

**MEMORANDUM OF UNDERSTANDING  
AMONG –  
THE U.S. BUREAU OF RECLAMATION,  
THE U.S. FISH AND WILDLIFE SERVICE  
THE NEW MEXICO INTERSTATE STREAM COMMISSION,  
THE SOUTHWEST NEW MEXICO WATER PLANNING GROUP  
OR ITS SUCCESSOR, AND THE NEW MEXICO OFFICE OF THE  
GOVERNOR –  
TO CREATE THE  
GILA – SAN FRANCISCO COORDINATING COMMITTEE**

**I. INTRODUCTION**

The United States Bureau of Reclamation (BOR), U.S. Fish and Wildlife Service (FWS), New Mexico Interstate Stream Commission (NMISC), Southwest New Mexico Water Planning Group (SWMWPG) or its successor, and New Mexico Office of the Governor (NMOG) enter into this Memorandum of Understanding (MOU) to form the Gila – San Francisco Coordinating Committee (GSFCC). The member parties of the GSFCC will collaboratively oversee and implement the process that will evaluate the environmental effects of potential water withdrawals under terms of the Consumptive Use and Forbearance Agreement (CUFA) as approved by Congress in the 2004 Arizona Water Settlements Act (P.L. 108-451) (Act) and recently signed by the Secretary of Interior (Secretary).

The FWS enters into this MOU under the authority of and in accordance with the requirements of the Fish and Wildlife Coordination Act, 16 USC 661-667e, as amended, and the Endangered Species Act, 16 USC 1531-1544, as amended. The FWS agrees to provide technical assistance to the GSFCC as it begins to analyze data in efforts to decide upon a proposed project to proceed with under the CUFA and the Arizona Water Settlements Act.

**II. PURPOSE**

Potential effects to Federally-listed and proposed species are key components in determining the viability of the New Mexico Unit. Recognizing that environmental studies may take several years to conduct, New Mexico would like to proceed with the appropriate fish and wildlife studies in advance of statutory deadlines. Using the best available data and science, the members of the GSFCC will first cooperate in evaluating effects on fish, neotropical migratory birds, and other wildlife resources, based on those terms in the CUFA that provide for New Mexico's diversion of additional water from the Gila Basin above those amounts allocated by the 1964 US Supreme Court Decree in

Arizona v. California. The objective of this initial evaluation will be to evaluate the effects of potential water withdrawals on fish and wildlife resources under the terms of the CUFA. With assistance from other members of the GSFCC, FWS will prepare a Planning Aid Memorandum or Fish and Wildlife Coordination Act Report to evaluate the effects of effects of potential water withdrawals under terms of the CUFA.

### **III. ORGANIZATION**

Each signatory to this MOU shall assign one member and an alternate to the GSFCC. Both the member and alternate may attend meetings of the GSFCC and participate in discussions. Final determinations of the responsibilities and actions of each party will be determined by applicable law, regulation, and funding availability. The NMISC will chair the GSFCC. The GSFCC includes:

- U.S. Bureau of Reclamation (BOR)
- U.S. Fish and Wildlife Service (FWS)
- New Mexico Interstate Stream Commission (NMISC) (chair)
- Southwest New Mexico Water Planning Group (SWNMWPG) or its successor
- New Mexico Office of the Governor (NMOG)

### **IV. RESPONSIBILITIES**

The major tasks and responsibilities of the GSFCC include but are not limited to:

- Identify concerns and issues
- Determine what studies, evaluations, and monitoring are needed to evaluate withdrawals under the CUFA that may be used for a future Biological Assessment
- Establish subcommittees and communication channels
- Coordinate with and provide specific tasks to subcommittees created by the GSFCC
- Determine deliverables, schedules, and budgets
- Develop work plans
- Cooperate on Requests for Proposals and selection of contractors
- Track activities to ensure work is on schedule
- Based on studies conducted, evaluate effects of possible withdrawals under the terms of the CUFA on fish and wildlife resources
- Present results to aid in selection of alternatives for use of water and funding available
- Set constraints for project alternatives
- Incorporate project information and status into a decision making process
- Coordinate and ensure appropriate public involvement and participation

Specific subcommittees, membership, subgroups, and tasks and will be determined by the GSFCC. Subcommittees proposed include, but are not limited to a Technical Subcommittee, and a Public Involvement Subcommittee.

The Technical Subcommittee will focus on technical and scientific issues related to the effects of potential water withdrawals under terms of the Consumptive Use and Forbearance Agreement (CUFA) on fish and neotropical migratory birds and other wildlife resources.

The Public Involvement Subcommittee will be tasked by the GSFCC with communicating actions, decisions, and results to the public and local governments. This subcommittee will also be tasked with obtaining, memorializing, and tracking the feedback received from the general public and local governments.

## **V. ENTIRE AGREEMENT**

This fully executed document constitutes the entire Agreement between the Parties. This Agreement supersedes any and all other Agreements, either oral or in writing among the Parties with respect to the subject matter hereof and contains all of the Agreements among them with respect to said matters. Each party acknowledges that no representation, inducement, promise or Agreement, oral or otherwise, has been made by any other Party or anyone acting on behalf of any other Party that is not embodied herein.

## **VI. AVAILABILITY OF FUNDS**

Implementation of this Agreement by FWS and BOR is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this Agreement will be construed by the parties to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury. The parties acknowledge that FWS and Reclamation will not be required under this Agreement to expend any Federal agency's appropriated funds unless and until an authorized official of that agency affirmatively acts to commit to such expenditures.

## **VII. SCHEDULE**

By February 2006 the GSFCC will prioritize and schedule the following:

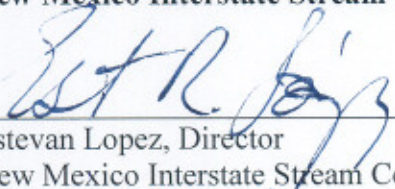
- Definition of evaluation scope
- Definition of subcommittee charters
- Completion of data compilation, collection and studies
- Completion of a Planning Aid Memorandum or Fish and Wildlife Coordination Act Report
- Formulation and development of potential alternative actions

## VIII. GENERAL PROVISIONS OF UNDERSTANDING

- A. Modifying the MOU. This MOU may be modified in writing by all signatories or their designated representatives to the GSFCC prior to implementing the change.
- B. Termination.
- a. This MOU may be terminated in its entirety upon completion of the tasks identified in Section IV above or by mutual written agreement of all parties. In the event of termination prior to completion of the tasks in Section IV, a concluding report summarizing the work completed prior to the effective date of termination will be prepared by the GSFCC.
  - b. Any party may withdraw from this MOU by providing written notice to the other parties.

## IX. APPROVALS

**New Mexico Interstate Stream Commission**

  
\_\_\_\_\_  
Estevan Lopez, Director  
New Mexico Interstate Stream Commission

Date: 1/26/06

**U.S. Bureau of Reclamation**

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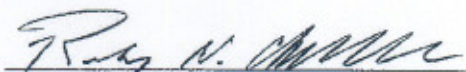
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### New Mexico Interstate Stream Commission

\_\_\_\_\_  
Estevan Lopez, Director  
New Mexico Interstate Stream Commission

Date: \_\_\_\_\_

### U.S. Bureau of Reclamation

  
\_\_\_\_\_  
Carol Lynn Erwin  
Area Manager

**U.S. Fish and Wildlife Service**



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Bryan Arroyo

Assistant Regional Director - Ecological services

Date:

March 7, 2006

**Southwest New Mexico Water Planning Group, or its Successor**

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Vance Lee

Chairman

Date: \_\_\_\_\_

**New Mexico Office of the Governor**

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Bill Richardson

Governor, State of New Mexico

Date: \_\_\_\_\_

**U.S. Fish and Wildlife Service**

\_\_\_\_\_  
Bryan Arroyo  
Assistant Regional Director - Ecological services

Date: \_\_\_\_\_

**Southwest New Mexico Water Planning Group, or its Successor**

*Vance Lee*  
\_\_\_\_\_  
Vance Lee  
Chairman

Date: 3-1-06

**New Mexico Office of the Governor**

\_\_\_\_\_  
Bill Richardson  
Governor, State of New Mexico

Date: \_\_\_\_\_

**U.S. Fish and Wildlife Service**

\_\_\_\_\_  
Name Bryan Arroyo

Title Assistant Regional Director for Ecological services

Date: \_\_\_\_\_

**Southwest New Mexico Water Planning Group, or its Successor**

\_\_\_\_\_  
Vance Lee

Chairman

Date: \_\_\_\_\_

**New Mexico Office of the Governor**



\_\_\_\_\_  
Bill Richardson

Governor, State of New Mexico

Date: \_\_\_\_\_