

Date: November 27, 2024

To: BDD Board

From: Kyle Harwood, Board Counsel

Re: Wild Earth Guardians v US Fish and Wildlife Service 1:22-cv-00914-GJF-JMR

ITEM

On November 19, 2024, a Settlement Agreement was filed in the above captioned case concerning the Rio Grande Silvery Minnow.

BACKGROUND

The Rio Grande Silvery Minnow is an endangered species in the Rio Grande. The environmental permits that are held by Buckman Direct Diversion Board (BDD Board) on behalf of the BDD Project partners (County, City and Las Campanas) specifically address the impact of the Project on the Minnow and proscribe mitigation measures.

In 2022 the Wild Earth Guardians sued the US Fish and Wildlife Service (FWS), US Bureau of Reclamation (BOR), and Intervenor-Defendant Middle Rio Grande Conservancy District (MRGCD) alleging violations of the Endangered Species Act (ESA) and specifically the FWS's December 2, 2016 Biological Opinion.

Among other provisions, the Settlement Agreement requires reinitiation of ESA consultation within 30 days and issuance of a new Biological Opinion by October 30, 2028.

RECOMMENDATION

No specific action is recommended at this time. The impact of the re-consultation process on the environmental permits that are held by Buckman Direct Diversion Board (BDD Board) on behalf of the BDD Project partners is unknown. Updates and future recommendations will be provided when available.

