

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

RIO GRANDE SILVERY MINNOW, et al.,

Plaintiffs,

vs.

No. CV 99-1320 JP/RHS-ACE

JOHN W. KEYS III, et al., ,

Federal Defendants,

MIDDLE RIO GRANDE CONSERVANCY  
DISTRICT, et al.,

Defendant-Intervenors.

**ORDER AND FINAL JUDGMENT**

In accordance with the Memorandum Opinion entered contemporaneously herewith,

IT IS ORDERED:

1. The motions to dismiss this case as moot filed by State of New Mexico (Doc. Nos. 580), Federal Defendants (Doc. No. 601), and Middle Rio Grande Conservancy District (Doc. No. 616) are granted, in part, as to the portions of the case having to do with San Juan-Chama Project water, and denied, in part, as to issues involving Middle Rio Grande Project water.
2. The Stipulation and Joint Motion to Dismiss submitted by Plaintiffs and the City of Albuquerque (Doc. No. 659), in settlement of claims involving the San Juan-Chama Project, is approved, in part.
3. As provided in the Stipulation and Joint Motion to Dismiss, any and all claims relating to San Juan-Chama Project water are dismissed with prejudice under Rule

41(a) of the Federal Rules of Civil Procedure.

4. Any remaining claims in Plaintiffs' Third Amended Complaint related to Middle Rio Grande Project water, and any other of Plaintiffs' claims that were not addressed in the Court's earlier rulings, are dismissed without prejudice.
5. The Joint Motion to Dismiss is denied, in part, insofar as it requests vacatur of the San Juan-Chama Project-related portions of the Court's prior decisions.
6. The motions filed by the State of New Mexico (Doc. No. 580), Federal Defendants (Doc. No. 583), and Middle Rio Grande Conservancy District (Doc. No. 584), seeking to vacate this Court's April 19, 2002 Memorandum Opinion and Order (Doc. No. 371) and September 23, 2002 Memorandum Opinion and Findings of Fact and Conclusions of Law (Doc. No. 445) and Order and Partial Final Judgment (Doc. No. 446) are denied.
7. The City of Albuquerque is no longer pursuing its Motion to Dismiss (Doc. No. 604) or its Motion to Vacate (Doc. No. 587), and those motions are therefore denied as moot.
8. In any future consultations under the Endangered Species Act, the Bureau of Reclamation must consult with the Fish and Wildlife Service over the full scope of the Bureau's discretion concerning Middle Rio Grande Project operations, as set forth in the Court's April 19, 2002 Memorandum Opinion and Order (Doc. No. 371) and September 23, 2002 Memorandum Opinion and Findings of Fact and Conclusions of Law (Doc. No. 445) and Order and Partial Final Judgment (Doc. No. 446).

9. Plaintiffs may apply for an award of their costs and reasonable attorney fees in accordance with the applicable laws and rules of this Court.

  

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SENIOR UNITED STATES DISTRICT JUDGE