

Endangered earth

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Fall 2003

Victory at Zuni Salt Lake

Phoenix utility SRP abandons coal mine plans; sacred lands and salt lake escape decimation

In a major victory for environmental protection and preservation of sacred sites, Phoenix-based utility company Salt River Project (SRP) announced in August that it is abandoning plans to develop the proposed Fence Lake coal strip mine in western New Mexico.

unique and fragile Zuni Salt Lake, a central religious and cultural site for the Zuni Pueblo and many other Southwestern tribes. Hydrological studies conducted by the federal government and others have repeatedly found that such pumping would pose grave risks to



Zuni Salt Lake Coalition members were invited by the Zuni to walk in their annual parade August 30. The coalition will be keeping watch to permanently protect the Fence Lake site and ensure that SRP relinquishes its permits to mine there.

The mine would have provided electricity for SRP's customers in the Phoenix metropolitan area. In order to suppress dust emissions, the Fence Lake mine would have required the pumping of millions of gallons of water from aquifers connected to the ecologically

the Salt Lake, which averages only three to five feet in depth.

In addition to its disastrous effect on Zuni Salt Lake, the Fence Lake coal mine would have excavated hundreds of human burials, obliterated ancient salt-gathering trails, and decimated

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the heart of a 182,000-acre area known as "the Sanctuary," a traditional neutral zone where tribes have gathered salt without hostilities. The mine permit area—thousands of acres of rolling hills and grasslands that are home to prairie dogs, pronghorn, and nesting golden eagles—would have been blasted, leveled by enormous drag lines, and then ripped by bulldozers for dirty coal.

The Center for Biological Diversity has been involved in the struggle to save Zuni Salt Lake and defeat the Fence Lake Mine since the mid-1990s, when we joined with the Pueblo of Zuni in challenging the original state permit granted to operate the mine, objected to federal environmental analysis concluding that the mine would have no impact on Zuni Salt Lake, and began a public

"Victory" continued on back page...



ADVOCACY SPOTLIGHT

Kieran Suckling, *Executive Director*

Bush Administration unravels ESA critical habitat protections

Having undermined listing and recovery of endangered species, the administration now takes aim at the habitat they need to survive.

In keeping with its campaign against effective environmental laws and policies, the Bush administration has announced the greatest rollback of endangered species habitat protection in the 40-year history of the Endangered Species Act. In May, the administration unveiled its plan to scale back or outright avoid the designation of “critical habitat”—the land and water deemed essential to the conservation of a species. Critical habitat includes most or all of the areas where a species persists, but more importantly, it includes areas where a species used to live and where it must reestablish itself in order to survive.

Recognizing that habitat loss is the primary threat to 85 percent of all endangered species, Congress amended the Endangered Species Act (ESA) in 1978 to require the designation of mapped-out critical habitat areas as a recovery tool for endangered species. Critical habitat has proven itself very effective: species with it are less likely to decline, and more than twice as likely to recover, as those without it. In addition, critical habitat designations have brought about tangible improvements in land and wildlife management and often aid recovery of other species that do not have designated habitat protections.

But the Bush administration wants to change all that. New policies under Bush include refusing to comply with court orders, expanding anti-critical

habitat loopholes, and inserting legal disclaimers in all critical habitat rules to encourage and support industry lawsuits to strike them down.

The Bush administration chastises environmental groups for using the courts to uphold the ESA—thus compelling the U.S. Fish & Wildlife Service (USFWS) to do its job—yet this administration is the only one to have not designated a single critical habitat except under court order. And the critical habitat areas it does finally designate are substantially smaller than those USFWS has mapped out as necessary: an average of 75 percent smaller to date, stripping protection from 42 million essential acres.

During its tenure, the Bush administration has designated just 40 million acres for 157 endangered species compared to 115 million acres for 50 species designated under the Clinton administration. Earlier this year, it announced it would seek lengthy extensions on compliance with 24 court orders to designate new critical habitat. Worse still, the Bush administration has dramatically rolled back existing protections, voluntarily capitulating to industry lawsuits and revoking millions of acres of critical habitat designated by the Clinton administration.

The administration also claims that designating critical habitat is too expensive, routinely asserting that Congress has not allocated enough money to list all endangered species and designate critical habitat for all listed species. Yet even Bush officials admit that the administration itself engineered

a budget shortfall for endangered species protection.

Habitat in Jeopardy

The Bush plan would also scuttle currently planned critical habitat designations. The Department of the Interior’s suspension of critical habitat designations would immediately affect these species:

Arroyo toad

Bull trout

Cactus ferruginous pygmy owl

California red-legged frog

Colorado butterfly plant

Cumberland elktoe

Eggert’s sunflower

Fish Slough milk-vetch

La Graciosa thistle

Lane Mountain milk-vetch

Mexican spotted owl

Riverside fairy shrimp

San Jacinto crownscale

Santa Ana sucker

Spreading navarretia

Topeka Shiner

USFWS needs \$153 million to effectively protect endangered species, but the Bush administration asked for just \$9 million for fiscal year 2003. Congress granted the request in full and invited the administration to come back for more money, but the administration has not submitted a supplemental funding request. Instead, it uses the budget “crisis” as a political weapon against endangered species, ESA enforcement, and citizen oversight of its actions.

The Bush administration also claims that critical habitat is redundant to other sections of the ESA, arguing that designating protected habitat isn't necessary once a species is granted protected status under the Act. But again the facts are clear: species with critical habitat are twice as likely to recover as species without it. Heeding sound science, federal judges have repeatedly struck down the administration's theory that critical habitat doesn't provide additional protection for species. Indeed, the courts have ruled consistently that critical habitat is intended to carry a higher level of protection for endangered plants and animals than is afforded by other sections of the ESA.

But rather than obey the law, the Bush administration is trying to make an end run around the courts, the ESA, and the protection of endangered species.

The Bush administration opposes critical habitat because successfully creating safe havens for species has made the ESA more powerful. Removing critical habitat from the Endangered Species Act would have the effect of removing the engine from a car: a self-manufactured breakdown. Similarly, the Bush administration wants to engineer a breakdown in the ESA so it can turn around and argue that the law just doesn't work.

Endangered species have the courts on their side—but only as long

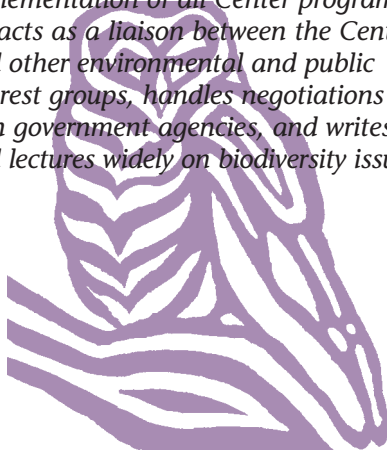
as the laws that protect them have teeth. It's more critical now than ever that concerned citizens keep watch against this administration's attempts to water down the ESA, our nation's strongest environmental law.

Since our inception 14 years ago, the Center for Biological Diversity has emerged as a national leader in critical habitat protection, winning the designation of more than 38 million acres from Texas to Alaska.

Countering the administration's assault on habitat protection, the Center has conducted and published independent research demonstrating the effectiveness of critical habitat and calling attention to the administration's manufactured ESA budget shortfall. We have initiated a national media and public education campaign to distribute this research widely. And we continue to work within the courts to challenge Bush's rollbacks, uphold and expand existing critical habitat designations, and win new critical habitat for imperiled species.

With your support, we're sending a message to the Bush administration that it's time to focus our resources on protecting the habitat endangered plants and animals need to survive—not go to absurd lengths to dodge its legally mandated duties and dismantle laws that work. ■

Kieran Suckling is the Center's Executive Director and oversees development and implementation of all Center programs. He acts as a liaison between the Center and other environmental and public interest groups, handles negotiations with government agencies, and writes and lectures widely on biodiversity issues.



Newly Protected

Center legal actions and negotiations have resulted in recent endangered species listings and protected “critical habitat” designations for the following species under the Endangered Species Act.

Species

Scott's Valley polygonum, a rare plant restricted to Santa Cruz County, California, listed as endangered.

Habitat

31,222 acres along the North Platte and South Platte Rivers in Colorado and Wyoming designated in June for the endangered **Plebe's meadow jumping mouse**.

55,451 acres of native dryland forest on Maui, Hawaii, Molokai, and Kahoolawe designated in June for the endangered **Blackburn's sphinx moth**.

272 acres on the Hawaiian island of Kauai designated in April as critical habitat for the endangered **Kauai cave wolf spider** and **Kauai cave amphipod**.

1,063 acres in Bexar County, Texas designated in April for seven endangered cave invertebrates: the **Braken Bat Cave meshweaver**, **Robber Baron Cave meshweaver**, **Madla Cave meshweaver**, **Cokendolpher Cave harvestman**, **Helotes mold beetle**, and two unnamed ground beetles.

287 acres in Santa Cruz County, California designated in April for the **Scott's Valley polygonum**.

Join Us!

The Center for Biological Diversity is a 501(c)3 nonprofit organization dedicated to protecting endangered species and wild places through science, policy, education, and environmental law. Contributions are tax-deductible.

To become a member or give a gift membership, contact Keri Dixon at kdixon@biologicaldiversity.org or 520.623.5252 ext. 312, or send a check or credit card number and expiration date to CBD, Membership, P.O. Box 710, Tucson, AZ, 85702-0710. Or visit the "join us" page on our secure server, at www.biologicaldiversity.org

PROGRAM NEWS...

"Renzi Rider" threatens San Pedro River

U.S. Representative Rick Renzi (R-AZ) is jeopardizing the San Pedro River with a congressional rider on the FY 2004 Defense Authorization Bill. The rider would excuse the Army's Fort Huachuca for water consumption that does not occur on the post, even though the Fort is responsible for a substantial share of the population in the surrounding area.



San Pedro River

The San Pedro River is one of the last great relatively intact, surviving ecosystems on Earth. Millions of neotropical birds use the San Pedro as their final migratory destination or resting stop on their way to other locations.

Four hundred and eighty-nine species of birds, mammals, fish, amphibians and reptiles reside there. In 1988, Congress established the upper San Pedro as the San Pedro Riparian National Conservation Area (SPRNCA). The SPRNCA includes critical habitat for the most endangered songbird in North America—the southwestern willow flycatcher—as well as the

Mexican spotted owl, Huachuca water umbel, spikedace and loach minnow.

Fort Huachuca has acknowledged responsibility for 54 percent of the population in the area defined by neighboring Sierra Vista and the Fort. The Fort also assumes responsibility for consuming 2,874 acre-feet of water per year—a significant portion of current deficit groundwater pumping of 5,144 acre-feet per year. Deficit groundwater pumping depletes the aquifer, reduces flow in the San Pedro, and threatens riparian habitat.

In August 2002, in response to a court ruling in favor of the Center, the Fort reached an agreement with the U.S. Fish & Wildlife Service to take responsibility for all defense-related water use and to cooperate in recharging the river and limiting further demands on the water table. Representative Renzi's ill-conceived rider ignores this prior agreement and the Fort's clear responsibilities under the Endangered Species Act.

H.R.1588 passed the House with the rider attached, but the Senate version did not include the rider. As this goes to press, the bill is in conference committee for a final decision. The Center has led an aggressive campaign to defeat the Renzi Rider, mobilizing public opinion to persuade other key politicians, particularly Senator John McCain (R-AZ), to oppose the rider.

To find updates on the fate of the Renzi Rider, and to see if your calls and letters to Senator McCain are still urgently needed, please visit our San Pedro River page at www.biologicaldiversity.org/swcbd/programs/watersheds/spr/.

Jaguar suit seeks protected habitat

The Center and Defenders of Wildlife filed suit in federal court in July to ensure the return of North America's largest cat, the jaguar. The litigation, targeting Interior Secretary Gale Norton and the U.S. Fish and Wildlife Service, seeks creation of a recovery plan and designation of critical habitat, six years after the jaguar was listed as an endangered species in the United States.



Photo by Robin Silver

Jaguar

In historic times the jaguar roamed throughout the southern tier of states, from the Carolinas to California, as well as Central and South America. With the introduction of livestock into the southwestern U.S., jaguars were persecuted by ranchers and government. The last female jaguar confirmed in the U.S. was killed in Arizona's White Mountains (where Mexican wolves now roam) in 1963. The jaguar was listed as endangered in the U.S. in 1997 as a result of litigation by the Center.

Since then, with Center prodding and assistance, an interagency Jaguar Conservation Team has begun developing detailed maps of suitable habitat for jaguars in Arizona and New Mexico. Our current litigation will help ensure that someday

el tigre will again wander the cottonwood and sycamore shaded canyons of the Gila, San Francisco and Blue Rivers.

Center winning fight against Bush dunes plan

The Center is leading a national coalition in a fight against a Bush plan to open 49,300 acres of endangered species habitat on the Algodones Dunes to intensive off-road vehicle (ORV) use. Recent Center victories resulted in a U.S. Fish and Wildlife Service proposal to designate 53,000 acres of the dunes as critical habitat, pushed the U.S. Interior Department to develop a new plan for endangered species protection, and helped defeat an industry lawsuit that aimed to strip protection before a new management plan is approved.

The Center is detailing in court how the one-sided off-road plan violates the National Environmental Policy Act, Federal Land Policy and Management Act, Endangered Species Act, Clean Air Act, National Historic Preservation Act, National Natural Landmarks Program, California Endangered Species Act, Four Presidential Executive Orders, and Bureau of Land Management (BLM) regulations. Endangered species at risk by the Bush plan include the Peirson's milkvetch, desert tortoise, flat-tailed horned lizard, Algodones Dunes sunflower, and Andrew's dunes scarab beetle.

Located in the Sonoran desert of southeastern California, the Algodones Dunes are the largest dune ecosystem in the U.S. They harbor at least 160 different animal and plant species, many of them endemic.

PROGRAM NEWS...

It was listed as threatened under the Endangered Species Act (ESA) six years ago due to threats from development, deforestation, agricultural pesticide and fertilizer run-off, and the use of caves as garbage dumps.

In violation of the ESA, USFWS refused to subsequently prepare a federal Recovery Plan and designate critical habitat for the species, arguing that local people fear the frog and would kill it if they knew where it lived. However, the coqui is a beloved national symbol of Puerto Rico, where it appears on everything from t-shirts and stuffed toys to posters and corporate logos. Coqui artwork and testimonials to the importance and majesty of the frog are ubiquitous throughout Puerto Rico.

There were originally 16 coqui frog species in Puerto Rico. Three are believed to be extinct and many of the remaining 13 are believed to be rare or declining.

Center defends piping plover from suits to strike habitat

The Center and other environmental groups have intervened in two lawsuits brought by parties seeking to strike down critical habitat for the threatened piping plover.

Existing as three separate summer breeding populations, less than 6,000 adult piping plovers remain. The small but beautiful bird nests on sandy open areas of Atlantic Coast beaches, shorelines of the Great Lakes, and river sandbars



Photo by Richard Kizaminaki, USFWS

Piping plover

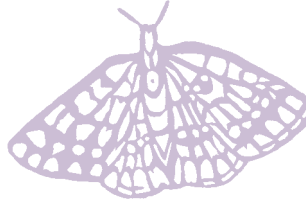
and lake shorelines in the Great Plains. Between mid-summer and early fall, plovers migrate to their wintering range, stretching from North Carolina to northern Mexico.

Much of the plover's historical Atlantic Coast habitat has been lost to development. Efforts to "stabilize" habitat—building jetties or large storm berms to protect structures and roads from ocean forces—eventually cause the loss of plovers' open sand nesting areas due to vegetation growth. During breeding season, predators such as red fox or herring gulls take eggs or chicks, and food and fish scraps that people leave on beaches can artificially increase predator numbers. In natural areas that do remain, human disturbance such as off-road vehicle (ORV) use can crush eggs or chicks, displace birds from quality feeding or resting areas, or flush birds—causing them to repeatedly waste energy.

In the Great Plains, the "Nebraska Habitat Conservation Coalition"—a front for power companies, ORV groups, and agricultural interests—filed suit seeking to invalidate critical habitat for the state's breeding population. In North Carolina, the "Cape Hatteras Access Preservation Alliance"—a front for ORV users who degrade the public lands of the Cape Hatteras National Seashore—filed suit seeking to strike down critical

habitat for migrating and wintering plovers.

The Bush administration has become notorious for rolling back existing critical habitat by making sweetheart deals with industry or giving half-hearted defenses of Endangered Species Act protections. The Center's intervention in these cases will ensure the courts hear vigorous support for this rare shorebird.



Seventh annual Phone-a-Thon launched

We've just kicked off our Seventh Annual Phone-a-Thon to our members—a time for us to say hello to our supporters and to raise an important share of our membership funds to continue our work to protect endangered species and habitat. Last fall we surpassed our goals and raised more than \$87,000 for Center programs.

Over the next few weeks, you may hear from one of our callers asking you to pledge your annual membership renewal or special end-of-year gift. Please take this opportunity to make a contribution that's meaningful for you—because our work to ensure a future for endangered species depends on the committed support of our members.

From all of us, thank you!

Center member saves burrowing owls from road-widening bulldozers

Center member Lynne Howes was hiking this past August in the desert washes near her Desert Hot Springs, California home. Following a desert iguana underneath a creosote bush, she spotted a pair of huge yellow eyes peering at her from inside a small burrow. Lynne had stumbled upon a family of western burrowing owls, which the Center has petitioned for listing under the California Endangered Species Act. Lynne also saw a number of survey stakes in the surrounding area—a telltale sign of imminent grading.



Photo by Lynne Howes

Western burrowing owl

Worried for the safety of the owls, she called the California Department of Fish and Game but received no response. Lynne then called the Center for Biological Diversity's nearby Idyllwild office for help. Center staff discovered that the road-widening project would extend over the burrows and crush the owls if they were underground at the time. We were told that the grading was to begin the following Monday.

The Center called and faxed Fish and Game, demanding that they stop the grading of the burrows until the safety of the owls could be ensured. Fish and Game agreed to go out on Saturday—but then Lynne called us on Thursday to say that grading had started early! Fortunately, Fish and Game sent two wardens and a biologist to the site right away. Construction workers now have

to avoid the area until the biologist can ensure that the owls are not in the burrows at the time, and that artificial burrows are built nearby to encourage the owls to relocate.

Without Lynne's efforts, the bulldozers easily could have killed the owls. And without the Center's involvement, the Department of Fish and Game might not have jumped so quickly to investigate the situation. Lynne's story is an inspiration: with the right amount of persistence, anyone can make a difference for endangered species. ■



staff standouts



Curt Bradley runs Arizona's Salt River.

G.I.S. program earns Center award, tells real story in Congressional debate

Geographic Information Systems Coordinator Curt Bradley earned the Center's G.I.S. program a national spotlight twice this summer.

In July, G.I.S. software development leader ESRI (Environmental Systems Research Institute) presented Curt and the Center with its Special Achievement in G.I.S. award. The Center was one of only a few environmental organizations among those honored, selected from more than 100,000 organizations worldwide. Organizations were selected based on outstanding work with G.I.S. technology in contribution to society.

Indeed, G.I.S. mapping can play a critical role when endangered species habitat comes under threat. One powerful image brings a wealth of scientific information and "big picture" perspective to bear on debates swayed by distorted facts and misleading rhetoric. One of the Center's maps did just that in May, during Congressional arguments on language in

the Bush administration's FY 2004 Defense Authorization Bill exempting military bases from certain Endangered Species Act requirements.

As in many other recent assaults on the protection of wildlife and wildlands, anti-environmental congressmen manipulated research to justify proposed cutbacks to the protection of endangered species, marine mammals and migratory birds on military installations. Using out-of-date and misleading statistics, Rep. Duncan Hunter (R-CA) authored a measure claiming that the Endangered Species Act hampers training on 57 percent of the Camp Pendleton Marine Corps base in Southern California.

Using G.I.S. data from the U.S. Fish and Wildlife Service, the Center determined that currently designated critical habitat areas comprise less than one percent of training areas on Camp Pendleton. Fewer than 24 hours after Curt generated a map illustrating this

critical information, Rep. Earl Blumenauer (D-OR) presented the Center's map in arguments opposing the exemptions on the floor of the U.S. House of Representatives. The map also depicted the real threats to military exercises on the base: Interstate 5, the San Onofre Nuclear Power Plant, and urban encroachment.

The Center uses G.I.S. technology in its litigation, policy, and outreach efforts. Curt's maps have enhanced a wide variety of projects, including successful litigation to protect steelhead habitat in Northern California and efforts to protect Arizona's San Pedro River from groundwater pumping. Center maps have been featured in the *New York Times*, *Backpacker* magazine, and several scientific papers. ■

Curt Bradley recently finished his Masters of Science studying Watershed Hydrology at the University of Arizona. He works in the Center's Tucson office.

Earth Fair Honors



Earth Fair organizer Holly Owens with Idyllwild office manager Susie Roe, Center attorney Kassie Siegel and legal fellow intern Kyle Kriescher accepting the Richard Greenwood Award on the Center's behalf at the Idyllwild Earth Fair in May. Each year the Earth Fair Committee presents this award to an individual or group for outstanding contributions to the environment.

Video urges Arizona water law reform

Tucson staff member Sonya Diehn recently released an independent video entitled *Oasis Under Siege: A Journey Through the Dying River*.

Produced in collaboration with Pan Left Productions, a local non-profit video collective, *Oasis Under Siege* explores the causes and consequences of disappearing water in the desert Southwest. Featuring a distinguished cast of commentators including author Charles Bowden and Center Conservation Chair Robin Silver, this 25-minute documentary highlights the Center's challenges to Arizona water law's failure to protect imperiled desert riparian areas—at least 90 percent of

which are already gone—from excessive groundwater pumping. Weaving together interviews with experts and personal narrative, *Oasis Under Siege* is not only testimony to the significance of water in the desert, but also an urgent call for the reform of water law in Arizona.

If you are interested in obtaining a copy of Oasis Under Siege, funding a donated copy to your local library, or hosting a showing in your community, contact Sonya at 520.623.5252 ext. 300 or sdiehn@biologicaldiversity.org. To access the video in streaming format, visit www.oasis.panleft.org.



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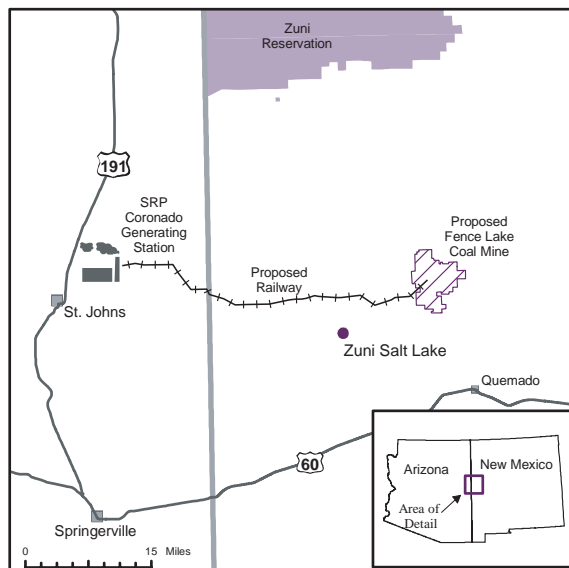
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Zuni Salt Lake victory *continued from front page*

education campaign pressuring SRP to abandon its plans. In 2001, we again stepped up legal pressure on SRP by challenging the state's renewal of SRP's mining permit. Two months later, Center members and supporters played an instrumental role in delaying federal approval of the mine, sending more than 1,000 faxes opposing the mine to Interior Secretary Gale Norton.

Also in 2001, we joined with the Pueblo of Zuni and several other conservation and advocacy organizations to form the Zuni Salt Lake Coalition (ZSLC), a sustained campaign to stop the Fence Lake coal mine. The ZSLC has held 24-hour prayer runs around SRP headquarters, organized marches and rallies, conducted outreach on the Zuni reservation and in the Phoenix, Tucson and Albuquerque metropolitan areas, and helped

secure political pressure to defeat the mine. The ZSLC also includes Citizens Coal Council, Sierra Club's Environmental Justice Campaign, Water Information Network, Tona Tierra, Seventh Generation Fund and others.



The Center and the ZSLC will remain vigilant to ensure that SRP abides by its promise to relinquish all coal leases at the proposed Fence Lake site, and does not attempt to sell or transfer its leases to other energy corporations. In addition, the Center and members of the ZSLC are exploring avenues to provide permanent protection to Zuni Salt Lake and its surrounding area from coal mining and other destructive proposals. ■

Map of the abandoned Fence Lake coal mine proposal area in relation to Zuni Salt Lake, western New Mexico.