RESOLUTION
OF THE
RIO GRANDE COMPACT COMMISSION
REGARDING
THE STORAGE OF NATIVE NEW MEXICO RIO GRANDE WATER IN U.S. ARMY CORPS OF ENGINEERS MIDDLE RIO GRANDE PROJECT RESERVOIRS

April 11, 2001
Albuquerque, New Mexico

WHEREAS, the states of Colorado, New Mexico, and Texas entered into the Rio Grande Compact, signed in 1938, regarding the waters of the Rio Grande above Fort Quitman, Texas; and

WHEREAS, Article VI of the Rio Grande Compact provides for annual computation of all credits and debits of Colorado and New Mexico; and

WHEREAS, the U.S. Army Corps of Engineers (Corps) and the U.S. Bureau of Reclamation (Reclamation) operate and maintain water storage and conveyance facilities on the Rio Grande; and

WHEREAS, litigation under the federal Endangered Species Act, Cause No. 99-CIV-1320, styled *Minnow v. Martinez*, filed in the United States District Court for the District of New Mexico in Albuquerque, New Mexico, was initiated in late 1999 on the middle Rio Grande in New Mexico seeking protection for the endangered Rio Grande silvery minnow; and

WHEREAS, New Mexico has recently proposed in an offer of settlement of *Minnow v. Martinez* to make available for lease by Reclamation, for a period of three years, a total of 100,000 acre-feet of New Mexico's native Rio Grande water and to establish a Middle Rio Grande Endangered Species Conservation Pool (Conservation Pool) in the Corps' Middle Rio Grande Project Reservoirs; and

WHEREAS, New Mexico proposes to capture and store native Rio Grande water during 2001 through 2003 at times when Rio Grande flows are in excess of downstream diversion demands in New Mexico above Elephant Butte Reservoir; such water, if not stored, would have flowed downstream to Elephant Butte Reservoir and contributed to New Mexico's compact delivery; and

WHEREAS, the native Rio Grande water that New Mexico stores in the Middle Rio Grande Endangered Species Conservation Pool would be released at a sufficient flow rate to maintain flow at points in the Rio Grande critical for the silvery minnow, with total releases over the three-year term not to exceed 90,000 acre-feet, with no more than 30,000 acre-feet (plus any carryover water from the prior year) released in any one calendar year; and

WHEREAS, the Flood Control Act of 1960 (Public Law 86-645) requires the advice and consent of the Rio Grande Compact Commission for any departure from the normal operation schedules of the Corps' Middle Rio Grande Project Reservoirs; and

NOW, THEREFORE, BE IT RESOLVED that, in accordance with the Flood Control Act of 1960 (Public Law 86-645), the Rio Grande Compact Commission hereby favorably advises and consents

to the departure from normal operation schedules of the Corps' Middle Rio Grande Project Reservoirs for a term of not more than three years to allow the operation of the Middle Rio Grande Endangered Species Conservation Pool as described above; and

BE IT FURTHER RESOLVED that by approval of this resolution, the States of Colorado and Texas in no way change the obligations of New Mexico under the Rio Grande Compact.

BE IT FURTHER RESOLVED PROVIDED, HOWEVER, that the State of Texas reserves the right to rescind its approval of this resolution on March 21, 2002, and again on March 20, 2003, if Texas determines that Texas has been or will be harmed by the departure from normal operation schedules, by providing written notice of the rescission of its approval to the States of Colorado and New Mexico through each state's respective Rio Grande Compact Commissioner.

BE IT FURTHER RESOLVED that the Secretary of the Rio Grande Compact Commission transmit copies of this resolution to the Secretary of the Interior; the Commissioner, Regional Director, and Albuquerque Area Office Manager of Reclamation; the Director, Regional Director, and the New Mexico Ecological Services Field Office Supervisor of the U.S. Fish and Wildlife Service, and the Commander, Division Engineer, and District Engineer of the U.S. Army Corps of Engineers.

Hal D. Simpson
Commissioner for Colorado

Thomas C. Turney
Commissioner for New Mexico

Joe G. Hanson
Commissioner for Texas