

New Mexico Wilderness Alliance

July 22, 2016

Honorable Senator Tom Udall
531 Hart Senate Office Building
Washington DC, 20510

Dear Senator Udall,

This letter is to follow up on our conversations about the Gila River and to formally request your leadership in the drafting and introduction of legislation to permanently protect the Gila River, the San Francisco River, and major tributaries via the Wild and Scenic Rivers Act of 1968 (WSR). We share your view that the Gila River is a “crown jewel of the Southwest,” and is deserving of the greatest degree of care and respect.

We very much appreciate your strong voice of skepticism regarding the current proposal to construct major diversions on the Gila River as part of the Arizona Water Settlements Act (AWSA). This project is one that has been characterized by a significant lack of transparency. After ten years and having spent \$10 million so far, the Interstate Stream Commission (ISC) cannot—or will not—tell the public where the project site(s) will be; the nature and extent of the proposed diversion project(s); if the project(s) are technically feasible from an engineering perspective; how much water the project(s) would yield; what that water would cost, or even who the end user(s) would be. The ISC (and now the Central Arizona Project “CAP” entity) have also not publicly identified the source of the non-federal funds for the project. Bureau of Reclamation estimates have been as high as \$1 billion. With federal funds limited to approximately \$100 million, the gap of \$900 million would presumably come from NM water ratepayers, taxpayers, or both. As you stated on March 2, 2016 at the Senate Appropriations on Energy and Water Development, this project “doesn’t add up” and “doesn’t seem like a viable or wise project.”

In addition to these good-governance and fiscal concerns, we oppose the diversion because of the impacts it would have on one of the Southwest’s last free-flowing rivers. As you know, this current proposed diversion is merely the latest in a long line of threats to the Gila River. Throughout the 1970’s, conservationists fought the Hooker Dam project, a proposed high dam that would have transformed some 20 miles of the wild, free-flowing Gila River within the Gila Wilderness into a dead slack pool, all the way back to its confluence with Sapillo Creek. Later, the Hooker Dam proposal was replaced by the ill-conceived Conner Dam proposal, which was to be located at the end of the Middle Box of the Gila, at the upper end of Redrock Valley.

While conservationists were ultimately able to defeat these proposals, they underscored the chronically threatened status of the Gila River. Even if current attempts to dam and divert the Gila River fail, as the previous proposals have, it is certain that without permanent protection,

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defensive actions will continue to be necessary, and similar scenarios will play out again and again in the future. Proponents of developments, dams and diversions only have to be successful once to destroy the river's essential character, while advocates of keeping the Gila River wild and free have to be successful *every time* in order to preserve it.

As you are aware, the headwaters of the Gila River are in the world's first protected Wilderness. It is here that the Nearctic and Neotropical realms overlap to make up a world-class landscape of biological diversity, ecological jumbling, and wildness. The Gila headwaters comprise one of the largest wilderness complexes in the Americas, south of the boreal forest and north of the Amazon rainforest. It harbors some of the greatest non-coastal breeding bird diversity and density in the United States. It is home, of course, to one of the largest undammed headwater watersheds remaining in temperate North America. Sections of the Gila and San Francisco Rivers are included on the Nationwide Rivers Inventory due to their free-flowing nature and their outstandingly remarkable scenic, geological, wildlife, and cultural values. And yet, the river itself remains unprotected.

While New Mexico was proud to have one of the first rivers designated as Wild and Scenic after the 1968 Act, (sections of the Rio Grande), the Gila River was, unfortunately, not among them. New Mexico congressmen Manuel Lujan, Jr. and Harold Runnels introduced legislation in 1974 mandating the study of the Gila, San Francisco, and Chama Rivers for Wild and Scenic River designation. The Chama River between El Vado and Abiquiu reservoirs was later so designated, but the Gila and San Francisco rivers seem to have been forgotten. Indeed, nearly 50 years later, of the approximately 108,014 miles of rivers in New Mexico, a scant 124.3 miles of them are designated as Wild and Scenic—or approximately 1/10th of 1% of the state's total river miles.

The free-flowing nature and the numerous outstandingly remarkable values it contains make the Gila River an ideal and deserving candidate for Wild and Scenic designation. The repeated threats it continues to face also align perfectly with the very rationale for the creation of the Wild and Scenic River Act.

"It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dams and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes." (Wild and Scenic Rivers Act, October 2, 1968)

The timing and circumstances for WSR designation are ripe and there exists a rare window of opportunity at this moment. The need for permanent protection is as urgent as ever.

- 1) Multi-year efforts to kill the most recent diversion proposal have created, out of necessity, a strong, well-organized and sophisticated community that is educated on the issues and mobilized;
- 2) These stakeholders are eager to pivot from a purely defensive position, to rally behind a proactive effort to afford the Gila permanent protections;
- 3) Independent polling shows strong support for permanently protecting the Gila River. A December, 2015 statewide poll showed that 66% of New Mexicans registered to vote are in favor of designating the Gila River Wild and Scenic (20% opposed). It is important to note that this level of support existed before any concerted statewide education efforts;
- 4) While we were pleased to see that the recent release of site alternatives did not include the wild Upper Gila Box that is of particular importance to us due to its wilderness quality, ecological resources and sensitivity, the combination of project components under discussion could divert as much water and cause significant negative impacts to the natural flow of the Gila River and consequently the myriad plant and animal species that depend on the river's free-flowing nature.

For the reasons above, we respectfully request that legislation be drafted and introduced at the earliest and most advantageous time, and that it include the following elements:

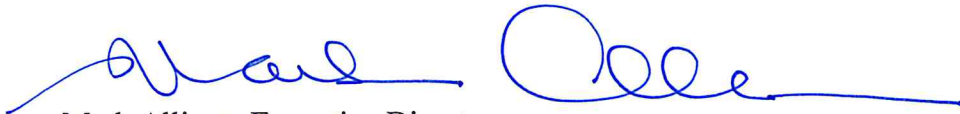
- 1) Wild and Scenic designation for all sections of the Gila River, to include the West, Middle and East Forks and the Main Stem through the Gila Wilderness.
- 2) Wild and Scenic designation for all sections of the Gila River from the Wilderness boundary to the Arizona state line that flow through federal public lands, including those administered by the US Forest Service and the Bureau of Land Management. This includes the “Upper” or Mogollon Box, the Gila Middle Box and the Gila Lower Box.
- 3) Wild and Scenic designation for all major tributaries of the Gila River, including Pine, Mineral, Iron, Gilita, Beaver, Mogollon, Little, Turkey, Sapillo, Taylor, Diamond, Black and Apache Creeks.
- 4) Wild and Scenic designation for the San Francisco River where it flows through federal public lands administered by the US Forest Service from the Arizona state line or approximately 6 miles east of the town of Luna at the end of FS Road 210 (just below the confluence with Centerfire Creek). The San Francisco has also been mentioned as a possible diversion site.

Furthermore, we respectfully request that those sections of the Gila and San Francisco rivers that do not flow through federal public land be included in legislation for Wild and Scenic Study under Section 5(a). This would provide interim protections during the study process and afford opportunities to engage stakeholders, including private land owners along those sections of the river. The enabling legislation of 1968, P.L. 90-542, authorized 27 rivers for study as potential components of the National System. Amendments to the law have increased the number of studies authorized by Congress to 140. (The Wild and Scenic Rivers Act allows acquisition of private lands along a Wild and Scenic River only on a “willing seller” basis; the condemnation process in the Act applies only when there is less than 50% of the land along the river in federal ownership—which is not the case for the Gila and San Francisco rivers.)

Designation by 2018—the 50th anniversary of the Wild and Scenic Rivers Act—would be a fitting tribute to America’s first wilderness river, as well as to the conservation legacy of your father, Interior Secretary Stewart Udall, who was a primary driver of this historic legislation. This would, indeed, be “getting it done right.”

Thank you in advance for your consideration and leadership. We stand ready to assist and support you. It would be our pleasure to accompany you on a day or multi-day trip on one or more of these river sections, when the conditions are right and at your convenience. We look forward to discussing this with you further and answering any questions you may have.

Sincerely,



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