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Meeting Date: April 22, 2026

Staff Contact: Diane Agnew, Water Rights Program Manager

**TITLE:** R-26-13 – Authorizing the Executive Director to Enter into an Agreement with the Plaintiffs in Rio Grande Silvery Minnow v. Key 99CV 1320JP/RHS (DNM) for Environmental Pool Storage Space in Abiquiu Reservoir

**ACTION:** Recommend Approval

**SUMMARY:**

The Albuquerque Bernalillo County Water Utility Authority (Water Authority) negotiated a settlement on claims related to the Rio Grande Silvery Minnow litigation (the Settlement Agreement). As part of the Settlement Agreement, the Water Authority must provide storage of up to 30,000 acre-feet, at no charge, in Abiquiu Reservoir for use as an Environmental Pool. Water stored in the Environmental Pool would benefit species protected under the Endangered Species Act, consistent with the goals of the Middle Rio Grande Endangered Species Collaborative Program and provisions in the Settlement Agreement. Rio Grande system water or San Juan-Chama water acquired by the Plaintiffs to the settlement can be stored in the Environmental Pool under this agreement. This storage agreement renews a previous, ten-year agreement between the Water Authority and the Plaintiffs.

Approval of the agreement will be consistent with previous storage agreement with the Plaintiffs, as well as the provisions of the Settlement Agreement.

**FISCAL IMPACT:**

None

# ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

**BILL NO. R-26-13**

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## RESOLUTION

**AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO AN AGREEMENT WITH THE PLAINTIFFS IN RIO GRANDE SILVERY MINNOW V. KEY 99CV 1320JP/RHS (DNM) FOR ENVIRONMENTAL POOL STORAGE SPACE IN ABIQUIU RESERVOIR**

WHEREAS, Congress authorized the Secretary of the Army to enter into agreements with entities for storage of 200,000 acre-feet of San Juan-Chama water in Abiquiu Reservoir in Public Law 97-140; and

WHEREAS, P.L. 97-140 specified that the storage of San Juan-Chama water in Abiquiu Reservoir shall not interfere with the authorized purposes of the project and shall include a requirement that each user of storage space shall pay any increase in operation and maintenance costs attributable to the storage of that user's water; and

WHEREAS, Public Law 100-522 (October 24, 1988) and Section 337 of the Water Resources Development Act of 2020 (Division AA of Public Law 116-260) modified the authorization in Public Law 97-140 to allow concurrent storage of San Juan-Chama Project water and native Rio Grande system water in Abiquiu Reservoir up to elevation 6230.00 NGVD29; and

WHEREAS, pursuant to Section 337 the Department of the Army and the Albuquerque Bernalillo County Water Utility Authority (Water Authority) entered into a new agreement for storage space at Abiquiu Reservoir that was signed June 26, 2024, which allows for storage by the Water Authority of San Juan-Chama project water or native Rio Grande system water in Abiquiu Reservoir up to elevation 6230.00 NGVD29, and use of such storage by the Water Authority (known as the "Water Authority's contracted storage space"); and

WHEREAS, Plaintiff WildEarth Guardians is the successor in interest and rights to plaintiff Forest Guardians, pursuant to the Certificate of Amendment of WildEarth Guardians No. 3343423, dated February 12, 2008; and

1 WHEREAS, the Water Authority and Plaintiffs negotiated a settlement on claims  
2 related to the Rio Grande Silvery Minnow litigation (99 CV 1320/JP/RHS [DNM]) (the  
3 “Settlement Agreement”); and

4 WHEREAS, the Settlement Agreement provides for the Water Authority to  
5 provide storage of up to 30,000 acre-feet, at no charge, in Abiquiu Reservoir for the use  
6 as an Environmental Pool for the storage of Rio Grande and/or San Juan-Chama water  
7 acquired by the Plaintiffs (“Conservation Water”) through lease, purchase, or donation;  
8 and

9 WHEREAS, the Settlement Agreement states that the storage space would  
10 become available within twelve (12) months, or as otherwise agreed to by the Water  
11 Authority and Plaintiffs, after commencement of diversions by the Water Authority for its  
12 San Juan-Chama Drinking Water Project.

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14 BE IT RESOLVED BY THE WATER AUTHORITY:

15 That the Executive Director shall have the authority to act on behalf of the Water  
16 Authority to sign an agreement whereby the Water Authority will provide up to 30,000  
17 acre-feet of storage space in Abiquiu reservoir to the Rio Grande Silvery Minnow  
18 plaintiffs, consistent with the Settlement Agreement negotiated between the Water  
19 Authority and the plaintiffs.