

For Immediate Release: Tuesday, February 2<sup>nd</sup> 2010

Contact: Taylor McKinnon (928) 310-6713 or [tmckinnon@biologicaldiversity.org](mailto:tmckinnon@biologicaldiversity.org)

### **Prescott Officials Attempt to Delay Ruling on Water Pipeline Records**

Prescott, *Ariz*—The Center for Biological Diversity today submitted a motion opposing an attempt by the City of Prescott to impose a three-week delay on the determination of a lawsuit over the City's refusal to disclose records about the proposed Big Chino Ranch pipeline that threatens to dewater northern Arizona's Verde River. The Center [sued](#) Prescott in April 2009 after illegally withholding public records about the pipeline plans for 11 months—which now after 20 months it continues to do.

"The Verde River is one of Arizona's natural treasures--imperiled species, communities and small farmers all depend on it for their survival," said Taylor McKinnon of the Center for Biological Diversity. "Yet the City of Prescott continues to hide details about plans that would destroy it."

The City claims more time is needed to evaluate how other pending lawsuits might impact this case. But in a similar public records lawsuit between the City and the Salt River Project, Arizona Superior Court Judge David Mackey recently inspected documents relating to the pipeline and ordered the City to produce them. The same records ordered produced by Judge Mackey are responsive to and satisfy requests in the Center's lawsuit. Despite this, Prescott still refuses the Center records.

"We're witnessing a sort of bureaucratic temper tantrum," said McKinnon. "City officials seem to believe that obstinance and delay can overcome Arizona's public information law."

According to Howard Shanker, attorney for the Center for Biological Diversity in this case, "The City of Prescott has a legal and ethical obligation to make public records available for inspection. Rather than comply with this obligation, the City exhausts every available avenue to delay and/or deny public access to records – spending tax payer's money on litigation and settlements." According to Shanker, "The City of Prescott should simply operate in the sunshine – as principles of good government dictate – and comply with the public records law."

The 45-mile pipeline would suck 13-million gallons of water per day from the Big Chino aquifer to fuel rampant development in Yavapai County. According to U.S. Geological Survey reports, the upper Verde River relies on springs originating from the Big Chino aquifer for at least 80% of its base flow. Without baseflow, a stream is a dry wash, flowing only during storm runoff.

Hydrologists predict that pumping water from the aquifer will eventually result in a near equal reduction of flow in the Verde River, impacting river recreation, tourism, agriculture, and communities as well as aquatic and riparian ecosystems that form habitat for imperiled species like the desert nesting bald eagle, southwestern willow flycatcher, western yellow-billed cuckoo, and declining native fishes.

"Prescott's plans would effectively destroy the upper Verde River," said McKinnon, "At stake is an entire river ecosystem."

In an effort to gather more details about the pipeline and its impacts the Center made records requests to the City of Prescott beginning in May 8, 2008. Arizona law requires the City to "promptly furnish" such records. The Center sued the City in April 2009 for refusing to furnish the records. Had Prescott even taken three weeks—as it seeks now in continuance—to respond the Center's original 2008 request it would have violated the law.

Arizona's public records laws requires that the "custodian of such records shall promptly furnish" those records and, in cases such as this one, where the documents were in the City's possession and could have been available for immediate inspection – Arizona courts have ruled that the documents must be made available for inspection "at once."