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Let me begin by expressing my thanks to Cathy Ortega Klett and WRRRI for inviting me to speak today. I really appreciate this opportunity to present my views of the Rio Grande Compact what it does do, what it doesn't do, and what it **could** do, from the perspective of a river outfitter and guide.

Whitewater recreation is a beneficial use of water. Recreation may not be **as beneficial** a use of water as agriculture (you can't eat fun), but it IS beneficial nevertheless. Far-Flung Adventures' files contain 25 years of letters attesting to the benefits our guests receive by connecting with the great and turbulent "something other," which is the living pulse of our planet.

More prosaically, river recreation is an economic engine, though it's more like a two-stroke than a V-10. The dollar economic value of river-oriented recreation is measured in the tens of millions of dollars, compared with well over \$1 billion in farm income in our fair basin. But, tourism is the number one industry in Colorado, New Mexico and Texas.

Moreover, the largest part of the value of a river like the Rio Grande doesn't even show up on the spreadsheet: there are orchids and eagles and wolves and bears still afoot in isolated corners of our basin and fluttering great cottonwoods.

The knowledge of the existence of creatures that make our hearts soar and the possibility of glimpsing some source of nature's wonder around the next bend are a big part of the attraction to my guests and most of what motivates me to try and protect the river. Farmers and recreationists and managers and paisanos, geeks and day traders—we're bound up in the processes of the planet and we ignore this fact at our own peril.

To go rafting, one needs a certain flow of water, though any outfitter in the Southwest will tell you that you don't need as much as you might think. Since the Compact has something to do with the flow of water in the Rio Grande, along with the fickle climate, agricultural economics, state water law, case law, common law, the Clean Water and Endangered Species acts, contrary administrative rules, international treaties, reclamation contracts, relationships of power, and the irresistible momentum of history and custom, the Rio Grande outfitter is acutely aware of the water management prescriptions of the Rio Grande Compact.

My own close personal relationship with the Rio Grande Compact began in April of 1985 when I saw a photograph, on the front page of the *Albuquerque Journal*, of some farmers with big grins standing on the spillway at Elephant Butte Reservoir. The caption said they were from the

San Luis Valley and that they were celebrating the fact that, for the first time since 1942, “The Butte” had overflowed.

With a little digging, I learned that the folks in the picture were rejoicing because they’d suddenly just emerged from 18 years of figuring out how to comply with a Supreme Court decree that said that they not only had to do something that had seemed impossible in 1967—that is to get their scheduled deliveries of water to Lobatos Bridge—but also, even more impossibly, to whittle away at a nearly ONE MILLION acre-foot water debt. The spill at Elephant Butte, I learned, was a watershed historical event delivering Colorado agriculturalists and water technicians from, to borrow a John Hawley phrase, “the end of the world as they knew it.”

The decade of the 1980s was a great time to be a Rio Grande boater. Except for 1981, there was a ton of snow, and fantastic runoffs. But no matter how much snow the Soil Conservation Service said was up there, by July 10 the river took a precipitous drop and in about a week would become unnavigable. In 1986, boaters were able to run the Taos Box throughout July, unaccountably, unprecedentedly, despite one of the drier years of the “glorious eighties.” The reason, I discovered, was that the Butte hadn’t quite spilled and the Conejos River irrigators were being curtailed in order to assure Colorado’s delivery obligations were met.

In 1988, despite a normal or better snowpack, we had a drastically reduced season, and had to send back customer deposits that had already been spent. An early melt had allowed Colorado to deliver their obligation before the rafting/irrigation season even started. Rafters realize, as do farmers, that each season is a new shuffle and a new challenge to which to adapt and you can’t count the money ‘til the hay is loaded.

Also, in 1988, the river outfitters’ industry “discovered” the Rio Chama. When there’s just a trickle of native Rio Grande water coming through Otowi, we found out that Albuquerque area irrigators move lots of water through the Chama.

By 1991, Gary Daves, Mike Hamman (then with Reclamation), Brian Hanson, New Mexico State Parks’ Bob Findling, and Bureau of Land Management’s Tom Mottl, the river runners, Chama Valley, and Middle Rio Grande Conser-

vancy District representatives collaboratively advanced the concept of the “Recreational Dam Release.” Suddenly hundreds of whitewater boaters were able to ply the lively waters of the Chama throughout the summer season. With recreational releases, the germ of an idea of modifying water operations to create secondary benefits, was planted in New Mexico. I mean, if you can float on a bolt of water one Saturday and irrigate with the same molecules on the following Thursday, why not double the benefits you get from the water? Why not?

In 1996, the inevitable drought occurred. An historic *Albuquerque Journal* photo appeared depicting the river in the Middle Rio Grande as dry as the Sahara. **The last minnow that had survived the “Big Barbecue,” the rush to develop every source of water we could find, the Rio Grande silvery minnow very nearly winked out and another historic line had been crossed.** Henceforth, the endangered condition of an aquatic species would command our official, if often grudging, consideration. Later that same summer, the Closed Basin Project Operating Committee released water into the river “for ecosystem purposes in Colorado,” in response to a Rio Grande running a scant six cubic feet per second.

Looking back over these and other experiences, I see that a lot of harbingers of the future of the Rio Grande in the changes I have witnessed:

- A farming valley can make huge operational changes and not only survive, but actually thrive.
- Consumptive and non-consumptive beneficial uses can coexist. Winners and losers are not necessarily necessary.
- Altruism is a possible response to great threatening challenges. An institutional water user can behave in ways that are not strictly concerned with gaining or maintaining hegemony, but rather address issues at large in the greater society.
- Water operations can be as flexible as we want them to be.
- Social institutions can just as easily be our masters as our servants.
- Even mountains and rivers sometimes find relief in Federal Court.
- Our great thirsts now exceed the available water supply.

Denial is a pathological psychological condition and my EMT textbook mentions it as one of the frequent symptoms of a heart attack. An older friend of mine quite recently went through a triple bypass heart operation, and as he was recovering and feeling well enough to go home, he got into a conversation with the technician who'd been taking his vital signs during his stay in the hospital.

"Fred," he asked, "what do you think of me as a patient?"

"Well, Andy," replied the orderly, "I think you're smart and I think you're lucky."

"Okay," said my friend, "I think I understand the lucky part. I've had the best care known to medical science. What I don't get is why you would think I'm smart."

"Andy, you're smarter than most because you admitted there was a problem before it was too late to do anything about it." This is my theme for my last five minutes: "We're lucky because we still have a river, and everything the river supports, compromised though it may be. **But are we smart enough to realize the depth and imminence of the problem we have?**"

The framers of the Compact knew they had a problem. For more than forty years the downstream users had been telling the upstream users: "Hey, we're dying down here." In 1895, the Republic of Mexico even claimed that the Juarez Valley was going to be abandoned, because they could no longer count on enough water to farm; in fact, the wine and brandy industry did die on the vine, so to speak. There's this wonderful saying in the irrigation world: "I'd rather have a junior right at the top of the ditch than a senior right at the bottom,"—that is what was happening. Colorado even righteously claimed they owned the water that originated in the snowfields of their state, until the U.S. Supreme Court told them otherwise, in 1907. (*Kansas v. Colorado*.)

The Rio Grande problem was a regional problem; it was a tough, and contentious problem in interstate relationships. There was a lot of saber-rattling and wagon-circling when the Secretary of Interior declared a moratorium on dam building.

Ironically, the catalyst for change was federal intervention. The "Joint Investigations" cost nearly half a million, mostly federal depression-era dollars and was a thorough, scientific view of

the scant and variable supply, as well as an inventory of both the actual agricultural uses and the development potential of the river above Ft. Quitman.

Here was a difficult question of equity, with the future of the whole upper basin at stake, and it was ultimately solved by cooperation. The four commissioners, four consulting engineers, and seven lawyers who drafted the final Compact convened six times over five years to finally hammer out the details, concluding with one incredible 16-day marathon. Finally in 1940, for the first time, an elegant system of inflow-outflow relationships was codified and applied to the river.

The Compact is designed to do one big thing: ensure the "equitable apportionment of the waters of the Rio Grande for agricultural purposes." In 1939, that was enough. Irrigated agriculture was not simply the most important thing, it was the only thing that had to be considered.

It was the 1930s, the whole West had just come through a 90-year "orgy of development" and we didn't have Steve Vandiver's crystal ball to help us. We knew a lot less about nature and natural processes than we do now, and we thought about nature in a radically different way than we do today. For a good many reasons, the "water rights" of nature were not mentioned in the Rio Grande Compact or the original state water codes....and it still isn't.

This was not an unforgivable oversight and it is, I contend, an error that can still be corrected. And if the Rio Grande itself, which gives us so much, is to ever gain its due from a belatedly grateful humanity, the time to do so is right now. The river at Albuquerque is at a decision point. It is very likely that, unless some ways are sought to rectify the disregard in which our water policies hold nature, the Middle Rio Grande is going to end up looking like the Los Angeles River or the Salt River at Phoenix or the Lower Gila. Our own children may be the last generation with the opportunity to really know a river at the center of the landscape in their lives. The silvery minnow is telling us something: **we are well along in the process of killing the river.**

What this has to do with the Rio Grande Compact is this: there are those who say that, because of one provision or another in this suite of laws that govern our use of the river, we cannot

really change things. Yes, they use the Compact and the beneficial use requirement of state law to justify their own fear of change.

Preparing to speak with you today, I carefully reread this document and I couldn't find any articles or clauses that said we couldn't protect the river. I find the "barriers" to including nature in our water administration arrangements to be purely conceptual and arguments to the contrary to be products, in the words of Wallace Stegner, of "the still unlovely human mind."

So I ask the question: "If, becoming cognizant of the ecological destruction we have visited on the river, we changed our minds, would the Compact prevent our accommodating nature?" I think not. Personally, I'm damn glad that the Compact demands that we share the water with our human neighbors, because it means that volumes of water will continue to flow downstream, albeit on human, rather than nature's, time schedule.

However, there are certain incongruities:

- Releases from storage – Steve Vandiver pointed out that the Compact sometimes directs this process. Conrad Keyes countered that Congress could change reservoir authorizations. Changing the **timing** of deliveries to better accommodate the original environmental uses is possible, and desirable.
- Municipal allocations – In the tumultuous year of 1996, I heard a lawyer for the state of Colorado advance the argument before the Commission that the Compact prevented reallocation of Project water to municipalities. There's an interesting suit that the El Paso Water Board must be thankful has not yet been filed, though the contracts must still be bollixed up in the quiet-title mediation. (I wouldn't know.)
- Indian water rights – Article 16 is a thoughtful throw-in, but doesn't offer any guidance for integrating the long awaited settlement, or judgment, of *Winters* rights into Compact administration. It's not inconceivable that we will live to see the Pueblos express their vision of **homelands** (as opposed to farms) as the purpose of their reservations and claim water for the nonconsumptive purposes which they still cherish.

- Spill provisions – The theory behind the very creative spill provision is: "if the Butte spills, then there's full supply for Mesilla and El Paso/Juarez." So what's to fight over? We can't reclaim the past. Again, in that "drought rehearsal" year of 1996 (the 53<sup>rd</sup> year of Compact administration), the unforeseen combination of drought plus a spill very nearly occurred. Had a spill occurred, the Compact would have justified Colorado's keeping every precious drop and an ecological emergency might well have ensued.

One way of dealing with such an eventuality might be for the Commission to resolve to create an environmental side accounting within Article 6. Our objective should be to optimize supplies for all users. And in any case, the true occurrence of the havoc such an eventuality would play with the environment cannot safely be ignored.

Finally, there's Article 13, the right to review proposed "non-substantive" changes to the Compact. My reading, and the view I would commend to all the lawyers who may be rendering their opinions to the Commissioners, is that Article 13 actually intends to permit them, if unanimous consent can be obtained, the flexibility to make resolutions in response to changing conditions, so long as they do not pretend to abrogate existing provisions.

I've been gratified by the tone of this conference—the implicit recognition by many of the presenters that this is not 1939, and the clear identification of the challenges we continue to face. Social changes external to the Compact are accelerating and cannot be ignored. The pressure on us to respond is building. Eventually, we will be forced to confront the water needs of the river as the support system for lives other than our own.

Intentional change is always risky, requiring courage and conviction we may have to dig deep to find. It must be of some comfort to know that our forefathers who wrote this document faced these same personal challenges and met them. Article 13 says they were wise enough not to pretend that the document they created was etched in stone. We ought not argue that it was.

The question we are left with is this: Are we to be the masters of our institutions or shall we be their slaves?

Thank you.

**River Recreation and the Economy of Northern New Mexico  
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Department of Agricultural and Resource Economics  
The University of Arizona  
Tucson, Arizona  
by Bonnie Colby, Liz Ryan, and Julie Leones**

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**Conclusion**

Flow levels on the Upper Rio Grande in northern New Mexico are subject to wide variations from year to year, impacting whitewater rafting opportunities and the local economy. Flow levels in the later summer months are not sufficient to support a full summer rafting season on the Taos Box and this limits the contributions of rafting to the northern New Mexico economy.

In 1992, visitor expenditures directly linked to rafting contributed \$4.6 million in total industry output, \$1.8 million in employee compensation and accounted for 142 jobs for the 1992 season in the four county region. These are significant economic inflows, even though most activity on the Taos Box ended half way through the summer due to inadequate flows. The economic impacts in the region would increase by approximately 17% if flows were maintained at 592 cfs through Labor Day weekend. If cfs was maintained at 1,083 cfs, the economic impacts would increase by about 73%.

Visitors engaging in Rio Grande rafting are diverse, representing a variety of ages, incomes, types of employment and levels of education. The average visitor had approximately 16 years of education, was 40 years old, and had a household income of \$53,200 a year. Primarily people from the western United States engaged in Rio Grande rafting, with the majority of visitors coming from Texas, California and other parts of New Mexico.

The economy of northern New Mexico depends heavily on tourism. Whitewater rafting is a nonconsumptive use of water that provides jobs and income in a region with low wages and high unemployment. If the region is to realize the full economic potential from this use of the Rio Grande, adequate flows need to be assured for the full summer season each year. Economic stimulation through whitewater rafting is only one small part of the overall benefits of improved stream flows. High flows also would have significant environmental benefits, improving fish and wildlife habitat and water quality. These benefits can only be realized through a cooperative and concerted effort of Rio Grande water users, resource managers, and federal, state and local officials, to determine the fairest and most cost-effective method for improving flow levels on the Upper Rio Grande in northern New Mexico.