of such universal benefits Such benefits should be included in the EIS. The capital costs of changes are detailed in the EIS but there is no indication of the annual operating and maintenance costs.

S05-4

S05-5 A friend who lives near the river has noticed that the mowing disturbs or destroys the nests and young of meadowlarks who live along the edges of the river. This is only one example of the damage being done.

In conclusion, we have an historic opportunity to reverse the ecological death to which the river is being subjected. Please take advantage of this or our children may never know what a river is.

Sincerely,

Joseph A Groff
9151 Mt Etna
El Paso, TX 79924
Tel & Fax (915) 755-2957
joeandinga@peoplepc,com

Ingeborg M Groff
9151 Mt Etna
El Paso, TX 79924
Tel & Fax (915) 755-2957

Comment Letter S06

CASSANDRA LOCKWOOD
PO # 1087
MESILLA, NM 88046
2-19-04

2-029

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the lower Rio Grande, and the revision of the Canalization Project currently being updated by the International Boundary and Water Commission. I believe this is an important opportunity to undo much of the damage that has been done to the Rio Grande over the past century.

S06-1

I strongly urge the IBWC to develop a management plan that broadly restores the physical and ecological health of the Rio Grande and restores a more natural river channel, while providing flood protection and water delivery. However, the options outlined in the Draft Environmental Impact Statement fail to meet this goal, would bring little ecological benefit, and falls short of the restoration potential for the Rio Grande. I strongly urge the IBWC to develop a new river restoration alternative that fulfills the IBWC's 1999 agreement with the Southwest Environmental Center. This alternative should include the following measures:

S06-2

1) Aggressively restore the natural meanders and streamside habitats of the Rio Grande
2) Acquires water rights from willing sellers to help restore streamside ecosystems
3) Uses innovative approaches, including purchase of land from willing sellers, for flood control rather than traditional engineering approaches such as levees
4) Ceases the grazing and mowing of vegetation along the river that is inhibiting vegetation growth
5) Includes complete modeling and analysis to determine the true need for flood control works
6) Considers all the restoration options outlined in the scope of the 1999 agreement between the IBWC and the Southwest Environmental Center

S06-3

The development of this Canalization EIS is an important and historic opportunity to reverse the slow ecological death that the lower Rio Grande has suffered. To take advantage of this opportunity, the IBWC must show vision and leadership by reaching beyond the narrow approaches that are mostly presented in the Draft EIS. The Southwest Environmental Center, of which I am a member, has put forth this vision, and I endorse the recommendations made by SWEC for the IBWC to help restore the Rio Grande.

Thank you for your concern, and I look forward to your response on this urgent issue.

Sincerely,

Cassandra Lockwood

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Building
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Building
Washington, D.C. 20510

Comment Letter S07

February 20, 2004

Dear Mr Echlin.

S07-1 It has been brought to our attention some of the reasons that you are no longer taking care of the River as was your original assignment.

We have known for sometime that the Environmental group has tried to rule but it is time for all the peoples to take issue with some of their stands

S07-2 The river needs to be cleaned out so it can run more freely & straighter. The area needs to be kept clean the timber weeds are terrible & keep all the ditches stopped up.

S07-3 Planting trees that soak up more water is not the answer either

I appreciate you looking at all issues

Sincerely
Allen & Patty Emery

Comment Letter S08

Mr. and Mrs. L.E. Archer
1704 Archer Farm RD.
La Mesa, NM 88044

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Envionmental Management Division
4171 North Mesa Street, C-310
El Paso, TX; 79902

Dear Sir:

As a matter of Introduction. I spent eighteen years on the Board of Directors of E.B.I.D., MOST of that time as President. and we were constantly wary of any actions of Outside Entities that would adversely affect our water supply or operation of our DISTRICT.

S08-1 It has come to my attention that the IBMC plans to cease mowing the inherant vegetation, sediment dredging, planting trees, and other practices which will,in effect, create an animal habitat where none exist at present.

S08-2 In view of the IDIOTIC program now existing in the Upper Rio grande to protect the valueless tiny minnow caused by the so-called ENVIRONMENTALIST, AND the results thereof, I can fully realiize the affect on my water supply of the afore mentioned actions.

S08-3 Even tho I have long since retired I am vitally dependant upon a dependable supply of water for my farm. So, I must object to an actions taken that will lessen such supply.

S08-4 Please note my vigorous PROTEST of the proposed program of the IBMC.

Respectfully yours;

L.E.ARCHER.

22

Comment Letter S09

Nubia Ortiz
832 Stefanie Ct.
Las Cruces, NM 88005

February 22, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

S09-1

I write to express my concern regarding the future of the lower Rio Grande, and the revision of the Canalization Project currently being updated by the International Boundary and Water Commission. I believe this is an important opportunity to undo much of the damage that has been done to the Rio Grande over the past century.

I strongly urge the IBWC to develop a management plan that broadly restores the physical and ecological health of the Rio Grande and restores a more natural river channel, while providing flood protection and water delivery. However, the options outlined in the Draft Environmental Impact Statement fail to meet this goal, would bring little ecological benefit, and falls short of the restoration potential for the Rio Grande. I strongly urge the IBWC to develop a new river restoration alternative that fulfills the IBWC's 1999 agreement with the Southwest Environmental Center. This alternative should include the following measures:

S09-2

1) Aggressively restore the natural meanders and streamside habitats of the Rio Grande
2) Acquires water rights from willing sellers to help restore streamside ecosystems
3) Uses innovative approaches, including purchase of land from willing sellers, for flood control rather than traditional engineering approaches such as levees
4) Ceases the grazing and mowing of vegetation along the river that is inhibiting vegetation growth
5) Includes complete modeling and analysis to determine the true need for flood control works
6) Considers all the restoration options outlined in the scope of the 1999 agreement between the IBWC and the Southwest Environmental Center

S09-3

The development of this Canalization EIS is an important and historic opportunity to reverse the slow ecological death that the lower Rio Grande has suffered. To take advantage of this opportunity, the IBWC must show vision and leadership by reaching beyond the narrow approaches that are mostly presented in the Draft EIS. The Southwest Environmental Center, of which I am a member, has put forth this vision, and I endorse the recommendations made by SWEC for the IBWC to help restore the Rio Grande.

Thank you for your concern, and I look forward to your response on this urgent issue.

Sincerely,

Nubia Ortiz

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Building
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Building
Washington, D.C. 20510

Comment Letter S10

February 22, 2004

To Whom It May Concern:

I have lived in the Hatch Valley all my life. I have played along the Rio Grande River as a boy. I have enjoyed the river all my life. My dad used to tell me when there were no levies along the river. I have been here long enough to see the river reach almost to the top of the river levees. One of the most beautiful things in the valley is the Rio Grande River.

S10-1

However, I am also a farmer and the fact that there is no mowing along the river has caused considerable damage to my farms. Because the weeds such as tumble weeds and kosha are no longer mowed they have become a problem. I now have the extra cost hoeing labor and herbicides to keep these very weeds out of my fields. These same weeds plug up my ditches and when they are dirt ditches this causes flooding and the breaking of the ditch.

S10-2

I also am concerned with the amount of cottonwood trees allowed to grow along the river. In the past, when we would get a severe storm the cottonwood trees uprooted by the fast running water would get caught along the bridges and could have caused flooding. I believe that we need to maintain the river in such a manner as to keep this from happening.

S10-3

Also, now we have a overpopulation of young Salt Cedar Trees. As you know, Salt Cedar Trees use a lot of water. And in our current situation of the drought, I feel we need to take all measures to conserve our water.

S10-4

I have included some pictures of the islands in the river that are affecting the river flow and the erosion of the river banks. I feel that we need to maintain the channel of the river to keep these islands from being created.

S10-5

I just want you to know that as a farmer I love the land and love all living and growing things. However, we need to maintain the vegetation along the river to prevent the above things I mentioned.

Signed,

Jerry Franzoy

Jerry Franzoy

Comment letter S11

THIS IS TREE FREE PAPER MADE OF 100% KENAF

Jess Alford Photography
easyjess@ecoisp.com

Thirty Four Easy Street
Tijeras, NM 87059 8002
Ph 505 286 0802
Fx 505 286 0803

2/23/04

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the lower Rio Grande, and the revision of the Canalization Project currently being updated by the International Boundary and Water Commission. I believe this is an important opportunity to undo much of the damage that has been done to the Rio Grande over the past century.

S11-1 I strongly urge the IWBC to develop a management plan that broadly restores the physical and ecological health of the Rio Grande and restores a more natural river channel, while still providing flood protection and water delivery. However, the options outlined in the Draft Environmental Impact Statement fail to meet this goal, would bring little ecological benefit, and fall short of the restoration alternative that fulfills the IBWC's 1999 agreement with the Southwest Environmental Center. This alternative should include the following measures:

S11-2 1) Aggressively restore the natural meanders and streamside habitats of the Rio Grande.
2) Acquire water rights from willing sellers to help restore streamside ecosystems.
3) Use innovative approaches, including purchase of land from willing sellers, for flood control rather that traditional engineering approaches such as levees.
4) Cease the grazing and mowing of vegetation along the river that is inhibiting vegetation growth.
5) Include complete modeling and analysis to determine the true need for flood control works.
6) Consider all the restoration options outlined in the scope of the 1999 agreement between the IBWC and Southwest Environmental Center.

S11-3 The development of this Canalization EIS is an important and historic opportunity to reverse the slow ecological death that the lower Rio Grande has suffered. To Take advantage of this opportunity, the IBWC must show vision and leadership by reaching beyond the narrow approaches that are mostly presented in the Draft EIS. The Southwest Environmental Center, of which I am a member, has put forth this vision and I endorse the recommendations made by SWEC for the IBWC to help restore the Rio Grande.

Thank you for your concern. I look forward to your response on this urgent issue.

Sincerely,

Jess Alford

cc: Governor Bill Richardson

Senator Jeff Bingaman

Senator Pete Domenici

Comment letter S12

February 23, 2004

Commissioner Arturo Durán
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, Texas 79902

SUBJECT: Future of the lower Rio Grande

Dear Commissioner Durán,

I write to express my concern regarding the future of the lower Rio, and the revision of the Canalization Project currently being updated by the International Boundary and Water Commission (IBWC). I believe this is an excellent opportunity to undo much of the tremendous damage that has been done to the Rio Grande over the past century.

S12-1 I strongly urge the IBWC to develop a management plan that broadly restores the physical and ecological health of the Rio Grande and restores a more natural river channel, while providing flood protection and water delivery. Regretfully, the options outlined in the Draft Environmental Impact Statement fail to meet this goal; they bring little ecological benefit and fall short of the restoration potential of the Rio Grande. I strongly urge the IBWC to develop a new river restoration alternative that fulfills the IBWC's 1999 agreement with the Southwest Environmental Center. This restoration alternative should include the following characteristics:

S12-2

1. Aggressively restores the natural meanders and streamside habitats of the Rio Grande.
2. Acquires water rights from willing sellers to help restore streamside ecosystems.
3. Uses innovative approaches to flood control, including purchase of land from willing sellers, rather than traditional engineering approaches such as levees.
4. Ceases the grazing and mowing of vegetation along the river that is inhibiting vegetation growth.
5. Includes complete modeling and analysis to determine the true need for flood control works.
6. Considers all the restorations options outlined in the scope of the 1999 agreement between the IBWC and the Southwest Environmental Center.

S12-3 The development of this Canalization EIS is an important and historic opportunity to reverse the slow ecological death that the lower Rio Grande has suffered. To take advantage of this opportunity, the IBWC must show vision and leadership by reaching beyond the narrow approaches presented in the Draft EIS. The Southwest Environmental Center, of which I am a member, has put forth the above outlined vision to help restore the Rio Grande, which I fully endorse.

Thank you for your consideration. I look forward to your response on this urgent issue.

Sincerely yours,

Josefina Alvarez
4808 Gambel Court
Las Cruces, NM 88011

cc: Governor Bill Richardson, Senator Jeff Bingaman, Senator Pete Domenici

Comment Letter S13

2 - 23 - 2004

Dear Commissioner Duran,

I remember the Rio Grande when it was truly grand. It meandered in beauty and health.

Now even the meadowlark nests are crushed under mowers. The trees are gone. The grand is gone.

Our capacity to destroy is so much greater than our understanding that [illegible] can produce unpredictable results. - Panzer

As you are well aware the straightening of the river created more problems than solutions.

S13-1 Please do what you can to give us back our natural, grand river.

Sincerely,

Helen Bigelow
P.O. Box 2627
Anthony, NM
88021

Comment Letter S14

23 February, 2004

Mr. Douglas Echlin
Lead Environmentalist Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa St., C-310
El Paso, Texas 79902

Dear sir:

You are undoubtedly aware of the history of the International Boundary and Water Commission involvement with the Southwest Environmental Center dating back to the Nov. 1999 meeting with Commissioner Carlos Ramirez and staff members from the IBWC regarding the Draft Environmental Impact Statement being done by the IBWC on management practices for the Rio Grande Canalization Project. The DEIS has finally been released for public comment, after which a decision will be made as to which management alternative is adopted. Any decision made will have serious and direct consequences on the availability and use of river water in our area.

S14-1 It is our considered opinion that of the possible four management alternatives, the NO ACTION ALTERNATIVE with the terms and conditions of the MOU (between the IBWC and SWEC in 1999) EXCLUDED is the best management alternative for us. Any other alternative stands to take water out of productive and beneficial use. It should be noted that the No Action Alternative includes provisions of the MOU with the SWEC and no dredging, both of which were not subject to the proper legal and environmental review. In the absence of any Endangered or Threatened Species what requires the IBWC to consider habitat restoration for any reason?

S14-2

S14-3 How is the IBWC addressing the ongoing drought and the conservation of our precious water resource, instead of creating additional uses?

S14-4 The IBWC's mandate if flood control and insuring contractual deliveries of water. Following the intent and letter of the law is the best way to avoid lawsuits.

Any other alternative will change the river's channel design and purpose as a water conveyance system. The IBWC is responsible to water users and parties of use exclusively!

Yours truly,

John K. Clayshulte, Sr.

John K. Clayshulte, Sr.
P.O. Box 117
Mesilla, N.M. 88046

Comment Letter S15

February 23, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Sir,

S15-1 I strongly recommend that the International Boundary and Water Commission (IBWC) adopt the No Action Alternative of the Draft Environmental Impact Study (DEIS) with the terms and conditions of the Memorandum of Understanding (MOU) between Southwest Environmental Center (SWEC) and IBWC excluded.

S15-2 I believe that when the IBWC entered into the MOU with SWEC without an Environmental Impact Study (EIS) it did so without respect to the law.

S15-3 The MOU calls for among other things, no mow zones, the establishment of tree thickets along the Right of Way (ROW), and creating wildlife habitat and estauaries. The waters of the Rio Grande are fully appropriated-where is the water to come from to support these projects?

S15-4 On two occasions, in the past ten years I have witnessed the Rio Grande over running its channel and extending onto the Right of Way (ROW) up to the levee banks. Any development that impedes the proper flow of water is dangerous and contrary to the mandate of the IBWC.

S15-5 The mandate of the IBWC is to assure contractual deliveries of water, to maintain the conveyance system, and to provide flood control along the Rio Grande. It is ultimately responsible to the water users and to the various parties of use including Elephant Butte Irrigation District, El Paso Water Improvement District #1 and the Republic of Mexico.

S15-6 The Rio Grande Canalization Project has served its purpose well and has allowed for the development of the Hatch, Rincon, Mesilla, and El Paso valleys. Let's continue to manage the ROW as it has been done in the past. It is an effective proven strategy that will provide for efficient water delivery and flood control in the future.

Sincerely,

Marshall Clayshulte

Marshall Clayshulte
P.O. Box 773
Mesilla, NM 88046

Comment Letter S16

2/23/04

Att. Mr Douglas Echlin
Subject (DEIS)

Dear Mr Echlin I have been a Farmer in the mesilla Valley For over 20 years & have enjoyed our beautiful Rio Grande when water is Flowing smooth through this Channel. For the past Four or Five years as you know we have not had a very high Flow of water through our river however things could change at any time, especially in our wet months and hopefully the river will be able

S16-1 to acomodate any unusual Flow of water in a sadden down pour, it has happened in the past. I have no objection to planting trees along the river but surely not in the bounderies of the levies which would interfere with the Flow of water. This could only create a restriction of water Flow.

Sincerely

Edward Provencio
P.O. Box 38
Chamberino, NM
88027

Comment Letter S17

(NAME) Mrs. Lorraine Schultz
(ADDRESS) 1740 Mamaxa, Las Cruces, N.M. 88001

(DATE) Jul. 23, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the lower Rio Grande, and the revision of the Canalization Project currently being updated by the International Boundary and Water Commission. I believe this is an important opportunity to undo much of the damage that has been done to the Rio Grande over the past century.

S17-1

I strongly urge the IBWC to develop a management plan that broadly restores the physical and ecological health of the Rio Grande and restores a more natural river channel, while providing flood protection and water delivery. However, the options outlined in the Draft Environmental Impact Statement fail to meet this goal, would bring little ecological benefit, and falls short of the restoration potential for the Rio Grande. I strongly urge the IBWC to develop a new river restoration alternative that fulfills the IBWC's 1999 agreement with the Southwest Environmental Center. This alternative should include the following measures:

S17-2

1) Aggressively restore the natural meanders and streamside habitats of the Rio Grande
2) Acquires water rights from willing sellers to help restore streamside ecosystems
3) Uses innovative approaches, including purchase of land from willing sellers, for flood control rather than traditional engineering approaches such as levees
4) Ceases the grazing and mowing of vegetation along the river that is inhibiting vegetation growth
5) Includes complete modeling and analysis to determine the true need for flood control works
6) Considers all the restoration options outlined in the scope of the 1999 agreement between the IBWC and the Southwest Environmental Center

S17-3

The development of this Canalization EIS is an important and historic opportunity to reverse the slow ecological death that the lower Rio Grande has suffered. To take advantage of this opportunity, the IBWC must show vision and leadership by reaching beyond the narrow approaches that are mostly presented in the Draft EIS. The Southwest Environmental Center, of which I am a member, has put forth this vision, and I endorse the recommendations made by SWEC for the IBWC to help restore the Rio Grande.

Thank you for your concern, and I look forward to your response on this urgent issue.

Sincerely,

(NAME) Mrs. Lorraine Schultz

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Building
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Building
Washington, D.C. 20510

Comment Letter S18

ROBERT (TITO) MEYER, LAWYER

AUTO ACCIDENTS, PERSONAL INJURY AND WRONGFUL DEATH
FAMILY LAW, INCLUDING COLLABORATIVE DIVORCE

HADLEY AT CHURCH STREET
POST OFFICE BOX 1628
LAS CRUCES, NM 88004-1628

PHONE: (505) 524-4540
FAX: (505) 526-3286
E-MAIL: tito@zianet.com

February 24, 3004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran:

S18-1 I am writing about the revision of the IBWC's updating of the Canalization Project., I understand that the Draft Environmental Impact Statement's options fail to restore a more natural river channel and the physical and ecological health of the Rio Grande River.

S18-2 The IBWC should develop a new river restoration alternative that fulfills the IBWC's 1999 agreement with the Southwest Environmental Center. As a member of the SWEC, I endorse the recommendations made by SWEC.

Thank you,

Robert (Tito) Meyer

Comment Letter S-19

2008 Calle de El Paso
PO Box 548
Mesilla NM, 88046
505-647-2780
ppirtle@totacc.com

Douglas Echlin
Lead Environmental Protection Specialist
USIBWC
4171 North Mesa Street, C-310
El Paso, Texas 79902

Dear Mr. Echlin

I am writing to comment on:

Draft Environmental Impact Statement (DEIS) on River Management Alternatives for the Rio Grande Canalization Project

S19-1 I object to the USIBWC expanding its statutory charter to promote "environmental changes" to the riverbed of the Rio Grande. I believe your charter to be the efficient delivery of water and flood protection.

S19-2 I also object to USIBWC making and implementing agreements with the Southwest Environmental Center to stop mowing along the Rio Grande, to plant cottonwoods along the river, and to modify the channel of the river for other than water delivery and flood protection.

S19-3 I also object to USIBWC spending any resources in support of grazing lease management, restoration of meanders, and other so-called "environmental measures"

S19-4 I also object to USIBWC pursuing a "stealth" implementation of "River Management Alternatives" without conducting or advertising public hearings in New Mexico. I understand that the only official public hearing was held January 27, 2004 in El Paso Texas. It is clear the principal impact of proposed "River Management Alternatives" will be in Doña County, New Mexico but no opportunity has been provided to farmers and surface water right holders in Doña County to make input to the plan.

S19-5 I also object to USIBWC allowing Southwest Environmental Center to implement any control, either directly or indirectly, on water flow in the Rio Grande without the purchase of surface water rights sufficient to offset the negative impact to water quantity in the Rio Grande. Please take action immediately to prevent further negative impact to water quantity in the Rio Grande by Southwest Environmental Center initiatives.

S19-6 Major construction for additional flood control is unnecessary, so long as the riverbed is dredged and maintained according to the legal requirements under

S19-7 which the IBWC operates. I demand that you implement the "No Action" alternative in the DEIS, with all Southwest Environmental Center agreement measures removed.

S19-8 Pro-environmental alternatives presented in the DEIS would result in perpetual removal of substantial amounts of water from current productive uses. IBWC has no water rights for these consumptive uses.

S19-9 The proposed riparian restoration actions are completely outside IBWC authority and are counter to its designated mission of flood control and channel maintenance for efficient water delivery.

Once again, I demand that you implement the "No Action" alternative in the DEIS, with all Southwest Environmental Center agreement measures removed.

Paul E. Pirtle

Cc: Elephant Butte Irrigation District
P.O. Drawer 1509
Las Cruces, NM 88004-1509

Comment Letter S20

Bob Bauman

3100 Mesilla Hills Dr.
Las Cruces, New Mexico 88005
phone: (505) 527-2115 fax: (505) 527-2115
email: bobb@theonlynet.net

February 25, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, Texas 79902

Mr. Echlin

Thank you for sending me a copy of the DEIS on the RGCP. While I haven't the time or expertise to provide a detailed critique I would make several points.

S20-1 Given the extremely degraded condition of the 'river' corridor the only option worthy of consideration is the Targeted River Restoration Alternative (TRRA). While this plan would be a definite improvement it doesn't go nearly far enough. It seems obvious that to produce a healthy river corridor mowing must be severely curtailed. Could a more targeted program of mowing or spraying only certain species (salt cedar) be implemented? Perhaps local volunteers could provide some of the labor.

S20-2 From Table ES-2. How does a water consumption increase of 1.55% result In a 16.6% cropland retirement?

S20-3 I don't find any reference to enhanced recreational opportunities for local residents that would result from the TRRA. A healthy and attractive river corridor would be a quality of life improvement with positive economic implications for the area.

Thank you for your consideration.

Bob Bauman

Bob Bauman

Comment Letter S21

913 B Tepic
El Paso, TX 79912

February 25, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Mr. Douglas Echlin:

I am writing in regards to the Draft Environmental Impact Study being done by the International Boundary and Water Commission on the management practices for the Rio Grande Canalization Project. Of the four alternatives presented, the "No Action" alternative is the one that will benefit the upper valley farmers.

S21-1

The IBWC needs to concentrate it's efforts in the area of flood control and contractual water deliveries. As such, the IBWC needs to address the drought and it effect on area farmers. The sight of the dry river bed only enforces this fact.

S21-2

Please chose the "No Action" alternative and conserve our water.

Sincerely,

P. Williams

Patricia Sykes Williams

Comment Letter S22

P.O. Box 572
Anthony, NM 88021

February 25, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Mr. Douglas Echlin:

I have been informed about the Draft Environmental Impact Study being done by the International Boundary and Water Commission for the Rio Grande Canalization Project. I have reviewed the four alternatives that are being considered and have come to the conclusion that the "No Action" alternative is the one that will benefit the agricultural industry the best. S22-1

The IBWC's responsibilities are in flood control and in contractual water delivery. It seems to me that the IBWC is trying to get into areas where it has no business, by creating "No Mow" and "Green" zones. Habitat restoration should only be considered when there is an endangered or threatened species. Otherwise habitat restorations will only create an additional strain on our already limited water supply. Every day that I drive across the Anthony bridge, I am saddened by sight of the dry river bed. The IBWC needs to address the water drought and its effect on the agricultural industry. The IBWC needs to remember it has a responsibility to the water users. S22-2 S22-3 S22-4

Please chose the "No Action" alternative, which will benefit the future of farmers.

Sincerely,

Irma Sykes Wright

Comment Letter 23

(NAME)
(ADDRESS)

(DATE)

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the lower Rio Grande, and the revision of the Canalization Project currently being updated by the International Boundary and Water Commission. I believe this is an important opportunity to undo much of the damage that has been done to the Rio Grande over the past century.

S23-1

I strongly urge the IBWC to develop a management plan that broadly restores the physical and ecological health of the Rio Grande and restores a more natural river channel, while providing flood protection and water delivery. However, the options outlined in the Draft Environmental Impact Statement fail to meet this goal, would bring little ecological benefit, and falls short of the restoration potential for the Rio Grande. I strongly urge the IBWC to develop a new river restoration alternative that fulfills the IBWC's 1999 agreement with the Southwest Environmental Center. This alternative should include the following measures:

S23-2

1) Aggressively restore the natural meanders and streamside habitats of the Rio Grande
2) Acquires water rights from willing sellers to help restore streamside ecosystems
3) Uses innovative approaches, including purchase of land from willing sellers, for flood control rather than traditional engineering approaches such as levees
4) Ceases the grazing and mowing of vegetation along the river that is inhibiting vegetation growth
5) Includes complete modeling and analysis to determine the true need for flood control works
6) Considers all the restoration options outlined in the scope of the 1999 agreement between the IBWC and the Southwest Environmental Center

S23-3

The development of this Canalization EIS is an important and historic opportunity to reverse the slow ecological death that the lower Rio Grande has suffered. To take advantage of this opportunity, the IBWC must show vision and leadership by reaching beyond the narrow approaches that are mostly presented in the Draft EIS. The Southwest Environmental Center, of which I am a member, has put forth this vision, and I endorse the recommendations made by SWEC for the IBWC to help restore the Rio Grande.

Thank you for your concern, and I look forward to your response on this urgent issue.

Sincerely,

~~(NAME)~~ Pamela Hunt - 905 Conway #53 Las Cruces, NM 88005

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Building
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Building
Washington, D.C. 20510

Comment Letter S24

Mesilla, NM 88046
PO Box 113
26 February, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa St., C-310
El Paso, Texas 79902

Dear sir:

I am writing concerning the Draft Environmental Impact Statement (DEIS) prepared by the IBWC on management practices for the Rio Grande Canalization Project.

S24-1 I believe the best alternative to fulfill the mandate of the IBWC to control flooding and deliver water to the contracting parties is the NO ACTION ALTERNATIVE with terms of the MOU with SWEC excluded. The MOU was not adopted legally, therefore should have no force or effect. The best way for IBWC to avoid lawsuits is to follow the law as it pertains to IBWC's job. IBWC should certainly never have stopped removing silt from the river channel and should resume doing so immediately. S24-2

On Feb. 19, 2004, I attended a so-called "Unofficial Public Hearing" at SWEC offices in Las Cruces. There were a total of about 20 people at the meeting. Kevin Bixley stated that SWEC had considered endorsing the No Action Alternative but eventually decided to support the Targeted River Restoration Alternative. His reasoning was that none of the four alternatives presented went nearly far enough in meeting their ideas for the river.

Comment Letter S25

Mesilla, NM 88046
PO Box 113
26 February, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa St., C-310
El Paso, Texas 79902

Dear sir:

I am writing concerning the Draft Environmental Impact Statement (DEIS) prepared by the IBWC on management practices for the Rio Grande Canalization Project.

S25-1 I believe the best alternative to fulfill the mandate of the IBWC to control flooding and deliver water to the contracting parties is the NO ACTION ALTERNATIVE with terms of the MOU with SWEC excluded. The MOU was not adopted legally, therefore should have no force or effect. The best way for IBWC to avoid lawsuits is to follow the law as it pertains to IBWC's job. IBWC should certainly never have stopped removing silt from the river channel and should resume doing so immediately.

S25-2 On Feb. 19, 2004, I attended a so-called "Unofficial Public Hearing" at SWEC offices in Las Cruces. There were a total of about 20 people at the meeting. Kevin Bixley stated that SWEC had considered endorsing the No Action Alternative but eventually decided to support the Targeted River Restoration Alternative. His reasoning was that none of the four alternatives presented went nearly far enough in meeting their ideas for the river. SWEC's ideas can only be termed radical and are clearly in conflict with the stated program legally set forth for the IBWC. Bixby admitted his plans would require hundreds of millions of dollars to carry out. When I asked where the money would come from he replied that Congress would have to fund the proposed projects. His estimates, of course, do not consider economic losses to this area from the removal of water from beneficial use, and certainly do not include any multiplier applied to those losses to reflect shock waves throughout the regional economy. The predictable true effect would be many billions of dollars.

S25-3 My view is that these people are very few in number, very radical and uncompromising. It will prove to be impossible for the IBWC, which SWEC regards as a dinosaur, to satisfy this small group short of giving them complete control of the river and supplying them with the money to carry out their illegal plans. For this reason, it seems unwise to attempt to compromise with them.

Sincerely,
John K. Clayshulte Jr.
John Clayshulte, Jr.

Comment Letter S26

D. R. DARBYSHIRE
POST OFFICE BOX 220017
EL PASO, TEXAS 79913

February 26, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

RE: Draft Environmental Impact Statement - Rio Grande Canalization Project

Dear Mr. Echlin:

I have reviewed the Draft Environmental Impact Statement (DEIS) covering the different river management alternatives for the Rio Grande Canalization Project.

S26-1 It is my opinion that the only alternative remotely feasible is the No Action Alternative. Further, I think any and all conditions of the Memorandum of Understanding between your agency and the Southwest Environmental Center that are incorporated into the No Action Alternative should be eliminated. This Memorandum is illegal and if necessary will be challenged in court should it be incorporated into any final decision.

S26-2 The IBWC is engaged in little more than a water and property grab. I resent this and the fact that the government to which I owe my allegiance is putting all that I have, including my future, at risk. You are allowing a highly questionable interpretation of what the river might have looked like and the interests of a few birds and fish dictate your actions at the expense of the general public's greater good.

Sincerely,

Daniel R. Darbyshire

Comment Letter S27

JACK F. DARBYSHIRE

POST OFFICE BOX 4410
ANTHONY, NM 88021-4410

February 26, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

RE: Draft Environmental Impact Statement – Rio Grande Canalization Project

Dear Mr. Echlin:

I have reviewed the Draft Environmental Impact Statement (DEIS) covering the different river management alternatives for the Rio Grande Canalization Project.

S27-1

First, I feel strongly that the Memorandum of Understanding (MOU), by and between the International Boundary and Water Commission (IBWC) and the Southwest Environmental Center (SWEC), as well as the Categorical Exclusion granted on the MOU circumvents the spirit and intent of the National Environmental Protection Act. In so doing, it also violates any number of rules and regulations under the Act. Two separate legal opinions confirm these violations and non-compliance. Additionally, the fact little of what SWEC agreed to do under the MOU was done by SWEC and is now part of the DEIS being paid for by taxpayer dollars is an irritation to no end.

S27-2

It is my opinion that the only alternative remotely feasible is the No Action Alternative. Further, I think any and all conditions of the MOU that are incorporated into the No Action Alternative should be eliminated.

S27-3

The IBWC is overreaching its mandate and fiduciary responsibility by engaging in any activities outside of flood control and insuring contractual deliveries of water. In fact, it could easily be argued, and presented factually, that almost all of the IBWC's actions since 1996 have resulted in less available water, water of lesser quality and diminished flood protection. I think it is time the IBWC get back to the basics and start putting the people of the area and their livelihoods first instead of the interests of outside, elitist parties, with nothing at risk, determining the IBWC's mandate and actions.

Sincerely,

Jack F. Darbyshire

Jack F. Darbyshire

Comment Letter S28

Cynthia King
PO Box 1364
Las Cruces, NM 88004

26 February, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S28-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S28-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,
Cynthia King
Cynthia King

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S29

Stephen Klinger
1252 Shalem Colony Trail
Las Cruces, NM 88007

Feb. 26, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I am writing to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S29-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S29-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Stephen C. Klinger

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S30

Adrianus and Gertrud Konings
417 Valplano Drive
El Paso, TX 79912

El Paso, Feb 26th, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

We write to express our concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S30-1 We strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. We urge you to develop a new alternative which includes these measures:

S30-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. We encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Adrianus Konings

Gertrud Konings

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S31

Rebecca Miller

Thursday, February 26, 2004

Commissioner Arturo Duran
Mr. Douglas Echlin
International Boundary and Water Commission
United States Section
4171 North Mesa Street, C-310
El Paso, Texas 79902

RE: United States International Boundary and Water Commission (USIBWC) River Management Alternatives
Rio Grande Canalization Project (RGCP)
Draft Environmental Impact Statement (DEIS)

Dear Commissioner Duran and Mr. Echlin:

As a board member of the Rio Grande Citizens Forum (RGCF), my objectives in this introductory letter to my comments on the DEIS are in keeping with what I understand my position to entail. Firstly, I wish to convey the concerns of the agricultural and rural community (farmers and farming) regarding the agency's previous and proposed actions and secondly, offer my opinion on how to start resolving what has become a major controversy between the USIBWC and farmers.

To adequately communicate the issues, please allow me to provide some background for context. I became a board member in early 2002, and have since attempted to educate myself as best as possible regarding the agency's *reason for being* and consequent responsibilities. There has definitely been a learning curve and I hope you will forgive my initial ignorance and that which I'm sure remains - though I hope less so. And I ask the same of Elephant Butte Irrigation District (EBID) leaders who, like USIBWC, are expected to fulfill manifold responsibilities with limited resources. Both the agency and EBID have been more than gracious during my "education."

I have learned that the many issues with which our government agencies are dealing – particularly those of water in a desert - are far more complex than the average citizen can imagine. Our current situation reminds me of terms used to describe the river before it was "tamed": flood, drought, dynamic and the like. And while our region is in a very real drought, there is also a drought of information along with a rising flood of controversy, and we can only hope that this "dynamic" will bring us back to some equilibrium.

It has taken time to understand the nature of the controversy that has developed between the farmers and the agency – the focus of which is now the proposed actions in the DEIS. As you know, we must first clearly identify the problem before we can begin to resolve it. And this requires the transparency that is one of USIBWC's stated objectives of the RGCF. I will, therefore, speak plainly of what I conclude are the key issues. But I do so not to increase the "flood," but with the goal of assisting the agency in improving flood control if you will.

To put it as simply as possible, there are five major points of conflict which the agricultural and rural community contend, and which are reflected in the DEIS. These are:

S31-1a 1. That the USIBWC has incrementally but steadily compromised its water delivery and flood control mandates:

a. Water delivery has degraded over the past 7 years or so, with the sediment accumulation from lack of dredging becoming a growing problem: there are reports that sediment being deposited on farmland is increasing, that there is overbank flooding in some areas upstream below Percha, and that the channel is only 3 inches deep in areas downstream below El Paso;

b. Flood control deficiencies remain unresolved: some are worried that when the next flood comes, there will be serious losses – perhaps even lives – due to the deterioration of the channel and the fact that long-needed floodwalls haven't been built; on the other hand, some assert that if the channel and floodway were maintained as they should be, that this in itself would achieve adequate protection.

S31-1b 2. That the reason for this compromise of the agency's mandates is due to related incremental but steady pressures and threats from politically and financially powerful special interest environmental groups and the consequent redirecting of limited resources to accomplishing their demands and objectives. At the forefront of this group is Southwest Environmental Center (SWEC).

S31-1c 3. That SWEC's definitions and objectives have become the basis for the agency's definition of environmental enhancement and consequent proposed future actions, and that this has occurred through the process of adopting as *a priori* certain assumptions and terms that are inconsistent with the region's historic and present environmental needs and objectives.

S31-1d 4. That the USIBWC under this continual pressure and through compromise over time, has **erroneously** arrived at the position that it presently maintains, which is:

a. That the agency's new vision of its responsibilities regarding environmental stewardship is one it arrived at on its own, while farmers maintain that it is SWEC's vision;

b. That the agency's definition and subsequent environmental objectives are pursuant to our national environmental and farmland protection policies, while the farmers maintain that they are not;

c. That the agency's environmental objectives and proposed actions are pursuant to its environmental authority and do not compromise its historic mandates, while the farmers maintain that the USIBWC is acting beyond its authority and setting precedents that fundamentally compromise its mandates.

S31-1e 5. That the current DEIS is a result of all of the above, which is why it demonstrates:

a. A confusing and contradictory statement of need and purpose with respect to its proposed actions, which actions were *not* defined based on, our region's most significant issues of:

i. Increasing urban growth and sprawl, in addition to

S31-1e (cont'd)

ii. Decreasing farmland, farmland which is integral to the security of our food supply and the most significant existing contributor to the desert region's environmental quality, in addition to

iii. Decreasing water supply in a desert with a limited water supply, in addition to

iv. Naturally recurring environmental conditions alternating between destructive floods and drought

b. Resulting in a partial and inaccurate discussion of the environment unique to this region, and further

c. Resulting in an inadequate analysis that neglects significant indirect and cumulative impacts, which

d. Will result in decisions and actions that will compound rather than resolve the above conditions, and limit our ability to deal with these issues in the future.

In my detailed comments, I will substantiate the above contentions – and that they are not the contentions of so-called agrarian fundamentalists. The agricultural community is in fact itself committed to implementing environmental improvements – and their objective is to do so on a vast scale. But this will not happen if the people and agencies in this region continue to take agriculture for granted and slight and undervalue its importance in this desert.

S31-2a And while visions of a river restored to pristine ideals are far more emotionally appealing than the practicality of agriculture, farmers know from experience that visions must be within the bounds of our limited natural and economic resources. The reality is that agriculture in this region simply cannot sustain the transfers of water required to meet both the growing demands of urban development in addition to that which is required for river restoration. And for all the rhetoric otherwise, given our existing urban challenges the choice in this desert *is* between agriculture or the river envisioned by the environmentalists. And this is further proven by history since this has been the reality for hundreds of years. The river in its natural state has never been the "garden of eden" that the environmentalists continually promote; and if it is true that that the "river is our brother," his name is Mr. Hyde as well as Dr. Jekyll. And the only reason we have prospered here is because of man's actions in protecting us from floods and disease, and mitigating the effects of drought. And this has been to the benefit not *only* of man, but of wildlife as well. But the majority of people seem to have forgotten this reality, as is demonstrated in the DEIS understatement of the importance of its mandates, and overstatement of objectives to achieve "native" and "natural" conditions. And it is this fundamental dichotomy between reality and visionary idealism that is the root of the controversy.

Unfortunately, this DEIS and others like it will continue to cause divisiveness because their foundations are laid on the assumption that natural is synonymous with best, and that man's impact is always degrading, and therefore justice demands we "fix what we broke" no matter the cost. S31-2b This is also why we find in the DEIS no discussion of the actual benefits that would accrue from the proposed enhancements, even though these and like actions require billions of taxpayer dollars, reduction in food supply, risking the water supply, and doing all of this at the further expense of environmental benefits that already exist – which the DEIS also fails to analyze.

Gentlemen, everyone is realizing that this is not occurring as a result of grassroots movements, but powerful and political entities using emotive appeal to gain public support, and an army of lawyers

manipulating the legal system to ultimately get control of the water resource. As to emotive appeal, it is still true that actions speak louder than words. In areas where environmentalists speak the loudest of the "river as our brother," "the connectedness of all of life," "sustainability and inclusiveness," we unfortunately find communities first in division and then in the courts. Their concerns for wildlife are likewise divisive, in that actions to save one species result in devastation to others. And finally, we find rural and farming communities quite the opposite of sustained – they, too, have been devastated. It is no accident that water is being described as the new "gold" of the west and that the gold rush is on.

S31-2c And this is not only happening here in this region, but in the Middle Rio Grande upstream – which will have a further impact on water and agriculture in the Mesilla Valley. This and other SWEC initiated proposals in the region were not mentioned in the DEIS, which is just one illustration of how dangerously narrow in scope it is. But this was inevitable given the fact that the RGCP DEIS was built on a narrowly defined agenda that the agency simply assumes is in keeping with the objectives and goals of the National Environmental Policy Act (NEPA). It is not and, more importantly, this narrow definition sets a precedent for future valuations and decisions that will be equally restrictive and inconsistent. Ultimately, this will result in the agency being complicit in contributing to the incremental but steady destruction of agriculture and our rural communities. Further, if the agency continues to use its limited time and money resources on things other than flood control and efficient water delivery, the destruction might not be so incremental.

S31-2d

S31-2e I submit, therefore, that the DEIS needs to be "rebuilt from the ground up." While I know this will entail great effort, I believe it is worth it. If the agency will begin with the commitment of following – to the letter – the NEPA guidelines - this will help us resolve much of the existing controversy. Indeed, NEPA was designed to protect government agencies from the onslaught of special interests and prevent the consequent divisiveness that ends in litigation. But there must be a commitment to achieving the spirit of NEPA and the Farmland Protection Policy Act (FPPA), and not just the legal letter. Furthermore, we must lay a scientific foundation, which demands that we clearly define our terms and be alert to *a priori* assumptions with no substantiation.

S31-2f To this end, I have included a copy of two papers from a government document that the agency is already showing as a DEIS reference (Addenda C). These appeared to have been overlooked in favor of others that promote the more romantic view of the river. In the one by J.A. Tainter, you will find an excellent discussion of the region's historical environment, in which we learn that "native" and "natural" are not synonymous with "environmental enhancement" either in the human or wildlife context. This information is fundamental to properly determining restoration reference points, and shows the real challenges of defining environmental objectives. Both Tainter's discussion and one by D.A. Leal you will find that agriculture is indeed an integral part of the region's ecosystem and valuable to our wildlife, and I have included other data and references pertinent to this subject (Detail Comments, Section on Farmland, and Addenda C). But it is a starting point only, and is meant to demonstrate that it is extremely important to consider agriculture as a key player in achieving environmental objectives.

S31-2g Then with respect to NEPA process, key guidelines would be:

a) The starting point of existing mandates of flood control and efficient water delivery, incorporating early in the process other legal requirements such as FPPA and coordinating agencies, then

b) Identifying the significant regional environmental issues, then

c) Coordinated efforts with those agencies identified as important, then

S31-2g (cont'd)

d) Basing the proposed action and subsequent alternatives on those same significant issues, which includes an accurate and consistent description of the action and the need and purpose thereof, then

e) Correctly and adequately describing the existing environment, which includes an accurate assessment of agriculture and farmland and what it means to the region's environment (please refer to detail comments and relative attachments), then

f) Thoroughly analyzing indirect as well as cumulative impacts as herein mentioned, using understandable cost and benefit statements, and

g) Using meaningful summary statements that are understandable to the layman.

S31-2h

Finally, the agricultural and rural community want to reemphasize that if the agency needs a vision, it can have one no greater than that of protecting our lives and families and helping them to prosper. We therefore, respectfully request that the IBWC refocus its efforts on accomplishing its primary mandates of flood control and efficient water delivery. And with respect to enhancing our environment for <u>all</u> our people and wildlife, the farmers stand ready to partner with the USIBWC…

> "…to use all practicable means and measures…in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans." (NEPA: Sec. 4331 of 42 USC 55).

Thank you for your time and attention. My detailed comments are attached.

Sincerely,

Rebecca Miller

Rebecca Miller

Attachments: Detail Comments, with Addenda A thru C

Copies to: Elephant Butte Irrigation District

Natural Resource Conservation Service

P.O. BOX 507 · ANTHONY, NM · 88021
PHONE: 505.882.9874 · FAX: 505.882.9875

DETAILED COMMENTS

SECTIONS:

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Executive Summary

Summary Conclusion

Purpose of and Need For Action

Violation of Due Process

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Cumulative Impacts

Finally…

ADDENDA:

A: Correspondence Requesting NEPA compliance documents

B: Council on Environmental Quality References

C: Documents pertinent to Defining Terms and Restoration Baselines and to Agricultural Environmental Value and Analysis

S31-3a **Contents**

I will limit my remarks to the environmental issues that are the most significant to preserving the quality of life in this region and that have been understated, slighted or ignored in the DEIS. More specifically, I evidence how the DEIS does not meet the requirements of NEPA and how the USIBWC has not performed the required assessment pursuant to FPPA. But while I find that the DEIS fails to meet NEPA objectives on many points, I have further limited the scope of my comments relative to: a) protection of public health and safety, b) preservation of the water and farmland natural resources – the most significant environmental issues specific to our region, and c) protection of our civil rights. In addition, rather than specific Council of Environmental Quality (CEQ) citations for each given point, I note references pertinent to the given comment section with a copy of the actual CEQ regulations attached (Addendum B). Other documents referenced have been attached as addenda as well.

Executive Summary

S31-3b The stated purpose and need for riparian habitat enhancement and/or restoration continues to be confusing, contradictory and inconsistent with the USIBWC mandates of flood control and efficient water delivery; moreover, it is inconsistent with the most significant environmental issues of our arid, interstate and international region. (Please refer to the section on Need and Purpose.) The agricultural and rural community, since the first Alternatives Formulation Report in March 2001, has repeatedly expressed its concern that the USIBWC is not accurately or meaningfully portraying the existing conditions of the area's two most significant natural resources – water and farmland. Since this continues to be the case in the DEIS, the consequent analysis still slights and understates the potential impacts to both. And this is particularly the case with respect to accurately assessing indirect and cumulative impacts.

S31-3c The inevitability of the particular failures mentioned, can be logically traced to the fundamental failure to accurately define the need and purpose of the proposed actions. And this was a consequence of not identifying the environmental issues most significant to our region. To be more accurate, the USIBWC in fact did know what the real issues were but chose to slight and understate them and over-emphasize riverine natural habitat. The agency is not in compliance with NEPA in its continued attempt to redefine overall environmental quality to mean a river with more natural processes.

S31-3d This narrow definition was adopted in March 1999, *previous to the DEIS Notice of Intent, much less the required scoping process*. (Please refer to the section on Due Process.) This set a precedent and made decisions in principle that have resulted in proposed actions that we submit are inconsistent with the agency's flood control and efficient water delivery mission or NEPA goals. That these initial choices were too narrow is substantiated by the DEIS' severely limited treatment of existing environmental conditions and an analysis restricted to direct impacts. This, and other controversial agency actions in 1996 that now appear in the No Action Alternative, may be not only NEPA violations in themselves, but because the DEIS is attempting to validate these changes that have already taken place, may result in the DEIS itself being invalid. (Please refer to Addendum A.)

S31-3e Briefly with respect to significant environmental conditions, the DEIS fails to adequately discuss:

1. Our region's critical water situation: potential drinking water shortages over the next 20 years due to urban and industrial development; drought conditions; increasing demands

on the New Mexico Mesilla bolson by Texas, with potential increased interstate and international conflicts; reservoir depletions and groundwater recharge impacts; increasing soil salinity; already reduced quality of life and economic consequences to agriculture. Proposed solutions such as converting 195,460 acre-feet water per year from agriculture to meet municipal demands by 2025.

S31-3f

2. The unique importance of our valley's farmland and cumulative impacts of demands to reallocate agricultural water to municipal use: Dona Ana County produced an average of *18% of the nation's* improved variety pecans in 2000 and 2001! Orchards provide improved air quality and are of higher value to summer neotropical migrant birds than many naturally existing vegetative communities; farmland is a stable source of food and water for wildlife during cyclical droughts; combined farmland provides the only "green zone" in our desert region and health and recreation to our urban populations; irrigable farmland is an integral part of flood control and the watershed. Also, the region's farmland exists in a high development risk area: based on an average allocation to each acre of farmland of 3 acre feet per year water, previously proposed farmland conversion to meet municipal demands would require retirement of over 40% of the regions irrigable farmlands. Under water conservation measures, this could approach over 60%.

It needs to be made perfectly clear that it is within this context - the need for serious regional water conservation and a farming community already struggling for survival - that the agency is proposing to further increase demands on the water supply to enhance and restore riparian habitat.

S31-3g

Now it is reasonable to assume that within this context the need for, and benefits of, said restoration would be unambiguous and significant enough to warrant the consequent considerable cost and cumulative impacts. Particularly given the agency's limited resources and its inability to currently perform the most basic maintenance required to ensure adequate flood control and water delivery. Unfortunately, we find the DEIS stated need and purpose not only confusing, but contradictory, and cumulative impacts completely ignored.

Summary Conclusions

S31-4a

In addition to my suggestions in the cover letter, I submit that the agency needs to perform a DEIS supplement that will include the following changes. These suggestions are based on a review of the previous USIBWC decisions and findings by other government agencies as noted herein; to wit:

S31-4b

1. The need and purpose for the proposed actions is construction of RGCP flood control and water delivery efficiency improvements to prevent potential loss of lives and property and help achieve the regional objectives of water conservation and aquifer preservation previously established by government entities (including USIBWC) and the public during scoping meetings.

S31-4c

2. Concurrently, construction of improvements and normal operations and maintenance should be reviewed to discover ways to mitigate harmful effects and continue improving riparian and aquatic habitats.

S31-4d

3. Based on USIBWC 1977 DEIS and 1996 US Army Corps of Engineer study, adequate flood control and efficient water delivery require removal of sediment from the main

channel and consequently limit riparian habitat enhancements *until* specified sediment control dams are built or until sufficient evidence proves otherwise.

S31-4e

4. Proposed riparian habitat enhancements under the Flood Control Improvement Alternative are consistent with both water conservation objectives and the wildlife conditions specific to the project area (no critical habitat exists in the RGCP) and our valley in general. They are also consistent with the USACE 1996 study recommendations.

S31-4f

5. The proposed riparian habitat enhancements and/or restoration under the Integrated Land Management (ILM) and Targeted River Restoration (TRR) Alternatives:

   a. Are **inconsistent** with USIBWC flood control and efficient water delivery mandate as previously established in the 1977 DEIS, and

   b. Are **inconsistent** with the objectives of water conservation and efficient water delivery previously established by the USIBWC and Cooperating Agencies in the El Paso-Las Cruces Regional Sustainable Water Project, and

   c. Will have a **long-term detrimental impact** on the region's overall environment due to indirect and cumulative impacts on the water, farmland, agricultural, rural and economic resources, and

   d. Will, therefore, contribute to, rather than mitigate, high-density urbanization, industrial expansion and resource exploitation, and

   e. Will limit present and future options to deal with social, economic, food security and environmental problems, and

   f. Are not cost justified and, in fact, may result in depleting funds needed for flood improvements, which could result in loss of lives and property.

The sections that follow and documents referenced substantiate the above conclusions. If the agency chooses not to perform a DEIS supplement that addresses the above issues, there is a very real potential for irreversible harm to this region. If there is new information of which I am unaware that may invalidate this conclusion, and if this new information will not be appearing in a DEIS supplement, please respond in writing point by point with statutory or other references. I realize this will involve time and effort; however, NEPA requires whatever is necessary to enable public officials to make decisions appropriate to the existing conditions and take actions that will best protect and enhance the environment unique to our region. (Sec. 1500.1, 43 FR 55990).

Purpose of and Need for Action **(CEQR Sections 1500.6; 1501.1 (d); 1501.7; 1502.4 (a); 1508.25; 1508.27)**

S31-5a

The CEQ regulations are very clear regarding the criteria that must be used to identify the most significant environmental issues upon which basis the proposed action's need and purpose are determined. And based on this criteria (context and intensity), there is no doubt that the significant issues are: **flood control for public health and safety, efficient delivery of water, and the preservation of our water supply and our farmland.** It is equally clear that riparian habitat enhancement is NOT a significant issue based on the required criteria and, more importantly, that the USIBWC has known for a very long time that it is not. Even more importantly, the DEIS shows that the agency continues to ignore well substantiated concerns that this narrow focus on riverine habitat is

not consistent with its flood control and efficient water delivery mandates, nor is it consistent with the regional imperatives of aquifer preservation and water conservation.

S31-5b Allow me to now substantiate the above claims by restating from the USIBWC's *own* documents that the significant environmental issues established 25 years ago have not changed, but have become even more critical. Firstly, the 1977 USIBWC DEIS clearly showed the relative importance of riparian habitat enhancement in context with other environmental issues. On pages 62-3, we find that while a discontinuation of normal RGCP operation and maintenance (O&M) would result in "[p]roviding an improved habitat for terrestrial fauna", it would also result in:

> "...High incidence of flooding of urban and suburban areas...and all the smaller towns and communities...greater health hazards [due to] the spread of water borne diseases, greater incidence of mosquito infectations [sic?], and damage to municipal sewage treatment plants...severe economic depression for the agrarian Mesilla and Rincon Valleys, due to adverse effects on agriculture, property loss, and possible loss of human lives from flooding...subjecting highly irrigated farms to water shortages, flood damage and major soil salinity problems by the non-function of the farm drainage...reduction in agricultural crops needed for food and fiber for a rapidly increasing human population...impairment of the [US] to meet its water supply commitments to Mexico...reducing present and future outdoor recreational opportunities..."

S31-5c It is not my intention to imply that total discontinuation is a current alternative. My objective is to demonstrate the relative significance of riparian enhancement to other environmental factors in our region and the broad scope of RGCP O&M in its impact. It is also my intention to show the primacy of the agency's flood control mandate regarding public health and safety and the grave concern of many that the USIBWC has for some reason not constructed long-needed improvements. While this is briefly mentioned in the current DEIS in a later section, it is most certainly understated in the very section one would expect to find it: need and purpose. Are any of the flood control improvement measures discussed in the current DEIS the same as those described in the 1977 DEIS (pg. 9) as "authorized improvements..."? These were: "increasing the height of levees, widening of the normal flow channel, and construction of one segment of new levee...with construction of improvements in the Canutillo-

S31-5d Borderland Bridge reach...scheduled to begin in late 1977." Are the Canutillo flood controls the same as those also recommended in the 1996 US Army Corps of Engineers (USACE) Report? If so, please explain why these improvements - if they were authorized as of 1977 - have not been constructed for a quarter of a century. Other 1996 USACE recommendations included:

- Inspection and repair of irrigation drain wasteways so that they operate efficiently during a flood emergency
- Improvements needed due to bank erosion or failure in ¼ of the reach from Mesilla Diversion Dam to Canutillo
- Improvements with respect to dredge material disposal areas because they are "highly erodible, reduce channel conveyance, and limit vegetative recovery"
- Detailed HEC-6 modeling of tributary arroyos without sediment dams as these could create a significant sediment plug.

S31-5d (cont'd)

Of the above recommendations, which have been completed? Which have been initiated? And with respect to these tributary arroyos without sediment dams, it was also stated in the 1977 DEIS that the building of 3 of 7 dams had been authorized, and a study underway for the remaining 4. Why were the 3 dams not built, and where is the study for the other 4? In the 1977 DEIS the building of these dams was considered so significant, that they precluded the very riparian enhancement measures that are now being proposed in the current DEIS. Most importantly, they precluded discontinuing sediment removal maintenance, which action was done anyway in 1996, and which is now presented in the DEIS as part of normal O&M under the No Action Alternative. For a complete discussion of this possible violation of NEPA, please see Addendum A. As for the importance of these dams, it is worth restating here the conclusions of the 1977 DEIS (pg. 63):

> "Providing flood protection limits the opportunities for modification of the current maintenance program. These opportunities would be greatly increased by the construction of additional ...arroyo flood and sediment control dams on Placitas, Sibly, Candler, Rincon, Tierra Blanca, Tijillo [sic] and Montoyo Arroyos. These dams would almost eliminate the need for sediment removal from the Rio Grande channel.
>
> With construction of these dams the following changes in the vegetative management program could be implemented:
>
> a) The development of an intermittent, wooded riparian fringe along the channel;
> b) Discontinue mowing of selected large segments of the floodway permitting vegetation, including saltcedar to mature, while retaining a necessary floodway.
>
> This alternative would allow full socio-economic benefits for which the Project is designed and also important environmental benefits.
>
> Importantly, the adverse effects of future sediment disposal would be greatly reduced by the reduction in sediment removed from the Rio Grande channel."

This was the summary analysis of what was then designated as a *Major* Maintenance Change Alternative (emphasis mine), and further, this was obviously not the preferred or selected alternative at the time because the sediment dams had not been built, and would therefore not be consistent with the agency's flood control mandate. Since nothing has changed with respect to the status of these tributary arroyos, how have a) the discontinuation of sediment removal from the main channel in 1996, and b) the riparian enhancements proposed in the current DEIS now become consistent with flood control. These are not consistent according to the USIBWC's last DEIS, nor with the USACE report, and need to be explained. What has changed? And what has been the effect of sediment accumulation on flood control and water delivery efficiency since the agency discontinued removal in 1996? **If the agency cannot adequately show how this action is now consistent with its mandate for flood control and efficient water delivery, it is acting outside of its environmental authority (CEQR Sec. 1500.6).**

S31-5e

That O&M has cumulative impacts can be seen in the above example, but this is certainly not limited to sediment removal actions. It is of paramount importance that reviewers understand the integral nature of the RGCP: with respect to the greater valley environment, there is no such thing as a major action that results solely in direct impacts. While analysis of indirect and cumulative impacts may not be imperative in some situations, they most certainly are in this case if we hope to make decisions that prevent, rather than contribute to, potential flood damage or a regional water crisis.

S31-5e (cont'd)

And that there is a potential for a water crisis was known by the USIBWC and established well before the formal Notice of Intent (NOI) for the RGCP DEIS in August 1999. In fact, as environmental concerns were reconsidered in light of regional changes since 1977 and the USACE study in 1996, the significance of flood control and the water resource and its preservation, was seen in even starker contrast to the relative importance riparian habitat. Following what had become a highly controversial and litigious point of contention between Texas and New Mexico, the USIBWC and other agencies proposed solutions to prevent this potential crisis in the El Paso-Las Cruces Regional Sustainable Water Project (Water Project). With respect to need and purpose, I quote from the Record of Decision (ROD) in 2000:

> "The project is necessary to avoid potentially permanent impacts on the Mesilla and Hueco Bolsons and critical drinking water shortages in the ...region...If additional surface waters are not made available to supplement the drinking water supply, water shortages...will likely lead to severe health and sanitation problems...water supplies would be even more limited in times of drought...the project will strive to [achieve] high quality water...to deliver water efficiently, and to promote water conservation [and to] provide overall benefits to the riverine ecosystem – particularly aquatic and riparian habitats....[but that] [t]here would be no significant adverse effects on any federally listed endangered and threatened species" (Section 2, pgs. 3-4; Section 4.2.6, pg. 15)

Further, the proposed solution to the above was to convert agricultural water in the amount of 174.5 million gallons per day (mgd) water, or 195,460 acre feet per year (ac-ft/yr), which according to the current DEIS figures (3 ac-ft/yr allocation per acre of farmland) would require the conversion of over 65,000 acres of farmland. This means that the water conditions were determined to be drastic enough that the conversion of over 40% of the valley's total 159,700 irrigable farmland was being considered as a solution. I will comment on this later: the current DEIS analyzes this very significant cumulative impact in *one sentence at the back of the document*! But for now, the importance of this is twofold: 1) the fact that the water resource and its preservation and conservation were determined to be THE significant environmental issues of our region and, 2) that this was recognized during the same time that the USIBWC was purportedly reconsidering its RGCP O&M in light of current environmental conditions – the implied objective of the DEIS now in question.

S31-5f

Based on all of the above, and the fact that no endangered or threatened species have been documented in the project area (exception: 1 migrating interior least tern in September 2000, DEIS Table 3.6.2), or critical habitat designated, one would logically expect to see in the RGCP DEIS the following stated need and purpose:

1. The Proposed Action is Flood Control Improvements, the need and purpose of which is to protect the health and safety of the public, which is increasingly at risk as we approach the 100-year cyclical flood, and
2. Concurrently, the Proposed Action includes changes in O&M, the need and purpose of which is accomplishing the significant environmental objectives of aquifer preservation and water conservation, and
3. That the Proposed Action include O&M changes, the purpose of which is to further improve riparian and aquatic habitat over and above improvements currently being accomplished, but that are not inconsistent with public health and safety, aquifer preservation or water conservation.

S31-5f (cont'd)

4. Alternatives formulation consistent with achieving the above objectives.

Unfortunately, one does not find this in the stated need and purpose, but rather almost the reverse. The wording is ambiguous but leaves us with the impression that restoring the river to more natural conditions is the real work that we must be about, while flood control and water delivery are remnant mandates from a less enlightened era but to which we must conform nonetheless. At least that is the impression left on this reviewer. And not only is this reverse emphasis inconsistent with established priorities, it is inconsistent with the logical development of the alternatives, which begin with Flood Control Improvements – which we must assume to be the main action, since it is never so stated - to which is added increasing riparian habitat enhancement and restoration measures in the Integrated Land Management (ILM) and Targeted River Restoration (TRR) Alternatives respectively.

S31-5g

And even if there were no need for flood control improvements or clearly pre-established environmental priorities, one would still expect some substantiation of the claim that what was needed were O&M changes to achieve said enhancements and restoration. Instead, we find only an assumption substantiated by a contradiction. On pages 1-1 and 1-2, we are first told that:

"The challenge is not restoring the river to historic conditions but to make environmental improvements to a river that now functions as a water conveyance and delivery system."

And *then* we are told that:

> "Although current procedures will continue to improve ecological conditions, the river and floodway will remain altered from the native riparian and aquatic conditions that existed before the RGCP was constructed unless additional ecosystem restoration actions are undertaken. Thus, the USIBWC recognizes the need to accomplish [its mandate] in a manner that restores, if possible, and enhances the restoration of native habitat conditions in the RGCP."

If the challenge is "to make environmental improvements", and if "current procedures will continue to improve ecological conditions", and if restoring the river to historic conditions is *not* the objective, how does the agency then recognize anything other than that they are already accomplishing the stated objective? Indeed, these statements substantiate that there is NO NEED for the enhancement and/or restoration measures proposed. The agency is obviously confused, which is further demonstrated by the following conflicting statements on page 1-2: "Baseline considerations used for restoration considerations will be the 1938 time period…", which is *pre*-Canalization project, while in the same paragraph we are told that ecosystem restoration will be based on "*post* Canalization project construction." (Emphasis mine.)

S31-5h

I have spent a great deal of time showing that the DEIS is based on inconsistencies and contradictions and that it has not adequately defined the proposed action or emphasized the significant issues. While it is to the agency's credit that it performed a Reformulation of Alternatives in response to problems with the initial Alternatives Formulation, it has still not addressed the central concern that the basic need and purpose is unsupportable pursuant to CEQ criteria. And this not withstanding the impressive credentials and combined 104 years of experience of those responsible for the document's legal sufficiency and NEPA compliance as listed in DEIS Section 5.2. And this must be resolved, not simply because it violates the letter of the law, but the spirit of - and reason for - the law.

S31-5i The truth of the matter is that this DEIS demonstrates that the USIBWC has either lost sight of, or never understood, its responsibilities pursuant to our nation's environmental protection policy. NEPA's goal is to "...to use all practicable means and measures...in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans." (Sec. 4331 of 42 USC 55). And in light of *all* of the aforementioned, the agricultural and rural community is legitimately concerned at how the agency has arrived at the irrational conclusion in the DEIS that it needs to focus its efforts and resources on wildlife habitat enhancement rather than the protection of human lives, health, property and major natural resources. The answer to this is particularly significant and, like the DEIS itself, begins with a singular vision of river restoration. (Please refer back to my cover letter.)

Violation of Due Process

In March 1999, the USIBWC entered into a Memorandum of Understanding (MOU) with SWEC, a group whose stated vision in a 1998 document entitled *Citizens' Plan for the Rio Grande* is: "*Our ultimate goal is not to restore the river to its pristine state but to reengineer the river to something in between its current highly degraded state and its condition prior the arrival of Europeans to this area.*" Please note not only the similarity of the DEIS objectives on page 1-2, but the lack of clarity as to the restoration goal baseline. Further we find SWEC with – coincidentally - the same understanding of relative priorities as we find in the DEIS: SWEC "recognize[s] that restoration efforts must occur within the constraints of ...the need to protect life and property from flooding, and legal obligations to deliver river water to various users." In the DEIS we find, "The agency is currently evaluating river management alternatives...to enhance ecosystem restoration while accomplishing its flood control and water delivery mission."

S31-6a

Preceding the MOU, also in 1998, SWEC presented the USIBWC with a Notice of Intent to file suit for purported violations of the Endangered Species Act (ESA) and NEPA. While it appears that a conference with the US Fish and Wildlife Service (USFWS) and performance of a biological assessment would have brought the agency into compliance with the ESA and NEPA, the USIBWC instead chose to enter into an MOU with SWEC that included far more than a biological assessment. With respect to the RGCP, this MOU established the following in return for SWEC's agreement not to file suit:

S31-6b

- The intent and timeline to prepare an EIS, and to hold at least two scoping meetings, one of which was to be in Las Cruces, NM
- With respect to the scope of the EIS, it would analyze [various alternative, measures] "to determine to what extent project management can support restoration of native riparian and aquatic habitats, as well as the restoration of natural fluvial processes such as channel meanders and overbank flooding."
- Establishment of an environmental citizen's forum, which automatically included a position for SWEC
- Establishment of "green zones" in the RGCP, provisional pending the EIS outcome, and therein established as a Categorical Exclusion, as follows:

- Vegetation maintenance would be discontinued in selected areas within 35 feet of the river channel for a total of 20 corridor miles, in addition to planting some 1000 tree poles, with USIBWC providing the necessary equipment
- USIBWC change in policy: "hereby adopts an agency policy against conducting vegetation maintenance in these areas of Selden Canyon."

- Delegated the development of the study protocol and conducting of plot studies to SWEC

S31-6c For a discussion of why establishing the green zones as a Categorical Exclusion is a violation of NEPA, please refer to Addendum A. Aside from the coincidence of similarities between SWEC and DEIS purpose and objectives previously noted, it is evident that the MOU,

S31-6d

- Determined the initial narrow scope and context of the DEIS proposed action and purpose, and
- Determined main features of proposed Alternatives – features that were clearly inconsistent with achieving known water conservation objectives - and, therefore,
- Set precedents and made decisions in principle that affected the later formulation of alternatives and, therefore,
- That have subsequently determined the scope of analysis and, therefore,
- Have already prejudiced the ultimate decision.

And it cannot be understated that all of the above took place prior to the required NEPA scoping process, indeed five months prior to the filing of the DEIS NOI (August 1999). I submit, therefore, that the USIBWC has violated the civil rights of the farmers and rural citizens.

S31-6e More unfortunately, precedents may have been set even before the March 1999 MOU. Preceding, and during this time, the IBWC was also analyzing the proposed new water plants and massive conversion of the river's agricultural water to prevent a municipal water crisis in El Paso (El Paso-Las Cruces Regional Water Project – Water Project for short). SWEC was, of course, highly involved in this project, a project which actually grew out of plans from the Center for Environmental Resource Management – another group with ties to powerful political environmentalists.

S31-6f When I first reviewed the Water Project documents, I found that they included a commitment to perform a separate EIS for proposed environmental enhancements, which enhancements were specifically outlined therein. Now the proposed enhancements happened to include the very same ones outlined in the SWEC MOU, which now appear in the DEIS. But moreover, the Water Project made a financial commitment to the environmental enhancements, specifically, a percentage of the revenues of the Water Project. When I first raised this question with the USIBWC in late 2001, the agency denied that RGCP had anything to do with the Water Project commitment to perform an EIS. If it is not one and the same, has the agency filed a NOI for another EIS for another environmental enhancement proposal?

But apparently, sometime in 1998 SWEC was not pleased that the USIBWC had not yet started the environmental EIS that it understood the agency had committed to perform. Pursuant to the usual

strategy of these groups to move things along, SWEC threatened the agency with legal action based on the ESA. And move it along they did, as in March 1999 the agency entered into MOU with SWEC.

S31-6g Obviously, the USIBWC has consistently and incrementally made decisions in the spirit of compromise that have inadvertently (I believe) promoted the specific agenda of SWEC and its associated groups. While the agency keeps denying they were never unduly influenced during this process, the pattern of decisions and actions show otherwise. It seems to be clear to everyone but the agency itself that it has fallen victim to special interest groups' tactics of narrowly defining and manipulating our well-intended laws. They claim they are grass roots organizations, yet they have resources enough to keep an army of lawyers busy, and continually offer to "help" rewrite policy. It was only at the most recent quarterly RGCF meeting that SWEC reminded the agency that they had sent "suggestions" on how to redefine permit requirements so that future restoration actions would not be limited. And the current RGCP DEIS reflects that SWEC has been communicating its "suggestions" to Parsons as well. I have reviewed the documents listed as DEIS references, and the information and data is consistently selective and partial resulting in the DEIS understating complex water and agricultural issues.

S31-6h

S31-6i Sadly, the USIBWC has obviously not taken advantage of the opportunity to correct these violations after repeated requests using terms deliberately non-combative such as "oversights" and in all ways possible giving the agency the benefit of the doubt. But lack of response or partial and vague responses to inquiries, and the fact that the long-awaited DEIS fails once again to address these issues have resulted in a growing concern over the agency's credibility. And many in the agricultural community are now of the opinion that the USIBWC is solidified in its position, and will continue to defend, rather than correct the precedents it wrongly set in March 1999. And until there is reason to conclude otherwise, further analysis of an analysis that I submit is invalid would be moot.

However, in the event the agency is willing to consider the real environmental issues, I will conclude with a discussion of the USIBWC's violation of the FPPA and why it is so significant.

S31-7a **Farmland Protection**

The nation's farmland, whether prime, unique or of statewide or local importance is considered a natural resource to be protected for many reasons. And these factors must be considered in any DEIS so that viable environmental solutions can be weighed. If farmland continues to be retired – and in some cases destroyed - to achieve narrowly defined wildlife habitat enhancements, we are in effect at cross purposes with NEPA objectives and limit present and future options to deal with social, economic, food security and environmental problems. Between 1992 and 1997 the country lost an average one million acres of farmland per year. Between 1998 and 2003, that figure tripled. Take a moment, if you will, to truly reflect on the implications.

S31-7b To prevent these types of unanalyzed conversions and ultimately achieve national objectives, government agencies are required to perform assessments of proposed impacted farmland pursuant to the FPPA. And if the situation involves a DEIS, the requirements are to be incorporated in the process at the earliest possible date, with the Natural Resource Conservation Service (NRCS) possibly a Cooperating Agency. Both the USIBWC and the NRCS are complicit in the failure to meet these requirements.

The universally known benefits, of course, are the production of food and fiber, which is not only a significant national security issue, but a local one as well. Farmland provides open space, contributes to the environmental health of, and provides recreation for, urban and suburban areas and provides corridors for wildlife migration. And depending on the region and specific crops grown, it is a major supplier of wildlife habitat. And all designated farmland, not just prime, is protected under the FPPA, as the agency correctly noted in the Water Project ROD (Sec. 4.2.2) but incorrectly noted in the RGCP DEIS (pg. 3-43). Even so, there are some regions in the country where it is particularly critical because of a) the increased risk of development and, b) the area's unique agricultural characteristics and c) the fact that in some regions – such as the desert – agriculture is the most significant contributor to environmental quality. Our region is one such region, and the DEIS ignores its high value to both the natural and socio-economic environments. And it appears that the USIBWC is not the only government entity in this locale that lags behind in understanding our national objectives with respect to agriculture and environmental quality.

S31-7c

To keep it brief, I will focus on that for which the valley is best known: its pecan orchards. In 1999, Dona Ana County was first in improved variety pecan production of all the counties in the country! In 2001, our region produced 18% of the nation's improved variety pecans, and 13% of all varieties. Dona Ana County an average 75% of New Mexico's pecan production, with the state being the second largest producer of improved varieties in the country. And New Mexico on average produces the highest quality pecan in the country.

S31-7d

The DEIS statement will provide us with quite another view, however: "...agriculture is not considered a major industry within the three counties..." Since the DEIS was referencing the same counties, and since agriculture was consistently generalized as "cropland," how do you explain this colossal misrepresentation? In a Technical Report (35) entitled A Profile of Agriculture, by the New Mexico State University Agricultural Experiment Station, we are told that "using farm income averages in the state's counties can contribute to a very inaccurate picture of agriculture..." and that "...great care should be taken when using any type of average calculation to characterize agricultural production in New Mexico." I would say you've made their point.

S31-7e

And with respect to the value of the orchards to air quality and wildlife, we find no mention anywhere of the former, and derisory treatment of the latter. The DEIS one-liner (3.5.1) that "Croplands are typically low wildlife habitat as a result of clean farming practices..." would not pass even an elementary analysis muster test. And whether orchards or fields, the DEIS forgot to mention that the farmlands in our region are "an oasis in the desert" to the urban communities for the open space, scenic beauty, wildlife, health and recreation they provide. Just another oversight? For specific data and discussion of agriculture's environmental value, please refer to Addendum C documents. Keep in mind, however, that a specific study of pecan orchards will have to be done for the area from Las Cruces to El Paso, because the pecan orchards predominate here as they do not in the Middle Rio Grande region in which the data for the attached study was collected.

S31-7f

And since the riverine enhancements can only occur by converting water currently used by agriculture, we are really talking about a trade off with respect to environmental benefits. It is, therefore, critical to identify the true value of agriculture with respect to wildlife, air and water quality, open space, recreation, etc. For example, we find on page 5 of Chapter 3.3 of the Agricultural Resources and Environmental Indicators for 2003 (Agricultural Handbook No. AH722), that we should recognize the following with respect to wildlife conservation efforts:

> "...that nature imposes its own set of tradeoffs among species, and these tradeoffs have cost implications for ...conservation efforts. Supporting a single species or group of species by enhancing or protecting specific kinds of habitats is not likely to benefit – and may harm – species not adapted to those habitats. Agricultural land-use conversions during the past two hundred years, for example, have been implicated in the decline of many wildlife populations. These same land use changes, however, have benefited other species."

S31-7g Equally, we must know the adverse impacts of not only agriculture, but natural habitats as well. For example, there have been several fatalities in the region due to mosquito and bird-born disease. And there has been concern - enough for public announcements – with respect to standing water and the increasing threat of West Nile Virus. Therefore, the analysis needs to include these types of potential impacts and mitigation costs. When the river was in a more natural state, people could not enjoy it because of mosquito infestations. What will change this reality? And if restoration and enhancement objectives do not include intended benefits to people, the DEIS should so clearly state.

S31-7h Additionally, the DEIS needs to discuss and analyze how these water transfers, including cumulative ones due to other actions, will impact farming in this region. Please refer to the document Water Markets: Implications for the Rural Areas of the West (Addendum C) that begins a discussion of these critical issues. In my view, one of the most significant findings has been that projects in other areas show that negative impacts accrue in ways that are unexpected. For example, the usual plan for obtaining water from agriculture is to convert the least valuable croplands and preserve the greater. It is not happening that way; for unpredictable reasons, the impacts spread to all farmlands of a region. Moreover, the document also discusses why we must carefully analyze cost/benefit issues: even if an analysis shows that there will be an overall benefit accrued to the state as a whole, the costs accrue to the area of origin and the benefits to the new water user. The problem is exacerbated by the fact that these additional costs make it increasingly difficult to justify implementing new irrigation technologies and other environmental improvements. In other words, the more water use transfers out of agriculture, the more we decrease the ability to deal with other environmental problems – not to mention compounding the problems of unchecked population growth and urban sprawl.

S31-7i Aside from the importance of preserving farmland for its universal benefits or for those specific to our valley, it is now being realized that we must preserve farmland for its still untapped potential to achieve NEPA objectives on a vast scale. With new approaches to resource conservation and farming practices, the USDA and NRCS have identified strategic farmland attributes that accomplish environmental goals **without sacrificing** agricultural and economic goals. New technologies, once cost prohibitive, can now be applied to existing infrastructure and workforce (more simply farms and farmers) using established market principles. Environmental objectives include improved water quality and water conservation, groundwater recharge and flood storage using existing infrastructure (which controls public costs), soil and energy conservation, retention of natural systems, and improved quality of wildlife habitat while mitigating harmful effects (mosquito infestation, etc.) at little or no cost to taxpayers.

S31-7j Since the above did not factor into the analysis, the DEIS is asking decision-makers to walk with only 1 leg. And because the analysis is lacking with respect to indirect and cumulative impacts, the agency has amputated the other as well. As an example, sediment accumulation not only affects flood control

S31-7j (cont'd) in obvious ways, it additionally affects the valley's groundwater and entire irrigation system. While we do not find an understandable statement to this effect in the current DEIS, the importance of sediment removal to the quality of farmland was made very clear in the 1977 DEIS; as follows:

> "The depth to groundwater in the project area varies directly with an approximate five-foot range of depth of water in the channel. The removal of sediments maintains this range in groundwater depths. Removal of sediment permits a continuation of the grandients [sic] in irrigation system drains which discharge to the river. Otherwise, the drains would function improperly, groundwater levels would rise, irrigated lands would gradually deteriorate due to alkali accumulations and alternate drainage measures (probably involving pumping) would become necessary to continue farm production." ('77 DEIS, pg. 55)

S31-7k Therefore, the DEIS should have included this aspect of maintenance in its discussion on the same. It should have also brought forward the eventual impacts on agriculture, including economic ones as there will be poorer quality crops due to increased soil salinity. And there is still the question of why the agency discontinued removing sediment from the main channel in 1996? Was an appropriate analysis performed? The agency surely wasn't basing this decision on the USACE report, which confirmed that sediment removal was needed at least until certain sediment dams were constructed or specific HEC-6 modeling performed for each separate relative arroyo. Did the agency have Parsons perform this analysis?

S31-8a **Cumulative Impacts**

With respect to cumulative impacts and the Water Project: While the DIES states on page 4-86 that it appears as if the Water Project is no longer viable, it nowhere states the project has been decommissioned. But even if the project were decommissioned, the problem of an increasingly limited water supply has by no means been resolved. Since the project solution was to acquire water from the conversion of farmland, which farmland would total 65,153 acres (using the RGCP DEIS figures of 3 ac-ft/yr per acre on pgs. 4-51 & 52) - more than 40% of the region's 159,700 acres of irrigable farmland (pg. 3-5) - the potential cumulative impact of habitat enhancement measures is significant enough to warrant more than *one sentence at the back of the DEIS.* I quote from page 4-86, "Cumulative impacts would have been significant for all resource areas." When we add the 195,460 ac-ft/yr of the Water Project to the 2,203 and the 9,461 ac-ft/yr required by the Land Management and River Restoration alternatives respectively, we are now looking at the potential of converting 65,888 and 68,307 acres of farmland respectively. Translated into lost income using the DEIS figure of $1,179 per acre, this is a potential economic loss in the regions of up to $80.5 million dollars a year by 2025. And this has not yet taken into consideration the additional cumulative factors of changing climate, current drought, and long-term water conservation measures to refill the reservoirs.

S31-8b And other important indirect and cumulative impacts to our water resource and, consequently, to farmland and the rural community were not analyzed. For example, less water in the river from riparian habitat enhancement measures means less surface water available for irrigation and also a drop in groundwater. Less irrigation water means increased groundwater pumping, further impacting the lowering groundwater table, which in turn affects drainage flows, which in turn reduces available water to downstream irrigators, which increases pumping, etc... All of these situations individually and cumulatively affect the entire region's water resource, including the quality of drinking water from

S31-8b (cont'd) rural wells, consequently affecting health. Already people are having to spend thousands of dollars to deepen their wells, and the increased soil salinity is becoming a major problem and affecting the quality of our crops. And while every farmer in the valley seems to know that any further changes in current O&M will have a compounding effect, the experts at Parsons performing this analysis appear to have entirely overlooked not one, but all these factors. And I refer you back to my cover letter for additional pending government actions upstream in the Middle Rio Grande that need to be analyzed for cumulative impact. And another one is the US Fish and Wildlife Service consideration of classifying critical habitat for the silvery minnow in this reach.

S31-8c Also, while the DEIS states that the preferred strategy for acquiring water is by financing on-farm water conservation programs (drip irrigation) rather than actual farmland retirement, this is not an option the farmers will support at this time. This is for several reasons, not the least of which is compounding economic pressures that farming cannot sustain – pressures that would increase from the proposed actions and limit the agricultural sector's ability to justify capital costs for these, and other, environmental advancements. Perhaps SWEC would care to donate these systems. But we also need to consider this in light of accomplishing certain national objectives with respect to farmland and groundwater recharge. In other words, we do not yet know the impact on groundwater recharge of switching to drip irrigation, nor has there been enough research to determine the cumulative impacts to soil salinity.

S31-8d In addition, the agricultural community would **absolutely not** support the Paso Del Norte Watershed Council in the advisory capacity suggested by the DEIS. We believe that the fundamental principles of accountability need to apply, and that the NEPA process must be followed to the letter to prevent future undue influence of special interest groups. Considering the limited monetary resources of the USIBWC and the claims of the aforementioned Council in being able to bring in millions of dollars for restoration projects, the agency should soberly reflect on how the agricultural community would perceive such a choice – particularly since this group has already developed the reputation for being anti-farming.

Finally…

I will summarize by saying that both the portrayal and analysis of the valley's agriculture is not credible or meaningful. And finally, a) because the USIBWC allowed SWEC to define the parameters and meaning of environmental enhancement, and b) because the agency has failed to emphasize the significant water issues in this region and their inevitable cumulative impact on agriculture, and c) because the agency has failed to properly analyze the indirect and cumulative impacts of its proposed changes in RGCP O&M on agriculture and the environment as a whole, the agency will – if it continues on this path - be complicit in contributing to the incremental but steady destruction of agriculture and our rural communities – not to mention the quality of the environment. Further, if the agency continues to use its limited time and money resources on things other than flood control, the destruction might not be so incremental.

The End

Addendum A

Communications attempting to determine and resolve Controversial Agency Actions now appearing in the DEIS under the No Action Alternative. Requests for NEPA compliance documents.

Controversial Agency Action in 1996: Discontinuance of Dredging
Controversial Agency Action in 1999: USIBWC/SWEC MOU

Letter from Rebecca Miller to USIBWC Commissioner Duran dated 1/21/04
Letter from USIBWC Commissioner Duran to Rebecca Miller dated 2/20/04
Letter from Rebecca Miller to USIBWC Commissioner Duran dated 2/24/04

January 21, 2004

Mr. Arturo Duran
Commissioner
International Boundary and Water Commission
United States Section
4171 North Mesa Street, C-310
El Paso, Texas 79902

Dear Commissioner Duran:

As a board member of the Rio Grande Citizens Forum (RGCF) representing our valley region farming and rural interests to the USIBWC, I would like to take this opportunity to welcome you on their behalf. In addition, we wish to pay long overdue tribute to the agency's vital service to the valley's agricultural community. The safety and prosperity – even the continued existence - of our families, farms and businesses in this region depend on USIBWC's performance of its mandate: protection from river's cyclical floods and the subsequent efficient delivery of its water. Since the operation and maintenance (O&M) of the RGCP significantly affects both surface and ground water resources, farmland, and consequently, the rural economy, the farmers' trust and confidence in the agency is of the highest priority.

You have arrived in time for many challenges, one of which is reestablishing a healthy and constructive relationship with the farmers. Unfortunately, there has been confusion and a rising concern with respect to the USIBWC actions since 1996, and the December 2003 RGCP Draft Environmental Impact Statement (DEIS) has compounded, rather than resolved, the problem. I thank you for extending the comment period and believe this may provide the opportunity to resolve some potential legal issues. And, as the new commissioner, you have a prime opportunity to correct what may have been past oversights. What follows is the basis for the potential litigation, and what needs to be answered. Please send your responses to me at: PO Box 507, Anthony, NM 88021.

Specifically, certain O&M changes have taken place in the past 7 years that have individually and cumulatively affected flood control, the water resource, the irrigation system and our farmland. More importantly, there has been the question as to whether or not these changes were implemented prior to performing required assessments pursuant to the National Environmental Protection Act (NEPA), the Farmland Protection Policy Act (FPPA) and Executive Order 11988 (Floodplain Management). Because no adequate answers have been forthcoming and because this issue was not addressed in the DEIS as anticipated, and because *the DEIS now includes these same O&M changes within the No Action Alternative*, the DEIS' fundamental integrity is in question. And there is the additional question of whether or not the Natural Resource Conservation Service should have been a Cooperating Agency in the DEIS.

It is the general understanding that the RGCP O&M was consistent from its final construction in 1943 up until about 1996. In 1996, USIBWC discontinued sediment removal from the main channel, and in 1999 it discontinued mowing (vegetative maintenance) in selected areas pursuant to an agreement with Southwest Environmental Center. The agency had previously considered the impact of partially

discontinuing these actions in a 1977 DEIS, specifically under the *Major* Maintenance Change Alternative (emphasis mine). With respect to this O&M change, which was not the preferred or selected alternative, I quote from the summary analysis on page 63:

> "Providing flood protection limits the opportunities for modification of the current maintenance program. These opportunities would be greatly increased by the construction of additional ...arroyo flood and sediment control dams on Placitas, Sibly, Candler, Rincon, Tierra Blanca, Tijillo [sic] and Montoyo Arroyos. These dams would almost eliminate the need for sediment removal from the Rio Grande channel.
>
> With construction of these dams the following changes in the vegetative management program could be implemented:
>
> a) The development of an intermittent, wooded riparian fringe along the channel;
> b) Discontinue mowing of selected large segments of the floodway permitting vegetation, including saltcedar to mature, while retaining a necessary floodway.
>
> This alternative would allow full socio-economic benefits for which the Project is designed and also important environmental benefits.
>
> Importantly, the adverse effects of future sediment disposal would be greatly reduced by the reduction in sediment removed from the Rio Grande channel."

Several things are clear from this statement, and others in the 1977 DEIS regarding sediment removal. Firstly, it is considered a major action with significant impact, not only on flood control, but on farmland as well (see page 55). Secondly, due to flood control constraints, sediment removal could not be discontinued until the specified dams were built and, even then, not completely. Thirdly, that discontinuing vegetation maintenance *while retaining the necessary floodway* was also contingent on building these sediment control dams and, consequently, considered to be a cumulative impact. In light of the above and the fact that these dams have not yet been built, and the fact that the US Army Corps of Engineer study in 1996 confirms the sediment deposition concerns at these arroyos, it has been alleged that the USIBWC is in violation of NEPA - unless it can adequately answer the following:

1) On what did the agency base its decision to discontinue dredging the main channel in 1996? Please provide statutory authority along with explanations:
   a. Given that it was considered a major action, why was an EIS not performed?
   b. If this was no longer considered a major action in 1996, please explain the scientific basis for the change, and provide a copy of the Environmental Assessment with a finding of no significant impact (43 CFR 55978, 100.7b), and a copy of the assessment required by EO 11988;
   c. If this was a Categorical Exclusion, please provide a copy of the environmental memorandum (43 CFR 55978, 100.7a), and a copy of the assessment required by EO 11988;
   d. Please provide a copy of the assessment required by the FPPA on farmland of statewide importance (so defined for our region) that identifies and takes into account the farmland that may be adversely affected by this action.

2) On what did the agency base its decision to selectively discontinue mowing pursuant to the 1999 Memorandum of Understanding (MOU) with Southwest Environmental Center, which actions were subsequently identified as a Categorical Exclusion?

   a. According to NEPA, this action, while it may have involved study and research, could not be so classified for the following reasons:

      i. A need for an EIS was acknowledged simultaneously in the MOU, which demonstrated thereby that though this specific action may have been limited, further cumulative actions with significant impact were in fact being contemplated, and which cumulative actions were previously established by the 1977 DEIS as shown above, and

      ii. It was a precedent in a larger case, and

      iii. It represented a decision in principle about a future major course of action, which proposed action involved unresolved conflicts concerning alternative use of available resources and was likely to be highly controversial, and

      iv. It prejudices the ultimate decision, and indeed, has already determined subsequent developments of the alternatives, one case in point being the fact that it is erroneously included in the No Action Alternative.

   b. While the agency is apparently in violation of NEPA by so categorizing, please provide a copy of the minimum NEPA requirement of an environmental memorandum (43 CFR 55978, 100.7a), a copy of the assessments required under FPPA and EO 11988.

If you find that the USIBWC did not meet these requirements, then the agency needs to return to its normal O&M prior to these changes until a final decision is reached in the DEIS. And with respect to the DEIS, obviously the agency will need to perform a supplement that includes the correction of the No Action Alternative and consequent impact analysis.

I can assure you that the farmers are sincere in their desire to act as partners with the USIBWC in achieving the spirit of NEPA, but we must resolve the perception that the agency has been unduly influenced by SWEC. And if past decisions show that mistakes were made, as the new commissioner the time is opportune to avoid potential litigation by simply correcting them so we can move on.

Thank you for your valuable time and attention and I look forward to hearing from you as soon as possible. Also, please feel free to call me at 505.882.9874 anytime.

Sincerely,

Copy

Rebecca Miller

cc: Mr. Gary Arnold
Elephant Butte Irrigation District

Ms. Mary Sanchez
Natural Resource Conservation Service

PO Box 507 ~ Anthony, NM 88021
505.882.9874 ~ 505.882.9875-FX

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO

OFFICE OF THE COMMISSIONER
UNITED STATES SECTION

FEB 20 2004

Ms. Rebecca B. Miller
Rio Grande Citizens Forum Board Member
P.O. Box 507
Anthony, New Mexico 88021

Dear Ms. Miller:

This responds to your January 21, 2004 letter regarding the Draft Environmental Impact Statement (DEIS) for River Maintenance Alternatives for the Rio Grande Canalization Project (Canalization Project). I appreciate your comments on the DEIS. A copy of your letter has been provided to our consultants for consideration during preparation of the Final EIS. I take this opportunity to respond to some concerns stated in your letter.

You contend that the United States Section, International Boundary and Water Commission (USIBWC), discontinued sediment removal from the Rio Grande pilot channel in 1996. The USIBWC has never relinquished its need to either remove sediment from the pilot channel or to continue vegetative maintenance and that is evident in the present DEIS. The USIBWC has a small maintenance force located at American Diversion Dam in El Paso and at the Las Cruces Field Office. Doing all the maintenance that the project requires within the small window of opportunity afforded by the non-irrigation season with the small maintenance force is extremely difficult; therefore, maintenance activities are prioritized from year to year. Mowing of the floodway is done annually, but the same areas may not be mowed each year. Channel maintenance is not done annually since other maintenance activities are also performed by the USIBWC forces.

The channel and other features of the project are constantly scrutinized and surveyed to ensure no critical conditions are developing as a result of sedimentation and erosion. Prior to 1996, under a United States Army Corps of Engineers Section 404 permit, the mouths of several arroyos were cleaned of silt and gravel transported into the pilot channel. Between 1997 and 1999, old wooden bridges on levees crossing lateral drains were removed and replaced by gated structures. Silt was removed in the reach upstream from Shalem Colony Bridge in 1996. In 1998 and 1999, structures were constructed in the channel in compliance with the Section 404 permit to provide aquatic habitat mitigation. Rip-rap was also obtained in 1998 and 1999 to be placed in certain reaches as erosion protection on reestablished channel banks. High flows in August 1999 scoured some of the accumulated silt in the Canalization Project and deposited it downstream in the Rectification Project between American Diversion Dam and Fort Quitman, Texas. Recently much of that silt was removed from the Chamizal Project located between El Paso and Ciudad Juarez.

You also raised the concern that the Natural Resource Conservation Service (NRCS) should have been a cooperating agency in the development of the DEIS. On August 3, 1999, an invitation asking federal agencies to be cooperating agencies in the development of the planned environmental impact

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statement (EIS) was sent to NRCS, and others, including United States Bureau of Reclamation, United States Environmental Protection Agency, United States Fish and Wildlife Service and United States Army Corps of Engineers among others. The NRCS declined the invitation by letters dated August 19, 1999 (signed by State Conservationist Rosendo Trevino III) and September 1, 1999 (signed by District Conservationist John D. Allen). The only agency that accepted the invitation to serve as a cooperator was the Bureau of Reclamation.

You also referenced an alternative considered in the 1977 Environmental Assessment (EA) for annual operation and maintenance of the Canalization Project but was not selected. In the mid-1990s, the USIBWC began developing a scope of work to revisit the existing and outdated EA in accordance with federal guidelines to keep such documents current. The EA was nearly 20 years old at the time, and new hydraulic studies had been completed by United States Army Corps of Engineers in 1996. At the same time, a consultant was being contracted to develop the present EIS, the USIBWC received notice from the environmental community that we were not in compliance with federal laws to protect endangered species. To settle the threatened lawsuit out of court, the USIBWC agreed to do that which we had already embarked on, that is, develop a new EIS (the present document) for our management of the Canalization Project.

Public scoping meetings, scoping comments, technical workshops, and field studies were conducted, and over a period of three years (October 1999 to December 2002) the alternatives to be analyzed in the EIS were formulated based on that public input including the baseline alternative, identified in the EIS as the No Action Alternative, to continue operation and maintenance activities conducted as they had been since 1996. Each alternative balanced the need for accomplishing the USIBWC's flood control mission and United States treaty requirements with improving the environmental quality of the river.

I hope this responds adequately to some of the concerns you expressed. Other comments you made will be addressed when your letter is considered in development of the final EIS. I also look forward to working with you and in continuing that healthy, constructive relationship that this agency has historically had with the farmers. In that respect, I am happy to report that the erosion protection for the Hatch Siphon was completed January 29, 2004. This work will protect that critically important irrigation structure for many years to come. Two equally important irrigation structures, the Rincon Siphon and Picacho Flume, are scheduled for erosion protection measures in the next year or two.

Thank you for your comments on the DEIS and for your continued interest in the Canalization Project. If you should have questions, please call Environmental Protection Specialist Douglas Echlin at 915/832-4741.

Sincerely,

Arturo Q. Duran
Commissioner

cc:

Dr. R.C. Wooten
Senior Associate
Parsons Engineering Science, Inc.
8000 Centre Park Drive, Suite 200
Austin, Texas 78754

Rebecca Miller

Tuesday, February 24, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa Street, C-310
El Paso, Texas 79902

Dear Commissioner Duran:

Thank you for your response to my letter of January 21. I know how busy you are.

Please find enclosed a copy of my letter to Ms. Mary Sanchez of the Natural Resource Conservation Service with respect to my confusion at their declining to act as a cooperating agency in the RGCP DEIS.

Also, please note that I have requested information regarding the specific sediment dams that, in my view, would greatly assist in achieving USIBWC objectives. Would a pooling of resources among the agency and NRCS to achieve common goals be possible? I am ignorant on this point. Would it be desirable from the agency's point of view?

With respect to the various legal compliance documents and/or statutory references I requested in my January 21 letter, will you be responding in the FEIS or in a separate letter? You confirm in your letter that changes in fact did take place in 1996 by your statement, "...the baseline alternative, identified in the EIS as the No Action Alternative, to continue operation and maintenance activities conducted as they had been since 1996." I'm assuming you are referring to the 1994 River Management Plan for sediment control to be in compliance with Section 404 Permits with respect to dredge disposal and mitigation. Perhaps if you sent me a copy it would more adequately address the specific concern with respect to why the agency decided to discontinue dredging in 1996. Until then...

It is the general understanding that O&M was determined by the 1977 EA, and remains the authority until such time as there is a new EIS and Record of Decision. If this is incorrect, please provide an explanation with statutory reference. But even though the EA dates back to 1977, I saw nothing in the 1996 US Army Corps of Engineers to dispute the major significance of sediment control established and explained in the 1977 EA. Moreover, it confirmed the 1977 statements with reference to the importance of building the specific sediment control dams mentioned therein due to the load contributed by the relative tributaries. Therefore, discontinuing dredging would necessarily be classified as a major action requiring an EIS, and only after adequate analysis and an ROD could the discontinuation actually take place. The agency's response with respect to this that, "the USIBWC has never relinquished its need to either remove sediment from the pilot channel.." skirts the real issue. Every irrigator in the valley will tell you that since the agency has discontinued sediment removal, water delivery has suffered. And there is a serious inconsistency with the reports that I am receiving and the agency's contention that "...the project [is] constantly scrutinized and surveyed to ensure no critical conditions are developing as a result of sedimentation and erosion." I believe *independent* studies are being performed that may show otherwise.

Of course, changes can be made in the interim with an EA with a Finding of No Significant Impact. In addition, studies can be implemented and classified as a Categorical Exclusion with a simple environmental memorandum. I have asked for the agency to provide these to show that it has in fact

made the changes after appropriate analysis were performed according to NEPA. In addition to NEPA requirements, however, the Farmland Protection Policy Act has the same requirements with respect to assessing impacts on farmland specifically. Moreover, the Floodplain requirements need to be met (EO11988). Finally, with respect to Categorical Exclusions, there are some exceptions to being able to classify certain actions as such even if they are studies – and I believe this is the case here regarding the no-mow zones agreed to with SWEC. Please refer to my letter for those exceptions.

Therefore, unless the agency can show that it complied with these NEPA requirements when the 1996 and 1999 changes specifically noted in my initial letter were adopted, the No Action Alternative baseline must be *to continue operations and maintenance activities conducted as they had been since 1977*. Obviously, this excludes the 57 acres of no-mow zones and reimplementing dredging of the main channel as previous to 1996.

I address the above issues in more detail in my forthcoming comments on the DEIS. Most importantly, I am beginning to understand the significant nature of the agency's budget limitations. This makes it even more important that we apply limited resources to priority concerns of flood protection and efficient water delivery. If, for example, there is no money to construct the floodwall in Canutillo because it's been spent on studying meanders, there will be a significant price to pay – let's hope it's not in lives. But it also alerts me to the fact that the USIBWC is vulnerable to influence by those groups that are offering to bring in millions of dollars for restoration projects. Like the Paso Del Norte Watershed Council - the very group the DEIS recommends act in an advisory capacity to the agency in developing specific environmental measures?

Sincerely,

Rebecca Miller

Rebecca Miller
Board Member, Rio Grande Citizens Forum
USIBWC Outreach to the Agricultural and Rural Community

cc: Mr. Carlos Marin
USIBWC

Ms. Debra Little
USIBWC

P.O. BOX 507 • ANTHONY, NM • 88021
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Rebecca Miller

Tuesday, February 24, 2004

Mary Sanchez
National Resource Conservation Service
2507 Telshor, Suite 1
Las Cruces, NM 88011

Dear Ms. Sanchez:

Pursuant to my letter of January 21, 2004 to Commissioner Arturo Duran of the United States International Boundary and Water Commission (USIBWC) requesting certain information and documents respecting legal compliance issues, please find enclosed a copy of Commissioner Duran's response.

More specifically, I am confused as to why the NRSC declined to serve as a cooperating agency on the Rio Grande Canalization Project (RGCP) in the development of the Draft Environmental Impact Statement (DEIS) when invited. I would appreciate your educating me on the possible reasons. It seems that had the NRCS been involved, it could have insured that the current DEIS:

1. Provided a more accurate description of agriculture's importance in this region with respect to environmental quality,
2. Incorporated the requirements of the Farmland Protection Policy Act early in the process,
3. Adequately analyzed the impacts of the proposed actions with respect to farmland preservation and soil conservation.

As you already know, it is my opinion that the DEIS has failed in the above areas. And since this information is lacking, decision makers will not be able to properly weight the true costs and benefits.

Also, I have requested certain information from the NRCS regarding the sediment dams specified in the letter to Commissioner Duran. The 1977 EIS indicates that the USIBWC mandates preclude many of the environmental enhancements now being proposed in the DEIS *until* these NRCS dams are built. Could you please educate me on NRCS' position with respect to these sediment dams. For instance, why were the 3 dams that were authorized in 1977 not built? Where is the study for the other 4 that was underway at that time?

From what little I know, it seems that a concerted effort to partner with the USIBWC would greatly assist them in achieving their mandates, and allow for greater opportunities for environmental improvements. Please make note of Commissioner Duran's important point: the agency's resources are few and their responsibilities many. Perhaps a pooling of resources would be a win for achieving NRCS goals as well.

In addition to your responses to the above, I would appreciate it if you would send me a copy of the NRCS comments on the DEIS. As you know, they are due no later than March 1, 2004.

Sincerely,

Rebecca Miller

Rebecca Miller
Board Member, Rio Grande Citizens Forum
USIBWC Outreach to the Agricultural and Rural Community

cc: Commissioner Arturo Duran
USIBWC

Mr. Carlos Marin
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Addendum B

CEQR References for Comment Section Need and Purpose

Pertinent References:

Section 1500.6 Agency Authority

Section 1501.1 (d) Identifying the significant environmental issues

Section 1501.7 Scoping

Section 1502.4 (a) Definition of proposed action and criteria

Section 1508.25 Scope

Section 1508.27 Significance

Addendum C

Documents Pertinent to Defining Terms and Restoration Baselines

Tainter, J.A., B.B. Tainter, 1996. Riverine Settlement in the evolution of prehistoric land-use systems in the Middle Rio Grande Valley, New Mexico. Pp. 22-32, USDA forest Service, General Technical Report RM-GTR-272. Proceedings of the "Desired future conditions for Southwester riparian ecosystems: Bringing interests and concerns together", Albuquerque, NM, September 18-22, 1995.

Documents Pertinent to Agricultural Environmental Value and Analysis

Tainter, J.A., B.B. Tainter, 1996. Riverine Settlement in the evolution of prehistoric land-use systems in the Middle Rio Grande Valley, New Mexico. Pp. 22-32, USDA forest Service, General Technical Report RM-GTR-272. Proceedings of the "Desired future conditions for Southwester riparian ecosystems: Bringing interests and concerns together", Albuquerque, NM, September 18-22, 1995.

Leal, D.A., R.A. Meyer, B.C. Thompson, 1996. Avian community composition and habitat importance in the Rio Grande corridor of New Mexico. Pp. 62-68, USDA forest Service, General Technical Report RM-GTR-272. Proceedings of the "Desired future conditions for Southwester riparian ecosystems: Bringing interests and concerns together", Albuquerque, NM, September 18-22, 1995.

Mexal, J.G., E.A. Herrera, T.W. Sammis, W.H. Zachritz, 2003. Noncommensurable Values of the Pecan Industry. New Mexico State University, College of Agricultural and Home Economics, Guide H-654.

Gollehon, N.R. Water Markets: Implications for the Rural Areas of the West. U.S. Department of Agriculture, Economic Research Service, Resource Economics Division, *Rural Development Perspectives*, vol. 14, no.2.

Comment Letter S32

Clifford L. Pelton
5725 Robledo Rd.
Las Cruces, NM 88012

February 26, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S32-1

I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S32-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).

- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Clifford L. Pelton

cc: Governor Bill Richardson
Office of the Governor Bldg.
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
20510
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office
Washington, D.C.

Comment Letter S33

February 26, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Mr. Echlin:

S33-1 The purpose of this letter is to let our voices be heard regarding the decision of adopting the proposed management alternatives. We strongly support the No Action Alternative management plan with the terms and conditions of the Memorandum of Understanding excluded. We believe the IBWC's mandate is flood control and insuring contractual S33-2 deliveries of water. The IBWC is responsible to the water users and parties of use. We object to the Memorandum of Understanding that was entered into by and between the IBWC and SWEC. These changes are opposite to the Environmental Impact Study conducted in 1977.

S33-3 We strongly believe that overall water quality from any type of habitat restoration would have a considerable negative impact. At what point will some endangered or threatened S33-4 species be discovered in a future habitat restoration that would make our water rights worthless? We strongly believe and stand firm in adopting only the No Action Alternative without the Memorandum of Understanding.

Respectfully submitted,

Anita Ortega

Anita Ortega
1011 West Ohara Road #B
Anthony, NM 88021

Comment Letter S34

February 26, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Mr. Echlin:

S34-1 The purpose of this letter is to let our voices be heard regarding the decision of adopting the proposed management alternatives. We strongly support the No Action Alternative management plan with the terms and conditions of the Memorandum of Understanding excluded. We believe the IBWC's mandate is flood control and insuring contractual deliveries of water. The IBWC is responsible to the water users and parties of use. We object to the Memorandum of Understanding that was entered into by and between the IBWC and SWEC. These changes are opposite to the Environmental Impact Study conducted in 1977.

S34-2

S34-3 We strongly believe that overall water quality from any type of habitat restoration would have a considerable negative impact. At what point will some endangered or threatened species be discovered in a future habitat restoration that would make our water rights worthless? We strongly believe and stand firm in adopting only the No Action Alternative without the Memorandum of Understanding.

S34-4

Respectfully submitted,

Enrique Ortega

Enrique Ortega
226 Barrio Road
Anthony, NM 88021

Comment Letter S35

February 26, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Mr. Echlin:

S35-1

S35-2

The purpose of this letter is to let our voices be heard regarding the decision of adopting the proposed management alternatives. We strongly support the No Action Alternative management plan with the terms and conditions of the Memorandum of Understanding excluded. We believe the IBWC's mandate is flood control and insuring contractual deliveries of water. The IBWC is responsible to the water users and parties of use. We object to the Memorandum of Understanding that was entered into by and between the IBWC and SWEC. These changes are opposite to the Environmental Impact Study conducted in 1977.

S35-3

S35-4

We strongly believe that overall water quality from any type of habitat restoration would have a considerable negative impact. At what point will some endangered or threatened species be discovered in a future habitat restoration that would make our water rights worthless? We strongly believe and stand firm in adopting only the No Action Alternative without the Memorandum of Understanding.

Respectfully submitted,

M. Ortega

Manuel Ortega
1008 West Ohara Road
Anthony, NM 88021

Comment Letter S36

February 26, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Mr. Echlin:

S36-1 The purpose of this letter is to let our voices be heard regarding the decision of adopting the proposed management alternatives. We strongly support the No Action Alternative management plan with the terms and conditions of the Memorandum of Understanding excluded. We believe the IBWC's mandate is flood control and insuring contractual

S36-2 deliveries of water. The IBWC is responsible to the water users and parties of use. We object to the Memorandum of Understanding that was entered into by and between the IBWC and SWEC. These changes are opposite to the Environmental Impact Study conducted in 1977.

S36-3 We strongly believe that overall water quality from any type of habitat restoration would have a considerable negative impact. At what point will some endangered or threatened

S36-4 species be discovered in a future habitat restoration that would make our water rights worthless? We strongly believe and stand firm in adopting only the No Action Alternative without the Memorandum of Understanding.

Respectfully submitted,

Roy Ortega

Roy and Celestina Ortega
1130 Dairy Farm Road
Anthony, NM 88021

Comment Letter S37

February 26, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Mr. Echlin:

S37-1 The purpose of this letter is to let our voices be heard regarding the decision of adopting the proposed management alternatives. We strongly support the No Action Alternative management plan with the terms and conditions of the Memorandum of Understanding excluded. We believe the IBWC's mandate is flood control and insuring contractual deliveries of water. The IBWC is responsible to the water users and parties of use. We object to the Memorandum of Understanding that was entered into by and between the IBWC and SWEC. These changes are opposite to the Environmental Impact Study conducted in 1977.

S37-2

S37-3 We strongly believe that overall water quality from any type of habitat restoration would have a considerable negative impact. At what point will some endangered or threatened species be discovered in a future habitat restoration that would make our water rights worthless? We strongly believe and stand firm in adopting only the No Action Alternative without the Memorandum of Understanding.

S37-4

Respectfully submitted,

Gloria Polanco

Albert and Gloria Polanco
1011 West Ohara Road
Anthony, NM 88021

Ken Stinnett
PO Box 1137
Mesilla, NM 88046

Comment Letter S38

February 26, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S38-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S38-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Ken Stinnett

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S39

thomas e. wark

6600 Vista del Reino
Las Cruces, NM 88007

[505] 541-4578
FAX 527-5297

26 Feb. 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

We love the Rio Grande, and weep for its deteriorating condition. Now we have become aware of proposed changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S39-1 We urge USIBWC to develop a management plan that restores the natural health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives is adequate. Please develop a new alternative which includes the following measures:

S39-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, and provide a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS offers an opportunity to undo much of the ecological damage that has been done to the river over the past century.We ask you to respond to this opportunity with vision and leadership.

Sincerely

Thomas E. Wark Lois G. Wark

cc: Gov. Richardson, Sen. Bingaman, Sen. Domenici

Comment Letter S40

Chris Yarnes, M.S.
1000 S. Alamo St.
Las Cruces, NM

February 26, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S40-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S40-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Chris Yarnes

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

2/26/04

Comment Letter S41

Att: Mr. Douglas Echlin

Dear Sir,

S41-1 I want to go on record as in favor of No Action alternative with the terms & conditions of the MOU excluded.I object to all of the other options, because they impact some or all of the following.

S41-2 #1 The taking of water out of productive and beneficial use.

S41-3 #2 Objecting to the No Action Alternative including provisions of the MOU with the SWEC and no dredging, both of which were not subject to the proper legal and environmental review.

S41-4 #3 The negative impact on overall water quality from any type of of habitat restoration.

S41-5 #4 In the absence of any Endangered or Treatened Species what requires the IBWC to consider habitat restoration for any reason?

S41-6 #5 How is the IBWC addressing the ongoing drought and the conservation of our precious water resource ,instead of creating additional uses?

S41-7 #6 The IBWC,S mandate is flood control and insuring contractual deliveries of water.

#7 The IBWC,S following the intent of and letter of the law is the best way to avoid lawsuits.

S41-8 #8The changing of the river channel,s design and purpose as a water conveyance system.

S41-9 #9 The IBWC is resposible to the water users and parties of use.

Sincerely,

#6522

Comment Letter S42

27 February 2004

Commissioner Arturo Durán
International Boundary & Water Commission (IBWC)
United States Section
4171 N. Mesa, Suite C-100
El Paso, TX 79902

Dear Mr. Durán,

As an El Paso native, long-time resident of the area, and a person who owns a residence within two miles of the Río Grande, and as a person experienced in both irrigated agriculture as well as environmental protection and conservation, I would like to submit the following comments concerning the current Canalization Project as it is being updated by the IBWC.

S42-1 I believe that we can have a management plan that restores, at least, some sections of the Río Grande to a more natural river environment, while at the same time meeting our flood protection and water delivery obligations. But I note the Draft Environmental Impact Statement (DEIS) as currently written offers little of what is really needed. In fact, it is truly a visionless document. Instead I believe that the IBWC should live up to its agreement with the Southwest Environment Center (SWEC), to develop a new alternative that:

restores natural meanders & streamside habitats to, at least, a portion of the river, while acquiring water rights from willing sellers to assist in this process;
involves the purchase of land from willing sellers for flood control purposes, rather than depending on traditional engineering practices such as levees;
ends both the grazing and the mowing that is preventing the re-establishment of natural vegetation; and
otherwise considers the options listed in the 1999 agreement that the IBWC made with SWEC.

S42-2 The IBWC has a historic opportunity to show some vision and leadership, but it will require an approach that differs greatly from what is currently in the DEIS. In conclusion, as a member of the SWEC, I wholeheartedly endorse a new and better future for *nuestro río*. Thank you very much for your time.

Sincerely,

Dr. Jonathan E. Davis
PhD Horticulture/Forestry
PO Box 555
Mesilla, NM 88046

Cc: Governor Bill Richardson
US Senator Jeff Bingaman
US Senator Pete Domenici

JEAN M. DARBYSHIRE
POST OFFICE BOX 4410
ANTHONY, NM 88021-4410

Comment Letter S43

February 27, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

RE: Draft Environmental Impact Statement – Rio Grande Canalization Project

Dear Mr. Echlin:

I am writing concerning the Draft Environmental Impact Statement (DEIS) on the different river management alternatives for the Rio Grande Canalization Project.

S43-1 I believe the only alternative appropriate is the No Action Alternative. I also believe any and all conditions of the Memorandum of Understanding with the Southwest Environmental Center that are incorporated into the No Action Alternative should be eliminated.

You need to be more concerned with the majority of people in the Valley and their futures than you do with a small minority of environment extremists.

Sincerely,

Jean M Darbyshire

Jean M. Darbyshire

Comment Letter S44

GARRY MICHAEL DUTTON
2100 HWY 28
ANTHONY, NM 88021

February 27, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environmental Management Division
4171 North Mesa Street, C-310
El Paso, Texas 79902

S44-1 At this time, I would like to express my concerns on the operations of the Rio Grande River Project. In 1977 the IBWC conducted an Environmental Impact Study pursuant to the recently passed National Environmental Protection Act, on the operation and maintenance of the Rio Grande Canalization Project. It allowed for and included sediment removal from the normal flow channel and lower end of arroyos, floodway leveling, a vegetative management program, road shaping and resurfacing, replacement of rock bank riprap and other basic maintenance of the IBWC's physical plant and assets. In 1996 the IBWC stopped dredging silt from the river channel, contrary to the 1977 Environmental Impact Study.

S44-2 The floodway must be kept clean and free of any debris and vegetation that will hamper the water flow. The main canal or channel must be kept clean and the sediment must be removed. All river and irrigation structures need to be well maintained and in operation. All of these steps must be done in order for flood control and water distribution.

S44-3 I am in favor of the No Action Alternative <u>excluding</u> the Memorandum of Understanding.

Sincerely,

Garry Michael Dutton

Garry Michael Dutton

Comment Letter S45

Larry Hughes
4808 Gamble Court
Las Cruces, NM 88011

Feb, 27, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S45-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S45-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Larry Hughes

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S46

1105 Circle Dr.
Las Cruces, NM 88005
February 27, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I'd like to comment on the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S46-1

I believe that a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery is the best approach. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S46-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

I encourage you use this opportunity to restore parts of this great river.

Sincerely,

Tim McKimmie

Tim McKimmie

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S47

Lynn A. Mulholland
2900 Karen Drive
Las Cruces, NM 88001

February 27, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S47-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S47-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Lynn A. Mulholland

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S48

Linda and Doug Page
2604 Cody Circle
Las Cruces, NM 88011

February 27, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S48-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S48-2

1 Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
2 Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
3 Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
2 Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
3 Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
4 Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely, Linda Page Doug Page

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington,D.C.20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S49

Jane E. Poss
501 Spring Crest Drive
El Paso, TX 79912
(915) 747-7259

February 27, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC). I believe this is an important opportunity to undo much of the ecological damage that has been done to the river over the past century.

S49-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. I urge you to develop a new alternative which includes these measures:

S49-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use better modeling (two-dimensional) to determine if/where current levees are inadequate. The final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly measures: flood easements, wetlands, levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to reverse the ecological demise of the Rio Grande. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Jane Poss

Jane E. Poss

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S50

Sarah Sisk
11 Camino del Gallo
Lamy, NM 87540

2/27/04

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S50-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S50-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Sarah Sisk

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S51

February 27, 2004

Commisioner Arturo Duran
International Boundary and Water Commission
U.S. Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran:

I write to express my concern rgarding the future of the lower Rio Grande, and the revision of the Canalization Project currently being updated by the International Boundary and Water Commission. I believe this is an important opportunity to undo much of the damage that has been done to the Rio Grande over the past century.

S51-1 I strongly urge the IBWC to develop a management plan that broadly restores the physical and ecological health of the Rio Grande and restores a more natural river channel, while providing flood protection and water delivery. However, the options outlined in the Draft Environmental Impact Statement fail to meet this goal, would bring little ecological benefit, and falls short of the restoration potential for the Rio Grande. I strongly urge the IBWC to develop a new river restoration alternative that fulfills lthe IBWC's 1999 agreement with the Southwest Environmental Center. This alternative should include the following measures:

S51-2

1. Aggressively restore the natural meanders and streamside habitats of the Rio Grande.
2. Acquire water rights from willing sellers to help resore streamside ecosystems.
3. Use innovative approaches, including purchase of land from willing sellers, for flood control rather than traditional engineering approaches such as levees.
4. Cease the grazing and mowing of vegetation along the river that is inhibiting vegetation growth.
5. Include complete modeling and analysis to determine the true need for flood control works.
6. Consider all the restoration options outlined in the scope of the 1999 agreement between the IBWC and he Southwest Environmental Center.

S51-3 The development of his Canalization EIS is an important and historic opportunity to reverse the slow ecological death that the lower Rio Grande has suffered. To take advantage of this opportunity, lthe IBWC must show vision and leadership by reaching beyond he narrow approaches that are mostly presented in the Draft EIS. The Southwest Environmental Center, of which I am a member, has put forth this vision, and I endorse the recommendations made by SWEC for the IBWC to help restore the Rio Grande.

Thank you for your concern, and I look forward to your response on this urgent issue.

Sincerely,

Geri Tillett

Mrs. Geri Tillett, 2140 Gladys, Las Cruces, NM 88001

cc: Governor Bill Richardson, Senators Jeff Bingaman and Pete Domenici

Comment Letter S52

Gloria Villaverde
2320 N. Kansas
El Paso, TX 79902-3206

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

27 February 2004

Dear Commissioner Duran,

I am very concerned with the future of the Rio Grande. Steps must be taken to undo much of the ecological damage that has been done to the river over the past century.

S52-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. I urge you to develop a new alternative which includes these measures:

S52-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use better modeling (two-dimensional) to determine if/where current levees are inadequate. The final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly measures: flood easements, wetlands, levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to reverse the ecological demise of the Rio Grande. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Gloria A. Villaverde

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S53

Ronald L. Wood
200 Shadow Mountain, Apt. 74
El Paso, TX 79912-4734

Feb. 27, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC). I believe this is an important opportunity to undo much of the ecological damage that has been done to the river over the past century.

S53-1

I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. I urge you to develop a new alternative which includes these measures:

S53-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use better modeling (two-dimensional) to determine if/where current levees are inadequate. The final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly measures: flood easements, wetlands, levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to reverse the ecological demise of the Rio Grande. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Ronald L. Wood

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S54

Sarah G. Wood
200 Shadow Mountain, Apt. 74
El Paso, TX 79912-4734

Feb. 27, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC). I believe this is an important opportunity to undo much of the ecological damage that has been done to the river over the past century.

S54-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. I urge you to develop a new alternative which includes these measures:

S54-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use better modeling (two-dimensional) to determine if/where current levees are inadequate. The final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly measures: flood easements, wetlands, levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to reverse the ecological demise of the Rio Grande. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Sarah G. Wood

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

27 February 2004

Comment Letter S55

S. K. Wright
815 Yucca St.
Truth or Consequences, NM 87901

Douglas Echlin
USIBWC Environmental Management Division
4171 North Mesa, C-310
El Paso, TX 79902

Dear Mr. Echlin,

I support the "Targeted River Restoration" alternative, but it does not go far enough. Allowing the river to reestablish itself is the only way humankind will have any hope of benefiting from its resources in the long term. I propose the following additions:

S55-1

Let nature do the work:

- use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate areas between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.

S55-2

- Assist nature by:
  - removing channel armoring to let river meander between the levees
  - lowering banks to maximize the area that can be flooded between the levees
  - Planting native vegetation and controlling non-native species such as salt cedar
  - Install structures in channel to create aquatic habitat diversity, e.g. boulders
  - Maintain minimum winter flows to support fish
  - Create wetlands connected to river, like Picacho Wetlands
  - Phase out all mowing and grazing everywhere unless these activities serve clear restoration and/or flood management purposes.
  - Extend restoration measures downstream of Mesilla Dam: meanders, native vegetation plantings, conservation easements.
- Establish 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use better modeling (two-dimensional) to determine if/where current levees are inadequate. The final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly measures: flood easements, wetlands, levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near river.

Sincerely,

S. K. Wright

To Whom It May Concern:

Comment Letter S56

Enclosed in this letter is my opinion on the issues on the Rio Grande River - the River Management - Alternatives on the Canalization Project.

S56-1 The environmentalist want a river for wildlife and fish but seem to forget the people. The small farm water users keep the land in shape for future generations. Some people complain about the dust if you redesign the canals there will be more dust. The cottonwood trees you are planted have no water rights - we pay for ours. These trees are tremendous water users.

S56-1 N.M. has high unemployment if you use our water for usually reasons the results could make our area as worse.

S56-1 Some of your actions are against the mission of flood control and channel maintenance but for the restoration of riparian areas which outside your authority.

Barbara A. Ferguson

[illegible] 31

Comment Letter S57

To All It May Concern

Enclosed is a letter of my opinion about the issues on the Rio Grande, River management Alternatives on the Conalization Project.

S57-1 As IBWC's function is for delivery of water and flood protection they should not be making environmental policy, the planting of cotton wood trees removes water that could be used by

S57-2 people with water rights. IBWC does not have any water rights and this creates a potential flooding problem for people.

S57-3 The environmentalist want the money charged to tax payers not to the environmental organizations the hunters and fishermen pay for their used themselves.

you are outside your authority and have no water rights

Bill Ferguson

IBWC LED SJ 1-31

Comment Letter S58

P.O. Box 1793
Anthony, NM 88021

Mr. Douglas Echlin
Lead Environmental Protection Specialist
USIBWC, Environment Management Division
4171 North Mesa Street, C-310
El Paso, TX 79902

Dear Mr. Douglas Echlin:

S58-1 I am writing in regards to the Draft Environmental Impact Study Management Alternatives that have been purposed. I believe the best choice of all of the alternatives is the "No Action" alternative.

S58-2 The International Boundary & Water Commission's area of responsibility is in flood control and ensuring contractual water delivery. The IBWC needs to follow it's mandates established in the 1977 Environment Impact Study. Any changes from the established study will only lead to misunderstandings and law suits. New Environmental Impact studies should be conducted before "No Mow" zones and "Green zones" can be established. Any kind of habitat restoration without an environment study will have a negative impact on our water quality and will create additional uses of our already strained water supply. When is the board going to address the problems of the water drought and it's future impact on the agricultural industry?

S58-3

S58-4

Again, my choice is for the "No Action" alternative. Please take my letter into consideration when voting for the Draft Environment Impact Study Alternatives.

Sincerely,

David Madrid

Table 2.1-1 Comparison of Alternative Features

Management Category	No Action Alternative	Flood Control Improvement Alternative	Integrated USIBWC Land Management Alternative	Targeted River Restoration Alternative
Levee System Management	Routine levee and road maintenance	No change	No change	No change
	n/a	Levee system improvements	Levee system improvements	Levee system improvements
Floodway Management	Unmodified grazing leases	Modified leases for erosion control (3,552 ac)	Modified leases for erosion control (3,552 ac)	Modified leases for erosion control (3,493 ac)
	Continue seasonal mowing (4,657 ac)	No change	Continued mowing (2,674 ac)	Continued mowing (2,223 ac)
			Modified grassland management (1,641 ac)	Modified grassland management (1,641 ac)
			Native vegetation planting (223 ac)	Native vegetation planting (189 ac)
			Stream bank reconfiguration (127 ac)	Seasonal peak flows / bank preparation (516 ac)
	n/a	n/a	n/a	Voluntary conservation easements (1,618 ac)
Channel and Irrigation Facilities Management	Debris removal and channel protection	No change	No change	No change
	American Dam and irrigation structures maintenance	No change	No change	No change
	n/a	n/a	n/a	Reopening of six former meanders (147 ac)
Sediment Management	NRCS sediment dam maintenance	No change	No change	No change
	Sediment removal from arroyos / mitigation actions	No change	No change	Modified arroyo dredging for aquatic habitat (12 arroyos)
	Disposal from dredging channel within ROW*	Disposal mainly outside ROW*	Disposal mainly outside ROW*	Disposal mainly outside ROW*
	n/a	n/a	Disposal from environmental measure excavation inside ROW*	Disposal from environmental measure excavation inside ROW*

* Right-of-way of the Rio Grande Canalization Project (lands under USIBWC jurisdiction)

2/24/04

David J. Madrid

To Mr. Douglas Echlin Lead Environmental Protection Specialist

Comments on Proposed Changes by IBWC on Mainting Rio Grande River Bed

I belive that the priorities in this Changes arenot in the best intersts the Human Race, the People.
Planning and doing is needed to benefit the people, after all is said done, the people are the onces that are most affected by changes, theyare the onces that work and sweat so that the environment candbe improved.
The invironment is very importment, but what is a nice inviroment without healthy and well fed people?to enjoy?.
Water is the Name of the game, it's the most essential and most importment in peoples lives.
Water needs have more than tripled in the last twenty years, but supplies have remained the same.
S59-1 When IBWC was enacted the main thinking and requirement in the law was to preserve and manage Water to the best of our abilities for the benefit of the people.
I believe that IBWC is not following this precepts , it could be unlawful.
IBWC is not the Agency that it was ment to be, It's a disgrace to it's name.
It should be changed to Internationsl Boundary and Environmental Commission.
First the Environmentalists are for the Minnowa, now they want to grow Cotton-Wood Trees. What's Next?? Get rid of Elefant Butte Lake and Caballo Lake?

The Message id loud and clear: To-H--- with the people.

TO WHOM IT MAY CONCERN. Muchas Gracias.

Sincerely,

Adrian Ogaz Rural Routr Box 54 Garfield, N.M. 87936

Adrian Ogaz

Comment Letter S59

Comment Letter S60

Mary W. Blevins
500 East Riverside #13
T or C, NM 87901

February 28, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S60-1

I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S60-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Mary W. Blevins

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Dr. Nancy J. Crider
4931 Marie Tobin

Comment Letter S61

February 28, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC). I believe this is an important opportunity to undo much of the ecological damage that has been done to the river over the past century.

S61-1

I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. I urge you to develop a new alternative which includes these measures:

S61-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
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- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use better modeling (two-dimensional) to determine if/where current levees are inadequate. The final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly measures: flood easements, wetlands, levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to reverse the ecological demise of the Rio Grande. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,
Dr. Nancy J. Crider
Dr. Nancy J. Crider

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

(NAME) Ann d'Olier
(ADDRESS) 7270 Raasaf Circle
Las Cruces, NM 88005

Comment Letter S62

(DATE)

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the lower Rio Grande, and the revision of the Canalization Project currently being updated by the International Boundary and Water Commission. I believe this is an important opportunity to undo much of the damage that has been done to the Rio Grande over the past century.

S62-1

I strongly urge the IBWC to develop a management plan that broadly restores the physical and ecological health of the Rio Grande and restores a more natural river channel, while providing flood protection and water delivery. However, the options outlined in the Draft Environmental Impact Statement fail to meet this goal, would bring little ecological benefit, and falls short of the restoration potential for the Rio Grande. I strongly urge the IBWC to develop a new river restoration alternative that fulfills the IBWC's 1999 agreement with the Southwest Environmental Center. This alternative should include the following measures:

S62-2

1) Aggressively restore the natural meanders and streamside habitats of the Rio Grande
2) Acquires water rights from willing sellers to help restore streamside ecosystems
3) Uses innovative approaches, including purchase of land from willing sellers, for flood control rather than traditional engineering approaches such as levees
4) Ceases the grazing and mowing of vegetation along the river that is inhibiting vegetation growth
5) Includes complete modeling and analysis to determine the true need for flood control works
6) Considers all the restoration options outlined in the scope of the 1999 agreement between the IBWC and the Southwest Environmental Center

S62-3

The development of this Canalization EIS is an important and historic opportunity to reverse the slow ecological death that the lower Rio Grande has suffered. To take advantage of this opportunity, the IBWC must show vision and leadership by reaching beyond the narrow approaches that are mostly presented in the Draft EIS. The Southwest Environmental Center, of which I am a member, has put forth this vision, and I endorse the recommendations made by SWEC for the IBWC to help restore the Rio Grande.

Thank you for your concern, and I look forward to your response on this urgent issue.

Sincerely,

(NAME) Ann d'Olier

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Building
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Building
Washington, D.C. 20510

Comment Letter S63

Billie Rose
PO Box 278
Fort Hancock, TX 79839-0278

February 28, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
US I B W C Environmental Management Division
4171 North Mesa St C-310
El Paso TX 79902

Re: No Action Alternative

Dear Mr. Echlin:

S63-1 It is my opinion that a clean and well maintained Rio Grande River would conserve our precious water supply, as well as to protect neighboring property at times of flash flooding. I feel that these factors should be of concern and benefit to all who rely on the river for water and flood control. Therefore, I would like to see the IBWC working on this alternative. S63-2

Sincerely,

Billie Rose
Farmer

CC: Jack F. Darbyshire

Comment Letter S64

Terry Rose
PO Box 278
Fort Hancock, TX 79839-0278

February 28, 2004

Mr. Douglas Echlin
Lead Environmental Protection Specialist
US IBWC Environmental Management Division
4171 North Mesa St C-310
El Paso TX 79902

Re: No Action Alternative

Dear Mr. Echlin

S64-1 It is my opinion that a clean and well maintained Rio Grande River would conserve our precious water supply, as well as to protect neighboring property at times of flash flooding. I feel that these factors should be of concern and benefit to all who rely on the river for water and flood control. Therefore, I would like to see the IBWC working on this alternative. S64-2

Sincerely,

Terry Rose
Farmer

CC. Jack F. Darbyshire

Chris Fields & Alison Tinsley
2510 Snow Rd
Las Cruces, NM 88005

Comment Letter S65

February 29, 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

We are residents of the Town of Mesilla, and live and grow pecans less than a mile from the Rio Grande. We are writing to you to express our concerns regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC). We are long-time supporters of the Southwest Environmental Center in Las Cruces, and find the points that they have raised in their commentaries to the USIBWC to express our concerns as well.

S65-1

We urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S65-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem. Such regulated flooding poses no threat to us or other residents.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space. As you know, water rights are being retired or sold throughout the valley as land is converted from agricultural to residential use.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river. Both the City of Las Cruces and the Town of Mesilla increasingly value the Rio Grande as a nature tourism resource. Improving the health and "natural" appearance of the river will directly aid tourism-based economic development efforts in our communities.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership. All of us living in the Rio Grande valley will benefit.

Sincerely,

Chris Fields

Alison Tinsley

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S66

February 29, 2004

Daryl T. Smith
3330 W. Picacho Ave.
Las Cruces, NM 88007

Mr. Douglas Echlin
U.S. International Boundary and Water Commission
Environmental Management Division
4171 North Mesa, Suite C-310
El Paso, TX 79902

Dear Mr. Echlin,

S66-1 I write to express my concern regarding the "Targeted River Restoration" alternative proposed in the Canalization Project draft Environmental Impact Statement prepared by the International Boundary and Water Commission, U.S. Section (USIBWC). While the above-mentioned alternative is certainly a good start and significantly better than the other ones proposed, I would like to encourage that the following additions be considered and added to the final proposal:

S66-2

- Let nature do the work using controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem. This has proven to be quite successful in the Bosque del Apache National Wildlife Refuge where it assists with washing away the salts that have accumulated in the soils and allows native vegetation a fighting chance to reestablish itself against the invasive salt cedars.
- Assist nature by: 1) removing much of the channeling and allowing the river to meander between the levees thus creating new wetland areas that will contribute greatly to improved water quality 2) planting (en masse) native vegetation and controlling non-native species such as salt cedar; 3) phasing out all mowing and grazing within the levees unless these activities serve clear restoration and/or flood management purposes; and 4) extending all of the restoration measures mentioned above downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space. With the current drought that we are experiencing, this is the only way to ensure adequate water supplies used for meaningful restoration efforts
- Delay the final EIS until best available hydraulic modeling (two-dimensional) is used to determine if/where current levees are inadequate. Where additional flood protection is needed, give priority to "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an opportune time to reverse the ecological (and aesthetic) damage that has been done to the river over the past century. Maybe we can turn this around and restore the river to a level that better reflects its name, whether it be the Rio "Grande" or the Rio "Bravo". I urge you to take this first giant step and ponder the long-term implications of your actions.

Sincerely,

Daryl T. Smith

Daryl T. Smith

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510

Comment Letter S67

Nancy Stotz • 2101 Sagecrest Avenue • Las Cruces, NM • 88011

29 February 2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

RE: EIS for Rio Grande Canalization Project

Dear Commissioner Duran:

I am writing to comment upon the draft Environmental Impact Statement addressing the management of the Canalization Project along the Rio Grande.

S67-1 First and foremost, it would seem premature to release the EIS when you are in the process of doing more advanced hydraulic modeling which will eventually provide more accurate data on the characteristics of various flooding scenarios for the river channel and floodplain.

S67-2 However, as this draft has been released, I will go ahead and express my qualified support for the Targeted Restoration Alternative. Although this alternative could go farther to address the rehabilitation of aquatic and riparian habitats along the project reach, it represents a significant step toward a management scheme that will facilitate additional rehabilitation efforts in the future. Positive elements included in this alternative include springtime pulses to mimic natural flow regimes, salt cedar control, and wetland and habitat improvements along the upper portions of the project reach. I do not have the technical expertise to know whether these restoration elements, as outlined in the alternative, are truly feasible or sustainable (ie: are the proposed spring pulses adequate to create and sustain bosque and wetland habitats?), but I fully support the concept of the IBWC taking a more active role in restoration activities along the Rio Grande.

S67-3 As you continue to work with this EIS and the results of the new hydraulic modeling, I would strongly encourage the IBWC to continue to partner with other governmental agencies and private organizations to develop a more complete, cooperative strategy for Rio Grande restoration. This strategy needs to address, at a minimum, the following issues: creating more aquatic habitat diversity within the river channel by restoring meanders and/or using within-channel structural devices, acquiring water rights for wetlands and in-stream flows (including non-irrigation season flows), and extending wetland and habitat improvements into the reach below Mesilla Dam.

A healthy Rio Grande could provide innumerable benefits to area residents and visitors—in addition to a healthier environment, there are numerous economic, recreational, and aesthetic benefits that could be derived. Thank you for helping to lead the IBWC toward a more sustainable vision for the river corridor.

Sincerely,

Nancy Stotz

Comment Letter S68

February 29 2004
4117 La Adelita
El Paso TX 79922

Comments to the Draft EIS River Management Alternatives for the Rio Grande Canalization Project.

1. I wish to commend you for consideration of actions that could begin to restore riparian habitat and the river's hydrological functions.

S68-1 2. That being said, given the virtual elimination of riparian, wetland, and aquatic habitats and river hydrological functions that the canalization project and other land use practices have caused, it appears that the acreages selected for targeted restoration activities for both the TRR and IULM alternatives are arbitrarily constrained. If larger acreages were not considered, please explain why, and if they were considered but were eliminated, discuss the reasons for their elimination in accordance with 40 CFR 1502.14(a). For example, no mention was made of continuing your cottonwood pole plantings. Imagine the habitat value, not to mention the aesthetic value, of cottonwood trees planted every 100 feet for the project's entire length. I assume that the omission of this restoration activity does not preclude its implementation at some point? Please clarify.

S68-2 3. The number of acres targeted for salt cedar removal for both the TRR and IULM alternatives appear to be arbitrarily constrained. Salt cedar has a significantly higher water consumption rate than either cottonwood or grass, and is a recognized invasive with many negative wildlife habitat characteristics. Please explain why the limitation on the number of acres. If larger acreages were not considered, explain why, and if they were but were eliminated, discuss the reasons for their elimination in accordance with 40 CFR 1502.14(a).

S68-3 4. Why are there fewer acres planned for native vegetation planting under the TRR alternative than under the IULM alternative? Again, the limitations appear arbitrary. If larger acreages were not considered, explain why, and if they were but were eliminated, discuss the reasons for their elimination in accordance with 40 CFR 1502.14(a).

S68-4 5. I understand that a one-dimensional hydrologic model was used to model hydrological behavior of the river, rather than the more robust and more preferred two-dimensional model. The use of the two-dimensional model may well provide the decision maker with data that would result in the identification of more areas and acreages that can be restored and still not interfere with flood water conveyance, when compared to the one-dimensional model results. Since restoration has such obvious positive benefits to the region's ecological diversity, request that the two-dimensional model be used to evaluate various combinations of restoration areas, acreages, and hydrology in order to have a better basis to select between alternatives and to develop additional alternatives that would increase the areas and acreages of targeted habitat restoration over those currently identified in the draft EIS. This would satisfy the requirement in 40 CFR 1502.22(a) that if there is incomplete or unavailable information that is "essential to a reasoned choice among alternatives and the overall costs of obtaining it are

not exorbitant, the agency shall include the information in the environmental impact statement".

S68-5 6. Have the impacts associated with IBWC's current operation and management (O&M) activities been analyzed in a prior NEPA document? There is practically no analysis or discussion of O&M activities, especially as regards how these prevent the recovery of native riparian vegetation and impact wildlife by interfering with the reestablishment of riparian wildlife habitat. O&M activities were included in the evaluation criteria for endangered species (Section 4.6) and briefly related to effects to endangered species , but no in depth discussion of impacts to habitats and wildlife (both aquatic and non-aquatic) was provided. This seems to me to be the most obvious omission in the document. Will the final address these shortcomings? If not, why not?

S68-6 7. It appears that there was no formal, government to government consultation with the Tigua as required by law. Request such consultation be undertaken to determine whether any portion of the project area was used by the Tigua or their culturally affiliated groups, and whether there are any traditional cultural properties within the project's Region Of Influence. Request that the results of the consultation be documented as appropriate in the final EIS.

S68-7 8. I support the alternative or combination of alternatives that provides the greatest amount of riparian, wetland, and aquatic habitat restoration and restoration of river hydrological functions.

Thank You for the opportunity to comment.
Kevin von Finger

Comment Letter S69

Nelson F. Clayshulte
P.O. Box 1243
Mesilla, NM 88046

March 1, 2004

Dear Sirs:

S69-1 This letter is concerning the future management practices for the Rio Grande Canalization Project. I am in support of the **No Action Alternative Management** practice.

S69-2 As a third generation Mesilla Valley farmer, I am deeply concerned that the path the International Boundary and Water Commission (IWBC) is considering following is not the best for the present water users and holders of water rights. As I am sure you are aware, the IWBC's mandate is flood control and insuring contractual deliveries of water. The Memorandum of Understanding (MOU) entered into in 1999 by the IBWC and the Southwest Environmental Center is contrary to this mandate. I find it quite disturbing that the MOU was not subject to any environmental assessment or impact study. The terms and conditions of the MOU should be excluded in any future management practices.

S69-3 In light of the current extreme drought that we are experiencing, I believe that the IBWC is obligated to insure that any and all water is delivered to parties using said water for productive and beneficial use. Creating additional uses for our limited water resources is not consistent with proper management and conservation.

I strongly urge you to consider all of these facts when making your decision on which management alternative to choose for the future of the Rio Grande and its people.

Sincerely,

Nelson F. Clayshulte

Comment Letter S70

March 1, 2004

International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

Let me start by saying I listened to the oral histories of those who remember a very different river. I walk down the middle of the current channel several times a week. The river was once a precious resource to all people, and now it nothing more than a ditch—but a ditch with hope of returning to some of its former glory. With this in mind, I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S70-1 Please! Restore the health of the Rio Grande of a once great river. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S70-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

1250 Avenida de Quintas | Billie Hughes | 28 CR 2180
Las Cruces, NM 88005 | chedisky@nutrioso.com | Nutrioso, AZ 85932

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Billie Hughes

cc: Governor Bill Richardson Senator Jeff Bingaman Senator Pete Domenici

1250 Avenida de Quintas Billie Hughes 28 CR 2180
Las Cruces, NM 88005 chedisky@nutrioso.com Nutrioso, AZ 85932

March 1, 2004

Comment Letter S71

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX

Re: "Canalization Project"

Dear Commissioner Duran:

Welcome to the hot seat.

I hope that you also welcome your opportunity to begin the long process that will be involved in correcting some of the massive mistakes in judgment that good-intentioned people made a century ago. The failure to consider the environmental consequences of the river management rules and regulations implemented so long ago has had, and continues to inflict enormous damage on the entire Rio Grande Basin. Too many of those errors are starkly apparent today.

S71-1 I want to thank the IBWC, especially Sally Spener, for efforts to acquaint members of our community with the IBWC's proposals to address some environmental issues in the "Canalization Project" which are set forth in the "Targeted River Restoration" alternative. But you know and I know that it doesn't even come close to forthrightly addressing the disasters that the ancient, misguided decisions created.

S71-2 I have reviewed the suggestions made by the Southwestern Environmental Center that have been presented to you. Even thought they are surely expensive, the recommendations are a further step in the right direction. I urge you to adopt each of them.

S71-3 Where will the money come from? It has to come from the federal government. And it will only come from the federal government when the decision-makers give the proper management of the Rio Grande Basin the priority it deserves. It's your job and my job to persuade them that this is no longer a trivial problem of an obscure federal agency. Neither the modest proposals made in the "Targeted River Restoration" nor the proposals of the Southwestern Environmental Agency deliver the urgent message that requires the attention of those who make the money decisions. Let's deliver that message now. Even though this project only relates to your responsibilities of 106 miles of a huge problem, it offers an opportunity to draw attention to the fact that things have gone haywire.

S71-4 Finally, I want to invite your attention to the fact that the IBWC refused to accept e-mail comments about the "Canalization Project". That conduct is damning. It tells us loud and clear that instead of welcoming the thoughts of the citizens who must live with the consequences of your management, the IBWC wants to make the effort to comment more difficult. If there is an

innocent explanation for your refusal to accept e-mail comments I'd like to hear it. You can correct this error by extending the comment period with fair notice to the public that you have a genuine desire to hear what they have to say.

Yours truly,

Taylor Moore

Taylor Moore
7108 Portugal
El Paso, TX 79912
915/581-3813
taylormoor8432@msn.com

cc: Senator Kay Bailey Hutchison
Senator John Cronyn
Representative Sylvestre Reyes

March 01, 2004

Comment Letter S72

Commissioner Arturo Duran
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

As a resident of New Mexico, I am writing to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S72-1

I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative that will:

S72-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.

- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).

- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.

- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.

- Give priority to river friendly "non-structural" measures where additional flood protection is needed, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.

- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Gary Schiffmiller
924 Osage Avenue
Santa Fe, NM 87505-3317
USA
schiffmiller@earthlink.net

Comment Letter S73

To: International Boundary and Water Commmission
4171 N. Mesa, C-100
El Paso, Texas 79902

From: Martha Stephens

March 1, 2004

I'm writing about the Canalization Project for the Rio Grande and asking that the IBWC not engage in work that would further damage this once beautiful and fruitful river.

S73-1 I ask that you use the present opportunity not to further compress and strangle this once splendid stream but to help restore it to something like its natural state, as an entity greatly needed by the people of Las Cruces and others in our desert lands.

It is painful even to view the dead, completely dried-up river as it appears in our area in the present month; and more dredging, more levees will seem to most of us a death-blow to an already severely-injured stream.

I knew nothing of the plans of the Alliance for the Rio Grande Heritage until I read a recent report of theirs in a local paper. I read with great interest of the options IBWC have for addressing the water issues in a way that would respect the need people have for a live body of water to know and enjoy.

S73-2 I ask that the Alliance report be open on your desks as you plan your present course of action -- and that you delay making any final plans at this time. You will find, I believe, that their carefully-researched study of the issues and possibilities deserves your close attention.

We are a desert here, but nature has provided us certain relief from heat and aridity, sand and rock. *We need our healthy river in our midst again.*

Most sincerely,

Martha Stephens

Martha Stephens
P. O. Box 207
201 E. Las Cruces Avenue
Las Cruces, New Mexico
88004-0207

MARCH 1, 2004
2065 SAN ACACIO ST
LAS CRUCES, N.M 88001

Comment Letter S74

DEAR COMMISSIONER DURAN,

S74-1 I WISH TO URGE YOU AND THE IBWC TO DEVELOP A RIO GRANDE MANAGEMENT PLAN THAT WILL RESTORE THE PHYSICAL AND ECOLOGICAL HEALTH TO THE RIVER. FOR EXAMPLE, ACQUIRE WATER RIGHTS FROM WILLING SELLERS TO HELP RESTORE STREAM-SIDE ECOSYSTEMS.

S74-1 PLEASE FOLLOW THE RECOMMENDATIONS OF THE SOUTHWEST ENVIRONMENTAL CENTER IN YOUR MANAGEMENT PLAN

SINCERELY,
JOHN H. WELCH

COPY: SENATORS DOMENICI AND BINGAMAN
GOV. RICHARDSON

Margaret Wilson
PO Box 926
Elephant Butte, New Mexico 87935

Comment Letter S75

March 1,2004

Commissioner Arturo Duran
International Boundary and Water Commission
United States Section
4171 North Mesa, Suite C-100
El Paso, TX 79902

Dear Commissioner Duran,

I write to express my concern regarding the future of the Rio Grande, and changes in management of the "Canalization Project" being considered by the International Boundary and Water Commission, U.S. Section (USIBWC).

S75-1 I strongly urge USIBWC to develop a management plan that restores the ecological health of the Rio Grande while still providing flood protection and water delivery. The "Targeted River Restoration" Alternative is a good start, but does not go far enough. None of the other alternatives are adequate. I urge you to develop a new alternative which includes these measures:

S75-2

- Let nature do the work: use controlled releases from Caballo Reservoir of flood pulses every 2-3 years (on average) to shape the channel and inundate the area between the levees. This will allow the river itself to reestablish a mix of riparian and aquatic habitats, thus providing a basis for sustainable and meaningful restoration of the river ecosystem.
- Assist nature by: 1) removing channel armoring to let river meander between the levees; 2) lowering banks to maximize the area that can be flooded between the levees; 3) planting native vegetation and controlling non-native species such as salt cedar; 4) phasing out all mowing and grazing unless these activities serve clear restoration and/or flood management purposes; 5) extending all restoration measures downstream of Mesilla Dam (instead of just upstream as proposed in the DEIS).
- Establish a 20-year program to buy land adjacent to IBWC's right-of-way from willing sellers to acquire water rights for the river and additional floodplain space.
- Use the best available hydraulic modeling (two-dimensional) to determine if/where current levees are inadequate. USIBWC is planning to do this modeling later this year--the final EIS should be delayed until this modeling is completed.
- Where additional flood protection is needed, give priority to river friendly "non-structural" measures, such as flood easements, wetlands, and levee setbacks. Raise levees or build new ones only as a last resort.
- Work with local governments to discourage additional development near the river.

The development of this Canalization EIS is an historic opportunity to undo much of the ecological damage that has been done to the river over the past century. I encourage you to respond to this opportunity with vision and leadership.

Sincerely,

Margaret Wilson

cc: Governor Bill Richardson
Office of the Governor
State Capitol, Room 400
Santa Fe, NM 87501

Senator Jeff Bingaman
703 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Pete Domenici
328 Hart Senate Office Bldg.
Washington, D.C. 20510